UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 100th CONGRESS
FIRST SESSION

VOLUME 133—PART 26

DECEMBER 21, 1987 TO DECEMBER 22, 1987
(PAGES 36717 TO 38299)

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Congressional Record

United States
of America

PROCEEDINGS AND DEBATES OF THE 100th CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Monday, December 21, 1987*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We earnestly pray, gracious God, that the ancient words of peace on Earth and good will to all people may be written in our lives and in our hopes and dreams. We know of the violence in places of our world and yet we pray for peace; we know hostages and victims cut off from families, and yet we pray for reconciliation and homecoming; we know materialism and greed, and yet we pray for an attitude of spiritual giving and sharing; we know death and suffering, O God, and yet You promise life; we know alienation and separation, and yet we pray for trust and concord. O gracious God, may we be instruments of Your good purposes, stewards of Your blessings, and faithful in our responsibilities. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. RUSSO. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. RUSSO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 246, nays 155, answered "present" 1, not voting 31, as follows:

[Roll No. 505]

YEAS—246

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Bruce
Bryant
Bustamante
Byron
Campbell
Carper
Carr
Chappell
Clarke
Coleman (TX)
Collins
Combest
Conte
Cooper
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Edwards (CA)
English
Erdreich
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Garcia
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Horton
Houghton
Howard
Hoyer
Hubbard
Hughes
Hutto
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mica
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Oakar
Oberstar
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Ray
Richardson
Rinaldo
Robinson
Rodino
Roe
Rostenkowski
Rowland (GA)
Roybal
Russo
Savage
Sawyer
Scheuer
Schulze
Schumer
Sharp
Shumway
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stallings
Stokes
Stratton
Studds
Swift
Synar
Tallon
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Weldon
Wheat
Wilson
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—155

Armey
Baker
Ballenger
Bereuter
Bilirakis
Bliley
Boehlert
Boulter
Brown (CA)
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Gregg
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Huckaby
Hunter
Hyde
Inhofe
Ireland
Jacobs
Kolbe
Konnyu
Kyl
LaFalce
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lowry (WA)
Lujan
Lukens, Donald
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (CA)
Miller (OH)
Molinari
Moorhead
Nielson
Nowak
Oxley
Packard
Parris
Pashayan
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schroeder
Schuette
Sensenbrenner
Shaw
Shays
Shuster
Sikorski
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stark
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tauke
Tauzin
Thomas (CA)
Traficant
Upton
Vander Jagt
Vucanovich
Walker
Weber
Whittaker
Wolf
Young (AK)

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ANSWERED "PRESENT"—1

Obey

NOT VOTING—31

Alexander
Badham
Barton
Bentley
Biaggi
Cardin
Chapman
Clay
Coelho
Conyers
Daniel
Dowdy
Eckart
Espy
Ford (TN)
Gaydos
Gephardt
Hochbrueckner
Jeffords
Jones (NC)
Kemp
Lipinski
Lungren
Murphy
Nichols
Roemer
Rose
Sabo
Whitten
Williams
Young (FL)

□ 1215

Mr. RODINO changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

REQUEST FOR AUTHORITY FOR THE SPEAKER TO DECLARE RECESSES ON THIS LEGISLATIVE DAY

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare recesses during the balance of this legislative day, subject to the call of the Chair.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. MICHEL. Mr. Speaker, reserving the right to object, I rise for the purpose of inquiring of the distinguished majority leader what he perceives by way of action on the balance of this day. I know there has been considerable movement, and then there has been a hangup here and there. If the gentleman could give us his best judgment at this time, then we may very well be in a better position to authorize a recess.

Mr. FOLEY. Mr. Speaker, will the gentleman yield to me?

Mr. MICHEL. I am happy to yield to the majority leader.

Mr. FOLEY. Mr. Speaker, I thank the distinguished Republican leader.

Mr. Speaker, we have scheduled two bills under suspension of the rules, on which recorded votes, if ordered, would be postponed until after debate on all suspensions. They are H.R. 3395, the technical amendments to the Federal Employees' Retirement System, agreeing to the Senate amendments thereto; and H.R. 278, the Alaska Native Claims Settlement Act Amendments with Senate amendments.

Also, of course, we have remaining the principal business of the day, which is to consider the conference report on H.R. 3545, the Omnibus Budget Reconciliation Act; and the conference report on House Joint Resolution 395, further continuing appropriations for fiscal year 1988.

It is anticipated that the reconciliation conference report would not be ready prior to 2 p.m. this afternoon, and it may take somewhat longer. It is for that reason that I suggest the unanimous-consent request for recess authority.

We will have unanimous-consent requests also considered today, but we would anticipate that following the consideration of the reconciliation conference report sometime this afternoon, later this afternoon, we would follow that with consideration of the continuing resolution for fiscal year 1988, which would either come quite late this afternoon or early this evening, in my opinion.

Mr. MICHEL. Mr. Speaker, I wonder if we might be able to proceed with what the gentleman has enumerated here as the schedule for the moment and let us dispense with that. Then we might make a decision as to whether or not we want to have blanket authority for declaring a recess to a time certain. I suppose we could dampen down some of the frustrations of the Members if we could be a little more precise at that time. Does that make sense?

Mr. FOLEY. We would be glad to do that.

Mr. Speaker, I withdraw my request.

The SPEAKER. The gentleman from Washington [Mr. FOLEY] withdraws his request.

ANNOUNCEMENT BY THE SPEAKER—A TRIBUTE TO ROBERT E. (BOB) BERRY

The SPEAKER. The Chair would like to make an announcement of interest, I am sure, to all the Members.

For the past 17 years, the reading clerk of the House, Bob Berry, has served this Chamber and this institution with distinction and dedication. From the year 1951 until 1971, his father, E.Y. Berry, was a Member of this body from the State of South Dakota. Bob Berry has decided that at the expiration of this session of Congress he will retire.

□ 1230

So, anticipating that occurrence at some undisclosed moment, I should like to present this gavel, used on this day, to Robert E. Berry.

He may indeed be the only person in this Chamber who has read and spoken as many words as he has without ever having the privilege of writing any of his own script.

TRIBUTE TO ROBERT E. (BOB) BERRY

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this time to first thank the Speaker for his acknowledgment of one of the relatively few Republicans we have in this body from time to time, but we had a special order for Bob Berry the other night in which we made some rather glowing accounts. I am not sure that we could improve upon them, other than to say, Mr. Speaker, that we appreciate your acknowledgment of his fine work over the years, and that we have begun a process of having auditions for his successor, and it is mighty difficult to come up with one who will just fit that mold, but obviously after the new session begins there will be a new reading clerk on our side, and I hope he will come up in some reasonable proportion to match the graciousness of the gentleman from South Dakota.

THE LAST CONTINUING RESOLUTION

(Mr. COATS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COATS. Mr. Speaker, the discontent, and for many, the disgust with the process used to run this Government is increasingly evident. Members from both parties have expressed their absolute contempt for the process. We cannot do much about it today. We are in a boxed canyon with no way out, but we can resolve to make this the last continuing resolution. We can resolve to exercise the will and the courage to change this abominable process.

It will take leadership, Mr. Speaker, to change the system. Both sides have abused the process, using the continuing resolution to appropriate and authorize, circumventing the procedures that we all know we should follow.

I am calling on the leadership of both parties. I am calling on the leadership in the executive branch, and I am calling on Members of both parties to say, "enough is enough."

Mr. Speaker, this process is embarrassing to all of us. We should and we can do much better than we are doing.

CONGRATULATIONS TO SPEAKER WRIGHT FOR A SUCCESSFUL SESSION

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, according to this morning's Washington Post, our colleagues across the aisle are upset. It seems nobody loves them. They are resigned to an impotent minority status; their numbers dwindle; they have been unsuccessful in their every initiative in this session; even their President treats them as insignificant players. And who do they blame for these problems? House Speaker JIM WRIGHT.

To hear them tell it, you would think Speaker JIM WRIGHT is the boogeyman.

Well, if he is the boogeyman, he is an effective one. Speaker WRIGHT has led this Congress to success after success. He has led the way to passage on trade legislation, on a clean water bill, on a highway bill, on deficit reduction, and on, and on, and on. And all without help from the other side. In fact, when it came time to work, those on the other side took a walk. All they have done is to come here day after day to obstruct, to harass, to complain, to cry foul. And now they take to the pages of the newspapers to complain that they aren't being treated nicely.

Congratulations, Speaker WRIGHT, despite their efforts, you have led this Congress in a successful session.

URGING REJECTION BY THE PRESIDENT OF ANY CR IN 1989

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, today we will probably settle on an omnibus CR and reconciliation package that, first, does nothing to actually reduce the deficit from last year's level; second, gives a few crumbs to support the Nicaraguan freedom fighters; and third, may even include the so-called fairness doctrine.

The package is almost 3 months late, includes all the discretionary spending of the Government on one vote, and contains $360 billion—of the $600 billion total—on which 85 percent of the Members have had no input whatsoever.

It will pass because we're worn down, our families understandably want us home for Christmas, and because at some point negotiations must end and decisions must finally be made.

I will vote "no" in protest of the unconventionable process and because the President and our side will, with this package, once again have been bought off and rolled for next to nothing.

I am circulating a letter to the President urging him to announce in his State of the Union Address on January 25th, that he will not sign any continuing resolution for fiscal year 1989 and will insist on having all 13 appropriations bills, within budget, and on time. The Congress is obviously institutionally unable to reform itelf. Apparently only the President can save us. Please sign the letter.

UNITED STATES HAS NO RIGHT TO OVERTHROW GOVERNMENTS OF LITTLE COUNTRIES

(Mr. BRENNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRENNAN. Mr. Speaker, in funding of the Contras, the issue is not $80 million, nor $8 million, not 8 cents, the issue is arrogance.

The issue is the lack of respect for other sovereign nations.

The issue is blind adherence to a failed policy.

The issue is respect for the rule of law, which the United States is thumbing its nose at.

The Sandinistas with their latest wild-eyed boasts of somehow building a 600,000-man army from a population of just 3 million in one of the poorest countries in the hemisphere is not the issue.

And those boasts do not change the basic premise that no one assigned to the United States the right to overthrow governments of little countries whose policies we disagree with.

I did not get elected to rubberstamp President Reagan's obvious fixation on continuing the war in Central America, legally or illegally.

And I will not support legislation that will cause the deaths of poor peasants in a country that has done nothing to my country.

As the Catholic bishops have said, We have no right to support a war in that country as a pawn in the struggle between the East and the West.

And I don't want to help President Reagan with his last-minute Christmas shopping for more supplies to continue the killing in Nicaragua.

And if you vote for this CR, make no mistake about it, that's what you will be doing.

THE HOUSE HELD HOSTAGE

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, I want to noise it about that I resent the overriding reason that we were held hostage here in Washington over the weekend—that reason being that the democratic majority of this House sought to deny those fighting godless communism in Central America even enough beans to fill their bellies and bandages for their wounds. It is a shame and a disgrace to me as an American. How proud I am to represent a district that patriotically shares my sentiments.

THE ENDANGERED AMERICAN WORKER SPECIES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Senate threw out the tax deferral section in the reconciliation bill. I am not surprised. The lobbyists that run around here all the time were really against it.

My section would have raised $600 million in the next 3 years. In addition, it would have stopped the tax deferral by these runaway plants that have caused us to lose a lot of American jobs.

But who really cares down here? GM just announced that it will lay off 1,600 workers at its Lakewood Plant in Atlanta. Who really cares?

In fact, General Motors as of December 1, 1987, has 47,000 American workers on layoff.

Norwood, OH, will lose $5 million in tax revenues this year. Who really cares?

We are concerned about lobbyists.

They also threw out the Buy America language. Are you kidding? Buy America?

Last week we discussed the Endangered Species Act. Mr. Speaker, I tell you, the United States of America is an endangered species, and our workers are No. 1. It is not a joke, and we had better start taking care of our country.

CONGRESSIONAL FRAUD

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARLENEE. Mr. Speaker, Webster defines fraud as "deceit, trickery, intentional perversion of truth in order to induce another to part with something of value or to surrender a legal right."

Has Congress engaged in deceit? Has Congress engaged in trickery? Has Congress involved itself in an intentional perversion of truth in order to induce the American taxpayer voter to part with something of value?

Mr. Speaker, for 11 long years I have observed the unwillingness of this body to cut flagrant spending. Instead, each committee and each body is still creating new programs and expanding old ones, while pretending, pretending all the while to be engaged in the greatest of debates right up until Christmas.

Trickery, intentional perversion of truth, tax simplification, was a fraud.

Reconciliation becomes a fraud.

The whole process has become a fraud.

The leadership of both parties engage in the definition of fraud and the American taxpayer pays and pays and pays.

CONTRA AID

(Mr. BONKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONKER. Mr. Speaker, it is distressing that we find ourselves taking up a $600 billion Government spending bill that is being held hostage to the President's efforts to keep the Contras supplied in their war against Nicaragua.

This is a sensitive moment in the negotiations, and the last thing that we want to do is disrupt the peace process and discourage the leaders of the five Central American nations as they seek to resolve conflicts through diplomacy and dialog.

The Central American people are tired of war. The American people are weary of more tax dollars going to support the Contra rebels.

I was appalled to hear this morning that the Contras have launched the largest military offensive in the 7-year history of that war, killing hundreds of people.

How does this major, aggressive military attack on eastern Nicaragua, further the cause of peace in Central America?

It is called a major offensive; yes, offensive to everyone who wants peace in Central America.

Something else is troubling in this bill. It will lock us into a complex process which shifts the burden of proof to those who oppose aid to the Contras. We are devising a procedure for considering an extremely important foreign policy issue in a wholly nongermane appropriations measure. Moreover, this legislative maze guarantees the Contras $8.1 million now, and assures the President that the Congress will vote at least once next year on yet more aid to the Contras.

Why do we insist on committing ourselves now to hours of debate on this issue again next year?

Approval of more funds for the Contras, especially at this time, would send the wrong message and may derail the peace process.

□ 1245

MR. SPEAKER, TAKE THIS MESSAGE TO THE HOLY LAND

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, as we just discussed, your trip to the Holy Land may be in jeopardy because of tension there. However, I think that the Israeli Government will give the Speaker maximum security, and I hope, Mr. Speaker, that you do go on this trip.

I hope while you are there, as the No. 3 man in line to our Presidency as the Speaker of this great deliberative body, I hope you will make a plea for the whole world to hear, to those who hold 8 Americans and 13 other innocent citizens of other nations hostage just a few miles north in embattled Lebanon. These people who claim to love the same God we do, but call Him Allah, do not see anything immoral with crime they are committing. For that reason I hope that you, Mr. Speaker, will ask God to inspire you to find the words which will soften their hearts and at least release some of the prisoners. I would hope that these holy days will inspire these hostage takers in Lebanon to release Terry Anderson. Terry Anderson will begin his fourth year in captivity on St. Patrick's Day of next year if he is not released soon. A few months after that, the anniversary for Tom Sutherland will fall on June 9. For all the others this, too, is an incredible tragedy.

I do not understand how people who claim they are praising God, continue to hold innocent people and tear apart families. They hold these innocents despite the fact that many of their parents have already died in the 3 years that they have been held captive.

Please, Mr. Speaker, go to the Holy Land and make that statement. The President got too emotionally involved because he is our Commander in Chief and Chief of State, but it is perfectly appropriate for the Speaker to ask for mercy for these 21 innocent victims.

OPERATING BY CONTINUING RESOLUTION IS NO WAY TO LEGISLATE

(Mr. HUGHES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker, it is now just a couple of days before Christmas and, while the House has passed 11 appropriations bills, we have yet to enact a single regular appropriations bill into law. That means that once again the contents of some 13 different appropriations bills have been bundled into a single huge package and presented to us on a take-it-or-leave-it basis—under the duress of knowing if we reject it, the entire Government will close down.

Mr. Speaker, this is no way to legislate. We are doing serious damage to the concept of representative government as well as the separation of powers.

For one thing, rather reflecting the will of 535 House and Senate Members, the budget is now the product of a small number of conferees. For another, the legislative process was never intended to pass a single bill that spends over half a trillion dollars on virtually every function of government, and thereby denies the President the ability to veto individual bills.

Some suggest that the continuing resolution should be broken up and considered as separate bills. But that is not the right solution. We should make this sugar granddaddy we call a continuing resolution our last one. Moreover, to avoid being in this same situation next year, the Senate needs to receive a very clear signal that they will have to start doing their job. Better yet, let's undertake a 2-year budget cycle that will give us more time for qualitative decisionmaking.

We were elected to use our experience and judgment in fashioning national policies. It is time we developed a system of budgeting that will allow us to do that.

DEPLORING THE USE OF AN OMNIBUS SPENDING BILL

(Mrs. MEYERS of Kansas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEYERS of Kansas. Mr. Speaker, many of us have said for years that we deplore an omnibus spending bill, or what we call the continuing resolution that rolls 13 appropriations bills into one for several reasons:

One, it distorts the timing of the process. The Senate did not pass one single appropriation bill until October 1.

Two, it takes away the veto power of the President, and that is virtually unconstitutional.

Three, it seems to me that everyone now is using the continuing resolution to leverage something they could not get without the threat of shutting down the Government.

If we are going to change this, it will have to be done in this House and it will have to be done bipartisan. The Senate cannot. They did not even pass an appropriation bill until October 1.

The President cannot afford to promise unless we do so. It is up to this House where most important things begin.

I ask for a bipartisan vow that in the future we in this House on both sides of the aisle will reject the use of a continuing resolution or an omnibus spending bill.

NEVER AGAIN

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, I would like to join my colleague, the gentlewoman from Kansas [Mrs. MEYERS], in her remarks.

Never again. Never again should we allow America's fiscal policy be determined by a catchall spending bill. Not only is it fiscally irresponsible but it puts too much decisionmaking power into very few hands, indeed the conferees on the continuing resolution, or as they are beginning to be known "super Congresspeople."

It also does crazy things our constituents cannot understand.

How is the President able to use such leverage on us to pass Contra aid? The reason is simple. We have no separate appropriation bill on Contra aid and therefore it, together with a lot of extraneous things, are lumped into the CR.

Mr. Speaker, it does no good to point the finger of blame at our fiscal dilemma. Republicans and Democrats, House and Senate, the President and the Congress all deserve a part of the blame, but never again should we replicate this ridiculous process. There are a lot of rebellious Members of both parties who will work to make sure that it never happens again.

LET US NOT TURN AWAY FROM THE PEACE PROCESS IN CENTRAL AMERICA

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, it is a very unhappy day for many of us in this Chamber. The rule on the continuing resolution gives us no opportunity to express ourselves on the Contras and the CR escalates the war in Nicaragua.

Here we are in this season of peace and what is our contribution to peace in the world and good will toward all people? Our response is that if the continuing resolution passes we will be expediting our shipments of lethal and deadly weapons to the Contras. We will be escalating the war in Nicaragua, and make no mistake about it, it is America's war and the American people do not want that war.

We are in an economic crunch in this country. We cannot fine the money to feed the hungry and house the homeless and perhaps address the most immoral issue of them all, the fact that 1 in 5 American children lives in poverty.

Knowing all this, this administration continues to push aid to the Contras and now the Contras have begun their biggest push in Central America. What does that push mean? It means killing, it means maiming, and I say to my colleagues if we vote for this continuing resolution with the aid to the Contras in it, the blood will be on our hands and the peace process will once more take a back seat.

CALLING UPON THE CONGRESS TO VOTE AGAINST AID TO THE CONTRAS

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, on the very eve of cease-fire talks with the Sandinistas, the Contras have launched their largest offensive ever in their 7-year war against the citizens of Nicaragua. Incredibly, the Congress is poised to pass an additional $8.1 million in aid to the Contras as a reward for their continued attempts to undermine opportunities for peace in Central America.

Even more incredibly, the conference agreement we are expected to vote on today would allow lethal-aid shipments until January 12 and then to be resumed again on January 19 if the President certifies that the Contras have made a good faith effort to achieve a cease-fire, and the Sandinistas have not.

Is there any question that a President who has equated the Contra terrorists with the Founding Fathers of this Nation would not so certify?

We in this House know better and the American people expect better of us.

I urge my colleagues to vote against more war in Nicaragua and against further aid to the Contras by voting against the continuing resolution.

CALLING ON THE CONGRESS TO INCREASE AID FOR THE CONTRAS

(Mr. DONALD E. LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONALD E. LUKENS. Mr. Speaker, I was not intending to address the body at this time but having heard my well-meaning colleagues address the House, I have decided to ask for this time.

Mr. Speaker, last weekend I was on the CODEL trip to the small town of Leon in Nicaragua, and at that time I was approached by many who spoke English to translate for those who did not who made simple statements such as, that without the Contras there would be no freedom, there would be no rallies, and there would be no political freedom.

I would ask this body that if they are serious, particularly after Major Miranda's startling revelations that Nicaraguan Communists intend to have the largest army in Central America in our time on our watch unless we do something, that I think this body needs to seriously consider increasing not just stabilize the aid for the counter Communist freedom-fighting forces in Nicaragua known as the Contras.

WE SHOULD NOT BE SUPPORTING THE CONTRAS

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, let us stop a moment and think about what we are about to do today, this December 21, 1987.

There is still time to change our minds, change the direction in which we are going.

Last week, yes, we heard about the plans for a huge buildup of the Sandinista forces. Yesterday we read about a huge offensive launched by the Contras.

How did we get involved in this arms buildup? In fact how did we become the engine beside one side?

We are about to decide today to continue lethal aid by approving transportation money for armaments. This goes against the grain in this week that we are about to celebrate Christmas. We have had some tough votes that have separated us. Many of us think we are right and the leaders are trying to help us in trying to find a way to wrap things up so we can go home. But the point is, we should not be sending out a signal this week that no matter what, we will continue lethal aid to the Contras. It is just not what a superpower should be doing, most importantly it is not what the United States of America should be doing this week.

LET'S CALL THE PRESIDENT'S BLUFF

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, let us call the President's bluff. We have been blackmailed into saying that we have got to accept a continuing resolution today with more aid to the Contras in it because the President says, otherwise, he will close down the Government of the United States, that he will veto the continuing resolution.

Well, let us find out who the President really cares for. Will the President close down the Postal Service? Will the President close down the Federal Aviation Administration when people are trying to get home for the holidays? Will the President close down the Social Security Administration so that tens of millions of recipients will not get their checks on the first of next month?

If the President cares more for the Contras than he does for his constituents, the American people, let us find that out. Let us send him a continuing resolution without aid to the Contras. Let him veto it and let him explain that to the American people.

CRITICAL SUBJECTS FOR REVIEW IN THE NEXT SESSION OF CONGRESS

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, there are two things that I hope my colleagues will join me and other Members in reviewing after we come back. The first is a 60-day review of the great events of 2 weeks ago, the summit meeting. Let us have a look at what it means to our country and to the world in terms of arms control, in terms of solution of regional problems, and in terms of human rights. The gentleman from Maryland [Mr. HOYER] the Chairman of the Helsinki Commission and I are going to call a special order on that subject.

Another subject that we urgently must address, Mr. Speaker, is the economic crisis in which our country finds itself.

Yes, we met the $23 billion test for Gramm-Rudman, but there is less there than meets the eye. It was not a courageous and professional effort to put our country's economic house in order. What we need next year is for the Presidential candidates of both parties to tell us the truth and tell us what programs are needed to bring some sanity to our country—programs designed to address our trade deficit, our budget deficit, our painful lack of competitiveness, and our gross inability to compete around the world in global commerce. I hope there will be some glasnost. I hope that Democrats will give some political cover to Republicans on the question of entitlements, in particular, and on the question of spending, in general. I hope that Republicans will give some cover to the Democrats on the question of revenue enhancements, on the urgent need to look across the board and yes, even perhaps raising some taxes and introducing some other new ones.

If we can't become competitive with countries around the world in terms of the quality and price of our products, jobs will continue to be exported and the American standard of living for most workers in services and production will be eroded day by day, week by week, month by month, and year by year.

We are faced with the dire specter of mirroring the Soviet experience. The Soviet Union is a first-class military superpower, but a third-rate economic power.

The Soviet people are living, in most cases, on a Third World standard of living. Is this the course that we want to set for our Nation?

If we don't pull in our belts and end our 7-year spending splurge, if we don't take the necessary action to achieve equalibrium between spending and revenue, if we don't end our shameful dependence on continued foreign borrowings to support our out-of-control spending, there is very little hope that we can sustain what we have long considered to be the American standard of living.

Mr. Speaker, unless we address the $150 billion gap between spending and revenues, there is very little hope that we can sustain the primacy of American industry, or to maintain our efforts to be first in space and other high-tech ventures. Indeed, there is very little hope that we can preserve the protective network of programs to assure a decent minimum standard of living for our elderly, our infirm, our disabled, and our poor.

Our problem has been exacerbated by a President who adamantly continues to follow utterly ill-conceived policies of increasing military spending, while refusing to raise taxes. In 7 short years, his wrongheaded policies have produced a deficit that dwarfs the total deficit our country accumulated during its first 200 years. In only 7 years, the President increased the deficit he inherited by 2½ times—a trebling can be expected by the end of his term.

It has been very difficult for our congressional leadership—both House and Senate, Democrat and Republican—to deal with a President who for two full terms has been so obsessively determined to follow these antitax and promilitary spending policies.

I am afraid that the best we can hope for during the next 13 months is to engage in damage control under our present national leadership.

But we can look forward to the 1988 election and beyond, and insist on hearing the Presidential candidates tell us how they would put the pieces back together, how they would end the splurge of spending, promote savings and investment, and, in sum, give us their economic vision of a revitalized American economy.

Now only do we need Presidential candidates who will tell us the truth, but we also need Members of the House and Senate of both parties who will also rise to the urgent need for greatness and transcend petty politics.

If war is too important for the generals, surely the urgent need for new policies and new programs to cure the benighted policies that have wracked out country are too important for petty politicians.

It behooves all of us in the House and Senate to rise to the same level of courage and responsibility that we expect of our Presidential candidates, to support each other and, above all, support our Nation in its hour of economic anguish.

DEFEAT AID FOR THE CONTRAS

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, we have been told in the past several days that the reason we have to continue aid to the Contras is because of the testimony of Mr. Miranda who defected from the Sandinista government and came here and told Members of Congress and others about the dramatic buildup in the Sandinista army.

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Today in the Wall Street Journal and the other day in Newsday, we find out that perhaps Mr. Miranda's remarks have been misrepresented by Mr. Elliott Abrams who is already on the record as lying to the Congress of the United States. And what we find out is that in the major buildup in the threat to the security of this Nation, the Sandinistas will continue to rely on the 1950's weapon system of the T-55 tank that is as old, as we say, as most of the people who drive it. In fact, Mr. Miranda says, and the reporter states that actually their intent was to reduce the size of the army to around 60,000 or 70,000 from the current 80,000 and that the balance would be a reserve force to be mobilized during the United States invasion. That is quite different from the words spoken by Members from the other side of the aisle telling us about Mr. Miranda's remarks on why we must continue this aid to the Contras. So I would hope when the continuing resolution comes up that Members will vote against it understanding that it is unnecessary, it is a full, full assault on the Arias peace proposal; it is not only an increase in humanitarian aid but allows us to continue the delivery of military assistance to the Contras who are undermining the peace process in Central America.

CONTRA AID ISSUE CAUSES POSSIBLE SHUTDOWN OF GOVERNMENT

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, it is kind of interesting. I guess the administration is correct in all their prophecies. They have always said that if something were not done in Nicaragua then one day they would get to Harlingen, TX, and eventually they would take over the Government. It truly does look like the events in Nicaragua are going to mean a shutdown of the Federal Government, but unfortunately it is the Contras that are going to cause that.

PERSONAL EXPLANATION

Mr. WEISS. Mr. Speaker, I would like to make a personal explanation regarding some missed votes.

Mr. Speaker, I was unavoidably absent from House proceedings on Friday, December 18, 1987. If I had been present, I would have voted as follows:

On rollcall 495, I would have voted "aye";

On rollcall 496, I would have voted "aye";

On rollcall 497, I would have voted "aye";

On rollcall 498, I would have voted "aye"; and

On rollcall 499, I would have voted "aye."

I ask unanimous consent that the permanent RECORD include my statement of explanation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BARNARD). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV. Such roll call votes, if postponed, will be taken today after debate has been concluded on all motions to suspend the rules.

FEDERAL EMPLOYEES' RETIREMENT SYSTEM TECHNICAL CORRECTIONS

Mr. FORD of Michigan. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments the bill (H.R. 3395) making technical corrections relating to the Federal Employees' Retirement System, and for other purposes.

The Clerk read as follows:

Senate amendments:

Page 4, line 2, after "(B)" insert "for at least 3 years".

Page 4, line 4, after "years" insert "for at least 3 years' ".

Page 16, strike out line 2.

Page 16, line 4, strike out "Act." and insert "Act;".

Page 16, after line 4, insert:

(C) a contract under which the services of an individual may be terminated by a person other than the individual or the Government; or

(D) a contract for a single transaction or a contract under which services are paid for in a single payment.

Page 29, line 2, strike out "(a)".

Page 29, strike out lines 12 to 18.

Page 35, strike out all after line 17 over to and including line 10 on page 36, and insert:

(c) APPLICABILITY.—This section applies with respect to—

(1) any individual participating in the Civil Service Retirement System or the Federal Employees' Retirement System as—

(A) an individual who has entered on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of employees (as defined by section 8331(1) or 8401(11) of title 5, United States Code);

(B) an individual assigned from a Federal agency to a State or local government under subchapter VI of chapter 33 of title 5, United States Code; or

(C) an individual appointed or otherwise assigned to one of the cooperative extension services, as defined by section 1404(5) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3105(5)); and

(2) any individual who is participating in the Civil Service Retirement System as a result of a provision of law described in section 8347(o).

Page 36, line 18, strike out "(c)(3)" and insert "(c)(1)(C)".

Page 38, line 4, strike out "and"." and insert "and"; and".

Page 38, after line 4, insert:

(3) by amending clause (v) by striking out "at the time of filing such application" and inserting in lieu thereof "on May 7, 1987".

SEC. 128. REFUNDS OF CERTAIN EXCESS DEDUCTIONS TAKEN AFTER 1983 TO OFFSET EMPLOYEES UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) REFUND ELIGIBILITY.—An individual shall upon written application to the Office of Personnel Management, receive a refund under subsection (b), if such individual—

(1) was subject to section 8334(a)(1) of title 5, United States Code, for any period of service after December 31, 1983, because of an election under section 208(a)(1)(B) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1107; 5 U.S.C. 8331 note);

(2) is not eligible to make an election under section 301(b) of the Federal Employees' Retirement System Act of 1986 (Pub. Law 99-335; 100 Stat. 599); and

(3) becomes subject to section 8334(k) of title 5, United States Code.

(b) REFUND COMPUTATION.—An individual eligible for a refund under subsection (a) shall receive a refund—

(1) for the period beginning on January 1, 1984, and ending on December 31, 1986, for the amount by which—

(A) the total amount deducted from such individual's basic pay under section 8334(a)(1) of title 5, United States Code, for service described in subsection (a)(1) of this section, exceeds

(B) 1.3 percent of such individual's total basic pay for such period; and

(2) for the period beginning on January 1, 1987, and ending on the day before such individual becomes subject to section 8334(k) of title 5, United States Code, for the amount by which—

(A) the total amount deducted from such individual's basic pay under section 8334(a)(1) of title 5, United States Code, for service described in subsection (a)(1) of this section, exceeds

(B) the total amount which would have been deducted if such individual's basic pay had instead been subject to section 8334(k) of title 5, United States Code, during such period.

(c) INTEREST COMPUTATION.—A refund under this section shall be computed with interest in accordance with section 8334(e) of title 5, United States Code, and regulations prescribed by the Office of Personnel Management.

SEC. 129. ADJUSTMENTS IN METHODS OF ANNUITY PAYMENTS FOR YEARS WITH ZERO OR NEGATIVE INFLATION.

Section 8434(a)(2) (C) and (D) of title 5, United States Code, is amended to read as follows:

"(C) a method described in subparagraph (A) which provides for automatic adjustments in the amount of the annuity payable so long as the amount of the annuity payable in any one year shall not be less than the amount payable in the previous year;

"(D) a method described in subparagraph (B) which provides for automatic adjustments in the amount of the annuity payable so long as the amount of the annuity payable in any one year shall not be less than the amount payable in the previous year; and".

SEC. 130. COVERAGE UNDER THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM FOR INDIVIDUALS SUBJECT TO THE FOREIGN SERVICE PENSION SYSTEM WHO ENTER FEDERAL EMPLOYMENT OTHER THAN THE FOREIGN SERVICE.

Section 8402 of title 5, United States Code, is amended—

(1) in the matter following subparagraph (B) of paragraph (2) of subsection (b) by inserting "subsection (d) of this section or" before "title III"; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) Paragraph (2) of subsection (b) shall not apply to an individual who becomes subject to subchapter II of chapter 8 of title I of the Foreign Service Act of 1980 (relating to the Foreign Service Pension System) pursuant to an election and who subsequently enters a position in which, but for such paragraph (2), he would be subject to this chapter.".

SEC. 131. ANNUITY COMPUTATIONS FOR THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM.

(a) SURVIVOR REDUCTION COMPUTATION.—Section 8419(a) of title 5, United States Code, is amended—

(1) in paragraph (1) by striking out ", shall be reduced" and inserting in lieu thereof "or one-half of the annuity, if jointly designated for this purpose by the employee or Member and the spouse of the employee or Member under procedures prescribed by the Office of Personnel Management, shall be reduced"; and

(2) in paragraph (2)(A) by striking out ", shall be reduced" and inserting in lieu thereof "or one-half of the annuity, if jointly designated for this purpose by the employee or Member and the spouse of the employee or Member under procedures prescribed by the Office of Personnel Management, shall be reduced".

(b) SURVIVOR BENEFITS.—Section 8442 of title 5, United States Code, is amended—

(1) in subsection (a)(1) by inserting after "with respect to the annuitant," the following: "(or one-half thereof, if designated for this purpose under section 8419 of this title),"; and

(2) in subsection (g)(1) by inserting after "paragraph (2)" the following: "(or one-half thereof if designated for this purpose under section 8419 of this title)".

SEC. 132. LOANS FROM EMPLOYEES' CONTRIBUTION TO THE THRIFT SAVINGS FUND.

Section 8433(i)(3) of title 5, United States Code, is amended to read as follows:

"(3) Loans under this subsection shall be available to all employees and Members on a reasonably equivalent basis, and shall be subject to such other conditions as the Board may by regulation prescribe. The restrictions of section 8477(c)(1) of this title shall not apply to loans made under this subsection.".

SEC. 133. FIDUCIARY RESPONSIBILITIES AND LIABILITIES IN MANAGEMENT OF THRIFT SAVINGS FUND.

(a) Fiduciary Responsibilities and Liabilities.—Section 8477(e) of title 5, United States Code, is amended—

(1) in paragraph (1)(A) by inserting before the period at the end of the first sentence a comma and "except as provided in paragraphs (3) and (4) of this subsection";

(2) in paragraph (1)(B) by striking out "Internal Revenue Code of 1954" and inserting in lieu thereof "Internal Revenue Code of 1986";

(3) in paragraph (1)(D) by inserting "only" before "if" in the matter preceding clause (i);

(4) by redesignating paragraphs (4) and (5) as paragraphs (7) and (8), respectively; and

(5) by striking out paragraphs (2) and (3) and inserting in lieu thereof:

"(2) No civil action may be maintained against any fiduciary with respect to the responsibilities, liabilities, and penalties authorized or provided for in this section except in accordance with paragraphs (3) and (4).

"(3) A civil action may be brought in the district courts of the United States—

"(A) by the Secretary of Labor against any fiduciary other than a Member of the Board or the Executive Director of the Board—

"(i) to determine and enforce a liability under paragraph (1)(A);

"(ii) to collect any civil penalty under paragraph (1)(B);

"(iii) to enjoin any act or practice which violates any provision of subsection (b) or (c);

"(iv) to obtain any other appropriate equitable relief to redress a violation of any such provision; or

"(v) to enjoin any act or practice which violates subsection (g)(2) or (h) of section 8472 of this title;

"(B) by any participant, beneficiary, or fiduciary against any fiduciary—

"(i) to enjoin any act or practice which violates any provision of subsection (b) or (c);

"(ii) to obtain any other appropriate equitable relief to redress a violation of any such provision;

"(iii) to enjoin any act or practice which violates subsection (g)(2) or (h) of section 8472 of this title; or

"(C) by any participant or beneficiary—

"(i) to recover benefits of such participant or beneficiary under the provisions of subchapter III of this chapter, to enforce any right of such participant or beneficiary under such provisions, or to clarify any such right to future benefits under such provisions; or

"(ii) to enforce any claim otherwise cognizable under sections 1346(b) and 2671 through 2680 of title 28, if the remedy against the United States provided by sections 1346(b) and 2672 of title 28 for damages for injury or loss of property caused by the negligent or wrongful act or omission of any fiduciary while acting within the scope of his duties or employment is exclusive of any other civil action or proceeding by the participant or beneficiary for recovery of money by reason of the same subject matter against the fiduciary (or the estate of such fiduciary) whose act or omission gave rise to such action or proceeding, whether or not such action or proceeding is based on an alleged violation of subsection (b) or (c).

"(4)(A) In all civil actions under paragraph (3)(A), attorneys appointed by the Secretary may represent the Secretary (except as provided in section 518(a) of title 28), however all such litigation shall be subject to the direction and control of the Attorney General.

"(B) The Attorney General shall defend any civil action or proceeding brought in any court against any fiduciary referred to in paragraph (3)(C)(ii) (or the estate of such fiduciary) for any such injury. Any fiduciary against whom such a civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such fiduciary (or an attested copy thereof) to the Executive Director of the Board, who shall promptly furnish copies of the pleading and process to the Attorney General and the United States Attorney for the district wherein the action or proceeding is brought.

"(C) Upon certification by the Attorney General that a fiduciary described in paragraph (3)(C)(ii) was acting in the scope of such fiduciary's duties or employment as a fiduciary at the time of the occurrence or omission out of which the action arose, any such civil action or proceeding commenced in a State court shall be—

"(i) removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division in which it is pending; and

"(ii) deemed a tort action brought against the United States under the provisions of title 28 and all references thereto.

"(D) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect. To the extent section 2672 of title 28 provides that persons other than the Attorney General or his designee may compromise and settle claims, and that payment of such claims may be made from agency appropriations, such provisions shall not apply to claims based upon an alleged violation of subsections (b) or (c).

"(E) For the purposes of paragraph (3)(C)(ii) the provisions of sections 2680(h) of title 28 shall not apply to any claim based upon an alleged violation of subsection (b) or (c).

"(F) Notwithstanding sections 1346(b) and 2671 through 2680 of title 28, whenever an award, compromise, or settlement is made under such sections upon any claim based upon an alleged violation of subsection (b) or (c), payment of such award, compromise, or settlement shall be made to the appropriate account within the Thrift Savings Fund, or where there is no such appropriate account, to the participant or beneficiary bringing the claim.

"(G) For purposes of paragraph (3)(C)(ii), fiduciary includes only the Members of the Board and the Board's Executive Director.

"(5) Any relief awarded against a Member of the Board or the Executive Director of the Board in a civil action authorized by paragraphs (3) and (4) may not include any monetary damages or any other recovery of money.

"(6) An action may not be commenced under paragraph (3) (A) or (B) with respect to a fiduciary's breach of any responsibility, duty, or obligation under subsection (b) or a violation of subsection (c) after the earlier of—

"(A) 6 years after (i) the date of the last action which constituted a part of the breach or violation, or (ii) in the case of an omission, the latest date on which the fiduciary could have cured the breach or violation; or

"(B) 3 years after the earliest date on which the plaintiff had actual knowledge of the breach or violation, except that, in the case of fraud or concealment, such action may be commenced not later than 6 years after the date of discovery of such breach or violation.".

(b) Effective Date.—The provisions of section 8477(e) (1), (2), (3), (4), (5), and (6) of title 5, United States Code, (as amended by subsection (a) of this section) shall apply to any civil action or proceeding arising from any act or omission occurring on or after October 1, 1986.

(c) Repeal.—The provisions of subsection (a) (and the amendments to section 8477(e) of title 5, United States Code, contained therein) and subsection (b) of this section are repealed effective on December 31, 1990. On and after December 31, 1990 the provisions of section 8477(e) of title 5, United States Code, shall be in effect as such provisions were in effect on the date immediately preceding the date of enactment of this section.

SEC. 134. AMENDMENTS CONCERNING REEMPLOYED ANNUITANTS.

(a) Amendment to Chapter 84 of Title 5, United States Code.—Section 8468 is amended to read as follows:

"§ 8468. Annuities and pay on reemployment

"(a) If an annuitant, except a disability annuitant whose annuity is terminated because of the annuitant's recovery or restoration of earning capacity, becomes employed in an appointive or elective position, an amount equal to the annuity allocable to the period of actual employment shall be deducted from the annuitant's pay, except for lump-sum leave payment purposes under section 5551. Unless the annuitant's appointment is on an intermittent basis or is to a position as a justice or judge (as defined by section 451 of title 28) or as an employee subject to another retirement system for Government employees, or unless the annuitant is serving as President, deductions for the Fund shall be withheld from the annuitant's pay under section 8422(a) and contributions under section 8423 shall be made. The deductions and contributions referred to in the preceding provisions of this subsection shall be deposited in the Treasury of the United States to the credit of the Fund. The annuitant's lump-sum credit may not be reduced by annuity paid during the reemployment.

"(b)(1)(A) If an annuitant subject to deductions under the second sentence of subsection (a) serves on a full-time basis for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, the annuitant's annuity on termination of reemployment shall be increased by an annuity computed under section 8415 (a) through (f) as may apply based on the period of reemployment and the basic pay, before deduction, averaged during the reemployment.

"(B)(i) If the annuitant is receiving a reduced annuity as provided in section 8419, the increase in annuity payable under subparagraph (A) is reduced by 10 percent and the survivor annuity or combination of survivor annuities payable under section 8442 or 8445 (or both) is increased by 50 percent of the increase in annuity payable under subparagraph (A), unless, at the time of claiming the increase payable under subparagraph (A), the annuitant notifies the Office in writing that the annuitant does not desire the survivor annuity to be increased.

"(ii) If an annuitant who is subject to the deductions referred to in subparagraph (A) dies while still reemployed, after having been reemployed for not less than 1 year of full-time service (or the equivalent thereof, in the case of full-time employment), the survivor annuity payable is increased as though the reemployment had otherwise terminated.

"(2)(A) If an annuitant subject to deductions under the second sentence of subsection (a) serves on a full-time basis for at least 5 years, or on a part-time basis for periods equivalent to at least 5 years of full-time service, the annuitant may elect, instead of the benefit provided by paragraph (1), to have such annuitant's rights redetermined under this chapter.

"(B) If an annuitant who is subject to the deductions referred to in subparagraph (A) dies while still reemployed, after having been reemployed for at least 5 years of full-time service (or the equivalent thereof in the case of part-time employment), any person entitled to a survivor annuity under section 8442 or 8445 based on the service of such annuitant shall be permitted to elect, in accordance with regulations prescribed by the Office of Personnel Management, to have such person's rights under subchapter IV redetermined. A redetermined survivor annuity elected under this subparagraph shall be in lieu of an increased annuity which would otherwise be payable in accordance with paragraph (1)(B)(ii).

"(3) If an annuitant subject to deductions under the second sentence of subsection (a) serves on a full-time basis for a period of less than 1 year, or on a part-time basis for periods equivalent to less than 1 year of full-time service, the total amount withheld under section 8422(a) from the annuitant's basic pay for the period or periods involved shall, upon written application to the Office, be payable to the annuitant (or the appropriate survivor or survivors, determined in the order set forth in section 8424(d)).

"(c) This section does not apply to an individual appointed to serve as a Governor of the Board of Governors of the United States Postal Service.

"(d) If an annuitant becomes employed as a justice or judge of the United States, as defined by section 451 of title 28, the annuitant may, at any time prior to resignation or retirement from regular active service as such a justice or judge, apply for and be paid, in accordance with section 8424(a), the amount (if any) by which the lump-sum credit exceeds the total annuity paid, notwithstanding the time limitation contained in such section for filing an application for payment.

"(e) A reference in this section to an 'annuity' shall not be considered to include any amount payable from a source other than the Fund.".

(b) Amendment to FERSA.—Section 302(a)(12) of the Federal Employees' Retirement System Act of 1986 is amended to read as follows:

"(12)(A)(i) If the electing individual is a reemployed annuitant under section 8344 of title 5, United States Code, under conditions allowing the annuity to continue during reemployment, payment of the annuitant's annuity shall continue after the effective date of the election, and an amount equal to the annuity allocable to the period of actual employment shall continue to be deducted from the annuitant's pay and deposited as provided in subsection (a) of such section. Deductions from pay under section 8422(a) of such title and contributions under section 8423 of such title shall begin effective on the effective date of the election.

"(ii) Notwithstanding any provision of section 301, an election under such section shall not be available to any reemployed annuitant who would be excluded from the operation of chapter 84 of title 5, United States Code, under section 8402(c) of such title (relating to exclusions based on the temporary or intermittent nature of one's employment).

"(B) If the annuitant serves on a full-time basis for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, such annuitant's annuity, on termination of reemployment, shall be increased by a annuity computed—

"(i) with respect to reemployment service before the effective date of the election, under section 8339 (a), (b), (d), (e), (h), (i), and (n) of title 5, United States Code, as may apply based on the reemployment in which such annuitant was engaged before such effective date; and

"(ii) with respect to reemployment service on or after the effective date of the election, under section 8415(a) through (f) of such title, as may apply based on the reemployment in which such annuitant was engaged on or after such effective date;

with the 'average pay' used in any computation under clause (i) or (ii) being determined (based on rates of pay in effect during the period of reemployment, whether before, on, or after the effective date of the election) in the same way as provided for in paragraph (6). If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k)(2) of title 5, United States Code, the increase in annuity payable under this subparagraph is reduced by 10 percent and the survivor annuity payable under section 8341(b) of such title is increased by 55 percent of the increase in annuity payable under this subparagraph, unless, at the time of claiming the increase payable under this subparagraph, the annuitant notifies the Office of Personnel Management in writing that such annuitant does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, after having been reemployed for at least 1 full year (or the equivalent thereof, in the case of part-time employment), any survivor annuity payable under section 8341(b) of such title based on the service of such annuitant is increased as though the reemployment had otherwise terminated. In applying paragraph (7) to an amount under this subparagraph, any portion of such amount attributable to clause (i) shall be adjusted under subparagraph (A) of such paragraph, and any portion of such amount attributable to clause (ii) shall be adjusted under subparagraph (B) of such paragraph.

"(C)(i) If the annuitant serves on a full-time basis for at least 5 years, or on a part-time basis for periods equivalent to at least 5 years of full-time service, such annuitant may elect, instead of the benefit provided by subparagraph (B), to have such annuitant's rights redetermined, effective upon separation from employment. If the annuitant so elects, the redetermined annuity will become payable as if such annuitant were retiring for the first time based on the separation from reemployment service, and the provisions of this section concerning computation of annuity (other than any provision of this paragraph) shall apply.

"(ii) If the annuitant dies while still reemployed, after having been reemployed for at least 5 full years (or the equivalent thereof, in the case of part-time employment), any person entitled to a survivor annuity under section 8341(b) of title 5, United States Code, based on the service of such annuitant shall be permitted to elect to have such person's rights redetermined in accordance with regulations which the Office shall prescribe. Redetermined benefits elected under this clause shall be in lieu of any increased benefits which would otherwise be payable in accordance with the next to last sentence of subparagraph (B).

"(D) If the annuitant serves on a full-time basis for less than 1 year (or the equivalent thereof, in the case of part-time employment), any amounts withheld under section 8422(a) of title 5, United States Code, from such annuitant's pay for the period (or periods) involved shall, upon written application to the Office, be payable to such annuitant (or the appropriate survivor or survivors, determined in the order set forth in section 8342(c) of such title).

"(E) For purposes of determining the period of an annuitant's reemployment service under this paragraph, a period of reemployment service shall not be taken into account unless—

"(i) with respect to service performed before the effective date of the election under section 301, it is service which, if performed for at least 1 full year, would have allowed such annuitant to elect under section 8344(a) of title 5, United States Code, to have deductions withheld from pay; or

"(ii) with respect to service performed on or after the effective date of the election under section 301, it is service with respect to which deductions from pay would be required to be withheld under the second sentence of section 8468(a) of title 5, United States Code.".

(c) Technical Amendment.—Section 302(a)(4) of the Federal Employees' Retirement System Act of 1986 is amended by striking out all before "benefits" and inserting "Accrued".

(d) Effective Date.—

(1) Generally.—The amendments made by this section shall take effect on the date of the enactment of this Act, and as provided in paragraph (2), shall apply with respect to any individual who becomes a reemployed annuitant on or after such date.

(2) Exception.—The amendment made by subsection (b) shall apply with respect to any election made by a reemployed annuitant on or after the date of the enactment of this Act.

SEC. 135. DESIGNATION OF UNITED STATES POST OFFICE BUILDING.

The United States Post Office Building located at 809 Nueces Bay Boulevard, Corpus Christi, Texas, shall be designated and hereafter known as the "Dr. Hector Perez Garcia Post Office Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the "Dr. Hector Perez Garcia Post Office Building".

SEC. 136. CONTINUED COVERAGE FOR CERTAIN EMPLOYEES AND ANNUITANTS OF THE ALASKA RAILROAD IN FEDERAL HEALTH BENEFITS PLANS AND LIFE INSURANCE PLANS.

(a) AMENDMENT TO ALASKA RAILROAD TRANSFER ACT OF 1982.—Section 607 of the Alaska Railroad Transfer Act of 1982 (45 U.S.C. 1206) is amended by adding at the end thereof the following new subsection:

"(e)(1) Any person described under the provisions of paragraph (2) may elect life insurance coverage under chapter 87 of title 5, United States Code, and enroll in a health benefits plan under chapter 89 of title 5, United States Code, in accordance with the provisions of this subsection.

"(2) The provisions of paragraph (1) shall apply to any person who—

"(A)(i) retired from the State-owned railroad during the period beginning on or after January 4, 1985 through the date of enactment of this subsection; and

"(ii)(I) was covered under a life insurance policy pursuant to chapter 87 of title 5, United States Code, on January 4, 1985, for the purpose of electing life insurance coverage under the provisions of paragraph (1); or

"(II) was enrolled in a health benefits plan pursuant to chapter 89 of title 5, United States Code, on January 4, 1985, for the purpose of enrolling in a health benefits plan under the provisions of paragraph (1); or

"(B)(i) on the date of enactment of this subsection is an employee of the State-owned railroad; and

"(ii)(I) has 26 years or more of service (in the civil service as a Federal employee or as an employee of the State-owned railroad, combined) on the date of retirement from the State-owned railroad; and

"(II)(aa) was covered under a life insurance policy pursuant to chapter 87 of title 5, United States Code, on January 4, 1985, for the purpose of electing life insurance coverage under the provisions of paragraph (1); or

"(bb) was enrolled in a health benefits plan pursuant to chapter 89 of title 5, United States Code, on January 4, 1985, for the purpose of enrolling in a health benefits plan under the provisions of paragraph (1).

"(3) For purposes of this section, any person described under the provisions of paragraph (2) shall be deemed to have been covered under a life insurance policy under chapter 87 of title 5, United States Code, and to have been enrolled in a health benefits plan under chapter 89 of title 5, United States Code, during the period beginning on January 5, 1985 through the date of retirement of any such person.

"(4) The provisions of paragraph (1) shall not apply to any person described under paragraph (2)(B), until the date such person retires from the State-owned railroad.".

(b) ADMINISTRATIVE PROVISIONS.—Within 180 days after the date of enactment of this section, the Director of the Office of Personnel Management shall notify any person described under the provisions of section 607(e)(2)(A) of such Act, for the purpose of the election of a life insurance policy or the enrollment in a health benefits plan pursuant to the provisions of section 607(e)(1) of the Alaska Railroad Transfer Act of 1982 (as amended by subsection (a) of this section).

SEC. 137. Section 5402 of title 39, United States Code, is amended—

(1) in subsection (f) by striking out "January 1, 1989" and inserting in lieu thereof "January 1, 1999"; and

(2) by adding at the end thereof the following new subsection:

"(g)(1) The Postal Service, in selecting carriers of non-priority bypass mail to any point served by more than one carrier in the State of Alaska, shall, at a minimum, require that any such carrier shall—

"(A) hold a certificate of public convenience and necessity issued under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371);

"(B) operate at least 3 scheduled flights each week to such point;

"(C) exhibit an adherence to such scheduled flights to the best of the abilities of such carrier; and

"(D) have provided scheduled service within the State of Alaska for at least 12 months before being selected as a carrier of non-priority bypass mail.

"(2) The Postal Service—

"(A) may provide direct mainline non-priority bypass mail service to any bush point in the State of Alaska, without regard to paragraph (1)(B), if such service is equal to or better than interline service in cost and quality; and

"(B) shall deduct the non-priority bypass mail poundage flown on direct mainline flights to bush points within the State of Alaska by any carrier, from such carrier's allocation of the total poundage of non-priority bypass mail transported to the nearest appropriate Postal Service hub point in any month.

"(3)(A) The Postal Service shall determine the bypass mail bush points and hub points described under paragraph (2)(B) after consultation with the State of Alaska and the affected local communities and air carriers.

"(B) Any changes in the determinations of the Postal Service under subparagraph (A) shall be made—

"(i) after consultation with the State of Alaska and the affected local communities and air carriers; and

"(ii) after giving 12 months public notice before any such change takes effect.

Page 40, line 7, after "Representatives" insert "and the Committee on Governmen-tal Affairs".

The SPEAKER pro tempore. Is a second demanded?

Mr. TAYLOR. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. FORD] will be recognized for 20 minutes and the gentleman from Missouri [Mr. TAYLOR] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3395 was passed by the House on October 19, 1987. The bill consists of numerous necessary technical changes in the laws relating to the Federal Employees' Retirement System, the Civil Service Retirement System, and the two retirement systems applicable to Foreign Service personnel.

The Senate amendments include additional technical changes, many of which were requested by the executive branch agencies responsible for administering the retirement programs.

In addition, the Senate amendments include an extremely important amendment providing for the indemnification of the members and Executive Director of the Thrift Investment Board, which was established by the Federal Employees' Retirement System Act of 1986.

As fiduciaries of the Thrift Savings Plan, the members and Executive Director of the Board are personally liable for decisions regarding the plan if those decisions are found to be a violation of their fiduciary responsibilities. The orginial act provided for the procurement of liability insurance to protect the fiduciaries against personal financial loss in such cases. Unfortunately, the Board has discovered that it is not possible to obtain an adequate amount of insurance in the private sector. Thus, the Board members and Executive Director are left with little or no protection against the possibility of incurring substantial personal financial losses.

As a result, the Chairman of the Thrift Board has advised me that all of the present members of the Board have agreed that they will submit their resignations from the Board unless some form of acceptable indemnification legislation is enacted into law this year.

The indemnification provisions of the Senate amendment were developed jointly by the Department of Justice and the Office of Management and Budget, and are acceptable to the members of the Thrift Board.

In the absence of this indemnification protection, we will have no one willing to serve as a member of the Thrift Board and the entire thrift savings plan will be in danger of collapse.

Mr. Speaker, this amendment and the other technical amendments to the retirement act contained in H.R. 3395 are vital to ensuring that the new Federal Employees' Retirement System will function in a fair and effective manner.

Mr. Speaker, I want to point out a clerical error concerning two Senate amendments that occurred during the engrossment of this bill in the Senate. The amendments relate to a certain service requirement necessary to qualify as a law enforcement officer. The amendments which are to page 4, appear in correct form on page S18561 of the CONGRESSIONAL RECORD for December 19, 1987. The thrust of the amendments is that the time period required is 3 years.

Mr. Speaker, I reserve the balance of my time.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, these technical corrections represent another in a series of efforts on the part of Congress to further fine tune the Federal Employees' Retirement System. As might be expected with legislation as complex as the Federal Employees' Retirement System Act, the need for numerous technical corrections has become apparent as implementation of the act proceeds. These and future efforts by the Congress prove that every effort is being made to provide for a fair and equitable retirement for postal and Federal employees.

H.R. 3395 makes numerous technical amendments concerning both the Federal Employees' Retirement System Act and the Civil Service Retirement System. Some minor substantive amendments made by the bill include:

The reduction to 3 years in the FERSA requirement that a law enforcement officer or firefighter who transfers to a supervisory or administrative position must have completed at least 10 years of law enforcement of firefighter service in order to continue coverage under the law enforcement officer and firefighter retirement provisions;

Providing retirement credit for certain service by Foreign Service national employees which prior to a 1982 OPM policy change had been deemed creditable;

Exclusion of Foreign Service nationals from FERS and from the Thrift Savings Plan;

Providing that the expenses of the Thrift Savings Plan shall be paid from the earnings on all contributions held in the fund, not just from earnings on matching Government contributions;

Extending the application deadline for certain former spouses to apply for survivor benefits from May 7, 1987 to May 7, 1989;

Providing for fiduciary responsibilities and liabilities in management of the Thrift Savings Fund; and

Providing for deductions and recomputations of a reemployed annuitant's annuity where the survivor benefit has been elected.

Mr. Speaker, the Federal Employees' Retirement System Act, represented historic legislation in providing for a sound retirement system for postal and Federal employees. It is an excellent system and Congress should facilitate all means to make it an even better system. These technical amendments represent just one area where Congress can further fine tune a system which can benefit all Federal employees.

Mr. Speaker, I reserve the balance of my time.

Mr. FORD of Michigan. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio [Ms. Oakar].

Ms. OAKAR. I thank the gentleman for yielding.

Mr. Speaker, I simply wanted to congratulate the chairman and the distinguished minority leader for the work they did in this area. This was a plan that was worked on for more than 3 years and there were some problems in terms of possibly following through with the enactment and protecting the retiree benefits that all of us said were going to be protected.

So the work that they did should not be taken lightly. It was a real major achievement I think to reconcile the problems to terms of seeing that the retirement program was solid.

I want to really congratulate them and the staff for all the good work that they have done.

Mr. TAYLOR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FORD of Michigan. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. Ford] that the House suspend the rules and concur in the Senate amendments to bill, H.R. 3395.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendments just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ALASKA NATIVE CLAIMS SETTLEMENT ACT AMENDMENTS OF 1987

Mr. UDALL. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 278) to amend the Alaska Native Claims Settlement Act to provide Alaska Natives with certain options for the continued ownership of lands and corporate shares received pursuant to the act, and for other purposes, with an amendment.

The Clerk read as follows:

House Amendment to Senate Amendment: In lieu of the Senate amendment, strike all after the enacting clause and substitute:

That (a) this Act may be cited as the "Alaska Native Claims Settlement Act Amendments of 1987".

(b) Unless otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or subsection, the reference shall be considered to be made to a section or subsection of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 and following).

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

Sec. 2. The Congress finds and declares that—

(1) the Alaska Native Claims Settlement Act was enacted in 1971 to achieve a fair and just settlement of all aboriginal land and hunting and fishing claims by Natives and Native groups of Alaska with maximum participation by Natives in decisions affecting their rights and property;

(2) the settlement enabled Natives to participate in the subsequent expansion of Alaska's economy, encouraged efforts to address serious health and welfare problems in Native villages, and sparked a resurgence of interest in the cultural heritage of the Native peoples of Alaska;

(3) despite these achievements and Congress's desire that the settlement be accomplished rapidly without litigation and in conformity with the real economic and social needs of Natives, the complexity of the land conveyance process and frequent and costly litigation have delayed implementation of the settlement and diminished its value;

(4) Natives have differing opinions as to whether the Native Corporation, as originally structured by the Alaska Native Claims Settlement Act, is well adapted to the reality of life in Native villages and to the continuation of traditional Native cultural values;

(5) to ensure the continued success of the settlement and to guarantee Natives continued participation in decisions affecting their rights and property, the Alaska Native Claims Settlement Act must be amended to enable the shareholders of each Native Corporation to structure the further implementation of the settlement in light of their particular circumstances and needs;

(6) among other things, the shareholders of each Native Corporation must be permitted to decide—

(A) when restrictions on alienation of stock issued as part of the settlement should be terminated, and

(B) whether Natives born after December 18, 1971, should participate in the settlement;

(7) by granting the shareholders of each Native Corporation options to structure the further implementation of the settlement, Congress is not expressing an opinion on the manner in which such shareholders choose to balance individual rights and communal rights;

(8) no provision of this Act shall—

(A) unless specifically provided, constitute a repeal or modification, implied or otherwise, of any provision of the Alaska Native Claims Settlement Act; or

(B) confer on, or deny to, any Native organization any degree of sovereign governmental authority over lands (including management, or regulation of the taking, of fish and wildlife) or persons in Alaska; and

(9) the Alaska Native Claims Settlement Act and this Act are Indian legislation enacted by Congress pursuant to its plenary authority under the Constitution of the United States to regulate Indian affairs.

NEW DEFINITIONS

Sec. 3. Section 3 (43 U.S.C. 1602) is amended—

(1) by inserting "group," after "individual," in subsection (h);

(2) by striking out "and" at the end of subsection (k);

(3) by striking out the period at the end of subsection (l) and inserting in lieu thereof a semicolon;

(4) by striking out "Native Group." in subsection (m) and inserting in lieu thereof "Group Corporation;"; and

(5) by adding at the end thereof the following new subsections:

"(n) 'Group Corporation' means an Alaska Native Group Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of members of a Native group in accordance with the terms of this Act;

"(o) 'Urban Corporation' means an Alaska Native Urban Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of members of an urban community of Natives in accordance with the terms of this Act;

"(p) 'Settlement Common Stock' means stock of a Native Corporation issued pursuant to section 7(g)(1) that carries with it the rights and restrictions listed in section 7(h)(1);

"(q) 'Replacement Common Stock' means stock of a Native Corporation issued in exchange for Settlement Common Stock pursuant to section 7(h)(3);

"(r) 'Descendant of a Native' means—

"(1) a lineal descendant of a Native or of an individual who would have been a Native if such individual were alive on December 18, 1971, or

"(2) an adoptee of a Native or of a descendant of a Native, whose adoption—

"(A) occurred prior to his or her majority, and

"(B) is recognized at law or in equity;

"(s) 'Alienability restrictions' means the restrictions imposed on Settlement Common Stock by section 7(h)(1)(B);

"(t) 'Settlement Trust' means a trust—

"(1) established and registered by a Native Corporation under the laws of the State of Alaska pursuant to a resolution of its shareholders, and

"(2) operated for the sole benefit of the holders of the corporation's Settlement Common Stock in accordance with section 39 and the laws of the State of Alaska.".

ISSUANCE OF STOCK

SEC. 4. Subsection (g) of section 7 (43 U.S.C. 1606(g)) is amended to read as follows:

"(g)(1) SETTLEMENT COMMON STOCK.—(A) The Regional Corporation shall be authorized to issue such number of shares of Settlement Common Stock (divided into such classes as may be specified in the articles of incorporation to reflect the provisions of this Act) as may be needed to issue one hundred shares of stock to each Native enrolled in the region pursuant to section 5.

"(B)(i) A Regional Corporation may amend its articles of incorporation to authorize the issuance of additional shares of Settlement Common Stock to—

"(I) Natives born after December 18, 1971,

"(II) Natives who were eligible for enrollment pursuant to section 5 but were not so enrolled, or

"(III) Natives who have attained the age of 65,

for no consideration or for such consideration and upon such terms and conditions as may be specified in such amendment or in a resolution approved by the board of directors pursuant to authority expressly vested in the board by the amendment. The amendment to the articles of incorporation may specify which class of Settlement Common Stock shall be issued to the various groups of Natives.

"(ii) Not more than one hundred shares of Settlement Common Stock shall be issued to any one individual pursuant to clause (i).

"(iii) The amendment authorized by clause (i) may provide that Settlement Common Stock issued to a Native pursuant to such amendment (or stock issued in exchange for such Settlement Common Stock pursuant to subsection (h)(3) or section 37(d)) shall be deemed cancelled upon the death of such Native. No compensation for this cancellation shall be paid to the estate of the deceased Native or to any person holding the stock.

"(iv) Settlement Common Stock issued pursuant to clause (i) shall not carry rights to share in distributions made to shareholders pursuant to subsections (j) and (m) unless, prior to the issuance of such stock, a majority of the class of existing holders of Settlement Common Stock carrying such rights separately approve the granting of such rights. The articles of incorporation of the Regional Corporation shall be deemed to be amended to authorize such class vote.

"(C)(i) A Regional Corporation may amend its articles of incorporation to authorize the issuance of additional shares of Settlement Common Stock as a dividend or other distribution (without regard to surplus of the corporation under the laws of the State) upon each outstanding share of Settlement Common Stock issued pursuant to subparagraphs (A) and (B).

"(ii) The amendment authorized by clause (i) may provide that shares of Settlement Common Stock issued as a dividend or other distribution shall constitute a separate class of stock with greater per share voting power than Settlement Common Stock issued pursuant to subparagraphs (A) and (B).

"(2) OTHER FORMS OF STOCK.—(A) A Regional Corporation may amend its articles of incorporation to authorize the issuance of shares of stock other than Settlement Common Stock in accordance with the provisions of this paragraph. Such amendment may provide that—

"(i) preemptive rights of shareholders under the laws of the State shall not apply to the issuance of such shares, or

"(ii) issuance of such shares shall permanently preclude the corporation from—

"(I) conveying assets to a Settlement Trust, or

"(II) issuing shares of stock without adequate consideration as required under the laws of the State.

"(B) The amendment authorized by subparagraph (A) may provide that the stock to be issued shall be one or more of the following—

"(i) divided into classes and series within classes, with preferences, limitations, and relative rights, including, without limitation—

"(I) dividend rights,

"(II) voting rights, and

"(III) liquidation preferences;

"(ii) made subject to one or more of—

"(I) the restrictions on alienation described in clauses (i), (ii), and (iv) of subsection (h)(1)(B), and

"(II) the restriction described in paragraph (1)(B)(iii); and

"(iii) restricted in issuance to—

"(I) Natives who have attained the age of sixty-five;

"(II) other identifiable groups of Natives or identifiable groups of descendants of Natives defined in terms of general applicability and not in any way by reference to place of residence or family;

"(III) Settlement Trusts; or

"(IV) entities established for the sole benefit of Natives or descendants of Natives, in which the classes of beneficiaries are defined in terms of general applicability and not in any way by reference to place of residence, family, or position as an officer, director, or employee of a Native Corporation.

"(C) The amendment authorized by subparagraph (A) shall provide that the additional shares of stock shall be issued—

"(i) as a dividend or other distribution (without regard to surplus of the corporation under the laws of the State) upon all outstanding shares of stock of any class or series, or

"(ii) for such consideration as may be permitted by law (except that this requirement may be waived with respect to issuance of stock to the individuals or entities described in subparagraph (B)(iii)).

"(D) During any period in which alienability restrictions are in effect, no stock whose issuance is authorized by subparagraph (A) shall be—

"(i) issued to, or for the benefit of, a group of individuals composed only or principally of employees, officers, and directors of the corporation; or

"(ii) issued more than thirteen months after the date on which the vote of the shareholders on the amendment authorizing the issuance of such stock occurred if, as a result of the issuance, the outstanding shares of Settlement Common Stock will represent less than a majority of the total voting power of the corporation for the purpose of electing directors.

"(3) DISCLOSURE REQUIREMENTS.—(A) An amendment to the articles of incorporation of a Regional Corporation authorized by paragraph (2) shall specify—

"(i) the maximum number of shares of any class or series of stock that may be issued, and

"(ii) the maximum number of votes that may be held by such shares.

"(B)(i) If the board of directors of a Regional Corporation intends to propose an amendment pursuant to paragraph (2) which would authorize the issuance of classes or series of stock that, singly or in combination, could cause the outstanding shares of Settlement Common Stock to represent less than a majority of the total voting power of the corporation for the purposes of electing directors, the shareholders of such corporation shall be expressly so informed.

"(ii) Such information shall be transmitted to the shareholders in a separate disclosure statement or in another informational document in writing or in recorded sound form both in English and any Native language used by a shareholder of such corporation. Such statement or informational document shall be transmitted to the shareholders at least 60 days prior to the date on which such proposal is to be submitted for a vote.

"(iii) If not later than 30 days after issuance of such disclosure statement or informational document the board of directors receives a prepared concise statement setting forth arguments in opposition to the proposed amendment together with a request for distribution thereof signed by the holders of at least 10 percent of the outstanding shares of Settlement Common

Stock, the board shall either distribute such statement to the shareholders or provide to the requesting shareholders a list of all shareholder's names and addresses so that the requesting shareholders may distribute such statement.

"(4) Savings.—(A)(i) No shares of stock issued pursuant to paragraphs (1)(C) and (2) shall carry rights to share in distributions made to shareholders pursuant to subsections (j) and (m). No shares of stock issued pursuant to paragraph (1)(B) shall carry such rights unless authorized pursuant to paragraph (1)(B)(iv).

"(ii) Notwithstanding the issuance of additional shares of stock pursuant to paragraphs (1)(B), (1)(C), or (2), a Regional Corporation shall apply the ratio last computed pursuant to subsection (m) prior to the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987 for purposes of distributing funds pursuant to subsections (j) and (m).

"(B) The issuance of additional shares of stock pursuant to paragraphs (1)(B), (1)(C), or (2) shall not affect the division and distribution of revenues pursuant to subsection (i).

"(C) No provision of this Act shall limit the right of a Regional Corporation to take an action authorized by the laws of the State unless such action is inconsistent with the provisions of this Act.".

SETTLEMENT COMMON STOCK

Sec. 5. Subsection (h) of section 7 (43 U.S.C. 1606(h)) is amended to read as follows:

"(h)(1) Rights and Restrictions.—(A) Except as otherwise expressly provided in this Act, Settlement Common Stock of a Regional Corporation shall—

"(i) carry a right to vote in elections for the board of directors and on such other questions as properly may be presented to shareholders;

"(ii) permit the holder to receive dividends or other distributions from the corporation; and

"(iii) vest in the holder all rights of a shareholder in a business corporation organized under the laws of the State.

"(B) Except as otherwise provided in this subsection, Settlement Common Stock, inchoate rights thereto, and rights to dividends or distributions declared with respect thereto shall not be—

"(i) sold;

"(ii) pledged;

"(iii) subjected to a lien or judgment execution;

"(iv) assigned in present or future;

"(v) treated as an asset under—

"(I) title 11 of the United States Code or any successor statute,

"(II) any other insolvency or moratorium law, or

"(III) other laws generally affecting creditors' rights; or

"(vi) otherwise alienated.

"(C) Notwithstanding the restrictions set forth in subparagraph (B), Settlement Common Stock may be transferred to a Native or a descendant of a Native—

"(i) pursuant to a court decree of separation, divorce, or child support;

"(ii) by a holder who is a member of a professional organization, association, or board that limits his or her ability to practice his or her profession because he or she holds Settlement Common Stock; or

"(iii) as an inter vivos gift from a holder to his or her child, grandchild, great-grandchild, niece, or nephew.

"(2) Inheritance of Settlement Common Stock.—(A) Upon the death of a holder of Settlement Common Stock, ownership of such stock (unless cancelled in accordance with subsection (g)(1)(B)(iii)) shall be transferred in accordance with the lawful will of such holder or pursuant to applicable laws of intestate succession. If the holder fails to dispose of his or her stock by will and has no heirs under applicable laws of intestate succession, the stock shall escheat to the issuing Regional Corporation and be cancelled.

"(B) The issuing Regional Corporation shall have the right to purchase at fair value Settlement Common Stock transferred pursuant to applicable laws of intestate succession to a person not a Native or a descendant of a Native after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987 if—

"(i) the corporation—

"(I) amends its articles of incorporation to authorize such purchases, and

"(II) gives the person receiving such stock written notice of its intent to purchase within ninety days after the date that the corporation either determines the decedent's heirs in accordance with the laws of the State or receives notice that such heirs have been determined, whichever later occurs; and

"(ii) the person receiving such stock fails to transfer the stock pursuant to paragraph (1)(C)(iii) within sixty days after receiving such written notice.

"(C) Settlement Common Stock of a Regional Corporation—

"(i) transferred by will or pursuant to applicable laws of intestate succession after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987, or

"(ii) transferred by any means prior to the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987,

to a person not a Native or a descendant of a Native shall not carry voting rights. If at a later date such stock is lawfully transferred to a Native or a descendant of a Native, voting rights shall be automatically restored.

"(3) Replacement Common Stock.—(A) On the date on which alienability restrictions terminate in accordance with the provisions of section 37, all Settlement Common Stock previously issued by a Regional Corporation shall be deemed cancelled, and shares of Replacement Common Stock of the appropriate class shall be issued to each shareholder, share for share, subject only to subparagraph (B) and to such restrictions consistent with this Act as may be provided by the articles of incorporation of the corporation or in agreements between the corporation and individual shareholders.

"(B)(i) Replacement Common Stock issued in exchange for Settlement Common Stock issued subject to the restriction authorized by subsection (g)(1)(B)(iii) shall bear a legend indicating that the stock will eventually be cancelled in accordance with the requirements of that subsection.

"(ii) Prior to the termination of alienability restrictions, the board of directors of the corporation shall approve a resolution to provide that each share of Settlement Common Stock carrying the right to share in distributions made to shareholders pursuant to subsections (j) and (m) shall be exchanged either for—

"(I) a share of Replacement Common Stock that carries such right, or

"(II) a share of Replacement Common Stock that does not carry such right together with a separate, non-voting security that represents only such right.

"(iii) Replacement Common Stock issued in exchange for a class of Settlement Common Stock carrying greater per share voting power than Settlement Common Stock issued pursuant to subsections (g)(1)(A) and (g)(1)(B) shall carry such voting power and be subject to such other terms as may be provided in the amendment to the articles of incorporation authorizing the issuance of such class of Settlement Common Stock.

"(C) The articles of incorporation of the Regional Corporation shall be deemed amended to authorize the issuance of Replacement Common Stock and the security described in subparagraph (B)(ii)(II).

"(D) Prior to the date on which alienability restrictions terminate, a Regional Corporation may amend its articles of incorporation to impose upon Replacement Common Stock one or more of the following—

"(i) a restriction denying voting rights to any holder of Replacement Common Stock who is not a Native or a descendant of a Native;

"(ii) a restriction granting the Regional Corporation, or the Regional Corporation and members of the shareholder's immediate family who are Natives or descendants of Natives, the first right to purchase, on reasonable terms, the Replacement Common Stock of the shareholder prior to the sale or transfer of such stock (other than a transfer by will or intestate succession) to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance; and

"(iii) any other term, restriction, limitation, or provision authorized by the laws of the State.

"(E) Replacement Common Stock shall not be subjected to a lien or judgment execution based upon any asserted or unasserted legal obligation of the original recipient arising prior to the issuance of such stock.".

VILLAGE, URBAN, AND GROUP CORPORATIONS

Sec. 6. Subsection (c) of section 8 (43 U.S.C. 1607(c)) is amended to read as follows:

"(c) Applicability of Section 7.—The provisions of subsections (g), (h), and (o) of section 7 shall apply in all respects to Village Corporations, Urban Corporations, and Group Corporations.".

PROCEDURES FOR CONSIDERING AMENDMENTS AND RESOLUTIONS

Sec. 7. The Alaska Native Claims Settlement Act is further amended by adding the following new section:

"PROCEDURES FOR CONSIDERING AMENDMENTS AND RESOLUTIONS

"Sec. 36. (a) Coverage.—Notwithstanding any provision of the articles of incorporation and bylaws of a Native Corporation or of the laws of the State, except those related to proxy statements and solicitations that are not inconsistent with this section—

"(1) an amendment to the articles of incorporation of a Native Corporation authorized by subsections (g) and (h) of section 7, subsection (d)(1)(B) of this section, or section 37;

"(2) a resolution authorized by section 38(a)(2);

"(3) a resolution to establish a Settlement Trust; or

"(4) a resolution to convey all or substantially all of the assets of a Native Corporation to a Settlement Trust pursuant to section 39(a)(1);

shall be considered in accordance with the provisions of this section.

"(b) BASIC PROCEDURE.—(1) An amendment or resolution described in subsection (a) may be approved by the board of directors of a Native Corporation in accordance with its bylaws. If the board approves the amendment or resolution, it shall direct that the amendment or resolution be submitted to a vote of the shareholders at the next annual meeting or at a special meeting (if the board, at its discretion, schedules such special meeting). One or more such amendments or resolutions may be submitted to the shareholders and voted upon at one meeting.

"(2)(A) A written notice (including a proxy statement if required under applicable law), setting forth the amendment or resolution approved pursuant to paragraph (1) (and, at the discretion of the board, a summary of the changes to be effected) together with any amendment or resolution submitted pursuant to subsection (c) and the statements described therein shall be sent, not less than fifty days nor more than sixty days prior to the meeting of the shareholders, by first-class mail or hand-delivered to each shareholder of record entitled to vote at his or her address as it appears in the records of the Native Corporation. The corporation may also communicate with its shareholders at any time and in any manner authorized by the laws of the State.

"(B) The board of directors may, but shall not be required to, appraise or otherwise determine the value of—

"(i) land conveyed to the corporation pursuant to section 14(h)(1) or any other land used as a cemetery;

"(ii) the surface estate of land that is both—

"(I) exempt from real estate taxation pursuant to section 907(d)(1)(A) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 31 and following); and

"(II) used by the shareholders of the corporation for subsistence uses (as defined in section 803 of the Alaska National Interest Lands Conservation Act); or

"(iii) land or interest in land which the board of directors believes to be only of speculative value;

in connection with any communication made to the shareholders pursuant to this subsection.

"(C) If the board of directors determines, for quorum purposes or otherwise, that a previously-noticed meeting must be postponed or adjourned, it may, by giving notice to the shareholders, set a new date for such meeting not more than forty-five days later than the original date without sending the shareholders a new written notice (or a new summary of changes to be effected). If the new date is more than forty-five days later than the original date, however, a new written notice (and a new summary of changes to be effected if such a summary was originally sent pursuant to subparagraph (A)), shall be sent or delivered to shareholders not less than thirty days nor more than forty-five days prior to the new date.

"(c) SHAREHOLDER PETITIONS.—(1)(A) With respect to an amendment authorized by section 7(g)(1)(B) or section 37(b) or an amendment authorizing the issuance of stock subject to the restrictions provided by section 7(g)(2)(B)(iii), the holders of shares representing at least 25 per centum of the total voting power of a Native Corporation may petition the board of directors to submit such amendment to a vote of the shareholders in accordance with the provisions of this section.

"(B) The requirements of the laws of the State relating to the solicitation of proxies shall govern solicitation of signatures for a petition described in subparagraph (A) except that the requirements of Federal law shall govern the solicitation of signatures for a petition that is to be submitted to a Native Corporation which at the time of such submission has issued a class of equity securities registered pursuant to the Securities Exchange Act of 1934. If a petition meets the applicable solicitation requirements and—

"(i) the board agrees with such petition, the board shall submit the amendment and either the proponents' statement or its own statement in support of the amendment to the shareholders for a vote, or

"(ii) the board disagrees with the petition for any reason, the board shall submit the amendment and the proponents' statement to the shareholders for a vote and may, at its discretion, submit an opposing statement or an alternative amendment.

"(2) Paragraph (1) shall not apply to a Native Corporation that on or before the date one year after the date of enactment of the Alaska Native Claims Settlement Act Amendments of 1987 elects application of section 37(d) in lieu of section 37(b). Until December 18, 1991, paragraph (1) shall not apply to a Native Corporation that elects application of section 37(c) in lieu of section 37(b). Insofar as they are not inconsistent with this section, the laws of the State shall govern any shareholder right of petition for Native Corporations.

"(d) VOTING STANDARDS.—(1) An amendment or resolution described in subsection (a) shall be considered to be approved by the shareholders of a Native Corporation if it receives the affirmative vote of shares representing—

"(A) a majority of the total voting power of the corporation, or

"(B) a level of the total voting power of the corporation greater than a majority (but not greater than two-thirds of the total voting power of the corporation) if the corporation establishes such a level by an amendment to its articles of incorporation.

"(2) A Native Corporation in amending its articles of incorporation pursuant to section 7(g)(2) to authorize the issuance of a new class or series of stock may provide that a majority (or more than a majority) of the shares of such class or series must vote in favor of an amendment or resolution described in subsection (a) (other than an amendment authorized by section 37) in order for such amendment or resolution to be approved.

"(e) VOTING POWER.—For the purposes of this section, the determination of total voting power of a Native Corporation shall include all outstanding shares of stock that carry voting rights except shares that are not permitted to vote on the amendment or resolution in question because of restrictions in the articles of incorporation of the corporation.".

DURATION OF ALIENABILITY RESTRICTIONS

SEC. 8. The Alaska Native Claims Settlement Act is further amended by adding the following new section after section 36:

"DURATION OF ALIENABILITY RESTRICTIONS

"SEC. 37. (a) GENERAL RULE.—Alienability restrictions shall continue until terminated in accordance with the procedures established by this section. No such termination shall take effect until after December 18, 1991.

"(b) OPT-OUT PROCEDURE.—(1)(A) A Native Corporation may amend its articles of incorporation to terminate alienability restrictions in accordance with this subsection. Only one amendment to terminate alienability restrictions shall be considered and voted on prior to December 18, 1991. Rejection of the amendment shall not preclude consideration prior to December 18, 1991, of subsequent amendments to terminate alienability restrictions.

"(B) If an amendment to terminate alienability restrictions is considered, voted on, and rejected prior to December 18, 1991, then subsequent amendments to terminate alienability restrictions after December 18, 1991, shall be considered and voted on—

"(i) in the case of an amendment submitted by the board of directors of the corporation on its own motion, not earlier than 5 years after the rejection of the most recently rejected amendment to terminate restrictions; or

"(ii) in the case of an amendment submitted by the board of directors of the corporation pursuant to a shareholder petition, not earlier than 2 years after the rejection of the most recently rejected amendment to terminate restrictions.

"(C) If no amendment to terminate alienability restrictions is considered and voted on prior to December 18, 1991, then amendments to terminate alienability restrictions after December 18, 1991, shall be considered and voted on—

"(i) in the case of an amendment submitted by the board of directors of the corporation on its own motion, not more than once every 5 years; or

"(ii) in the case of an amendment submitted by the board of directors of the corporation pursuant to a shareholder petition, not more than once every 2 years.

"(2) An amendment authorized by paragraph (1) shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which alienability restrictions shall terminate.

"(3) Dissenters rights may be granted by the corporation in connection with the rejection of an amendment to terminate alienability restrictions in accordance with section 38. Once dissenters rights have been so granted, they shall not be granted again in connection with subsequent amendments to terminate alienability restrictions.

"(c) RECAPITALIZATION PROCEDURE.—(1)(A) On or prior to December 18, 1991, a Native Corporation may amend its articles of incorporation to implement a recapitalization plan in accordance with this subsection. Rejection of an amendment or amendments to implement a recapitalization plan shall not preclude consideration prior to December 18, 1991, of a subsequent amendment or amendments to implement such a plan. Subsequent amendment or amendments shall be considered and voted on not earlier than one year after the date on which the most recent previous recapitalization plan was rejected. No recapitalization plan shall provide for the termination of alienability restrictions prior to December 18, 1991.

"(B) An amendment or amendments submitted pursuant to subparagraph (A) (and any subsequent amendment submitted pursuant to subparagraph (C)) may provide for the maintenance or extension of alienability restrictions for—

"(i) an indefinite period of time;

"(ii) a specified period of time not to exceed fifty years; or

"(iii) a period of time that shall end upon the occurrence of a specified event.

"(C) If an amendment or amendments approved pursuant to subparagraph (A) or this subparagraph maintains or extends alienability restrictions for a specified period of time, termination of the restrictions at the close of such period may be postponed if a further amendment to the articles of incorporation of the corporation is approved to extend the restrictions. There shall be no limit on the number of such amendments that can be approved. Such amendments shall not be effective to extend the restrictions unless approved prior to the expiration of the period of maintenance or extension then in force.

"(D) The board of directors may ask the shareholders to approve en bloc pursuant to a single vote a series of amendments (including an amendment to authorize the issuance of stock pursuant to section 7(g)) to implement a recapitalization plan that includes a provision maintaining alienability restrictions.

"(2)(A) If an amendment to the articles of incorporation of a Native Corporation maintaining or extending alienability restrictions for a specified period of time is approved pursuant to paragraph (1), the restrictions shall automatically terminate at the end of such period unless the restrictions are extended in accordance with the provisions of paragraph (1)(C).

"(B)(i) A Native Corporation that approves an amendment to its articles of incorporation pursuant to paragraph (1)(B) to maintain or extend alienability restrictions for an indefinite period may later amend its articles to terminate such restrictions. Such amendment shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which the restrictions shall terminate.

"(ii) Rejection of an amendment described in clause (i) by the shareholders shall not preclude consideration of subsequent amendments to terminate alienability restrictions.

"(3) If a recapitalization plan approved pursuant to paragraph (1) distributes voting alienable common stock to each holder of shares of Settlement Common Stock (issued pursuant to section 7(g)(1)(A)) that carries aggregate dividend and liquidation rights equivalent to those carried by such shares of Settlement Common Stock (except for rights to distributions made pursuant to sections 7(j) and 7(m)) upon completion of the recapitalization plan, then such holder shall have no right under section 38 and any other provision of law to further compensation from the corporation with respect to action taken pursuant to this subsection.

"(d) Opt-In Procedure.—(1)(A) Subsection (b) shall not apply to a Native Corporation whose board of directors approves, no later than one year after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987, a resolution electing the application of this subsection.

"(B) This subsection shall not apply to Village Corporations, Urban Corporations, and Group Corporations located outside of the Bristol Bay and Aleut regions.

"(2)(A) Alienability restrictions imposed on Settlement Common Stock issued by a Native Corporation electing application of this subsection shall terminate on December 18, 1991, unless extended in accordance with the provisions of this subsection.

"(B) The board of directors of a Native Corporation electing application of this subsection shall, at least once prior to January 1, 1991, approve, and submit to a vote of the shareholders, an amendment to the articles of incorporation of the corporation to extend alienability restrictions. If the amendment is not approved by the shareholders, the board of directors may submit another such amendment to the shareholders once or more a year until December 18, 1991.

"(C) An amendment submitted pursuant to subparagraph (B) and any amendment submitted pursuant to subparagraph (D) may provide for an extension of alienability restrictions for—

"(i) an indefinite period of time, or

"(ii) a specified period of time of not less than 1 year and not more than 50 years.

"(D) If an amendment approved by the shareholders of a Native Corporation pursuant to subparagraph (B) or this subparagraph extends alienability restrictions for a specified period of time, termination of the restrictions at the close of such period may be postponed if a further amendment to the articles of incorporation of the corporation is approved to extend the restrictions. There shall be no limit on the number of such amendments that can be approved. Such amendments shall not be effective to extend the restrictions unless approved prior to the expiration of the period of extension then in force.

"(3)(A) If an amendment to the articles of incorporation of a Native Corporation extending alienability restrictions for a specified period of time is approved pursuant to paragraph (2), the restrictions shall automatically terminate at the end of such period unless the restrictions are extended in accordance with the provisions of paragraph (2)(D).

"(B) If the board of directors of a Native Corporation electing application of this subsection does not submit for a shareholder vote an amendment to the articles of incorporation of the corporation in accordance with paragraph (2)(B), or if the amendment submitted does not comply with paragraph (2)(C), alienability restrictions shall not terminate and shall instead remain in effect until such time as a court of competent jurisdiction, upon petition of one or more shareholders of the corporation, orders that a shareholder vote be taken on an amendment which complies with paragraph (2)(C) and such vote is conducted. Following the vote, the status of alienability restrictions shall be determined in accordance with the other provisions of this subsection and the amendment, if approved.

"(4)(A) A Native Corporation that approves an amendment to its articles of incorporation pursuant to paragraph (2) to extend alienability restrictions for an indefinite period of time may later amend its articles of incorporation to terminate the restrictions. Such amendment shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which the restrictions shall terminate.

"(B) The rejection of an amendment described in subparagraph (A) by the shareholders shall not preclude consideration of subsequent amendments to terminate alienability restrictions.

"(5)(A) If a Native Corporation amends its articles of incorporation pursuant to paragraph (2) to extend alienability restrictions, a shareholder who—

"(i) voted against such amendment, and

"(ii) desires to relinquish his or her Settlement Common Stock in exchange for the stock or payment authorized by the board of directors pursuant to subparagraph (B),

shall notify the Corporation within 90 days of the date of the vote of the shareholders on the amendment of his or her desire.

"(B) Within 120 days after the date of the vote described in subparagraph (A), the board of directors shall approve a resolution to provide that each shareholder who has notified the corporation pursuant to subparagraph (A) shall receive either—

"(i) alienable common stock in exchange for his or her Settlement Common Stock pursuant to paragraph (6), or

"(ii) an opportunity to request payment for his or her Settlement Common Stock pursuant to section 38(a)(1)(B).

"(C) This paragraph shall apply only to the first extension of alienability restrictions approved by the shareholders. No dissenters rights of any sort shall be permitted in connection with subsequent extensions of such restrictions.

"(6)(A) If the board of directors of a Native Corporation approves a resolution providing for the issuance of alienable common stock pursuant to paragraph (5)(B), then on December 18, 1991, or sixty days after the approval of the resolution, whichever later occurs, the Settlement Common Stock of each shareholder who has notified the corporation pursuant to paragraph (5)(A) shall be deemed cancelled, and shares of alienable common stock of the appropriate class shall be issued to such shareholder, share for share, subject only to subparagraph (B) and to such restrictions consistent with this Act as may be provided by the articles of incorporation of the corporation or in agreements between the corporation and individual shareholders.

"(B)(i) Alienable common stock issued in exchange for Settlement Common Stock issued subject to the restriction authorized by section 7(g)(1)(B)(iii) shall bear a legend indicating that the stock will eventually be cancelled in accordance with the requirements of that section.

"(ii) Alienable common stock issued in exchange for a class of Settlement Common Stock carrying greater per share voting power than Settlement Common Stock issued pursuant to subsections (g)(1)(A) and (g)(1)(B) shall carry such voting power and be subject to such other terms as may be provided in the amendment to the articles of incorporation authorizing the issuance of such class of Settlement Common Stock.

"(iii) In the resolution authorized by paragraph (5)(B), the board of directors shall provide that each share of Settlement Common Stock carrying the right to share in distributions made to shareholders pursuant to subsections (j) and (m) of section 7 shall be exchanged either for—

"(I) a share of alienable common stock carrying such right, or

"(II) a share of alienable common stock that does not carry such right together with a separate, non-voting security that represents only such right.

"(iv) In the resolution authorized by paragraph (5)(B), the board of directors may impose upon the alienable common stock to be issued in exchange for Settlement Common Stock one or more of the following—

"(I) a restriction granting the corporation, or the corporation and members of the shareholder's immediate family who are Natives or descendants of Natives the first right to purchase, on reasonable terms, the alienable common stock of the shareholder prior to the sale or transfer of such stock (other than a transfer by will or intestate succession) to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance; or

"(II) any other term, restriction, limitation, or other provision permitted under the laws of the State.

"(C) The articles of incorporation of the Native Corporation shall be deemed amended to implement the provisions of the resolution authorized by paragraph (5)(B).

"(D) Alienable common stock issued pursuant to this subparagraph shall not be subjected to a lien or judgment execution based upon any asserted or unasserted legal obligation of the original recipient arising prior to the issuance of such stock.

"(7)(A) No share of alienable common stock issued pursuant to paragraph (6) shall carry voting rights if it is owned, legally or beneficially, by a person not a Native or a descendant of a Native.

"(B)(i) A purchaser or other transferee of shares of alienable common stock shall, as a condition of the obligation of the issuing Native Corporation to transfer such shares on the books of the corporation, deliver to the corporation or transfer agent, as the case may be, a statement on a form prescribed by the corporation identifying the number of such shares to be transferred to such transferee and certifying—

"(I) that such transferee is or is not a Native or a descendant of a Native;

"(II) that such transferee, if not a Native or a descendant of a Native, understands that shares of such alienable common stock shall not carry voting rights so long as such shares are held by the transferee or any subsequent transferee not a Native or a descendant of a Native;

"(III) that such transferee, if a purchaser, understands that such acquisition may be subject to section 13(d) of the Securities Exchange Act of 1934, as amended, and the regulations of the Securities and Exchange Commission promulgated thereunder; and

"(IV) whether such transferee will be the sole beneficial owner of such shares (if not, the transferee must certify as to the identities of all beneficial owners of such shares and whether such owners are Natives or descendants of Natives).

"(ii) The statement required by clause (i) shall be prima facie evidence of the matters certified therein and may be relied upon by the corporation in effecting a transfer on its books.

"(iii) For purposes of this subparagraph, a beneficial owner of a security includes any person (including a corporation, partnership, trust, association, or other entity) who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares—

"(I) voting power, which includes the power to vote, or to direct the voting of, such security; or

"(II) investment power, which includes the power to dispose of, or to direct the disposition of, such security.

"(iv) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting such person of beneficial ownership of a security or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the requirements imposed by this section or section 13(d) of the Securities Exchange Act of 1934, as amended, shall be deemed for purposes of such sections to be the beneficial owner of such security.

"(C) The statement required by subparagraph (B) shall be verified by the transferee before a notary public or other official authorized to administer oaths in accordance with the laws of the jurisdiction of the transferee or in which the transfer is made.".

DISSENTERS RIGHTS

SEC. 9. The Alaska Native Claims Settlement Act is further amended by adding the following new section after section 37:

"DISSENTERS RIGHTS

"SEC. 38. (a) COVERAGE.—(1) Notwithstanding the laws of the State, if the shareholders of a Native Corporation—

"(A) fail to approve an amendment authorized by section 37(b) to terminate alienability restrictions, a shareholder who voted for the amendment may demand payment from the corporation for all of his or her shares of Settlement Common Stock; or

"(B) approve an amendment authorized by section 37(d) to continue alienability restrictions without issuing alienable common stock pursuant to section 37(d)(6), a shareholder who voted against the amendment may demand payment from the corporation for all of his or her shares of Settlement Common Stock.

"(2)(A) A demand for payment made pursuant to paragraph (1)(A) shall be honored only if at the same time as the vote giving rise to the demand, the shareholders of the corporation approved a resolution providing for the purchase of Settlement Common Stock from dissenting shareholders.

"(B) A demand for payment made pursuant to paragraph (1)(B) shall be honored.

"(b) RELATIONSHIP TO STATE PROCEDURE.—(1) Except as otherwise provided in this section, the laws of the State governing the right of a dissenting shareholder to demand and receive payment for his or her shares shall apply to demands for payment honored pursuant to subsection (a)(2).

"(2) The board of directors of a Native Corporation may approve a resolution to provide a dissenting shareholder periods of time longer than those provided under the laws of the State to take actions required to demand and receive payment for his or her shares.

"(c) VALUATION OF STOCK.—(1) Prior to a vote described in subsection (a)(1), the board of directors of a Native Corporation may approve a resolution to provide that one or more of the following conditions will apply in the event a demand for payment is honored pursuant to subsection (a)(2)—

"(A) the Settlement Common Stock shall be valued as restricted stock; and

"(B) the value of—

"(i) any land conveyed to the corporation pursuant to section 14(h)(1) or any other land used as a cemetery; and

"(ii) the surface estate of any land that is both—

"(I) exempt from real estate taxation pursuant to section 907(d)(1)(A) of the Alaska National Interest Lands Conservation Act, and

"(II) used by the shareholders of the corporation for subsistence uses (as defined in section 803 of the Alaska National Interest Lands Conservation Act); or

"(iii) any land or interest in land which the board of directors believes to be only of speculative value;

shall be excluded by the shareholder making the demand for payment, the corporation purchasing the Settlement Common Stock of the shareholder, and any court determining the fair value of the shares of Settlement Common Stock to be purchased.

"(2) No person shall have a claim against a Native Corporation or its board of directors based upon the failure of the board to approve a resolution authorized by this subsection.

"(d) FORM OF PAYMENT.—(1) Prior to a vote described in subsection (a)(1), the board of directors of a Native Corporation may approve a resolution to provide that in the event a demand for payment is honored pursuant to subsection (a)(2) payments to each dissenting shareholder shall be made by the corporation through the issuance of a negotiable note in the principal amount of the payment due, which shall be secured by—

"(A) a payment bond issued by an insurance company or financial institution;

"(B) the deposit in escrow of securities or property having a fair market value equal to at least 125 per centum of the face value of the note; or

"(C) a lien upon real property interests of the corporation valued at 125 percent or more of the face amount of the note, except that no such lien shall be applicable to—

"(i) land conveyed to the corporation pursuant to section 14(h)(1), or any other land used as a cemetery;

"(ii) the percentage interest in the corporation's timber resources and subsurface estate that exceeds its percentage interest in revenues from such property under section 7(i); or

"(iii) the surface estate of land that is both—

"(I) exempt from real estate taxation pursuant to section 907(d)(1)(A) of the Alaska National Interest Lands Conservation Act; and

"(II) used by the shareholders of the corporation for subsistence uses (as defined in section 803 of the Alaska National Interest Lands Conservation Act),

unless the Board of Directors of the corporation acts so as to make such lien applicable to such surface estate.

"(2) A note issued pursuant to paragraph (1) shall provide that—

"(A) interest shall be paid semi-annually, beginning as of the date on which the vote described in subsection (a)(1) occurred, at the rate applicable on such date to obligations of the United States having a maturity date of one year, and

"(B) the principal amount and accrued interest on such note shall be payable to the holder at a time specified by the corporation but in no event later than the date that is five years after the date of the vote described in subsection (a)(1).

"(e) DIVIDEND ADJUSTMENT.—(1) The cash payment made pursuant to subsection (a) or the principal amount of a note issued pursuant to subsection (d) to a dissenting shareholder shall be reduced by the amount of dividends paid to such shareholder with respect to his or her Settlement Common Stock after the date of the vote described in subsection (a)(1).

"(2) Upon receipt of a cash payment pursuant to subsection (a) or a note pursuant to subsection (d), a dissenting shareholder shall no longer have an interest in the shares of Settlement Common Stock or in the Native Corporation.".

SETTLEMENT TRUST OPTION

SEC. 10. The Alaska Native Claims Settlement Act is further amended by adding the following new section:

"SETTLEMENT TRUST OPTION

"SEC. 39. (a) CONVEYANCE OF CORPORATE ASSETS.—(1)(A) A Native Corporation may convey assets (including stock or beneficial interests therein) to a Settlement Trust in accordance with the laws of the State (except to the extent that such laws are inconsistent with this section and section 36).

"(B) The approval of the shareholders of the corporation in the form of a resolution shall be required to convey all or substantially all of the assets of the corporation to a Settlement Trust. A conveyance in violation of this clause shall be void ab initio and shall not be given effect by any court.

"(2) No subsurface estate in land shall be conveyed to a Settlement Trust. A conveyance of title to, or any other interest in, subsurface estate in violation of this subparagraph shall be void ab initio and shall not be given effect by any court.

"(3) Conveyances made pursuant to this subsection—

"(A) shall be subject to applicable laws respecting fraudulent conveyance and creditors rights; and

"(B) shall give rise to dissenters rights to the extent provided under the laws of the State only if the rights of beneficiaries in the Settlement Trust receiving a conveyance are inalienable.

"(4) The provisions of this subsection shall not prohibit a Native Corporation from engaging in any conveyance, reorganization, or transaction not otherwise prohibited under the laws of the State or the United States.

"(b) AUTHORITY AND LIMITATIONS OF A SETTLEMENT TRUST.—(1) The purpose of a Settlement Trust shall be to promote the health, education, and welfare of its beneficiaries and preserve the heritage and culture of Natives. A Settlement Trust shall not—

"(A) operate as a business;

"(B) alienate land or any interest in land received from the settlor Native Corporation (except if the recipient of the land is the settlor corporation); or

"(C) discriminate in favor of a group of individuals composed only or principally of employees, officers, or directors of the settlor Native Corporation.

An alienation of land or an interest in land in violation of this paragraph shall be void ab initio and shall not be given effect by any court.

"(2) A Native Corporation that has established a Settlement Trust shall have exclusive authority to—

"(A) appoint the trustees of the trust, and

"(B) remove the trustees of the trust for cause.

Only a natural person shall be appointed a trustee of a Settlement Trust. An appointment or removal of a trustee in violation of this paragraph shall be void ab initio and shall not be given effect by any court.

"(3) A Native Corporation that has established a Settlement Trust may expand the class of beneficiaries to include holders of Settlement Common Stock issued after the establishment of the trust without compensation to the original beneficiaries.

"(4) A Settlement Trust shall not be held to violate any laws against perpetuities.

"(c) SAVINGS.—(1) The provisions of this Act shall continue to apply to any land or interest in land received from the Federal Government pursuant to this Act and later conveyed to a Settlement Trust as if the land or interest in land were still held by the Native Corporation that conveyed the land or interest in land.

"(2) No timber resources subject to section 7(i) conveyed to a Settlement Trust shall be sold, exchanged, or otherwise conveyed except as necessary to—

"(A) dispose of diseased or dying timber or to prevent the spread of disease or insect infestation;

"(B) prevent or suppress fire; or

"(C) ensure public safety.

The revenue, if any, from such timber harvests shall be subject to section 7(i) as if such conveyance had not occurred.

"(3) The conveyance of assets (including stock or beneficial interests) pursuant to subsection (a) shall not affect the applicability or enforcement (including specific performance) of a valid contract, judgment, lien, or other obligation (including an obligation arising under section 7(i) to which such assets, stock, or beneficial interests were subject immediately prior to such conveyance.

"(4) A claim based upon paragraph (1), (2), or (3) shall be enforceable against the transferee Settlement Trust holding the land, interest in land, or other assets (including stock or beneficial interests) in question to the same extent as such claim would have been enforceable against the transferor Native Corporation, and valid obligations arising under section 7(i) as well as claims with respect to a conveyance in violation of a valid contract, judgment, lien, or other obligation shall also be enforceable against the transferor corporation.

"(5) Except as provided in paragraphs (1), (2), (3), and (4), once a Native Corporation has made, pursuant to subsection (a), a conveyance to a Settlement Trust that does not—

"(A) render it—

"(i) unable to satisfy claims based upon paragraph (1), (2), or (3); or

"(ii) insolvent; or

"(B) occur when the Native Corporation is insolvent;

the assets so conveyed to the Settlement Trust shall not be subject to attachment, distraint, or sale on execution of judgment or other process or order of any court, except with respect to the lawful debts or obligations of the Settlement Trust.

"(6) No transferee Settlement Trust shall make a distribution or conveyance of assets (including cash, stock, or beneficial interests) that would render it unable to satisfy a claim made pursuant to paragraph (1), (2), or (3). A distribution or conveyance made in violation of this paragraph shall be void ab initio and shall not be given effect by any court.

"(7) Except where otherwise expressly provided, no provision of this section shall be construed to require shareholder approval of an action where shareholder approval would not be required under the laws of the State.

ALASKA LAND BANK

SEC. 11. Section 907 of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1636) is amended—

(1) by striking out "subsection (c)(2)" throughout the section and inserting in lieu thereof "subsection (d)(1)";

(2) in the proviso of subsection (a), by striking out "lands not owned by landowners described in subsection (c)(2) shall not" and inserting in lieu thereof "no lands shall";

(3) by amending subsections (c), (d), and (e) to read as follows:

"(c) BENEFITS TO PRIVATE LANDOWNERS.—(1) In addition to any requirement of applicable law, the appropriate Secretary is authorized to provide technical and other assistance with respect to fire control, trespass control, resource and land use planning, and the protection, maintenance, and enhancement of any special values of the land subject to the agreement, all with or without reimbursement as agreed upon by the parties, so long as the landowner is in compliance with the agreement.

"(2) The provision of section 21(e) of the Alaska Native Claims Settlement Act shall apply to all lands which are subject to an agreement made pursuant to this section so long as the parties to the agreement are in compliance therewith.

"(d) AUTOMATIC PROTECTIONS FOR LANDS CONVEYED PURSUANT TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT.—(1)(A) Notwithstanding any other provision of law or doctrine of equity, all land and interests in land in Alaska, conveyed by the Federal Government pursuant to the Alaska Native Claims Settlement Act to a Native individual or Native Corporation or subsequently reconveyed by a Native Corporation pursuant to section 39 of that Act to a Settlement Trust shall be exempt, so long as such land and interests are not developed or leased or sold to third parties from—

"(i) adverse possession and similar claims based upon estoppel;

"(ii) real property taxes by any governmental entity;

"(iii) judgments resulting from a claim based upon or arising under—

"(I) title 11 of the United States Code or any successor statute,

"(II) other insolvency or moratorium laws, or

"(III) other laws generally affecting creditors' rights;

"(iv) judgments in any action at law or in equity to recover sums owed or penalties incurred by a Native Corporation or Settlement Trust or any employee, officer, director, or shareholder of such corporation or trust, unless this exemption is contractually waived prior to the commencement of such action; and

"(v) involuntary distributions or conveyances related to the involuntary dissolution of a Native Corporation or Settlement Trust.

"(B) Except as otherwise provided specifically provided, the exemptions described in subparagraph (A) shall apply to any claim or judgment existing on or arising after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987.

"(2) DEFINITIONS.—(A) For purposes of this subsection, the term—

"(i) 'Developed' means a purposeful modification of land, or an interest in land, from its original state that effectuates a condition of gainful and productive present use without further substantial modification. Surveying, construction of roads, providing utilities, or other similar actions, which are normally considered to be component parts of the development process but do not create the condition described in the preceding sentence, shall not constitute a developed state within the meaning of this clause. In order to terminate the exemptions listed in paragraph (1), land, or an interest in land, must be developed for purposes other than exploration, and the exemptions will be terminated only with respect to the smallest practicable tract actually used in the developed state;

"(ii) 'Exploration' means the examination and investigation of undeveloped land to determine the existence of subsurface nonrenewable resources; and

"(iii) 'Leased' means subjected to a grant of primary possession entered into for a gainful purpose with a determinable fee remaining in the hands of the grantor. With respect to a lease that conveys rights of exploration and development, the exemptions listed in paragraph (1) shall continue with respect to that portion of the leased tract that is used solely for the purposes of exploration.

"(B) For purposes of this subsection—

"(i) land shall not be considered developed solely as a result of—

"(I) the construction, installation, or placement upon such land of any structure, fixture, device, or other improvement intended to enable, assist, or otherwise further subsistence uses or other customary or traditional uses of such land, or

"(II) the receipt of fees related to hunting, fishing, and guiding activities conducted on such land;

"(ii) land upon which timber resources are being harvested shall be considered developed only during the period of such harvest and only to the extent that such land is integrally related to the timber harvesting operation; and

"(iii) land subdivided by a State or local platting authority on the basis of a subdivision plat submitted by the holder of the land or its agent, shall be considered developed on the date an approved subdivision plat is recorded by such holder or agent unless the subdivided property is a remainder parcel.

"(3) ACTION BY A TRUSTEE.—(A) Except as provided in this paragraph and in section 14(c)(3) of the Alaska Native Claims Settlement Act no trustee, receiver, or custodian vested pursuant to applicable Federal or State law with a right, title, or interest of a Native individual or Native Corporation shall—

"(i) assign or lease to a third party,

"(ii) commence development or use of, or

"(iii) convey to a third party,

any right, title, or interest in any land, or interests in land, subject to the exemptions described in paragraph (1).

"(B) The prohibitions of subparagraph (A) shall not apply—

"(i) when the actions of such trustee, receiver, or custodian are for purposes of exploration or pursuant to a judgment in law or in equity (or arbitration award) arising out of any claim made pursuant to section 7(i) or section 14(c) of the Alaska Native Claims Settlement Act; or

"(ii) to any land, or interest in land, which has been—

"(I) developed or leased prior to the vesting of the trustee, receiver, or custodian with the right, title, or interest of the Native Corporation; or

"(II) expressly pledged as security for any loan or expressly committed to any commercial transaction in a valid agreement.

"(4) EXCLUSIONS, REATTACHMENT OF EXEMPTIONS.—(A) The exemptions listed in paragraph (1) shall not apply to any land, or interest in land, which is—

"(i) developed or leased or sold to a third party;

"(ii) held by a Native Corporation in which neither—

"(I) the Settlement Common Stock of the corporation,

"(II) the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock, nor

"(III) the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock and by Natives and descendants of Natives,

represents a majority of either the total equity of the corporation or the total voting power of the corporation for the purposes of electing directors; or

"(iii) held by a Settlement Trust with respect to which any of the conditions set forth in section 39 of the Alaska Native Claims Settlement Act have been violated.

"(B) The exemptions described in clauses (iii), (iv), and (v) of paragraph (1)(A) shall not apply to any land, or interest in land—

"(i) to the extent that such land or interest is expressly pledged as security for any loan or expressly committed to any commercial transaction in a valid agreement, and

"(ii) to the extent necessary to enforce a judgment in any action at law or in equity (or any arbitration award) arising out of any claim made pursuant to section 7(i) or section 14(c) of the Alaska Native Claims Settlement Act.

"(C) If the exemptions listed in paragraph (1) are terminated with respect to land, or an interest in land, as a result of development (or a lease to a third party), and such land, or interest in land, subsequently reverts to an undeveloped state (or the third-party lease is terminated), then the exemptions shall again apply to such land, or interest in land, in accordance with the provisions of this subsection.

"(5) TAX RECAPTURE UPON SUBDIVISION PLAT RECORDATION.—(A) Upon the recordation with an appropriate government authority of an approved subdivision plat submitted by, or on behalf of, a Native individual, Native Corporation, or Settlement Trust with respect to land described in paragraph (1), such individual, corporation, or trust shall pay in accordance with this paragraph all State and local property taxes on the smallest practicable tract integrally related to the subdivision project that would have been incurred by the individual, corporation, or trust on such land (excluding the value of subsurface resources and timber) in the absence of the exemption described in paragraph (1)(A)(ii) during the 30 months prior to the date of the recordation of the plat.

"(B) State and local property taxes specified in subparagraph (A) of this paragraph (together with interest at the rate of 5 per centum per annum commencing on the date of recordation of the subdivision plat) shall be paid in equal semi-annual installments over a 2-year period commencing on the date 6 months after the date of recordation of the subdivision plat.

"(C) At least 30 days prior to final approval of a plat of the type described in subparagraph (A), the government entity with jurisdiction over the plat shall notify the submitting individual, corporation, or trust of the estimated tax liability that would be incurred as a result of the recordation of the plat at the time of final approval.

"(6) SAVINGS.—(A) No provision of this subsection shall be construed to impair, or otherwise affect, any valid contract or other obligation that was entered into prior to the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987.

"(B) Enactment of this subsection shall not affect any real property tax claim in litigation on the date of enactment of the Alaska Native Claims Settlement Act Amendments of 1987.

"(e) CONDEMNATION.—All land subject to an agreement made pursuant to subsection (a) and all land, and interests in land, conveyed or subsequently reconveyed pursuant to the Alaska Native Claims Settlement Act to a Native individual, Native Corporation, or Settlement Trust shall be subject to condemnation for public purposes in accordance with the provisions of this Act and other applicable law."; and

(4) by adding at the end thereof the following new subsection:

"(g) STATE JURISDICTION.—Except as expressly provided in subsection (d), no provision of this section shall be construed as affecting the civil or criminal jurisdiction of the State of Alaska.".

CONFORMING AMENDMENTS

SEC. 12. (a) SECTION 7.—Subsection (o) of section 7 (43 U.S.C. 1606) is amended to strike everything following the word "stockholder" except the period at the end of the subsection.

(b) SECTION 21.—Section 21 (43 U.S.C. 1620) is amended—

(1) by inserting after "distributions" in subsection (a) "(even if the Regional Corporation or Village Corporation distributing the dividend has not segregated revenue received from the Alaska Native Fund from revenue received from other sources)";

(2) by striking out "Village Corporation" and inserting in lieu thereof "Native Corporation" in subsection (j); and

(3) by striking out everything after "one and one-half acres:" in subsection (j) and inserting in lieu thereof: "Provided further, That if the shareholder receiving the homesite subdivides such homesite, he or she shall pay all Federal, State, and local taxes that would have been incurred but for this subsection together with simple interest at 6 per centum per annum calculated from the date of receipt of the homesite, including taxes or assessments for the provision of road access and water and sewage facilities by the conveying corporation or the shareholder.".

(c) SECTION 30.—Subsection (b) of section 30 (43 U.S.C. 1627(b)) is amended by striking out "prior to December 19, 1991" and inserting in lieu thereof "while the Settlement Common Stock of all corporations subject to merger or consolidation remains subject to alienability restrictions.".

(d) SECURITIES EXCHANGE ACT OF 1934.—Section 13(d)(1) of the Securities Exchange Act of 1934 is amended by inserting "or any equity security issued by a Native Corporation pursuant to section 37(d)(6) of the Alaska Native Claims Settlement Act" after "Investment Company Act of 1940".

SEVERABILITY

SEC. 13. Section 27 (85 Stat. 688) is amended to read as follows:

"SEVERABILITY

"SEC. 27. The provisions of this Act, as amended, and the Alaska Native Claims Settlement Act Amendments of 1987 are severable. If any provision of either Act is determined by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of any other provision of either Act.".

SECURITIES LAWS EXEMPTION

SEC. 14. Section 28 (43 U.S.C. 1625) is amended to read as follows:

"SECURITIES LAWS EXEMPTION

"SEC. 28. (a) A Native Corporation shall be exempt from the provisions, as amended, of the Investment Company Act of 1940 (54 Stat. 789), the Securities Act of 1933 (48 Stat. 74), and the Securities Exchange Act of 1934 (48 Stat. 881) until the earlier of the day after—

"(1) the date on which the corporation issues shares of stock other than Settlement Common Stock in a transaction where—

"(A) the transaction or the shares are not otherwise exempt from Federal securities laws; and

"(B) the shares are issued to persons or entities other than—

"(i) individuals who held shares in the corporation on the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987;

"(ii) Natives;

"(iii) descendants of Natives;

"(iv) individuals who have received shares of Settlement Common Stock by inheritance pursuant to section 7(h)(2);

"(v) Settlement Trusts; or

"(vi) entities established for the sole benefit of Natives or descendants of Natives; or

"(2) the date on which alienability restrictions are terminated; or

"(3) the date on which the corporation files a registration statement with the Securities and Exchange Commission pursuant to either the Securities Act of 1933 or the Securities Exchange Act of 1934.

"(b) No provision of this section shall be construed to require or imply that a Native Corporation shall, or shall not, be subject to provisions of the Acts listed in subsection (a) after any of the dates described in subsection (a).

"(c)(1) A Native Corporation that, but for this section, would be subject to the provisions of the Securities Exchange Act of 1934 shall annually prepare and transmit to its shareholders a report that contains substantially all the information required to be included in an annual report to shareholders by a corporation subject to that Act.

"(2) For purposes of determining the applicability of the registration requirements of the Securities Exchange Act of 1934 on or after the date described in subsection (a), holders of Settlement Common Stock shall be excluded from the calculation of the number of shareholders of record pursuant to section 12(g) of that Act.

"(d)(1) Notwithstanding any other provision of law, prior to January 1, 2001, the provisions of the Investment Company Act of 1940 shall not apply to any Native Corporation or any subsidiary of such corporation if such subsidiary is wholly owned (as that term is defined in the Investment Company Act of 1940) by the corporation and the corporation owns at least 95 percent of the equity of the subsidiary.

"(2) The Investment Company Act of 1940 shall not apply to any Settlement Trust.

"(3) If, but for this section, a Native Corporation would qualify as an Investment Company under the Investment Company Act of 1940, it shall be entitled to voluntarily register pursuant to such Act and any such corporation which so registered shall thereafter comply with the provisions of such Act.".

ELIGIBILITY FOR NEEDS-BASED FEDERAL PROGRAMS; MINORITY STATUS

SEC. 15. Section 29 (43 U.S.C. 1626) is amended by adding the following new subsections:

"(c) In determining the eligibility of a household, an individual Native, or a descendant of a Native (as defined in section 3(r)) to—

"(1) participate in the Food Stamp program,

"(2) receive aid, assistance, or benefits, based on need, under the Social Security Act, or

"(3) receive financial assistance or benefits, based on need, under any other Federal program or federally-assisted program,

none of the following, received from a Native Corporation, shall be considered or taken into account as an asset or resource:

"(A) cash (including cash dividends on stock received from a Native Corporation) to the extent that it does not, in the aggregate, exceed $2,000 per individual per annum;

"(B) stock (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock);

"(C) a partnership interest;

"(D) land or an interest in land (including land or an interest in land received from a Native Corporation as a dividend or distribution on stock); and

"(E) an interest in a settlement trust.

"(d) Notwithstanding any other provision of law, Alaska Natives shall remain eligible for all Federal Indian programs on the same basis as other Native Americans.

"(e)(1) For all purposes of Federal law, a Native Corporation shall be considered to be a corporation owned and controlled by Natives and a minority business enterprise if the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock and by Natives and descendants of Natives, represents a majority of both the total equity of the corporation and the total voting power of the corporation for the purposes of electing directors.

"(2) For all purposes of Federal law, direct and indirect subsidiary corporations, joint ventures, and partnerships of a Native Corporation qualifying pursuant to paragraph (1) shall be considered to be entities owned and controlled by Natives and a minority business enterprise if the shares of stock or other units of ownership interest in any such entity held by such Native Corporation and by the holders of its Settlement Common Stock represent a majority of both—

"(A) the total equity of the subsidiary corporation, joint venture, or partnership; and

"(B) the total voting power of the subsidiary corporation, joint venture, or partnership for the purpose of electing directors, the general partner, or principal officers.

"(3) No provision of this subsection shall—

"(A) preclude a Federal agency or instrumentality from applying standards for determining minority ownership (or control) less restrictive than those described in paragraphs (1) and (2), or

"(B) supersede any such less restrictive standards in existence on the date of enactment of the Alaska Native Claims Settlement Act Amendments of 1987.

"(f)(1) Section 3 of Public Law 97-451 (96 Stat. 2448) is amended by inserting 'or which is administered by the United States pursuant to section 14(g) of Public Law 92-203, as amended' after 'alienation' in subsection (3) and subsection (4).

"(2) The amendment made by paragraph (1) shall be effective as if originally included in section 3 of Public Law 97-451.

"(g) For the purposes of implementation of the Civil Rights Act of 1964, a Native Corporation and corporations, partnerships, joint ventures, trusts, or affiliates in which the Native Corporation owns not less than 25 per centum of the equity shall be within the class defined in section 701(b) of Public Law 88-352 (78 Stat. 253), as amended, or successor statutes.".

JUDICIAL REVIEW

SEC. 16. (a) STATUTE OF LIMITATIONS.—(1) Notwithstanding any other provision of law, a civil action that challenges the constitutionality of an amendment made by, or other provision of this Act (the Alaska Native Claims Settlement Act Amendments of 1987) shall be barred unless filed within the periods specified in this subsection.

(2) If a civil action described in paragraph (1) challenges—

(A) the issuance or distribution of Settlement Common Stock for less than fair market value consideration pursuant to section 7(g)(1)(B) or 7(g)(2)(C)(ii) of the Alaska Native Claims Settlement Act; or

(B) an extension of alienability restrictions that involves the issuance of stock pursuant to subsections (c) or (d) of section 37 of such Act; or

(C) the denial of dissenters rights after the rejection of an amendment to terminate alienability restrictions pursuant to section 37(b) of such Act;

such civil action shall be barred unless it is filed within 1 year after the date of the shareholder vote authorizing such issuance or distribution, extension of restrictions, or denial of right, and unless a request for a declaratory judgment or injunctive relief is made before stock is issued or distributed.

(3) Any other civil action described in paragraph (1) shall be barred unless it is filed within two years of the date of the enactment of this Act.

(4) No Native Corporation taking an action described in paragraph (2)(A), (2)(B), or (2)(C) shall issue or distribute stock sooner than 14 days after the date of the shareholder vote authorizing such action.

(b) JURISDICTION AND PROCEDURE.—(1) The United States District Court for the District of Alaska shall have exclusive original jurisidiction over a civil action described in subsection (a)(1). The action shall be heard and determined by a court of three judges as provided in section 2284 of title 28 of the United States Code. An appeal of the final judgment of such court shall be made directly to the United States Supreme Court.

(2) No money judgment shall be entered against the United States in a civil action subject to this section.

(c) STATEMENT OF PURPOSE.—The purpose of the limitation on civil actions established by this section is—

(1) to ensure that after the expiration of a reasonable period of time, Native shareholders, Native Corporations, the United States, and the State of Alaska and its political subdivisions will be able to plan their affairs with certainty in full reliance on the provisions of this Act, and

(2) to eliminate the possibility that the United States will incur a monetary liability as a result of the enactment of this Act.

DISCLAIMER

SEC. 17. (a) No provision of this Act (the Alaska Native Claims Settlement Act Amendments of 1987), exercise of authority pursuant to this Act, or change made by, or pursuant to, this Act in the status of land shall be construed to validate or invalidate or in any way affect—

(1) any assertion that a Native organization (including a federally-recognized tribe, traditional Native council, or Native council

organized pursuant to the Act of June 18, 1934 (48 Stat. 987), as amended) has or does not have governmental authority over lands (including management of, or regulation of the taking of, fish and wildlife) or persons within the boundaries of the State of Alaska, or

(2) any assertion that Indian country (as defined by 18 U.S.C. 1151 or any other authority) exists or does not exist within the boundaries of the State of Alaska.

(b) Nothing in the Alaska Native Claims Settlement Act Amendments of 1987 (or any amendment made thereby) shall be construed—

(1) to diminish or enlarge the ability of the Federal Government to assess, collect, or otherwise enforce any Federal tax, or

(2) to affect, for Federal tax purposes, the valuation of any stock issued by a Native Corporation.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on March 31, 1987, the House passed H.R. 278 under suspension of the rules. This is legislation making extensive amendments to the Alaska Native Claims Settlement Act of 1971. On October 29, 1987, the Senate passed the bill with an amendment in the nature of a substitute.

After some consideration, a consensus was reached by the concerned House and Senate parties that a conference would not be sought on the differences between the two Houses on H.R. 278. Instead, it was agreed that a further House amendment to the Senate amendment would be developed which would resolve the differences and also to deal with newly identified problems and issues not resolved by either of the two versions.

The further House amendment to the Senate amendment I am offering today is the result of agreement reached between the House and Senate parties on resolving those differences and dealing with the new problems. While extensive and numerous changes are made by the House amendment, most are either self-explanatory or are of relatively minor importance. However, it was agreed that some of the changes made or agreements reached ought to be the subject of further explanation on the floor.

Mr. Speaker, Congressman YOUNG and I are jointly submitting for the RECORD an analysis and explanation of some of the important changes made by the House amendment or of certain other agreements reached with respect to the differences between the two bills.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the sponsor of H.R. 278, I rise in support of the legislation and wish to commend the distinguished chairman of the Committee on Interior and Insular Affairs for his assistance and leadership in helping to bring the legislation before this Chamber.

I commend the distinguished chairman for the fine effort to achieve passage of this legislation which I first introduced 4 years ago. He has worked well with me and my colleagues in the Alaska delegation to achieve passage of this important legislation.

H.R. 278 is intended to correct a serious flaw in the Alaska Native Claims Settlement Act of 1971—a flaw which threatens the intent of that Act by allowing the loss of land owned by Alaska Natives. This flaw will be corrected through passage of this legislation.

The legislation before us today is based on legislation which passed this body last March without opposition. It previously passed this body during the 99th Congress. It has no cost to the Treasury. For these reasons, I will not object to this request and I join with the distinguished chairman in urging passage on this important legislation.

EXPLANATION OF HOUSE AMENDMENT

On March 31, 1987, the House passed H.R. 278 without opposition. On October 29, 1987, the Senate passed an amendment in the nature of a substitute for H.R. 278. Rather than requesting a conference to reconcile the differences between the Senate amendment and the House bill, the Chairman, I and Senators Stevens and Murkowski have developed a further amendment in the nature of a substitute to the Senate amendment. In large measure, the House amendment is drawn from the text of the Senate amendment and provides for certain technical changes in the Senate bill. Significant differences between the House and Senate amendments are as follows:

SECTION 2. FINDINGS

A major issue which has complicated the consideration of this bill has been its potential impact upon the question of whether or not tribal entities with self-governing powers continue to exist in the State of Alaska. It was generally agreed that that issue should be decided under existing law and that these amendments to the Alaska Native Claims Settlement Act (ANCSA) should be scrupulously neutral on that question. Paragraph (8) of Section 2 of the Senate amendment made a Congressional finding that these amendments should not supercede or rescind certain specific provisions of ANCSA or to confer upon any Native organization sovereign powers. It was felt upon the House side, that the language tended to upset the neutrality approach. The House amendment modifies the finding to provide that nothing in the amendment is intended to work an implied repeal of modification of *any* provision of ANCSA. In addition, paragraph (8)(C) was modified to provide that nothing in the amendment would confer on, *or deny to*, a Native organization sovereign powers.

SECTION 3. DEFINITIONS

The Senate amendment includes most of the definitions from the House bill and adds a number of number definitions including those for "group corporation", "urban corporation", "settlement common stock", instead of the House named "native common stock", "replacement common stock", "alienability restrictions", and "state chartered settlement trust".

The proposed amendment utilizes the Senate definitions for the most part, although a technical change is made in the name of the "state chartered settlement trust" to "state registered settlement trust". This clarifies that such a trust established by a native corporation shall be done so under the existing laws of the State of Alaska, which presently permit the establishment and registration of such trusts.

SECTION 4. ISSUANCE OF STOCK

House bill.—The House bill amends Section 7(g) of ANCSA to establish two types of stock: Native Common Stock and other unnamed additional stock. The section provides that up to 100 shares of additional native common stock could be issued for no consideration, if authorized by an amendment to the articles of incorporation, to natives born after 1971, native elders age 65 or older, and certain natives who missed the original enrollment under ANCSA. The additional stock, which is also subject to issuance pursuant to an amendment to the articles of incorporation of the corporation, may be subject to a variety of technical rules including division into classes, preferences and other specific rights and can be restricted in issuance to native elders or specific groups of natives so long as the groups do not discriminate in favor of natives by place of residence, family, or position as an officer, director, or employee of a native corporation or a stockholder of another Native corporation. The stock can also be issued as a dividend or distribution. This section also contains a variety of procedural sections regarding the issuance of the stock and its effect on existing stockholder rights.

Senate amendment.—The Senate amendment contains a similar provision. The amendment defines the House-named "Native common stock" as "settlement common stock" and also limits issuance of such stock for no consideration or less than fair market value to natives born after December 18, 1971, Natives who missed the original enrollment, or Native elders 65 years or older. As with the House bill, no more than 100 shares of settlement common stock can be issued under (g)(1) to any one individual. Section 7(g)(2) provides for the issuance of other forms of stock similar to the House bill and with similar, specific provisions concerning the division of such stock into classes, rights, and preferences and other limitations. A variety of other specific provisions including provisions regarding disclosure to the shareholders on the amendment to the articles of incorporation are included. The provision also permits a vote by the at-large shareholders as to whether to permit sharing of Section 7 (j) and (m) distributions which at-large shareholders have a right to receive.

The House amendment adds additional disclosure requirements that would apply in certain cases in which a Native Corporation decides to exercise the option (set out in the revised Section 7(g)(2) of the Settlement Act as it would be amended by the bill) to issue additional classes of stock that might be acquired by persons other than the present shareholders. In such a case, under the new Section 7(g)(3), the board of directors would have to inform shareholders at least 60 days in advance of any vote on an amendment that would authorize issuance of such "(g)(2)" stock. This advance notice would have to be in a statement separate from any other information the board might distribute, and would have to be in both English and Native languages used by the shareholders. In recognition of language differences among Alaska Natives, the amendment authorizes the board to provide the information in recorded sound form (E.g., a cassette or a recorded announcement for use by rural radio stations) as well as in writing. To ensure that a shareholder vote about possible issuance of "(g)(2)" stock in some cases be on an informed basis, the House amendment further provides that if at least 10% of the shareholders request the board assist in distributing materials in opposition to such a proposal, the board must comply. It should be noted that these special notification requirements of the revised Section 7(g)(3) are supplementary to any other notification requirements of law.

Section 7(g)(3) this provides additional assurance for shareholders to inform them, in their own language of the possibility that the authorization of classes or series of stock could cause the outstanding shares of Settlement Common Stock to represent less than a majority of the total voting power of the corporation. A Native Corporation subject to this provision must inform its shareholders in the primary Alaska Native languages used by the shareholders of the Corporation. The information required to be provided in the Native language shall be the disclosure that the authorization of the additional stock could cause the change in the majority of the total voting power.

The proposed House amendment adopts the provisions of the Senate version of Section 4 with a change which clarifies that a corporation may present a series of decisions regarding issuance of stock to shareholders en bloc by a single vote.

The phrase "Notwithstanding any other provision of law" which appears in section 4 and throughout the Senate amendment has, with one exception, been deleted from the House amendment not only in the Section 4 rewrite of Section 7(g) of the Alaska Native Claims Settlement Act, but also from other sections of the amendment. The deletion of the phrase is intended to indicate that the amendment does not preempt the application of State law to Native corporations except to the extent a particular provision of State law is inconsistent with a particular Section of the House amendment.

SECTION 5. SETTLEMENT COMMON STOCK

House bill.—This section amends Section 7(h) of ANCSA to provide specific rights and restrictions on native common stock, the original stock issued under ANCSA. Many of the provisions are from the original sections of ANCSA and are included in this complete substitute for the current Section 7(h) of ANCSA.

The House bill contains a new provision regarding inheritance of native common stock. This provision provides that ownership of Native common stock may be transferred in accordance with the last will and testament of the holder of such stock or under applicable laws of intestacy. If the owner fails to dispose of it by will and has no heirs under the laws of intestacy, the stock shall escheat to the appropriate corporation. This provision also provides the corporation a right of repurchase for fair market value of such stock if it is transferred by devise or inheritance to a person not a Native or descendant of a native. The provision also provides that any common stock transferred through inheritance to a person not a Native or a descendant of a Native shall not carry voting rights and for the restoration of such voting rights if the stock is later held by a native or a descendant of a Native.

The House bill also provides a general authority to Native corporations to amend their articles of incorporation to permit repurchase of Native common stock from individual shareholders.

Subsection 7(h)(1)(D) provides for Congressional extension of restrictions on alienation on all Native corporation stock unless and until a vote is taken by the shareholders of any specific native corporation to terminate such restrictions or in the case of certain named corporations, unless such restrictions are terminated under Section 6 of the House bill.

Subsection 7(h)(2) describes how a vote to terminate restrictions is to be taken.

Subsection 7(h)(6) provides specific authority under which an amendment to the articles of corporation for the issuance of new stock, transfer of assets to a qualified transferee entity, or a resolution to terminate restrictions is adopted. These include requirements for proxy solicitation, certain petition rights by which shareholders may submit certain questions directly to the corporations, and dissenters' rights.

Senate amendment.—The Senate amendment also rewrites Section 7(h) and contains similar provisions regarding settlement common stock. A new provision permitting inter vivos transfers by gifts of settlement common stock to certain relatives is contained in Section 5. Provisions regarding termination of restrictions are not contained in this section.

Inheritance of settlement common stock is similar to the House bill except that the Senate amendment provides that stock which escheats to a corporation shall be cancelled. A detailed provision regarding the right of a native corporation to purchase, for fair value, settlement common stock transferred to a person not a native or descendant of a native is also included. The Senate amendment does not include the general right to repurchase stock by a corporation included in the House bill.

The Senate amendment names the stock which replaces the original stock issued under ANCSA if alienability restrictions terminate as replacement common stock. The Senate bill also includes a provision regarding the effect of replacement common stock on other affected stockholders.

The proposed House amendment adopts the Senate bill provisions for section 5 with several technical changes.

SECTION 6. VILLAGE AND URBAN GROUP CORPORATIONS

House bill.—This section is Section 10 of the House bill entitled "Village and Urban Corporation: Native Groups". This section contains technical amendments conforming the provisions of ANCSA regarding village, urban and group corporations to the provisions of these amendments. This relates to the drafting style of ANCSA, which dealt with regional corporations and then provided which general sections applied to village and urban corporations and groups.

Senate amendment.—The Senate amendment provides one section regarding the applicability of section 7 (g), (h), and (o) to village corporations, urban corporations, and group corporations.

The proposed House amendment adopts the provisions of the Senate version of Section 6.

SECTION 7. PROCEDURES FOR CONSIDERING AMENDMENTS AND RESOLUTIONS

House bill.—House provisions regarding this section were contained in Sections 5 and 6 of the House bill. These provisions include new subsections 7(h)(6) (A) through (E). In these provisions, the House bill provides that an amendment to the articles of incorporation to terminate restrictions must be approved by an affirmative vote of at least a majority of outstanding shares of Native common stock entitled to vote on such amendment. Other amendments including issuance of new stock or transfer of assets shall be approved by a vote of at least the majority of a quorum representing at least 51 percent of the votes represented by the capital stock of the corporation which are entitled to vote on such action.

The House bill also provides in section 5 for the use of shareholder petitions in certain circumstances. These petitions would permit 15 percent of the holders of Native common stock, ⅓ of the oustanding shares of Native common stock, in some cases, in the case of termination of restrictions on Native common stock, to petition the board of directors for a vote on such action. A variety of procedural provisions regarding the petitions are included in Section 5.

Senate amendment.—The Senate amendment includes the procedures for considering amendments and resolutions including basic procedures regarding shareholder petitions, and the determination of voting power of a Native corporation in relation to such votes in a separate new section 36 of ANCSA. The new section establishes a basic procedure by which the board approves an amendment or resolution concerning issues such as the issuance of additional stock, a vote on termination of alienation restrictions, or creation of dissenters' rights. The provisions also includes standards regarding shareholders petitions and establishes a general voting standard for passage of an amendment or resolution of a majority of the total voting power of the corporation or a level of total voting power greater than a majority but less than ⅔ of the total voting power if such a higher voting standard is established by an amendment to the articles of incorporation. In this section, total voting power is defined as all outstanding shares of stock that carry voting rights except shares not permitted to vote on the specific amendment or resolution in question because of restrictions in the articles of incorporation.

The Senate amendment authorizes the board of directors of a Native corporation to exclude the value of land, and interests therein, from the written notice required by the new Section 36 of ANCSA to the extent particular lands, or interests therein, are "committed by the corporation to traditional or cultural uses" or are of "speculative value" on the date the notice was prepared. These standards are similar to the standards set forth in the same Sections of H.R. 278 as passed by the House of Representatives.

The proposed House amendment adopts most provisions of the Senate bill. Pursuant to the House amendment, for the purposes set forth in Sections 36 and 38 of ANCSA the board of directors of a Native corporation is authorized not to appraise or otherwise determine the value of land, and interests therein, if the corporation received conveyance of the land pursuant to Section 14(h)(1) of the ANCSA or if the land is used as a cemetery. With respect to the surface estate of land owned by a Native corporation, the board is authorized not to appraise or otherwise determine the value of surface estate which is not "developed", as is defined in Section 907 of the Alaska National Interest Lands Conservation Act (ANILCA), is not otherwise subject to real property taxes and is used by shareholders of the corporation for the taking of fish, game, timber, plants or other wild, renewable resources for "substance uses" as is defined in Section 803 of ANILCA. Lastly, with respect to both the surface and subsurface estate of land, the board is authorized not to appraise or otherwise determine the value of surface or subsurface estate which the board believes is of speculative economic value. In reviewing a board decision in this regard, the standard of judicial review should be whether the board acted in good faith when it determined that a particular parcel of surface or subsurface estate was of speculative economic value.

SECTION 8. DURATION OF ALIENABILITY RESTRICTIONS

House bill.—The House bill contains general provisions regarding duration of alienability restrictions in Section 5 and special provisions regarding the Bristol Bay Native Corporation and village corporations in that region in Section 6. The general rule contained in Section 5 provides for Congressional extension of alienability restrictions on Native corporation stock until a vote is taken by the corporation shareholders to remove such restrictions. The special provisions regarding the Bristol Bay Native Corporation and any village corporation located in the Bristol Bay region contained in Section 6 provide that the board of directors of any eligible corporation may adopt within one year of the date of enactment of this Act, a resolution under Section 7(h)(2)(f) providing for use of these special provisions. These provisions provide that a vote must be taken on a resolution regarding the continuation of alienability restrictions. If the resolution to extend alienability restrictions did not pass, these restrictions terminate within a certain time. If a resolution to extend restrictions passes, extension of restrictions would be in force for a period of not less than twenty but not more than fifty years as specified by the resolution.

This section also provides for the mandatory payment of dissenters' rights to shareholders dissenting from the resolution and establishes voting standards for the passage of such resolutions. Additionally, Section 7(a)(f)(1) provides the terms and conditions under which dissenters rights would be paid, including valuation of any common stock as restricted stock and the exclusion of certain land values for the purposes of valuating of such stock. The provision also provides for the payment of dissenters' rights though the use of a non-negotiable note payable under certain terms and conditions.

Senate amendment.—The Senate amendment combines various alternatives for decision-making on alienability restrictions into one section. The provision, the new Section 37 of ANCSA, establishes a general rule that alienability restrictions shall continue until terminated under one of three procedures. The opt-out procedure is similar to the procedure in Section 5 of the House bill in which a Native corportion may amend its articles of incorporation to terminate alienability restrictions on a shareholder vote. The so called opt-out vote specifies the time of termination and may be voted upon not more than once prior to 1991 and not more than once annually thereafter.

A recapitalization procedure is included in the Senate amendment. This procedure permits a corporation to amend its articles of incorporation to implement a recapitalization plan. The plan may be used by shareholders to approve a variety of recapitalization issues in one vote, including the decision on the maintenance of extension of alienability restrictions. The Senate bill also includes approval of additional issuance of common stock or other new stock including in the case of Cook Inlet Region, Inc., the approval of a plan for stock options as incentives to officers and employees. The recapitalization procedure is authorized until December 18, 1991 at which point the authority terminates.

The Senate amendment included provisions that had the effect of allowing corporations electing to use the so-called "recapitalization option" of the revised Section 37(c) to forthwith terminate alienability restrictions even in those cases in which the same corporation had previously acted to extend alienability restrictions for a specified period of time. This ability to prematurely end an otherwise-established period for alienability restrictions was not available, under the Senate amendment, to a corporation that instead elected to utilize the "opt-in" procedure in the revised Section 37(d). The House amendment eliminates this disparity by revising Section 37(c) so that if a corporation utilizing this option should act to continue alienability restrictions for a specified time, those restrictions could not be revoked prior to the expiration of such specified period.

The third procedure is the opt-in procedure. This is similar to the Bristol Bay provisions of Section 6 of the House bill but applies not only to the Bristol Bay regional and village corporations and other named regional and village corporations in section 8 of the House bill but to all regional corporations and the village corporations in the Bristol Bay and Aleut regions. This provision permits corporations to require a mandatory vote on continuation of alienability restrictions and the mandatory payment of dissenters' rights to dissenting shareholders on such vote. In addition to provisions in Section 9 regarding dissenters' rights similar to those contained in the House bill, the Senate amendment includes an option for payment of dissenters' rights by the issuance of alienable common stock in lieu of cash payments.

The proposed amendment generally adopts the provisions of the Senate version of Section 8. A number of changes were made including deletion of authority for a stock incentive plan by Cook Inlet Region, Inc. under the recapitalization procedure and the limitation of the authority for recapitalization to regional corporations. The proposed amendment also contains a change clarifying that no restrictions may be lifted under any procedure prior to December 18, 1991. A change in the opt-out procedure provides for periods of 2 or 5 years respectively as the minimum time period by which a corporation may vote to terminate restrictions if it has previously voted not to terminate restrictions.

The proposed amendment also makes clear that the automatic termination of restrictions under the opt-in procedure shall not take affect if the board of directors fails to submit for a shareholder vote an amendment to the articles of incorporation regarding termination which complies with the requirements of the opt-in section.

The amendment provides that restrictions on alienation attached to ANCSA settlement stock cannot be removed until December 18, 1991. This does not mean, however, that the authority to issue additional classes of stock under Section 7(g)(2) or as part of a recapitalization plan cannot be exercised prior to that date so long as stock restrictions are not removed prior to December 18, 1991.

SECTION 9. DISSENTERS' RIGHTS

House bill.—This section contains the House provisions regarding dissenters' rights in Section 6. Under that section, the stockholders of a corporation may adopt a resolution authorizing dissenters' rights. If such a resolution is adopted, the dissenters' rights valuation procedure is governed by the provisions of Section 6 in which dissenters' rights are defined in the special provisions applicable to the Bristol Bay Native Corporation and certain other named corporations.

Senate amendment.—The Senate amendment includes a new Section 38 of ANCSA concerning dissenters' rights. That section provides the specific terms and conditions under which dissenters' rights may be exercised. Under the opt-out procedure, dissenters will be paid for their stock only if the Native corporation has adopted a resolution granting such rights contemporaneous with the vote on whether alienability restrictions should be terminated. Under the opt-in procedure, the grant of dissenters' rights is mandatory if alienability restrictions are continued, but the Native corporation can choose either to pay in cash or a short-term note or to issue alienable stock to dissenters. The new section also includes provisions regarding the application of existing state law governing dissenters' rights, the valuation of common stock for purposes of making payment to dissenters, and the use of a negotiable note (adjusted in face amount to reflect post-vote dividents) to make payment in lieu of cash. Except for the use of a negotiable note, the valuation and payment procedure is similar to that contained in the House bill.

The proposed House amendment contains the provisions of the Senate version of Section 9. As with the House bill, dissenters' rights are not to be valued based on liquidation value of the corporation since dissenters as a minority cannot liquidate the corporation. Instead, the value of the restricted stock would represent the discounted cash flow of expected dividends, the only cash benefit attributable to restricted stock.

A matter of great concern to the Native corporations has been the possibility that if they are required to make payments to claimants under the dissenters' rights provisions, it might be necessary to undertake the onerous and expensive task of formally appraising the putative market value of large tracts of land that in fact are not developed and are not used for commercial purposes. The Senate amendment addressed this by authorizing the board of directors to withhold information concerning the values of such lands. The proposed amendment rejects this approach. Instead, the proposed amendment (in the revised Section 38(c) of the Settlement Act as it would be amended by the bill) would allow the board of directors to act so as to exclude from valuation three categories of land held by the corporation.

The three categories are: (1) any land that was conveyed to the corporation by the United States under Section 14(h)(1) of the Settlement Act (which deals with historic areas and cemetery sites and provides for conveyance of such to regional corporations) and any other land used as a cemetery (including cemeteries owned by corporations other than regional corporations);

(2) surface estate in land that is both exempt from real estate taxation under the Land Bank provisions of the Alaska National Interest Lands Conservation Act (as it would be amended by this bill) and is also used by the corporation's shareholders for subsistence uses (as defined in the Alaska National Interest Lands Conservation Act); and

(3) any land or interest therein that the board of directors believes in good faith to be only of speculative value.

These categories take on an added importance because the proposed amendment would also allow the exclusion of the same types of land from any lien upon a corporation's real property interest that might be established to secure a note issued pursuant to the revised Section 38(d) of the Settlement Act as it would be amended by the bill.

SECTION 10. SETTLEMENT TRUST OPTION

House bill.—There is no similar provision to this Section in the House bill. The House bill did include in Section 7 as provision authorizing the transfer of assets to a qualified transferee entity under certain terms or conditions.

Senate amendment.—The Senate amendment did not include the authorization for transfer of assets to a qualified transferee entity. Instead, the authorization for a Native corporation to convey certain assets to a settlement trust established under existing Alaska State law is included. Under the terms of this section, a new Section 39, the Native corporation utilizing Alaska state law may establish a trust for the benefit of its shareholders. The general purpose of the trust will be to preserve the heritage and culture of Natives and to promote the health, education, and welfare of its beneficiaries. The trust may not operate as a business or convey land or an interest in land received from a Native corporation creating it or discriminate in favor of a group of individuals composed only or principally of employees, officers, or directors of the corporation. A variety of provisions regarding the management of the trust are included in this new section.

The proposed House amendment adopts the provisions of Section 10, except that the name of the trust is changed to "Settlement Trust" to make clear that existing State of Alaska law regarding the establishment of trusts shall be utilized and that no additional State of Alaska law authority is required for the establishment of such trusts.

This section represents a compromise between Section 7 of the House bill and Section 10 of the Senate bill. It honors the recent vote taken on this subject at the most recent Alaska Federation of Natives convention.

The Settlement Trust section is intended to enable Native Corporations to convey assets to Settlement Trusts in which the assets may be better managed for the benefit of the Alaska Natives. The provision is in recognition of the fact that the corporate form of ownership, as mandated by the Act, has not always served the best interests of the Alaska Natives, and that in many cases the purposes of the Act may be carried out better by allowing Alaska Natives to alter their form of ownership.

Settlement Trusts are expected to serve two principal functions. They are intended to be permanent, Native-oriented institutions which shall hold and manage, in perpetuity, any historic or culturally significant surface lands, sites, cemeteries, traditional use areas, or monuments, for the benefit of the beneficiary population. It shall manage any other surface lands coveyed or cuturally significant assets in like fashion. The Trusts wil require income generated from assets coveyed to it, or other sources, to carry out these reponsibilities.

The other prime function relates to the health, education and economic welfare of its beneficiaries. Trusts may receive conveyances of securities, cash, or other assets which it must manage prudently, and passively, in the interests of its beneficiaries, and in conformance with the terms and conditions set forth in the trust instrument and this Act. At the discretion of the trustees, the income generated from these assets, and, if permitted, Trust assets themselves can be used to provide scholarships and other educational benefits. Assets can be used to improve health care delivery or facilities, pay for needed health care and otherwise be devoted to bettering the health of the beneficiary Native community. Finally, the Trust assets may be used to bolster the economic well-being of the beneficiaries. Trust distributions may be used to fight poverty, provide food, shelter and clothing, and serve comparable economic welfare purposes. Additionally, cash distributions of trust income may be made on an across-the-board basis to the beneficiary population as part of the economic welfare function.

Subsection (a)(1)(A) sets out the conveyances to be covered by this section. As such, it limits the applicability of this section to conveyances that meet the requirements set forth herein. Existing law limits the use of Net Operating Losses to a Native Corporation. Therefore a transfer of such Net Operating Losses to a Settlement Trust would not permit the realization of an NOL tax benefit. Section 39 does not in any way alter that limitation. As indicated in subsection (a)(4), it also does not deny Native Corporations the ability to make other types of transactions currently permitted under State law and the laws of the United States.

Subsection (a)(1)(B) requires shareholder approval of any resolution to convey all or substantially all of the assets of the Native Corporation to the Trust. When read with the protections provided in Section 36, this subsection evidences clear Congressional intent to provide shareholders with sufficient protection and disclosure rights with respect to the crucial decisions involving Native Corporation conveyances to Settlement Trusts.

Subsection (a)(2) is an absolute prohibition against conveyance of subsurface estate to a Settlement Trust, with the exception of timber resources. In the event timber resources are conveyed to a Settlement Trust, they can be harvested only in accordance with the conditions set out in subsection (c)(2).

Subsection (a)(3) is intended to ensure that valid creditors' rights are not interdicted by the conveyances authorized by this section. It also clarifies the issue of dissenters' rights with respect to conveyances to Settlement Trusts. Even in the applicable situations, dissenters' rights arise only to the extent they exist under State law.

Subsection (4) has been included to make sure that the Settlement Trust authorities provided herein are not viewed as a substitute for any other rights held by Native Corporations to create or administer trusts, or to engage in any other transaction permissible under the laws of the State or the United States.

Subsection (b)(1) establishes certain requirements and characteristics of the Settlement Trust. By doing so, Congress expressly intends to preempt State law with regard to these elements of Settlement Trusts. By requiring that these trusts be registered with the State of Alaska, Congress seeks to establish that the laws of the State of Alaska, rather than any other State, apply and that the State is the proper venue and jurisdiction. Congress does not, however, intend to prohibit diversity jurisdiction in the federal courts.

While setting forth Settlement Trust characteristics, Congress intentionally left discretion in the Native Corporations to formulate and state the terms and conditions governing the Trust through the trust instrument, consistent with the provisions of this Act and State law. Specifically, the settler Native corporation shall have the authority to set forth the terms and conditions contained in the trust instrument, including but not limited to the employment of agents or professionals, investment standards, bonding requirements, indemnities, accumulations, distributions, or restrictions on alienation of beneficial interests. State courts will retain their traditional authority to determine question as to trust validity, administration, and construction. Enforcement of trust terms, application of prudent man requirements, and other conventional trust oversight functions will remain within the purview of State courts, to the extent they would be governed by those courts under existing law.

In order to ensure that Settlement Trust assets are managed prudently so that periodic distributions for health, educational and economic welfare purposes can be made to the beneficiary population, subsection (b)(1)(A) limits the Trusts' activities.

The prohibition against operating as a business is intended to keep Settlement Trusts from operating and managing ongoing businesses and exposing the Trust to the attendant financial risks of such activities. Trusts are not only prohibited from operating as businesses directly, but would be prevented from indirectly operating as businesses. For example, a trust could not be a holding company for operating subsidiaries. The prohibition is not intended to unduly restrict the ability of Trusts to prudently invest their assets passively to carry out their purposes. Trusts will require income to properly preserve and manage cemeteries, traditional sites and other lands conveyed to them. They will need income to provide for beneficiary distributions, scholarships or any similar use they choose to make of their income and asset base, consonant with the Trust purposes described in this subsection.

The limitation on alienability of land is intended to deny trusts the ability to lease their lands, or alienate any other interest in trust lands. Subsection (b)(1)(B) would permit the trust to reconvey land to the settlor corporation. This right is being granted to provide the settlor corporation with a

SUBPART B—PROVISIONS RELATING TO PAYMENTS FOR OTHER SERVICES

Sec. 4061. Extension of reduction for other part B items and services payments under sequester order.
Sec. 4062. Payments for durable medical equipment, prosthetic devices, orthotics, and prosthetics.
Sec. 4063. Payment for intraocular lenses.
Sec. 4064. Clinical diagnostic laboratory tests.
Sec. 4065. Return on equity payments to outpatient departments.
Sec. 4066. Payments to hospital outpatient departments for radiology.
Sec. 4067. Updating maximum rate of payment per visit for independent rural health clinics.
Sec. 4068. Payment for ambulatory surgery at eye, and eye and ear, specialty hospitals.

SUBPART C—ELIGIBILITY AND BENEFITS CHANGES

Sec. 4070. Coverage of mental health services.
Sec. 4071. Coverage of influenza vaccine and its administration.
Sec. 4072. Payment for therapeutic shoes for individuals with severe diabetic foot disease.
Sec. 4073. Coverage of certified nurse-midwife services.
Sec. 4074. Coverage of social worker services furnished by a health maintenance organization to its members.
Sec. 4075. Clarification of coverage of drugs used in immunosuppressive therapy.
Sec. 4076. Services of a physician assistant.
Sec. 4077. Psychologist services in clinics.
Sec. 4078. Provision of offsite comprehensive outpatient rehabilitation services.
Sec. 4079. Demonstration projects to provide payment on a prepaid, capitated basis for community nursing and ambulatory care furnished to medicare beneficiaries.
Sec. 4080. Part B premium.

SUBPART D—OTHER PROVISIONS

Sec. 4081. Submission of claims to supplemental insurance carriers.
Sec. 4082. Revision of part B hearings.
Sec. 4083. Provisions relating to Physician Payment Review Commission.
Sec. 4084. Technical amendments related to certified registered nurse anesthetists.
Sec. 4085. Miscellaneous and technical provisions.

PART 4—PEER REVIEW ORGANIZATIONS

Sec. 4091. Contract provisions.
Sec. 4092. Preference in contracting with in-State organizations.
Sec. 4093. Requiring reasonable notice and opportunity for discussion prior to denial of claim.
Sec. 4094. Peer review norms and education.
Sec. 4095. Preexclusion hearings.
Sec. 4096. Limitation of beneficiary liability for services disallowed by peer review organizations.
Sec. 4097. Separate funding levels.

Subtitle B—Medicaid

PART 1—ELIGIBILITY AND BENEFITS

Sec. 4101. Medicaid benefits for poor children and pregnant women.
Sec. 4102. Home and community-based services for the elderly.
Sec. 4103. Physicians' services furnished by dentists.
Sec. 4104. Optional medicaid coverage of individuals in certain states receiving only optional state supplementary payments.
Sec. 4105. Miscellaneous SSI-related amendments.
Sec. 4106. Clarification of coverage of clinic services furnished to homeless outside facility.
Sec. 4107. Medically needy income levels for certain 2-member couples in California.

PART 2—OTHER PROVISIONS

Sec. 4111. Increasing the maximum annual medicaid payments that may be made to the commonwealths and territories.
Sec. 4112. Adjustment in medicaid payment for inpatient hospital services furnished by disproportionate share hospitals.
Sec. 4113. HMO-related provisions.
Sec. 4114. Medicaid waiver for hospice care for AIDS patients.
Sec. 4115. State demonstration projects.
Sec. 4116. Waiver authority under the medicaid program for the Northern Mariana Islands.
Sec. 4117. Delay quality control sanctions for Medicaid.
Sec. 4118. Technical and miscellaneous amendments.

Subtitle C—Nursing Home Reform

PART 1—MEDICARE PROGRAM

Sec. 4201. Requirements for skilled nursing facilities.
Sec. 4202. Survey and certification process.
Sec. 4203. Enforcement process.
Sec. 4204. Effective dates.
Sec. 4205. Annual report.
Sec. 4206. Construction.

PART 2—MEDICAID PROGRAM

Sec. 4211. Requirements for nursing facilities.
Sec. 4212. Survey and certification process.
Sec. 4213. Enforcement process.
Sec. 4214. Effective dates.
Sec. 4215. Annual report.
Sec. 4216. Construction.
Sec. 4217. Final regulations with respect to plans of correction or reduction.
Sec. 4218. Medicaid certifications and recertifications for certain services.

Subtitle D—Vaccine Compensation

Sec. 4301. Short title, reference.
Sec. 4302. Effective date.
Sec. 4303. Compensation.
Sec. 4304. Petitions.
Sec. 4305. Citizen's actions.
Sec. 4306. Vaccine administrators.
Sec. 4307. Court jurisdiction.

Subtitle E—Rural Health

Sec. 4401. Office of Rural Health Policy.
Sec. 4402. Impact analyses of medicare rules and regulations on small rural hospitals.
Sec. 4403. Set aside for experiments and demonstration projects relating to rural health care issues.

PART 1—RELATING ONLY TO PART A

SEC. 4001. EXTENSION OF REDUCTIONS UNDER SEQUESTER ORDER.

Notwithstanding any other provision of law (including any other provision of this Act), the reductions in the amount of payments required under title XVIII of the Social Security Act made by the final sequester order issued by the President on November 20, 1987, pursuant to section 252(b) of the Balanced Budget Emergency Deficit Control Act of 1985 shall continue to be effective (as provided by sections 252(a)(4)(B) and 256(d)(2) of such Act) through—

(1) March 31, 1988, with respect to payments for inpatient hospital services under such title (including payments under section 1886 of such title attributable or allocated to part A of such title); and

(2) December 31, 1987, with respect to payments for other items and services under part A of such title.

SEC. 4002. BASIC HOSPITAL PROSPECTIVE PAYMENT RATES.

(a) BASIC UPDATE FACTOR FOR PPS HOSPITALS.—Clause (i) of section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended by striking "and for fiscal year 1988" in subclause (II) and all that follows through the end of such clause and inserting after such subclause the following:

"(III) for fiscal year 1988, 3.0 percent for hospitals located in a rural area, 1.5 percent for hospitals located in a large urban area (as defined in subsection (d)(2)(D)), and 1.0 percent for other hospitals,

"(IV) for fiscal year 1989, the market basket percentage increase minus 1.5 percent for hospitals located in a rural area, the market basket percentage increase minus 2.0 percent for hospitals located in a large urban area, and the market basket percentage increase minus 2.5 percent for other hospitals, and

"(V) for fiscal year 1990 and each subsequent fiscal year, the market basket percentage for hospitals in all areas.".

(b) LARGE URBAN AREA DEFINED.—The second sentence of section 1886(d)(2)(D) of such Act (42 U.S.C. 1395www(d)(2)(D)) is amended by inserting after "under subsection (a) by regulation;" the following: "the term 'large urban area' means, with respect to a fiscal year, such an urban area which the Secretary determines (in the publication described in subsection (e)(5)(B) before the fiscal year) has a population of more than 1,000,000 (as determined by the Secretary based on the most recent available population data published by the Bureau of the Census);".

(c) ADJUSTMENT FOR HOSPITALS IN LARGE URBAN AREAS OR IN RURAL AREAS.—

(1) IN GENERAL.—Section 1886(d)(3) of such Act (42 U.S.C. 1395ww(d)(3)) is amended—

(A) in the matter before subparagraph (A), by striking "urban or rural areas" and inserting "large urban, other urban, or rural areas";

(B) in first sentence of subparagraph (A)—

(i) by striking "The Secretary" and inserting "(i) For discharges occuring in a fiscal year beginning before October 1, 1987, the Secretary",

(ii) by striking "each of fiscal years 1985, 1986, 1987, and 1988" and inserting "the fiscal year involved", and

(iii) by striking ", and adjusted for subsequent fiscal years in accordance with the final determination of the Secretary under subsection (e)(4), and adjusted to reflect the most recent case-mix data available,";

(C) by adding at the end of subparagraph (A) the following new clauses:

"(ii) For discharges occurring in a fiscal year beginning on or after October 1, 1987, the Secretary shall compute an average standardized amount for hospitals located in a large urban area, for hospitals located in a rural area, and for hospitals located in urban areas, within the United States and within each region, equal to the respective

average standardized amount computed for the previous fiscal year under this subparagraph increased by the applicable percentage increase under subsection (b)(3)(B)(i) with respect to hospitals located in the respective areas for the fiscal year involved.

"(iii) Average standardized amounts computed under this paragraph shall be adjusted to reflect the most recent case-mix data available."; and

(D) in subparagraph (D)—

(i) by striking "URBAN AND RURAL HOSPITALS" in the heading and inserting "HOSPITALS IN DIFFERENT AREAS",

(ii) in clause (i), by inserting "(or, for discharges occurring on or after April 1, 1988, in a large urban area or other urban area)" after "urban area" the first place it appears, and

(iii) in clause (i), by inserting "such" before "an urban area" the second place it appears.

(2) CONFORMING AMENDMENTS.—Section 1886(d)(9)(A) of such Act (42 U.S.C. 1395ww(d)(9)(A)) is amended—

(A) in clause (ii)(I), by striking "an urban area, and" and inserting "a large urban area,";

(B) by redesignating subclause (II) of clause (ii) as subclause (III); and

(C) by inserting after subclause (I) of clause (ii) the following new subclause:

"(II) such rate for hospitals located in other urban areas, and".

(d) ESTABLISHMENT OF REGIONAL FLOOR.—Section 1886(d)(1)(A)(iii) of such Act (42 U.S.C. 1395ww(d)(1)(A)(iii)) is amended by inserting before the period at the end the following: ", or, if greater for discharges occurring during the period beginning on April 1, 1988, and ending on September 30, 1990, the sum of (I) 85 percent of the national adjusted DRG prospective payment rate determined under paragraph (3) for such discharges, and (II) 15 percent of the regional adjusted DRG prospective payment rate determined under such paragraph".

(e) UPDATE FOR PPS-EXEMPT HOSPITALS.—Section 1886(b)(3)(B) of such Act (42 U.S.C. 1395ww(b)(3)(B)) is amended—

(1) in clause (i), by striking "subparagraph (A) for 12-month cost reporting periods beginning during a fiscal year and for purposes of",

(2) in clause (ii), by striking "(ii) For purposes of clause (i)" and inserting "(iii) For purposes of this subparagraph", and

(3) by inserting after clause (i) the following new clause:

"(ii) For purposes of subparagraph (A), the 'applicable percentage increase' for 12-month cost reporting periods beginning during—

"(I) fiscal year 1986, is 0.5 percent,

"(II) fiscal year 1987, is 1.15 percent,

"(III) fiscal year 1988, is the market basket percentage increase minus 2.0 percentage points, and

"(IV) subsequent fiscal years is the market basket percentage increase.".

(f) RELATED CONFORMING AND TECHNICAL AMENDMENTS.—

(1) Section 1886 of such Act (42 U.S.C. 1395ww) is further amended—

(A) by adding at the end of subsection (d)(2)(D) the following new sentence: "For purposes of payment under this subsection, a hospital is considered to be located in an urban area or large urban area, respectively, if the hospital is paid under this subsection at the rate for hospitals located in such an area.";

(B) in subsection (e)(3)(B), by striking "or determine";

(C) in subsection (e)(4)—

(i) by striking "for fiscal year 1988" and inserting "for each fiscal year (beginning with fiscal year 1988)",

(ii) by striking "and shall determine for each subsequent fiscal year" and all that follows through "fiscal year, and", and

(iii) by amending the last sentence to read as follows: "The appropriate change factor may be different for all large urban subsection (d) hospitals, other urban subsection (d) hospitals, urban subsection (d) Puerto Rico hospitals, rural subsection (d) hospitals, and rural subsection (d) Puerto Rico hospitals, and all other hospitals and units not paid under subsection (d), and may vary among such other hospitals and units."; and

(D) in paragraph (5), by striking "or determination" each place it appears.

(2) Subsection (a)(1)(B)(ii) of section 107 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) is amended, effective as of the date of the enactment of such Act, by inserting ", the target percentage and DRG percentage shall be those specified in subsection (d)(1)(C)(iv) of such section, and the applicable percentage increase in a hospital's target amount shall be deemed to be 0 percent" before the period at the end.

(g) EFFECTIVE DATES.—

(1) PPS HOSPITALS, DRG PORTION OF PAYMENT.—In the case of a subsection (d) hospital (as defined in paragraph (6))—

(A) the amendments made by subsections (a) and (c) shall apply to payments made under section 1886(a)(1)(A)(iii) of the Social Security Act on the basis of discharges occurring on or after April 1, 1988, and

(B) for discharges occurring on or after October 1, 1988, the applicable percentage increase (described in section 1886(d)(3)(B) of such Act)) for discharges occurring during fiscal year 1987 is deemed to have been such percentage increase as amended by subsection (a).

(2) PPS SOLE COMMUNITY HOSPITALS, HOSPITAL SPECIFIC PORTION OF PAYMENT.—In the case of a subsection (d) hospital which receives payments made under section 1886(d)(1)(A) of the Social Security Act because it is a sole community hospital—

(A) the amendment made by subsections (a) and (c) shall apply to payments under section 1886(d)(1)(A)(ii)(I) of the Social Security Act made on the basis of discharges occurring during a cost reporting period of a hospital, for the hospital's cost reporting period beginning on or after October 1, 1987;

(B) notwithstanding subparagraph (A), for cost reporting period beginning during fiscal year 1988, the applicable percentage increase (as defined in section 1886(d)(3)(B) of such Act) for the—

(i) first 51 days of the cost reporting period shall be 0 percent,

(ii) next 132 days of such period shall be 2.7 percent, and

(iii) remainder of such period of the cost reporting period shall be the applicable percentage increase (as so defined, as amended by subsection (a)); and

(C) for cost reporting periods beginning on or after October 1, 1988, the applicable percentage increase (as so defined) with respect to the previous cost reporting period shall be deemed to have been the applicable percentage increase (as so defined, as amended by subsection (a)).

(3) PPS-EXEMPT HOSPITALS.—In the case of a hospital that is not a subsection (d) hospital—

(A) the amendments made by subsection (e) shall apply to cost reporting periods beginning on or after October 1, 1987;

(B) notwithstanding subparagraph (A), for the hospital's cost reporting period beginning during fiscal year 1988, payment under title XVIII of the Social Security Act shall be made as though the applicable percentage increase described in section 1886(b)(3)(B) of such Act were equal to the product of 2.7 percent and the ratio of 315 to 366; and

(C) for cost reporting periods beginning on or after October 1, 1988, the applicable percentage increase (as so defined) with respect to the cost reporting period beginning during fiscal year 1988 shall be deemed to have been 2.7 percent.

(4) DEFINITION, REGIONAL FLOOR, AND TECHNICAL AND CONFORMING AMENDMENTS.—The amendments made by subsections (b) and (d) and paragraphs (1) and (2) of subsection (f) shall take effect on the date of the enactment of this Act.

(5) TRANSITION FOR LARGE URBAN AREA RATES.—In computing the average standardized amount for hospitals located in a large urban area or other urban area under section 1886(d)(3)(A)(ii) of the Social Security Act (as amended by subsection (c)) for fiscal year 1988, the reference to "the respective average standardized amount computed for the previous fiscal year under this subparagraph" is deemed a reference to the average standardized amount computed for hospitals located in an urban area for the 51-day period beginning on October 1, 1987.

(6) DEFINITION.—In this subsection, the term "subsection (d) hospital" has the meaning given such term in section 1886(d)(10)(B) of the Social Security Act.

SEC. 4003. INCREASE IN DISPROPORTIONATE SHARE ADJUSTMENT AND REDUCTION IN INDIRECT MEDICAL EDUCATION PAYMENTS.

(a) REDUCTION IN INDIRECT MEDICAL EDUCATION PAYMENTS.—

(1) Section 1886(d)(5)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(A) in subclause (I), by striking "2" and inserting in lieu thereof "1.89"; and

(B) in subclause (II), by striking "1.5" and inserting in lieu thereof "1.43".

(2) Section 1886(d)(3)(C)(ii) of such Act (42 U.S.C. 1395ww(d)(3)(C)(ii)) is amended by inserting "and by section 4003(a)(1) of the Omnibus Budget Reconciliation Act of 1987" after "1985" each place it appears in subclauses (I) and (II).

(b) INCREASE IN DISPROPORTIONATE SHARE ADJUSTMENT.—Section 1886(d)(5)(F) of such Act (42 U.S.C. 1395ww(d)(5)(B))—

(1) in clause (iii), by striking "15 percent" and inserting "25 percent", and

(2) in clause (iv)(I), by striking "the lesser of 15 percent, or".

(c) EXTENSION OF DISPROPORTIONATE SHARE ADJUSTMENT.—Sections 1886(d)(2)(C)(iv) (42 U.S.C. 1395ww(d)(2)(C)(iv)), 1886(d)(3)(C)(ii)(I) (42 U.S.C. 1395ww(d)(3)(C)(ii)(I)), 1886(d)(3)(C)(ii)(II) (42 U.S.C. 1395ww(d)(3)(C)(ii)(II)), 1886(d)(5)(B)(ii)(I) (42 U.S.C. 1395ww(d)(5)(B)(ii)(I)), 1886(d)(5)(B)(ii)(II) (42 U.S.C. 1395ww(d)(5)(B)(ii)(II)), and 1886(d)(5)(F)(i) (42 U.S.C. 1395ww(d)(5)(F)(i)) of the Social Security Act are each amended by striking "1989" and inserting in lieu thereof "1990".

(d) SPECIAL RULE.—In the case of a hospital which—

(1) consists of 2 inpatient hospital facilities which are more than 4 miles apart and each of which is in a separate political jurisdiction within the same State and one of which meets the criteria under section 1886(d)(5)(F) of the Social Security Act for serving a significantly disproportionate

number of low-income patients as if that facility were a separate hospital; and

(2) receives payments for inpatient hospital services under title XVIII of the Social Security Act which are less than the hospital's reasonable costs,

the Secretary of Health and Human Services, upon application by the hospital, may treat each of the facilities of hospital as separate hospitals for purposes of applying section 1886(d)(5)(F) of the Social Security Act, for discharges occurring on or after October 1, 1988.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for discharges occurring on or after October 1, 1988.

SEC. 4004. PROVISIONS RELATING TO WAGE INDEX.

(a) SURVEY.—Section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)) is amended by adding at the end the following: "Not later than October 1, 1990 (and at least every 36 months thereafter), the Secretary shall update the factor under the preceding sentence on the basis of a survey conducted by the Secretary (and updated as appropriate) of the wages and wage-related costs of subsection (d) hospitals in the United States. To the extent determined feasible by the Secretary, such survey shall measure the earnings and paid hours of employment by occupational category and shall exclude data with respect to the wages and wage-related costs incurred in furnishing skilled nursing facility services.".

(b) CLINIC HOSPITAL WAGE INDICES.—In calculating the wage index under section 1886(d) of the Social Security Act for purposes of making payment adjustments after September 30, 1988, as required under paragraphs (2)(H) and (3)(E) of such section, in the case of any institution which received the waiver specified in section 602(k) of the Social Security Amendments of 1983, the Secretary of Health and Human Services shall include wage costs paid to related organization employees directly involved in the delivery and administration of care provided by the related organization to hospital inpatients. For purposes of the preceding sentence, the term "wage costs" does not include costs of overhead or home office administrative salaries or any costs that are not incurred in the hospital's Metropolitan Statistical Area.

SEC. 4005. RURAL HOSPITALS.

(a) REVISION OF STANDARDS FOR INCLUDING A RURAL COUNTY IN AN URBAN AREA.—

(1) TREATING CERTAIN RURAL HOSPITALS ADJACENT TO URBAN AREAS AS URBAN HOSPITALS.—Section 1886(d)(8) of the Social Security Act (42 U.S.C. 1395ww(d)(8))—

(A) by redesignating clauses (i) and (ii) of subparagraphs (A) and (B) as subclauses (I) and (II), respectively,

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(C) by inserting "(A)" after "(8)", and

(D) by adding at the end the following new subparagraph:

"(B) The Secretary shall treat a hospital located in a rural county adjacent to one or more urban areas as being located in the urban metropolitan statistical area to which the greatest number of workers in the county commute, if—

"(i) the rural county would otherwise be considered part of an urban area but for the fact that the rural county does not meet the standard relating to the rate of commutation between the rural county and the central county or counties of any adjacent urban area; and

"(ii) either (I) the number of residents of the rural county who commute for employment to the central county or counties of any adjacent urban area is equal to at least 15 percent of the number of residents of the rural county who are employed, or (II) the sum of the number of residents of the rural county who commute for employment to the central county or counties of any adjacent urban area and the number of residents of any adjacent urban area who commute for employment to the rural county is at least equal to 20 percent of the number of residents of the rural county who are employed.

"(C) The Secretary shall make a proportional adjustment in the standardized amount determined under paragraph (3) for hospitals located in an urban area to assure that the provisions of subparagraph (B) do not result in aggregate payments under this section that are greater or less than those that would otherwise be made. The Secretary shall make such adjustment in payments under this section to hospitals located in rural areas as are necessary to assure that the aggregate of payments to rural hospitals not affected by subparagraph (B) are not changed as a result of the application of subparagraph (B).".

(2) LOCATION OF HOSPITAL.—For purposes of section 1886 of the Social Security Act, Watertown Memorial Hospital in Watertown, Wisconsin is deemed to be located in Jefferson County, Wisconsin.

(3) EFFECTIVE DATE.—This section, and the amendments made by paragraph (1), shall apply to discharges occurring on or after October 1, 1988.

(b) EXPANSION OF SWING-BED PROGRAM.—

(1) EXPANSION TO HOSPITALS WITH FEWER THAN 100 BEDS.—Section 1883(b)(1) of the Social Security Act (42 U.S.C. 1395tt(b)(1)) is amended by striking "50 beds" and inserting "100 beds".

(2) REQUIREMENTS FOR HOSPITALS WITH MORE THAN 49 BEDS.—Section 1883(d) of such Act (42 U.S.C. 1395dd(d)) is amended—

(A) by inserting "(1)" after "(d)", and

(B) by adding at the end the following new paragraphs:

"(2)(A) Any agreement under this section with a hospital with more than 49 beds shall provide that no payment may be made for extended care services which are furnished to an extended care patient after the end of the 5-day period (excluding weekends and holidays) beginning on an availability date for a skilled nursing facility, unless the patient's physician certifies, within such 5-day period, that the transfer of that patient to that facility is not medically appropriate on the availability date. The Secretary shall prescribe regulations to provide for notice by skilled nursing facilities of availability dates to hospitals which have agreements under this section and which are located within the same geographic region (as defined by the Secretary).

"(B) In this paragraph:

"(i) The term 'availability date' means, with respect to an extended care patient at a hospital, any date on which a bed is available for the patient in a skilled nursing facility located within the geographic region in which the hospital is located.

"(ii) The term 'extended care patient' means an individual being furnished extended care services at a hospital pursuant to an agreement with the Secretary under this section.

"(3) In the case of an agreement for a cost reporting period under this section with a hospital that has more than 49 beds, payment may not be made in the period for patient-days of extended care services that exceed 15 percent of the product of the number of days in the period and the average number of licensed beds in the hospital in the period.".

(3) REPORT.—The Secretary of Health and Human Services shall report to Congress, not later than February 1, 1989, concerning—

(A) the proportion of admissions to hospitals for extended care services under section 1883 of the Social Security Act which are denied or approved by a peer review organization under section 1154(a)(1) of such Act, and

(B) on recommendations for methods of encouraging hospitals that—

(i) have a low occupancy rate,

(ii) are eligible to enter (but have not entered) into an agreement under section 1883 of such Act, and

(iii) are located in areas with a need for additional providers of extended care services,

to enter into such agreements.

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to agreements under section 1883 of the Social Security Act entered into after March 31, 1988.

(c) PAYMENTS TO SOLE COMMUNITY HOSPITALS.—

(1) Section 1886(d)(5)(C)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(C)(ii)) is amended—

(A) by striking "1988" in the second sentence and inserting "1990", and

(B) by inserting after the second sentence the following: "A subsection (d) hospital that meets the criteria for classification as a sole community hospital and otherwise qualifies for the adjustment authorized by the preceding sentence may qualify for such an adjustment without regard to the formula by which payments are determined for the hospital under paragraph (1)(A).".

(2)(A) The amendments made by paragraph (1) shall apply to cost reporting periods beginning on or after October 1, 1987.

(B) The Secretary of Health and Human Services shall take appropriate steps to ensure that the total amount paid in a fiscal year under title XVIII of the Social Security Act by reason of the amendment made by paragraph (1)(B) does not exceed $5,000,000 in the case of fiscal year 1988 and $10,000,000 for fiscal year 1989.

(d) MEDICARE CLASSIFICATION OF RURAL REFERRAL CENTERS.—

(1) EXTENSION OF CLASSIFICATION.—

(A) IN GENERAL.—The first sentence of section 1886(d)(5)(C)(i)(I) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(C)(i)(I)) is amended by striking "500" and inserting "275".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to discharges occurring on or after April 1, 1988.

(2) STUDY.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall provide for a study of the criteria used for the classification of hospitals as rural referral centers under section 1886(d)(5)(C)(i) of the Social Security Act. The study shall include an examination of—

(i) the extent that hospitals classified as rural referral centers receive more or less than their actual costs of providing inpatient hospital services, and

(ii) the appropriateness of providing for payment for such centers at a rate other *than the rate for a hospital located in an other urban area.*

(B) Report.—The Secretary shall report to Congress, by not later than March 1, 1989, on the study conducted under subparagraph (A) and on recommendations for the criteria that should be applied under section 1886(d)(5)(C)(i) of the Social Security Act for the classification of hospitals as rural referral centers for cost reporting periods beginning on or after October 1, 1989.

(e) Grant Program for Rural Health Care Transition.—

(1) The Administrator of the Health Care Financing Administration, in consultation with the Assistant Secretary for Health (or a designee), shall establish a program of grants to assist eligible small rural hospitals and their communities in the planning and implementation of projects to modify the type and extent of services such hospitals provide in order to adjust for one or more of the following factors:

(A) Changes in clinical practice patterns.

(B) Changes in service populations.

(C) Declining demand for acute-care inpatient hospital capacity.

(D) Declining ability to provide appropriate staffing for inpatient hospitals.

(E) Increasing demand for ambulatory and emergency services.

(F) Increasing demand for appropriate integration of community health services.

(G) The need for adequate access (including appropriate transportation) to emergency care and inpatient care in areas in which a significant number of underutilized hospital beds are being eliminated.

(H) The Administrator shall submit a final report on the program to the Congress not later than 180 days after all projects receiving a grant under the program are completed.

Each demonstration project under this subsection shall demonstrate methods of strengthening the financial and managerial capability of the hospital involved to provide necessary services. Such methods may include programs of cooperation with other health care providers, of diversification in services furnished (including the provision of home health services), of physician recruitment, and of improved management systems.

(2) For purposes of this subsection, the term "eligible small rural hospital" means any non-Federal, short-term general acute care hospital that—

(A) is located in a rural area (as determined in accordance with subsection (d)),

(B) has less than 100 beds, and

(C) is not for profit.

(3)(A) Any eligible small rural hospital that desires to modify the type or extent of health care services that it provides in order to adjust for one or more of the factors specified in paragraph (1) may submit an application to the Governor of the State in which it is located. The application shall specify the nature of the project proposed by the hospital, the data and information on which the project is based, and a timetable (of not more than 24 months) for completion of the project. The application shall be submitted on or before a date specified by the Administrator and shall be in such form as the Administrator may require.

(B) The Governor shall transmit any application submitted pursuant to subparagraph (A) to the Secretary not later than 30 days after it is received by the Governor, accompanied by any comments with respect to the application that the Governor deems appropriate.

(C) The Governor of a State may designate an appropriate State agency to receive and comment on applications submitted under subparagraph (A).

(4) A hospital shall be considered to be located in a rural area for purposes of this subsection if it is treated as being located in a rural area for purposes of section 1886(d)(3)(D) of the Social Security Act.

(5) In determining which hospitals making application under paragraph (3) will receive grants under this subsection, the Administrator shall take into account—

(A) any comments received under paragraph (3)(B) with respect to a proposed project;

(B) the effect that the project will have on—

(i) reducing expenditures from the Federal Hospital Insurance Trust Fund,

(ii) improving the access of medicare beneficiaries to health care of a reasonable quality;

(C) the extent to which the proposal of the hospital, using appropriate data, demonstrates an understanding of—

(i) the primary market or service area of the hospital, and

(ii) the health care needs of the elderly and disabled that are not currently being met by providers in such market or area, and

(D) the degree of coordination that may be expected between the proposed project and—

(i) other local or regional health care providers, and

(ii) community and government leaders, as evidenced by the availability of support for the project (in cash or in kind) and other relevant factors.

(6) A grant to a hospital under this subsection may not exceed $50,000 a year and may not exceed a term of 2 years.

(7)(A) Except as provided in subparagraphs (D) and (C), a hospital receiving a grant under this subsection may use the grant for any of expenses incurred in planning and implementing the project with respect to which the grant is made.

(B) A hospital receiving a grant under this subsection for a project may not use the grant to retire debt incurred with respect to any capital expenditure made prior to the date on which the project is initiated.

(C) Not more than one-third of any grant made under this subsection may be expended for capital-related costs (as defined by the Secretary for purposes of section 1886(a)(4) of the Social Security Act) of the project.

(8)(A) A hospital receiving a grant under this section shall furnish the Administrator with such information as the Administrator may require to evaluate the project with respect to which the grant is made and to ensure that the grant is expended for the purposes for which it was made.

(B) The Administrator shall report to the Congress at least once every 6 months on the program of grants established under this subsection. The report shall assess the functioning and status of the program, shall evaluate the progress made toward achieving the purposes of the program, and shall include any recommendations the Secretary may deem appropriate with respect to the program. In preparing the report, the Secretary shall solicit and include the comments and recommendations of private and public entities with an interest in rural health care.

(C) The Administrator shall submit a final report on the program to the Congress not later than 180 days after all projects receiving a grant under the program are completed.

(9) For purposes of carrying out the program of grants under this subsection, there are authorized to be appropriated from the Federal Hospital Insurance Trust Fund $15,000,000 for each of the fiscal years 1989 and 1990.

SEC. 4006. PAYMENTS FOR HOSPITAL CAPITAL.

(a) Reductions in Payments for Capital.—Section 1886(g)(3)(A) of the Social Security Act (42 U.S.C. 1395ww(g)(3)(A)) is amended—

(A) in clause (ii), by striking ", and" and inserting "on or after October 1, 1987, and before January 1, 1988,",

(B) by striking clause (iii) and inserting the following:

"(iii) 12 percent for payments attributable to portions of cost reporting periods or discharges (as the case may be) in fiscal year 1988, occurring on or after January 1, 1988, and

"(iv) 15 percent to portions of cost reporting periods or discharges (as the case may) be occurring during fiscal year 1989.".

(b) Prospective Payment for Capital-Related Costs.—

(1) In general.—Paragraph (1) of section 1886(g) of such Act (42 U.S.C. 1395 ww (g)) is amended to read as follows:

"(g)(1)(A) Notwithstanding section 1861(v), instead of any amounts that are otherwise payable under this title with respect to the reasonable costs of subsection (d) hospitals and subsection (d) Puerto Rico hospitals for capital-related costs of inpatient hospital services, the Secretary shall, for hospital cost reporting periods beginning on or after October 1, 1991, provide for payments for such costs in accordance with a prospective payment system established by the Secretary.

"(B) Such system—

"(i) shall provide for (I) a payment on a per discharge basis, and (II) an appropriate weighting of such payment amount as relates to the classification of the discharge;

"(ii) may provide for an adjustment to take into account variations in the relative costs of capital and construction for the different types of facilities or areas in which they are located;

"(iii) may provide for such exceptions (including appropriate exceptions to reflect capital obligations) as the Secretary determines to be appropriate, and

"(iv) may provide for suitable adjustment to reflect hospital occupancy rate.

"(C) In this paragraph, the term 'capital-related costs' has the meaning given such term by the Secretary under subsection (a)(4) as of September 30, 1987, and does not include a return on equity capital.".

(2) Conforming amendment.—Section 1886 of such Act is amended—

(A) in subsection (a)(4), by striking "with respect to costs incurred in cost reporting periods beginning prior to October 1 of 1987 (or of such later year as the Secretary may, in his discretion, select), other capital-related costs, as defined by the Secretary" and inserting "other capital-related costs (as defined by the Secretary for periods before October 1, 1987)", and

(B) by striking subparagraph (C) of subsection (g)(3).

(3) Effective dates.—The amendment made by paragraph (1) shall take effect on October 1, 1987. The amendments made by paragraph (2) shall apply to cost reporting periods beginning on or after October 1, 1987.

(c) ProPAC Report on Adjustment for Hospital Occupancy.—The Prospective Pay-

ment Assessment Commission shall study and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, by not later than May 1, 1988, on the suitability and feasibility of linking payment for capital-related costs under part A of title XVIII of the Social Security Act to hospital occupancy rates.

SEC. 4007. REPORTING HOSPITAL INFORMATION.

(a) Development of Data Base.—The Secretary of Health and Human Services, (in this section referred to as the "Secretary") shall develop and place into effect not later than June 1, 1989, a data base of the operating costs of inpatient hospital services with respect to all hospitals under title XVIII of the Social Security Act, which data base shall be updated at least once every quarter (and maintained for the 12-month period preceding any such update). The data base under this subsection may include data from preliminary cost reports (but the Secretary shall make available an updata analysis of the differences between preliminary and settled cost reports).

(b) Reporting of Information Electronically.—Subject to paragraph (2), with respect to hospital cost reporting periods beginning on or after October 1, 1989, the Secretary shall place into effect a standardized electronic cost reporting format for hospitals under the medicare program.

(2) The Secretary may delay or waive the implementation of such format in particular instances where such implementation would result in financial hardship (in particular with respect to a small percentage of medicare volume).

(c) Demonstration Project.—

(1) The Secretary of Health and Human Services shall provide for a 3-year demonstration project to develop, and determine the costs and benefits of establishing a uniform system for the reporting by medicare participating hospitals of balance sheet and information described in paragraph (2). In contracting the project, the Secretary shall require hospitals in at least 2 States, one of which maintains a uniform hospital reporting system, to report such information based on standard information established by the Secretary.

(2) The information described in this paragraph is as follows:

(A) Hospital discharges (classified by category of service and by class of primary payer).

(B) Patient days (classified by category of service and by class of primary payer).

(C) Licensed beds, staffed beds, and occupancy (by category of service).

(D) Outpatient visits (classified by class of primary payer).

(E) Inpatient charges and revenues (classified by class of primary payer).

(F) Outpatient charges and revenues (classified by class of primary payer).

(G) Inpatient and outpatient hospital expenses (by cost-center classified for operating and capital).

(H) Reasonable costs.

(I) Other income.

(J) Uncompensated care (classified by bad debt and charity care).

(K) Capital acquisitions.

(L) Capital assets.

(3) The Secretary shall develop the system under subsection (c) in a manner so as—

(A) to facilitate the submittal of the information in the report in an electronic form, and

(B) to be compatible with the needs of the medicare prospective payment system.

(4) The Secretary shall prepare and submit, to the Prospective Payment Assessment Commission, the Comptroller General, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, by not later than 45 days after the end of each calendar quarter, data collected under the system.

(5) In paragraph (3):

(A) The terms "bad debt" and "charity care" have such meanings as the Secretary establishes.

(B) The term "class" means, with respect to payers, the programs under this title VIII of the Social Security Act, a State plan approved under title XIX of such Act, other third party-payers, and self-paying individuals.

(7) The Secretary shall set aside at least $1,000,000 for each of fiscal years 1988, 1989, and 1990 from existing research funds to develop the format, according to paragraph (1), and at least $2,000,000 from program operations funds for data collection and analysis, but total funds shall not exceed $15,000,000 over 3 years.

(8) The Comptroller General shall analyze the adequacy of the existing system for reporting of hospital information and the costs and benefits of data reporting under the demonstration system and will recommend improvements in hospital data collection and in analysis and display of data in support of policy making.

(d) Consultation.—The Secretary shall consult representatives of the hospital industry in carrying out the provisions of this section.

SEC. 4008. OTHER PROVISIONS RELATING TO PAYMENT FOR INPATIENT HOSPITAL SERVICES.

(a) Massachusetts Medicare Repayment.—The Secretary of Health and Human Services shall not, on or after the date of the enactment of this Act, and before January 1, 1989, recoup from, or otherwise reduce payments to, hospitals in the State of Massachusetts because of alleged overpayments to such hospitals under part A of title XVIII of the Social Security Act which occurred during the period of the statewide hospital reimbursement demonstration project conducted in that State, between October 1, 1982, and June 30, 1986, under section 402 of the Social Security Amendments of 1967 and section 222 of the Social Security Amendments of 1972.

(b) Clarification of Section 1814(b) State Waiver Authority.—

(1) Application of Aggregate Test.—Section 1814(b)(3)(B) of the Social Security Act (42 U.S.C. 1395f(b)(3)(B)) is amended by striking "rate of increase for the previous three-year period" and inserting "aggregate rate of increase from October 1, 1983, to the most recent date for which annual data are available".

(2) Effective date.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(c) Continuation of Bad Debt Recognition for Hospital Services.—In making payments to hospitals under title XVIII of the Social Security Act, the Secretary of Health and Human Services shall not make any change in the policy in effect on August 1, 1987, with respect to payment under title XVIII of the Social Security Act to providers of service for reasonable costs relating to unrecovered costs associated with unpaid deductible and coinsurance amounts incurred under such title (including criteria for what constitutes a reasonable collection effort).

(d) Hospital Outlier Payments and Policy.—

(1) Increase in outlier payments for burn center DRGs.—

(A) In general.—For discharges classified in diagnosis-related groups relating to burn cases and occurring on or after April 1, 1988, and before October 1, 1989, the marginal cost of care permitted by the Secretary of Health and Human Services under section 1886(d)(5)(A)(iii) of the Social Security Act shall be 90 percent of the appropriate per diem cost of care or 90 percent of the cost for cost outliers.

(B) Budget neutrality.—Subparagraph (A) shall be implemented in a manner that ensures that total payments under section 1886 of the Social Security Act are not increased or decreased by reason of the adjustments required by such subparagraph.

(2) Limitation on changes in outlier regulations.—

(A) In general.—Notwithstanding any other provision of law, except as required to implement specific provisions required under statute, the Secretary of Health and Human Services is not authorized to issue in final form, after the date of the enactment of this Act and before September 1, 1988, any final regulation which changes the method of payment for outlier cases under section 1886(d)(5)(A) of the Social Security Act.

(B) ProPAC report.—The chairman of the Prospective Payment Assessment Commission shall report to the Congress and the Secretary of Health and Human Services, by not later than June 1, 1988, on the method of payment for outlier cases under such section and providing more adequate and appropriate payments with respect to burn outlier cases.

(3) Report on outlier payments.—The Secretary of Health and Human Services shall include in the annual report submitted to the Congress pursuant to section 1875(b) of the Social Security Act a comparison with respect to hospitals located in an urban area and hospitals located in a rural area in the amount of reductions under section 1886(d)(3)(B) of the Social Security Act and additional payments under section 1886(d)(5)(A) of such Act.

(e) Miscellaneous Accounting Provision.—Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986, subsection (d) of section 9307 of such Act is amended to read as follows:

"(d) Miscellaneous Accounting Provision.—Notwithstanding any other provision of law, for purposes of section 1886(d)(1)(A) of the Social Security Act, in the case of a hospital that—

"(1) had a cost reporting period beginning on September 28, 29, or 30 of 1985,

"(2) is located in a State in which inpatient hospital services were paid in fiscal year 1985 pursuant to a Statewide demonstration project under section 402 of the Social Security Amendments of 1967 and section 222 of the Social Security Amendments of 1972, and

"(3) elects, by notice to the Secretary of Health and Human Services by not later than April 1, 1988, to have this subsection apply,

during the first 7 months of such cost reporting period the 'target percentage' shall be 75 percent and the 'DRG percentage' shall be 25 percent, and during the remaining 5 months of such period the 'target percentage' and the 'DRG percentage' shall each be 50 percent.".

SEC. 4009. MISCELLANEOUS PROVISIONS.

(a) RESPONSIBILITIES OF MEDICARE HOSPITALS IN EMERGENCY CASES.—

(1) INCREASE IN CIVIL MONETARY PENALTY.—Section 1867(d)(2) of the Social Security Act (42 U.S.C. 1395dd(d)(2)) is amended by striking "$25,000" and inserting "$50,000".

(2) EXCLUSION FROM MEDICARE PROGRAM FOR VIOLATIONS.—Section 1867(d)(1) of such Act is amended by adding at the end the following new sentence:

"If a civil money penalty is imposed on a responsible physician under paragraph (2), the Secretary may impose the sanction described in section 1842(j)(2)(A) (relating to barring from participation in the medicare program) in the same manner as it is imposed under section 1842(j).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions occurring on or after the date of the enactment of this Act.

(b) DESIGNATION OF PEDIATRIC HOSPITALS AS MEETING CERTIFICATION AS HEART TRANSPLANT FACILITY.—For purposes of determining whether a pediatric hospital that performs pediatric heart transplants meets the criteria established by the Secretary of Health and Human Services for facilities in which the heart transplants performed will be considered to meet the requirement of section 1862(a)(1)(A) of the Social Security Act, the Secretary shall treat such a hospital as meeting such criteria if—

(1) the hospital's pediatric heart transplant program is operated jointly by the hospital and another facility that meets such criteria,

(2) the unified program shares the same transplant surgeons and quality assurance program (including oversight committee, patient protocol, and patient selection criteria), and

(3) the hospital demonstrates to the satisfaction of the Secretary that it is able to provide the specialized facilities, services, and personnel that are required by pediatric heart transplant patients.

(c) WAIVER OF INPATIENT LIMITATIONS FOR THE CONNECTICUT HOSPICE.—Subsection (a) of section 9307 of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) by striking "TEMPORARY" in the heading, and

(2) by striking "for hospice care provided before October 1, 1988,".

(d) REVISION OF APPOINTMENT PROCESS FOR PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.—

(1) IN GENERAL.—Section 1886(e)(6)(B) of the Social Security Act (42 U.S.C. 1395ww(e)(6)(B)) is amended—

(A) in the first sentence, by striking "provide expertise and experience in the provision and financing of health care" and inserting "include individuals with national recognition for their expertise in health economics, hospital reimbursement, hospital financial management, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives,"; and

(B) by striking the last sentence.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to appointments made after the date of the enactment of this Act.

(e) PSYCHOLOGISTS' SERVICES FURNISHED TO HOSPITAL INPATIENTS.—

(1) IN GENERAL.—Section 1861(b)(3) of such Act (42 U.S.C. 1395x(b)(3)) is amended by inserting "(including clinical psychologist (as defined by the Secretary))" after "others" the first place it appears.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to services furnished on or after April 1, 1988.

(f) HOSPITAL CONDITION OF PARTICIPATION RELATED TO INDIVIDUAL RESPONSIBLE FOR CARE OF PATIENT.—Section 1861(e)(4) of such Act (42 U.S.C. 1395x(e)(4)) is amended by inserting "with respect to whom payment may be made under this title" after "patient".

(g) DELAY IN REQUIREMENTS RELATING TO HOSPITAL STANDARDS FOR ORGAN TRANSPLANTS AND STANDARDS FOR ORGAN PROCUREMENT AGENCIES.—

(1) Section 9318(b)(2) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 107(c) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, is amended by striking "November 21, 1987" and inserting "March 31, 1988".

(2) The amendment made by paragraph (1) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

(h) PROPAC STUDIES AND REPORTS.—

(1) PROPAC REPORTS ON STUDY OF DRG RATES FOR HOSPITALS IN RURAL AND URBAN AREAS.—The Prospective Payment Assessment Commission shall evaluate the study conducted by the Secretary of Health and Human Services pursuant to section 603(a)(2)(C)(i) of the Social Security Amendments of 1983 (relating to the feasibility, impact, and desirability of eliminating or phasing out separate urban and rural DRG prospective payment rates) and report its conclusions and recommendations to the Congress not later than March 1, 1988.

(2) PROPAC REPORT ON SEPARATE URBAN PAYMENT RATES.—The Prospective Payment Assessment Commission shall evaluate the desirability of maintaining separate DRG prospective payment rates for hospitals located in large urban areas (as defined in section 1886(d)(2)(D)) of the Social Security Act) and in other urban areas, and shall report to Congress on such evaluation not later than January 1, 1989.

(3) REPORT ON ADJUSTMENT FOR NON-LABOR COSTS.—The Prospective Payment Assessment Commission shall perform an analysis to determine the feasibility and appropriateness of adjusting the non-wage-related portion of the adjusted average standardized amounts under section 1886(d)(3) of the Social Security Act based on area differences in hospitals' costs (other than wage-related costs) and input prices. The Commission shall report to the Congress on such analysis by not later than October 1, 1989.

(i) SPECIAL RULE.—In the case of New England county metropolitan areas, the Secretary of Health and Human Services shall apply the second sentence of section 1886(d)(2)(D) of the Social Security Act, as amended by section 4001(b) of this subtitle, as though 970,000 were substituted for 1,000,000.

(j) TECHNICAL CORRECTIONS.—

(1) Section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)) is amended by inserting a comma after "educational activities".

(2) Section 1886(d)(5)(C)(i)(II) of such Act (42 U.S.C. 1395ww(d)(5)(C)(i)(II)) is amended by inserting "index" after "case mix" both places it appears.

(3) Section 1886(d)(5)(F) of such Act (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(A) in clause (i)(II), by striking "such revenues" the second place it appears and inserting "such net inpatient care revenues", and

(B) in clause (iv)(I), by striking "subclause (III)" and inserting "clause (v)".

(4) Section 1886(d)(9) of such Act (42 U.S.C. 1395ww(d)(9)) is amended by moving the matter in subparagraph (B) before clause (i) 2 ems to the left so the left margin of such matter is aligned with the left margin of the matter in subparagraph (A) before clause (i).

(5) Section 1886(h)(4)(C) of such Act (42 U.S.C. 1395ww(h)(4)(C)) is amended by striking "subparagraph (E)" and inserting "subparagraph (D)".

(6) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986—

(A) subparagraph (B) of section 9307(c)(1) of such Act is amended to read as follows:

"(B) in paragraph (2)—

"(i) by striking subparagraphs (A) and (B),

"(ii) in subparagraph (C), by striking 'such subsection' and inserting 'of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d))' and by redesignating such subparagraph as subparagraph (A), and

"(iii) by amending subparagraph (D) to read as follows:

" '(B) The amendments made by subparagraph (A) apply to discharges occurring on or after May 1, 1986.' ";

(B) section 9302(a)(2)(C) of such Act is amended by striking "1866(e)(5)" and inserting "1886(e)(5)";

(C) section 9320(h)(1) of such Act is amended by striking "before the period" and inserting "before the semicolon";

(D) section 9321(c)(4) of such Act is amended by striking "second sentence" and all that follows through "operating costs" and inserting "second sentence of section 1886(a)(4) of the Social Security Act, from the term 'operating costs'";

(E) the second sentence of section 9335(d)(2) of such Act is amended by striking "establish" and inserting "designate"; and

(F) section 9321(c)(3) of such Act is amended by inserting "section 1861(v)(1)(O) and 1886(g)(2) of the Social Security Act and" after "implementing".

(7) Section 218(v) of the Social Security Act (42 U.S.C. 418(v)) is amended by striking paragraph (3).

(8) Effective as if included in the Tax Reform Act of 1986, section 1895(d)(6)(C) of such Act is amended by striking "603" and inserting "2203".

PART 2—PROVISIONS RELATING TO PARTS A & B

Subpart A—Health Maintenance Organization Reforms

SEC. 4011. BENEFICIARY PROTECTION.

(a) POST-CONTRACT PROTECTION FOR ENROLLEES WITH ELIGIBLE ORGANIZATIONS UNDER THE MEDICARE PROGRAM.—

(1) Section 1876(c)(3) of such Act (42 U.S.C. 1395mm(b)(2)) is amended by adding at the end the following new subparagraph:

"(F) Each eligible organization that provides items and services pursuant to a contract under this section shall provide assurances to the Secretary that in the event the organization ceases to provide such items and services, the organization shall provide or arrange for supplemental coverage of benefits under this title related to a pre-existing condition with respect to any exclusion period, to all individuals enrolled with the entity who receive benefits under this title, for the lesser of six months or the duration of such period.".

(2) The amendment made by paragraph (1) shall apply with respect to contracts en-

tered into or renewed on or after the date of enactment of this Act.

(b) NOTIFICATION OF TERMINATION OF RISK-SHARING CONTRACT.—

(1) Section 1876(c)(3) of such Act, as amended by subsection (a)(1), is further amended by adding at the end the following new subparagraph:

"(G)(i) Each eligible organization having a risk-sharing contract under this section shall notify individuals eligible to enroll with the organization under this section and individuals enrolled with the organization under this section that—

"(I) the organization is authorized by law to terminate or refuse to renew the contract, and

"(II) termination or nonrenewal of the contract may result in termination of the enrollments of individuals enrolled with the organization under this section.

"(ii) The notice required by clause (i) shall be included in—

"(I) any marketing materials described in subparagraph (C) that are distributed by an eligible organization to individuals eligible to enroll under this section with the organization, and

"(II) any explanation provided to enrollees by the organization pursuant to subparagraph (E).".

(2) The amendment made by paragraph (1) shall apply to contracts entered into or renewed on or after the date of the enactment of this Act.

SEC. 4012. PAYMENTS FOR HOSPITAL SERVICES.

(a) IN GENERAL.—Section 1866(a)(1) of such Act (42 U.S.C. 1395cc(a)(1)) is amended by inserting immediately after subparagraph (N) the following new subparagraph:

"(O) in the case of hospitals and skilled nursing facilities, to accept as payment in full for inpatient hospital and extended care services that are covered under this title and are furnished to any individual enrolled with an eligible organization with a risk-sharing contract under section 1876 the amounts (in the case of hospitals) or limits (in the case of skilled nursing facilities) that would be made as a payment in full under this title if the individuals were not so enrolled.".

(b) REPEAL.—Section 1876(g)(4) of the Social Security Act (42 U.S.C. 1395mm(g)(4)) is repealed.

(c) IMPLEMENTATION.—The Secretary of Health and Human Services shall provide (in machine readable form) to eligible organizations under section 1876 of the Social Security Act medicare DRG rates for payments required by the amendment made by paragraph (2) and data on cost pass-through items for all inpatient services provided to medicare beneficiaries enrolled with such organizations.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to admissions occurring on or after April 1, 1988, or, if later, the earliest date the Secretary can provide the information required under subsection (c) in machine readable form.

SEC. 4013. TWO-YEAR EXTENSION ON PERIOD FOR BENEFIT STABILIZATION.

(a) IN GENERAL.—Section 1876(g)(5) of the Social Security Act (42 U.S.C. 1395mm(g)(5)), as added by the amendment made by section 2350(a)(2) of the Deficit Reduction Act of 1984, is amended by striking "four" and inserting "six".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of the amendment made by section 2350(a)(2) of the Deficit Reduction Act of 1984.

SEC. 4014. CIVIL MONEY PENALTIES AND INTERMEDIATE SANCTIONS AGAINST HMOS/CMPS.

Section 1876(i)(6) of the Social Security Act (42 U.S.C. 1395mm) is amended to read as follows:

"(6)(A) If the Secretary determines that an eligible organization with a contract under this section—

"(i) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(ii) imposes premiums on individuals enrolled under this section in excess of the premiums permitted;

"(iii) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this section;

"(iv) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this section) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

"(v) misrepresents or falsifies information that is furnished—

"(I) to the Secretary under this section, or

"(II) to an individual or to any other entity under this section; or

"(vi) fails to comply with the requirements of subsection (g)(6)(A);

the Secretary may provide for any of the remedies described in subparagraph (B).

"(B) The remedies described in this subparagraph are—

"(i) civil money penalties of not more than $25,000 for each determination under subparagraph (A) or, with respect to a determination under clause (iv) or (v)(I), of not more than $100,000 for each such determination,

"(ii) suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(iii) suspension of payment to the organization under this section for individuals enrolled after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under clause (i) in the same manner as they apply to a civil money penalty under that section.".

SEC. 4015. MEDICARE PAYMENT DEMONSTRATION PROJECTS.

(a) MEDICARE INSURED GROUP DEMONSTRATION PROJECTS.—

(1) The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") may provide for capitation demonstration projects (in this subsection referred to as "projects") with an entity which is an eligible organization with a contract with the Secretary under section 1876 of the Social Security Act or which meets the restrictions and requirements of this subsection. The Secretary may not approve a project unless it meets the requirements of this subsection.

(2) The Secretary may not conduct more than 3 projects and may not expend, from funds under title XVIII of the Social Security Act, more than $600,000,000 in any fiscal year for all such projects.

(3) The per capita rate of payment under a project—

(A) may be based on the adjusted average per capita cost (as defined in section 1876(a)(4) of the Social Security Act) determined only with respect to the group of individuals involved (rather than with respect to medicare beneficiaries generally), but

(B) the rate of payment may not exceed the lesser of—

(i) 95 percent of the adjusted average per capita cost described in subparagraph (A), or

(ii)(I) in the 4th year or 5th year of a project, 115 percent of the adjusted average per capita cost (as defined in section 1876(a)(4) of such Act) for classes of individuals described in section 1876(a)(1)(B) of that Act, or

(II) in any subsequent year of a project, 95 percent of the adjusted average per capita cost (as defined in section 1876(a)(4)) for such classes.

(4) If the payment amounts made to a project are greater than the the costs of the project (as determined by the Secretary or, if applicable, on the basis of adjusted community rates described in section 1876(e)(3) of the Social Security Act), the project—

(A) may retain the surplus, but not to exceed 5 percent of the average adjusted per capita cost determined in accordance with paragraph (3)(A), and

(B) with respect to any additional surplus not retained by the project, shall apply such surplus to additional benefits for individuals served by the project or return such surplus to the Secretary.

(5) Enrollment under the project shall be voluntary. Individuals enrolled with the project may terminate such enrollment as of the beginning of the first calendar month following the date on which the request is made for such termination. Upon such termination, such individuals shall retain the same rights to other health benefits that such individuals would have had if they had never enrolled with the project without any exclusion or waiting period for pre-existing conditions.

(6) The requirements of—

(A) subsection (c)(3)(C) (relating to dissemination of information),

(B) subsection (c)(3)(E) (annual statement of rights),

(C) subsection (c)(5) (grievance procedures),

(D) subsection (c)(6) (on-going quality),

(E) subsection (g)(6) (relating to prompt payment of claims),

(F) subsection (i)(3)(A) and (B) (relating to access to information and termination notices),

(G) subsection (i)(6) (relating to providing necessary services), and

(H) subsection (i)(7) (relating to agreements with peer review organizations),

of section 1876 of the Social Security Act shall apply to a project in the same manner as they apply to eligible organizations with risk-sharing contracts under such section.

(7) The benefits provided under a project must be at least actuarially equivalent to the combination of the benefits available under title XVIII of the Social Security Act and the benefits available through any alternative plans in which the individual can enroll through the the employer. The project shall guarantee the actuarial value of benefits available under the employer plan for the duration of the project.

(8) A project shall comply with all applicable State laws.

(9) The Secretary may not authorize a project unless the entity offering the project demonstrates to the satisfaction of the Secretary that it has the necessary financial reserves to pay for any liability for benefits under the project (including those liabilities for health benefits under medicare and any supplemental benefits).

(10) The Comptroller General shall monitor projects under this subsection and shall report periodically (not less often than once every year) to the Committee on Finance of the Senate and the Committee on Energy and Commerce and Committee on Ways and Means of the House of Representatives on the status of such projects and the affect on such projects of the requirements of this section and shall submit a final report to each such committee on the results of such projects.

(b) Payment Methodology Reform Demonstrations Projects.—

(1) The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") is specifically authorized to conduct demonstration projects under this subsection for the purpose of testing alternative payment methodologies pertaining to capitation payments under title XVIII of the Social Security Act, including—

(A) computing adjustments to the average per capita cost under section 1876 of such Act on the basis of health status or prior utilization of services, and

(B) accounting for geographic variations in cost in the adjusted average per capita costs applicable to an eligible organization under such section which differs from payments currently provided on a county-by-county basis.

(2) No project may be conducted under this subsection—

(A) with an entity which is not an eligible organization (as defined in section 1876(b) of the Social Security Act), and

(B) unless the project meets all the requirements of subsections (c) and (i)(3) of section 1876 of such Act.

(3) There are authorized to be appropriated to carry out projects under this subsection $5,000,000 in each of fiscal years 1989 and 1990.

(c) Application of Provisions.—The provisions of subsection (a)(2) and the first sentence of subsection (b) of section 402 of the Social Security Amendments of 1967 shall apply to the demonstration projects under this section in the same manner as they apply to experiments under subsection (a)(1) of that section.

SEC. 4016. DELAY IN EFFECTIVE DATE IN PHYSICIAN INCENTIVE RULES FOR HEALTH MAINTENANCE ORGANIZATIONS.

Section 9313(c)(2)(B) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "April 1, 1989" and inserting "April 1, 1990".

SEC. 4017. GAO STUDY AND REPORTS ON MEDICARE CAPITATION.

(a) Study.—The Comptroller General shall conduct a study on medicare capitation rates that shall include an analysis and assessment of—

(1) the current method for computing per capita rates of payment under section 1876 of the Social Security Act (including the method for determining the United States per capita cost);

(2) the method for establishing relative costs for geographic areas and the data used to establish age, sex, and other weighting factors;

(3) ways to refine the calculation of adjusted average per capita costs under section 1876 of such Act (including making adjustments for health status or prior utilization of services and improvements in the definition of geographic areas);

(4) the extent to which individuals enrolled with organizations with a risk-sharing contract with the Secretary under section 1876 of such Act differ in utilization and cost from fee-for-service beneficiaries and ways for modifying enrollment patterns through program changes or for reflecting the differences in rates through group experience rating or other means;

(5) approaches for limiting the liability of the contracting organization under section 1876 of such Act in catastrophic cases;

(6) ways of establishing capitation rates on a basis other than fee-for-service experience in areas with high prepaid market penetration; and

(7) methods for providing the rate levels necessary to maintain access to quality prepaid services in rural or medically underserved areas (while maintaining cost savings).

(b) Reports.—

(1) Not later than January 1 of 1989 and 1990, the Comptroller General shall submit to the Committee on Finance of the Senate and the Committee on Energy and Commerce and Committee on Ways and Means of the House of Representatives interim reports on the progress of the study conducted under subsection (a).

(2) Not later than January 1, 1991, the Comptroller General shall submit to each such committee a final report on the results of such study.

SEC. 4018. SPECIAL RULES.

(a) Assignment of Members for HIP Health Maintenance Organization.—Section 1876(f) of such Act (42 U.S.C. 1395mm(f)) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3)(A) An eligible organization described in subparagraph (B) may elect, for purposes of determining the compliance of a subdivision, subsidiary, or affiliate described in subparagraph (B)(iii) with the requirement of paragraph (1) for the period before October 1, 1992, to have members of the subdivision, subsidiary, or affiliate considered to be members of the parent organization.

"(B) An eligible organization described in this subparagraph is an eligible organization which—

"(i) is described in section 1903(m)(2)(B)(iii);

"(ii) has members who have a collectively bargained contractual right to obtain health benefits from the organization;

"(iii) elects to provide benefits under a risk-sharing contract to individuals residing in a service area, who have a collectively bargained contractual right to obtain benefits from the organization, through a subdivision, subsidiary, or affiliate which itself is an eligible organization serving the area and which is owned or controlled by the parent eligible organization; and

"(iv) has assumed any risk of insolvency and quality assurance with respect to individuals receiving benefits through such a subdivision, subsidiary, or affiliate.".

(b) Extension of Waivers for Social Health Maintenance Organizations.—

(1) The Secretary of Health and Human Services shall extend without interruption, through September 30, 1992, the approval of waivers granted under subsection (a) of section 2355 of the Deficit Reduction Act of 1984 for the demonstration project described in subsection (b) of that section, subject to the terms and conditions (other than duration of the project) established under that section (as amended by paragraph (2) of this subsection).

(2) Section 2355(b)(5) of the Deficit Reduction Act of 1984 is amended by inserting "and in succeeding years" after "third year".

(3) Section 2355(d)(2) of the Deficit Reduction Act of 1984 is amended by striking "final" and inserting "interim".

(4) The Secretary of Health and Human Services shall submit a final report to the Congress on the project referred to in paragraph (1) not later than March 31, 1993.

(c) Treatment of Michigan Blue Care HMO Network Under 50 Percent Rule.—Blue Care, Inc., a nonprofit corporation which is indirectly owned and operated by Blue Cross and Blue Shield of Michigan, Inc. and which enrolls individuals for the purpose of providing them with health care services through assignment to health maintenance organizations which are indirectly or wholly owned and operated by Blue Cross and Blue Shield of Michigan, Inc., is deemed to meet the requirement of section 1876(f)(1) of the Social Security Act (relating to limitation on enrollment of medicare and medicaid beneficiaries with an eligible organization) if—

(1) such requirement would be met if applied to all individuals enrolled with (or otherwise assigned to) each of such health maintenance organizations, and

(2) not more than 20 percent of the number of individuals who are members of (or otherwise assigned to) each such organization consists of individuals who are entitled to benefits under title XVIII of the Social Security Act.

(d) Temporary Waiver for Watts Health Foundation.—Section 9312(c)(3) of the Omnibus Budget Reconciliation Act of 1986 is amended by adding at the end the following new subparagraph:

"(D) Treatment of certain waivers.—In the case of an eligible organization (or successor organization) that is described in clauses (i) and (ii) of subparagraph (C) and that received a grant or grants totaling at least $3,000,000 in fiscal year 1987 under section 329(d)(1)(A) or 330(d)(1) of the Public Health Service Act—

"(i) before January 1, 1990, section 1876(f) of the Social Security Act shall not apply to the organization;

"(ii) beginning on January 1, 1990, the Secretary of Health and Human Services shall waive the requirement of such section with respect to the organization if—

"(I) before such date, the organization has submitted to the Secretary a schedule for the organization to comply with the requirement of section 1876(f)(1) of such Act, and the Secretary has found such schedule to be reasonable and has approved such schedule; and

"(II) periodically after such date, the Secretary reviews the organization's compliance with such schedule and determines that the organization has complied, or made significant progress towards compliance, with such schedule; and

"(iii) after January 1, 1990, if the Secretary has approved a schedule under clause (ii)(I) and has determined, in a periodic review under clause (ii)(II), that the organization has not complied, or made significant progress towards compliance, with such schedule, the Secretary may provide for a sanction described in section 1876(f)(3) of

the Social Security Act effective with respect to individuals enrolling with the organization after the date the Secretary notifies the organization of such noncompliance.".

Subpart B—Home Health Quality

SEC. 4021. CONDITIONS OF PARTICIPATION FOR HOME HEALTH AGENCIES.

(a) DEFINITION OF HOME HEALTH AGENCY.—Section 1861(o)(6) of the Social Security Act (42 U.S.C. 1395x(o)(6)) is amended by inserting "the conditions of participation specified in section 1891(a) and" after "meets".

(b) CONDITIONS OF PARTICIPATION.—Title XVIII of such Act is amended by adding at the end the following new section:

"CONDITIONS OF PARTICIPATION FOR HOME HEALTH AGENCIES; HOME HEALTH QUALITY

"SEC. 1891. (a) The conditions of participation that a home health agency is required to meet under this subsection are as follows:

"(1) The agency protects and promotes the rights of each individual under its care, including each of the following rights:

"(A) The right to be fully informed in advance about the care and treatment to be provided by the agency, to be fully informed in advance of any changes in the care or treatment to be provided by the agency that may affect the individual's well-being, and (except with respect to an individual adjudged incompetent) to participate in planning care and treatment or changes in care or treatment.

"(B) The right to voice grievances with respect to treatment or care that is (or fails to be) furnished without discrimination or reprisal for voicing grievances.

"(C) The right to confidentiality of the clinical records described in section 1861(o)(3).

"(D) The right to have one's property treated with respect.

"(E) The right to be fully informed orally and in writing (in advance of coming under the care of the agency) of—

"(i) all items and services furnished by (or under arrangements with) the agency for which payment may be made under this title,

"(ii) the coverage available for such items and services under this title, title XIX, and any other Federal program of which the agency is reasonably aware,

"(iii) any charges for items and services not covered under this title and any charges the individual may have to pay with respect to items and services furnished by (or under arrangements with) the agency, and

"(iv) any changes in the charges or items and services described in clause (i), (ii), or (iii).

"(F) The right to be fully informed in writing (in advance of coming under the care of the agency) of the individual's rights and obligations under this title.

"(G) The right to be informed of the availability of the State home health agency hotline established under section 1864(a).

"(2) The agency notifies the State entity responsible for the licensing or certification of the agency of a change in—

"(A) the persons with an ownership or control interest (as defined in section 1124(a)(3)) in the agency,

"(B) the persons who are officers, directors, agents, or managing employees (as defined in section 1126(b)) of the agency, and

"(C) the corporation, association, or other company responsible for the management of the agency.

Such notice shall be given at the time of the change and shall include the identity of each new person or company described in the previous sentence.

"(3)(A) The agency must not use as a home health aide (on a full-time, temporary, per diem, or other basis), any individual who is not a licensed health care professional (as defined in subparagraph (F)) to provide items or services described in section 1861(m) on or after January 1, 1990, unless the individual—

"(i) has completed a training and competency evaluation program, or a competency evaluation program, that meets the minimum standards established by the Secretary under subparagraph (D), and

"(ii) is competent to provide such items and services.

For purposes of clause (i), an individual is not considered to have completed a training and competency evaluation program, or a competency evaluation program if, since the individual's most recent completion of such a program, there has been a continuous period of 24 consecutive months during none of which the individual provided items and services described in section 1861(m) for compensation.

"(B)(i) The agency must provide, with respect to individuals used as a home health aide by the agency as of July 1, 1989, for a competency evaluation program (as described in subparagraph (A)(i)) and such preparation as may be necessary for the individual to complete such a program by January 1, 1990.

"(ii) The agency must provide such regular performance review and regular in-service education as assures that individuals used to provide items and services described in section 1861(m) are competent to provide those items and services.

"(C) The agency must not permit an individual, other than in a training and competency evaluation program that meets the minimum standards established by the Secretary under subparagraph (D), to provide items or services of a type for which the individual has not demonstrated competency.

"(D)(i) The Secretary shall establish minimum standards for the programs described in subparagraph (A) by not later than October 1, 1988.

"(ii) Such standards shall include the content of the curriculum, minimum hours of training, qualification of instructors, and procedures for determination of competency.

"(iii) Such standards may permit approval of programs offered by or in home health agencies, as well as outside agencies (including employee organizations), and of programs in effect on the date of the enactment of this section; except that they may not provide for the approval of a program offered by or in a home health agency which has been determined to be out of compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a) within the previous 2 years.

"(iv) Such standards shall permit a determination that an individual who has completed (before July 1, 1989) a training and competency evaluation program or a competency evaluation program shall be deemed for purposes of subparagraph (A) to have completed a program that is approved by the Secretary under the standards established under this subparagraph if the Secretary determines that, at the time the program was offered, the program met such standards.

"(E) In this paragraph, the term 'home health aide' means any individual who provides the items and services described in section 1861(m), but does not include an individual—

"(i) who is a licensed health professional (as defined in subparagraph (F)), or

"(ii) who volunteers to provide such services without monetary compensation.

"(F) In this paragraph, the term 'licensed health professional' means a physician, physician assistant, nurse practitioner, physical, speech, or occupational therapist, registered professional nurse, licensed practical nurse, or licensed or certified social worker.

"(4) With respect to durable medical equipment furnished to individuals for whom the agency provides items and services, suppliers of such equipment do not use (on a full-time, temporary, per diem, or other basis) any individual who does not meet minimum training standards (established by the Secretary by October 1, 1988) for the demonstration and use of any such equipment furnished to individuals with respect to whom payments may be made under this title.

"(5) The agency includes an individual's plan of care required under section 1861(m) as part of the clinical records described in section 1861(o)(3).

"(6) The agency operates and provides services in compliance with all applicable Federal, State, and local laws and regulations (including the requirements of section 1124) and with accepted professional standards and principles which apply to professionals providing items and services in such an agency.

"(b) It is the duty and responsibility of the Secretary to assure that the conditions of participation and requirements specified in or pursuant to section 1861(o) and subsection (a) of this section and the enforcement of such conditions and requirements are adequate to protect the health and safety of individuals under the care of a home health agency and to promote the effective and efficient use of public moneys.".

(c) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by subsections (a) and (b) shall apply to home health agencies as of the first day of the 18th calendar month that begins after the date of the enactment of this Act.

SEC. 4022. STANDARD AND EXTENDED SURVEY.

(a) IN GENERAL.—Section 1891 of the Social Security Act (as added by section 4021) is amended by adding at the end the following new subsections:

"(c)(1) Any agreement entered into or renewed by the Secretary pursuant to section 1864 relating to home health agencies shall provide that the appropriate State or local agency shall conduct, without any prior notice, a standard survey of each home health agency. Any individual who notifies (or causes to be notified) a home health agency of the time or date on which such a survey is scheduled to be conducted is subject to a civil money penalty of not to exceed $2,000. The Secretary shall provide for imposition of civil money penalties under this clause in a manner similar to that for the imposition of civil money penalties under section 1128A. The Secretary shall review each State's or local agency's procedures for scheduling and conduct of standard surveys to assure that the State or agency has taken all reasonable steps to avoid giving notice of such a survey through the scheduling procedures and the conduct of the surveys themselves.

"(2)(A) Except as provided in subparagraph (B), each home health agency shall be subject to a standard survey not later than 15 months after the date of the previous standard survey conducted under this paragraph. The Statewide average interval be-

tween standard surveys of any home health agency shall not exceed 12 months.

"(B) If not otherwise conducted under subparagraph (A), a standard survey (or an abbreviated standard survey) of an agency—

"(i) may be conducted within 2 months of any change of ownership, administration, or management of the agency to determine whether the change has resulted in any decline in the quality of care furnished by the agency, and

"(ii) shall be conducted within 2 months of when a significant number of complaints have been reported with respect to the agency to the Secretary, the State, the entity responsible for the licensing of the agency, the State or local agency responsible for maintaining a toll-free hotline and investigative unit (under section 1864(a)), or any other appropriate Federal, State, or local agency.

"(C) A standard survey conducted under this paragraph with respect to a home health agency—

"(i) shall include (to the extent practicable), for a case-mix stratified sample of individuals furnished items or services by the agency—

"(I) visits to the homes of such individuals, but only with the consent of such individuals, for the purpose of evaluating (in accordance with a standardized reproducible assessment instrument (or instruments) approved by the Secretary under subsection (d)) the extent to which the quality and scope of items and services furnished by the agency attained and maintained the highest practicable functional capacity of each such individual as reflected in such individual's written plan of care required under section 1861(m) and clinical records required under section 1861(o)(3); and

"(II) a survey of the quality of care and services furnished by the agency as measured by indicators of medical, nursing, and rehabilitative care;

"(ii) shall be based upon a protocol that is developed, tested, and validated by the Secretary not later than January 1, 1989; and

"(iii) shall be conducted by an individual—

"(I) who meets minimum qualifications established by the Secretary not later than July 1, 1989,

"(II) who is not serving (or has not served within the previous 2 years) as a member of the staff of, or as a consultant to, the home health agency surveyed respecting compliance with the conditions of participation specified in or pursuant to section 1861(o) or subsection (a) of this section, and

"(III) who has no personal or familial financial interest in the home health agency surveyed.

"(D) Each home health agency that is found, under a standard survey, to have provided substandard care shall be subject to an extended survey to review and identify the policies and procedures which produced such substandard care and to determine whether the agency has complied with the conditions of participation specified in or pursuant to section 1861(o) or subsection (a) of this section. Any other agency may, at the Secretary's or State's discretion, be subject to such an extended survey (or a partial extended survey). The extended survey shall be conducted immediately after the standard survey (or, if not practical, not later than 2 weeks after the date of completion of the standard survey).

"(E) Nothing in this paragraph shall be construed as requiring an extended (or partial extended) survey as a prerequisite to imposing a sanction against an agency under subsection (e) on the basis of the findings of a standard survey.

"(d)(1) Not later than January 1, 1989, the Secretary shall designate an assessment instrument (or instruments) for use by an agency in complying with subsection (c)(2)(C)(I).

"(2)(A) Not later than January 1, 1991, the Secretary shall—

"(i) evaluate the assessment process,

"(ii) report to Congress on the results of such evaluation, and

"(iii) based on such evaluation, make such modifications in the assessment process as the Secretary determines are appropriate.

"(B) The Secretary shall periodically update the evaluation conducted under subparagraph (A), report the results of such update to Congress, and, based on such update, make such modifications in the assessment process as the Secretary determines are appropriate.

"(3) The Secretary shall provide for the comprehensive training of State and Federal surveyors in matters relating to the performance of standard and extended surveys under this section, including the use of any assessment instrument (or instruments) designated under paragraph (1).".

(b) EFFECTIVE DATE.*—Except as otherwise specifically provided in section 1891(d) of the Social Security Act (as added by subsection (a)), the amendment made by subsection (a) shall become effective on the first day of the 18th calendar month to begin after the date of the enactment of this Act.*

SEC. 4023. ENFORCEMENT.

Section 1891 of the Social Security Act (as added by section 4021 and amended by section 4022) is further amended by adding at the end the following new subsections:

"(e)(1) If the Secretary determines on the basis of a standard, extended, or partial extended survey or otherwise, that a home health agency that is certified for participation under this title is no longer in compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a) and determines that the deficiencies involved immediately jeopardize the health and safety of the individuals to whom the agency furnishes items and services, the Secretary shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in subsection (f)(2)(A)(iii) or terminate the certification of the agency, and may provide, in addition, for 1 or more of the other remedies described in subsection (f)(2)(A).

"(2) If the Secretary determines on the basis of a standard, extended, or partial extended survey or otherwise, that a home health agency that is certified for participation under this title is no longer in compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a) and determines that the deficiencies involved do not immediately jeopardize the health and safety of the individuals to whom the agency furnishes items and services, the Secretary may (for a period not to exceed 6 months) impose intermediate sanctions developed pursuant to subsection (f), in lieu of terminating the certification of the agency. If, after such a period of intermediate sanctions, the agency is still no longer in compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a), the Secretary shall terminate the certification of the agency.

"(3) If the Secretary determines that a home health agency that is certified for participation under this title is in compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a) but, as of a previous period, did not meet such requirements, the Secretary may provide for a civil money penalty under subsection (f)(2)(A)(i) for the days in which it finds that the agency was not in compliance with such requirements.

"(4) The Secretary may continue payments under this title with respect to a home health agency not in compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a) over a period of not longer than 6 months, if—

"(A) the State or local survey agency finds that it is more appropriate to take alternative action to assure compliance of the agency with the requirements than to terminate the certification of the agency,

"(B) the agency has submitted a plan and timetable for corrective action to the Secretary for approval and the Secretary approves the plan of corrective action, and

"(C) the agency agrees to repay to the Federal Government payments received under this subparagraph if the corrective action is not taken in accordance with the approved plan and timetable.

The Secretary shall establish guidelines for approval of corrective actions requested by home health agencies under this subparagraph.

"(f)(1) The Secretary shall develop and implement, by not later than April 1, 1989—

"(A) a range of intermediate sanctions to apply to home health agencies under the conditions described in subsection (e), and

"(B) appropriate procedures for appealing determinations relating to the imposition of such sanctions.

"(2)(A) The intermediate sanctions developed under paragraph (1) shall include—

"(i) civil money penalties for each day of noncompliance,

"(ii) suspension of all or part of the payments to which a home health agency would otherwise be entitled under this title with respect to items and services furnished by a home health agency on or after the date on which the Secretary determines that intermediate sanctions should be imposed pursuant to subsection (e)(2), and

"(iii) the appointment of temporary management to oversee the operation of the home health agency and to protect and assure the health and safety of the individuals under the care of the agency while improvements are made in order to bring the agency into compliance with all the requirements specified in or pursuant to section 1861(o) or subsection (a).

The temporary management under clause (iii) shall not be terminated until the Secretary has determined that the agency has the management capability to ensure continued compliance with all the requirements referred to in that clause.

"(B) The sanctions specified in subparagraph (A) are in addition to sanctions otherwise available under State or Federal law and shall not be construed as limiting other remedies, including any remedy available to an individual at common law.

"(C) A finding to suspend payment under subparagraph (A)(ii) shall terminate when the Secretary finds that the home health agency is in substantial compliance with all the requirements specified in or pursuant to section 1861(o) and subsection (a).

"(3) The Secretary shall develop and implement, by not later than April 1, 1989, specific procedures with respect to the conditions under which each of the intermediate

sanctions developed under paragraph (1) is to be applied, including the amount of any fines and the severity of each of these sanctions. Such procedures shall be designed so as to minimize the time between identification of deficiencies and imposition of these sanctions and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies.".

(b) EFFECTIVE DATE.—Except as otherwise specifically provided in subsections (e) and (f) of section 1891 of the Social Security Act (as added by subsection (a)), the amendment made by subsection (a) shall become effective on the first day of the 18th calendar month to begin after the date of the enactment of this Act.

SEC. 4024. REQUIREMENT THAT INDIVIDUAL BE CONFINED TO HOME.

(a) PART A.—Section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)) is amended by adding at the end the following: "For purposes of paragraph (2)(C), an individual shall be considered to be 'confined to his home' if the individual has a condition, due to an illness or injury, that restricts the ability of the individual to leave his or her home except with the assistance of another individual or the aid of a supportive device (such as crutches, a cane, a wheelchair, or a walker), or if the individual has a condition such that leaving his or her home is medically contraindicated. While an individual does not have to be bedridden to be considered 'confined to his home', the condition of the individual should be such that there exists a normal inability to leave home, that leaving home requires a considerable and taxing effort by the individual, and that absences of the individual from home are infrequent or of relatively short duration, or are attributable to the need to receive medical treatment.".

(b) PART B.—Section 1835(a) of such Act (42 U.S.C. 1395n(a)) is amended by adding at the end the following: "For purposes of paragraph (2)(A), an individual shall be considered to be 'confined to his home' if the individual has a condition, due to an illness or injury, that restricts the ability of the individual to leave his or her home except with the assistance of another individual or the aid of a supportive device (such as crutches, a cane, a wheelchair, or a walker), or if the individual has a condition such that leaving his or her home is medically contraindicated. While an individual does not have to be bedridden to be considered 'confined to his home', the condition of the individual should be such that there exists a normal inability to leave home, that leaving home requires a considerable and taxing effort by the individual, and that absences of the individual from home are infrequent or of relatively short duration, or are attributable to the need to receive medical treatment.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to items and services provided on or after January 1, 1988.

SEC. 4025. HOME HEALTH TOLL-FREE HOTLINE AND INVESTIGATIVE UNIT.

(a) IN GENERAL.—Section 1864(a) of the Social Security Act (42 U.S.C. 1395aa(a)) is amended by adding at the end the following: "Any agreement under this subsection shall provide for the appropriate State or local agency to maintain a toll-free hotline (1) to collect, maintain, and continually update information on home health agencies located in the State or locality that are certified to participate in the program established under this title (which information shall include any significant deficiencies found with respect to patient care in the most recent certification survey conducted with respect to the agency, when that survey was completed, whether corrective actions have been taken or are planned, and the sanctions, if any, imposed under this title with respect to the agency) and (2) to receive complaints (and answer questions) with respect to home health agencies in the State or locality. Any such agreement shall provide for such agency to maintain a unit for investigating such complaints that possesses enforcement authority and has access to survey and certification reports, information gathered by any private accreditation agency pursuant to an agreement with the Secretary under section 1864, and consumer medical records (but only with the consent of the consumer or his or her legal representative).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to agreements entered into or renewed on or after the date of enactment of this Act.

SEC. 4026. HOME HEALTH AGENCY COST LIMITS.

(a) DATA USED TO DETERMINE LIMITS.—

(1) Section 1861(v)(1)(L) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clause:

"(iii) In establishing limits under this subparagraph, the Secretary shall—

"(I) utilize a wage index that is based on audited wage data obtained from home health agencies, and

"(II) base such limits on the most recent audited wage data available, which data may be for cost reporting periods beginning no earlier than July 1, 1985.".

(2) The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after July 1, 1988.

(b) STUDY OF LIMITS.—The Secretary of Health and Human Services shall study and report to the Congress, not later than June 1, 1988, on—

(1) whether the separate schedules of cost limits currently applied to home health agencies under title XVIII of the Social Security Act located in urban and rural areas accurately reflect differences in the costs of urban and rural home health agencies, and

(2) the appropriateness of modifying such limits to take into account the proportion of agency patients who are from urban and rural areas.

SEC. 4027. HOME HEALTH PROSPECTIVE PAYMENT DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall provide for a demonstration project to develop and test alternative methods of paying home health agencies on a prospective basis for services furnished under the medicare and medicaid programs. The project shall be designed in a manner to enable the Secretary to evaluate the effects of various methods of prospective payment (including payments on a per-visit, per-case, and per-episode basis) on program expenditures, access to, and quality of, home health care, and home health agency operations. The Secretary shall assure that services are first furnished under the project not later than July 1, 1988, and, for this purpose, the Secretary may reinstate a previously awarded contract, or award a sole source contract, to carry out the project.

(b) FUNDING.—The provisions of subsection (a)(2) and the first sentence of subsection (b) of section 402 of the Social Security Amendments of 1967 shall apply to the demonstration project under subsection (a) of this section as they apply to experiments under subsection (a)(1) of that section.

(c) REPORT.—The Secretary shall submit to Congress, not later than one year after the date of the enactment of this Act, an interim report on the demonstration project and, not later than four years after the date of the enactment of this Act, a final report on the results of the project.

Subpart C—Other Provisions

SEC. 4031. PAYMENT CYCLE STANDARDS.

(a) PAYMENT FLOOR STANDARDS.—

(1) Section 1816(c) of the Social Security Act (42 U.S.C. 1395h(c)) is amended by adding at the end the following new paragraph:

"(3)(A) Each agreement under this section shall provide that no payment shall be issued, mailed, or otherwise transmitted with respect to any claim submitted under this title within the applicable number of calendar days after the date on which the claim is received.

"(B) In this paragraph, the term 'applicable number of calendar days' means—

"(i) with respect to claims received in the 3-month period beginning July 1, 1988, 10 days, and

"(ii) with respect to claims received in the 12-month period beginning October 1, 1988, 14 days.

(2) Section 1842(c) of such Act (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(3)(A) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall provide that no payment shall be issued, mailed, or otherwise transmitted with respect to any claim submitted under this title within the applicable number of calendar days after the date on which the claim is received.

"(B) In this paragraph, the term 'applicable number of calendar days' means—

"(i) with respect to claims received in the 3-month period beginning July 1, 1988, 10 days, and

"(ii) with respect to claims received in the 12-month period beginning October 1, 1988, 14 days.

(3)(A) The amendments made by paragraphs (1) and (2) shall apply to claims received on or after July 1, 1988.

(B) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816 of the Social Security Act and contracts under section 1842 of such Act, and regulations, to such extent as may be necessary to implement the provisions of this subsection on a timely basis.

(b) PROHIBITION OF OTHER POLICIES INTENDED TO SLOW DOWN MEDICARE PAYMENTS.—Notwithstanding any other provision of law, except as specifically provided in this section, the Secretary of Health and Human Services is not authorized to issue, after the date of the enactment of this Act, and before October 1, 1990, any final regulation, instruction, or other policy change which is primarily intended to have the effect of slowing down claims processing, or delaying payment of claims, under title XVIII of the Social Security Act.

(c) BUDGET CONSIDERATIONS.—For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this section is a necessary (but secondary) result of a significant policy change.

SEC. 4032. DENIALS AND RECONSIDERATIONS OF CLAIMS FOR HOME HEALTH SERVICES, EXTENDED CARE SERVICES, AND POST-HOSPITAL EXTENDED CARE SERVICES.

(a) NOTIFICATION AND PHYSICIAN REVIEW.—Section 1816 of the Social Security Act (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(j) An agreement with an agency or organization under this section shall require that, with respect to a claim for home health services, extended care services, or post-hospital extended care services submitted by a provider to such agency or organization that is denied, such agency or organization—

"(1) furnish the provider and the individual with respect to whom the claim is made with a written explanation of the denial and of the statutory or regulatory basis for the denial; and

"(2) promptly notify such individual and the provider of disposition of such reconsideration.".

(b) PERFORMANCE STANDARDS FOR FISCAL INTERMEDIARIES AND CARRIERS.—Section 1816(f) of such Act (42 U.S.C. 1395h(f)) is amended by adding at the end the following: "Such standards and criteria shall include with respect to claims for services furnished under this part by any provider of services other than a hospital whether such agency or organization is able to process 75 percent of reconsiderations within 60 days (except in the case of the fiscal year 1989, 66 percent of reconsiderations) and 90 percent of reconsiderations within 90 days and the extent to which its determinations are reversed on appeal.".

(c) EFFECTIVE DATE.—

(1)(A) The amendment made by subsection (a) shall apply with respect to claims received on or after January 1, 1988.

(B) The amendment made by subsection (b) shall apply with respect to claims filed on or after October 1, 1988.

(2) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816 and contracts under section 1842 of the Social Security Act, and regulations, to such extent as may be necessary to implement the amendments made by subsections (a) and (b) on a timely basis.

SEC. 4033. PERMITTING DISABLED INDIVIDUALS TO RENEW ENTITLEMENT TO MEDICARE AFTER GAINFUL EMPLOYMENT WITHOUT A 2-YEAR WAITING PERIOD.

(a) IN GENERAL.—

(1) Section 226(f) of the Social Security Act (42 U.S.C. 426(f)) is amended by inserting before the period at the end the following: ", unless the physical or mental impairment which is the basis for disability is the same as (or directly related to) the physical or mental impairment which served as the basis for disability in such previous period".

(2)(A) The amendment made by subsection (a) shall apply to months beginning after the end of the 60-day period beginning on the date of enactment of this Act.

(B) The amendment made by subsection (a) shall not apply so as to include (for the purposes described in section 226(f) of the Social Security Act) monthly benefits paid for any month in a previous period (described in that section) that terminated before the end of the 60-day period described in paragraph (1).

SEC. 4034. APPLICATION OF SECONDARY PAYER PROVISIONS TO GOVERNMENTAL ENTITIES.

(a) IN GENERAL.—Section 1862(b)(4)(B)(i) of the Social Security Act (42 U.S.C. 1395y(b)(4)(B)(i)), as added by the amendment made by section 9319(a) of the Omnibus Budget Reconciliation Act of 1986, is amended by striking "section 5000(b) of the Internal Revenue Code of 1986" and inserting "subsection (b) of section 5000 of the Internal Revenue Code of 1986 without regard to subsection (d) of such section".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of section 9319(a) of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4035. PUBLICATION AND NOTIFICATION OF POLICIES.

(a) REQUIRING PUBLICATION OF INTERMEDIARY AND CARRIER BUDGET METHODOLOGY.—

(1) Section 1816(c)(1) of the Social Security Act (42 U.S.C. 1395h(c)(1)) is amended by adding at the end the following sentence: "The Secretary shall cause to have published in the Federal Register, by not later than September 1 before each fiscal year, data, standards, and methodology to be used to establish budgets for fiscal intermediaries under this section for that fiscal year, and shall cause to be published in the Federal Register for public comment, at least 90 days before such data, standards, and methodology are published, the data, standards, and methodology proposed to be used.".

(2) Section 1842(c)(1) of such Act (42 U.S.C. 1395u(c)(1)) is amended by adding at the end the following sentence: "The Secretary shall cause to have published in the Federal Register, by not later than September 1 before each fiscal year, data, standards, and methodology to be used to establish budgets for carriers under this section for that fiscal year, and shall cause to be published in the Federal Register for public comment, at least 90 days before such data, standards, and methodology are published, the data, standards, and methodology proposed to be used.".

(3) The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to budgets for fiscal years beginning with fiscal year 1989.

(b) PUBLICATION AS REGULATIONS OF SIGNIFICANT POLICIES.—Section 1871(a) of such Act (42 U.S.C. 1395hh(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) No rule, requirement, or other statement of policy (other than a national coverage determination) that establishes or changes a substantive legal standard governing the scope of benefits, the payment for services, or the eligibility of individuals, entities, or organizations to furnish or receive services or benefits under this title shall take effect unless it is promulgated by the Secretary by regulation under paragraph (1).".

(c) MISCELLANEOUS PUBLICATION AND INFORMATION ACCESS PROVISIONS.—Section 1871 of such Act (42 U.S.C. 1395hh) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall publish in the Federal Register, not less frequently than every 3 months, a list of all manual instructions, interpretative rules, statements of policy, and guidelines of general applicability which—

"(A) are promulgated to carry out this title, but

"(B) are not published pursuant to subsection (a)(1) and have not been previously published in a list under this subsection.

"(2) Effective June 1, 1988, each fiscal intermediary and carrier administering claims for extended care, post-hospital extended care, home health care, and durable medical equipment benefits under this title shall make available to the public all interpretative materials, guidelines, and clarifications of policies which relate to payments for such benefits.

"(3) The Secretary shall to the extent feasible make such changes in automated data collection and retrieval by the Secretary and fiscal intermediaries with agreements under section 1816 as are necessary to make easily accessible for the Secretary and other appropriate parties a data base which fairly and accurately reflects the provision of extended care, post-hospital extended care and home health care benefits pursuant to this title, including such categories as benefit denials, results of appeals, and other relevant factors, and selectable by such categories and by fiscal intermediary, service provider, and region.".

SEC. 4036. END-STAGE RENAL DISEASE AMENDMENTS.

(a) IMPLEMENTATION OF PRIMARY PAYER REQUIREMENTS FOR END-STAGE RENAL DISEASE PROGRAM.—

(1) Section 1862(b)(2)(A) of the Social Security Act (42 U.S.C. 1395y(b)(2)(A)) is amended by striking "(ii)" and all that follows through "under this title" and inserting "(ii) can reasonably be expected to be made under such a plan".

(2) The amendment made by paragraph (1) shall apply with respect to items and services furnished on or after 30 days after the date of the enactment of this Act.

(b) LIMITATION OF MINIMUM UTILIZATION RATE REQUIREMENT FOR END-STAGE RENAL DISEASE TRANSPLANTATIONS.—The last sentence of section 1881(b)(1) of such Act (42 U.S.C. 1395rr(b)(1)) is amended by striking "covered procedures and for self-dialysis training programs" and inserting "transplantations".

(c) EXTENSION OF DEADLINE FOR ESTABLISHING PROTOCOLS ON REUSE OF DIALYSIS FILTERS AND OTHER DIALYSIS SUPPLIES AS IT RELATES TO THE REUSE OF BLOODLINES.—

(1)(A) Section 9335(k)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by inserting "(or July 1, 1988, with respect to protocols that relate to the reuse of bloodlines)" after "October 1, 1987".

(B) The amendment made by subparagraph (A) shall be effective as if included in the enactment of section 9335(k)(2) of the Omnibus Budget Reconciliation Act of 1986.

(2) Section 1881(f)(7)(B) of the Social Security Act (42 U.S.C. 1395rr(f)(7)(B)) is amended by inserting "(or July 1, 1988, with respect to protocols that relate to the reuse of bloodlines)" after "January 1, 1988".

(d) STUDIES OF END-STAGE RENAL DISEASE PROGRAM.—

(1) The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall arrange for a study of the end-stage renal disease program within the medicare program.

(2) Among other items, the study shall address—

(A) access to treatment by both individuals eligible for medicare benefits and those not eligible for such benefits;

(B) the quality of care provided to end-stage renal disease population that may affect access to treatment, the quality of care, or the resource requirements of the program; and

(E) the adequacy of existing data systems to monitor these matters on a continuing basis.

(3) The Secretary shall submit to Congress, not later than 3 years after the date of the enactment of this Act, a report on the study.

(4) The Secretary shall request the National Academy of Sciences, acting through the Institute of Medicine, to submit an application to conduct the study described in this section. If the Academy submits an acceptable application, the Secretary shall enter into an appropriate arrangement with the Academy for the conduct of the study. If the Academy does not submit an acceptable application to conduct the study, the Secretary may request one or more appropriate nonprofit private entities to submit an application to conduct the study and may enter into an appropriate arrangement for the conduct of the study by the entity which submits the best acceptable application.

(5) Section 1881 of the Social Security Act (42 U.S.C. 1395rr) is amended—

(A) in subsection (c)(2)(F), by striking "and subsection (g)",

(B) by striking the last sentence of subsection (c)(6),

(C) by striking subsection (g), and

(D) by redesignating subsection (h), as added by section 20 of the Medicare and Medicaid Patient and Program Protection Act of 1987 (Public Law 100-93), as subsection (g).

SEC. 4037. MEDICARE HEARINGS AND APPEALS.

(a) MAINTAINING CURRENT SYSTEM FOR HEARINGS AND APPEALS.—Any hearing conducted under section 1869(b)(1) of the Social Security Act prior to the earliest of the date on which the Secretary of Health and Human Services submits the report required to be submitted by the Secretary under subsection (b)(1) or September 1 shall be conducted by Administrative Law Judges of the Office of Hearings and Appeals of the Social Security Administration in the same manner as are hearings conducted under section 205(b)(1) of such Act.

(b) STUDY AND REPORT ON USE OF TELEPHONE HEARINGS.—

(1) The Secretary of Health and Human Services and the Comptroller General of the United States shall each conduct a study on holding hearings under section 1869(b)(1) of the Social Security Act by telephone and shall each report the results of the study not later than 6 months after the date of enactment of this Act.

(2) The studies under paragraph (1) shall focus on whether telephone hearings allow for a full and fair evidentiary hearing, in general, or with respect to any particular category of claims and shall examine the possible improvements to the hearing process (such as cost-effectiveness, convenience to the claimant, and reduction in time under the process) resulting from the use of such hearings as compared to the adoption of other changes to the process (such as expansions in staff and resources).

SEC. 4038. RURAL HEALTH MEDICAL EDUCATION DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into agreements with four sponsoring hospitals submitting applications under this subsection to conduct demonstration projects to assist resident physicians in developing field clinical experience in rural areas.

(b) NATURE OF PROJECT.—Under a demonstration project conducted under subsection (a), a sponsoring hospital entering into an agreement with the Secretary under such subsection shall enter into arrangements with a small rural hospital to provide to such rural hospital, for a period of one to three months of training, physicians (in such number as the agreement under subsection (a) may provide) who have completed one year of residency training.

(c) SELECTION.—In selecting from among applications submitted under subsection (a), the Secretary shall ensure that four small rural hospitals located in different counties participate in the demonstration project and that—

(1) two of such hospitals are located in rural counties of more than 2,700 square miles (one of which is east of the Mississippi River and one of which is west of such river); and

(2) two of such hospitals are located in rural counties with (as determined by the Secretary) a severe shortage of physicians (one of which is east of the Mississippi River and one of which is west of such river).

(d) CLARIFICATION OF PAYMENT.—For purposes of section 1886 of the Social Security Act—

(1) with respect to subsection (d)(5)(B) of such section, any resident physician participating in the project under subsection (a) for any part of a year shall be treated as if he or she were working at the appropriate sponsoring hospital with an agreement under subsection (a) on September 1 of such year (and shall not be treated as if working at the small rural hospital); and

(2) with respect to subsection (h) of such section, the payment amount permitted under such subsection for a sponsoring hospital with an agreement under subsection (a) shall be increased (for the duration of the project only) by an amount equal to the amount of any direct graduate medical education costs (as defined in paragraph (5) of such subsection (h)) incurred by such hospital in supervising the education and training activities under a project under subsection (a).

(e) DURATION OF PROJECT.—Each demonstration project under subsection (a) shall be commenced not later than six months after the date of enactment of this Act and shall be conducted for a period of three years.

(f) DEFINITION.—In this section, the term "sponsoring hospital" means a hospital that receives payments under sections 1886(d)(5)(B) and 1886(h) of the Social Security Act.

SEC. 4039. MISCELLANEOUS AND TECHNICAL PROVISIONS.

(a) CLARIFICATION OF CRIMINAL PENALTIES FOR WILLFUL MISREPRESENTATIONS.—Subsection (c) of section 1128B of the Social Security Act (42 U.S.C. 1320a-7b)), as redesignated by section 4(d) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (Public Law 100-93), is amended—

(1) by striking "institution or facility" each place it appears and inserting "institution, facility, or entity", and

(2) by inserting "(including an eligible organization under section 1876(b))" after "other entity".

(b) PODIATRISTS.—

(1) Section 1861(r)(3) of the Social Security Act (42 U.S.C. 1395x(r)(3)) is amended—

(A) by striking "subsection (s) of this section" and inserting "subsections (k), (m), (p)(1), and (s) of this section and sections 1814(a), 1832(a)(2)(F)(ii), and 1835", and

(B) by striking "; and for the purposes" and all that follows through "which he is legally authorized to perform".

(2) Section 1861(b)(6) of such Act (42 U.S.C. 1395x(b)(6)) is amended by striking "Council on Podiatry Education of the American Podiatry Association" and inserting "Council on Podiatric Medical Education of the American Podiatric Medical Association".

(c) RECOVERY OF PAYMENTS FOR CERTAIN PACEMAKER DEVICES.—

(1) Section 1862(h) of such Act (42 U.S.C. 1395y(h)) is amended—

(A) in paragraph (1)(B), by striking "law," and inserting "law (and any amount paid to a provider under any such warranty),";

(B) in paragraph (1)(D), by striking "(3)," and inserting "(3), in determining the amount subject to repayment under paragraph (2)(C),";

(C) in paragraph (2)—

(i) by striking "and" at the end of subparagraph (A),

(ii) by striking the period at the end of subparagraph (B) and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(C) to make repayment to the Secretary of amounts paid under this title to the provider with respect to any cardiac pacemaker device or lead which has been replaced by the manufacturer, or for which the manufacturer has made payment to the provider, under an express or implied warranty."; and

(D) in paragraph (4)(B)—

(i) by striking "or has" and inserting ", has", and

(ii) by striking "(2)(B)," and inserting "(2)(B), or has failed to make repayment to the Secretary as required under paragraph (2)(C),".

(2) The amendments made by paragraph (1) shall become effective on January 1, 1988.

(d) EXTEND AND CLARIFY PROHIBITION ON COST SAVINGS POLICIES BEFORE BEGINNING OF FISCAL YEAR.—Notwithstanding any other provision of law, except as required to implement specific provisions required under statute, the Secretary of Health and Human Services is not authorized to issue in final form, after the date of the enactment of this Act and before October 15, 1988, any regulation, instruction, or other policy which is estimated by the Secretary to result in a net reduction in expenditures under title XVIII of the Social Security Act in fiscal year 1989 of more than $50,000,000.

(e) MORATORIUM ON PRIOR AUTHORIZATION FOR HOME HEALTH AND POST-HOSPITAL EXTENDED CARE SERVICES.—The Secretary of Health and Human Services shall not implement any voluntary or mandatory program of prior authorization for home health services, extended care services, or post-hospital extended care services under part A or B of title XVIII of the Social Security Act at any time prior to six months after the date on which the Congress receives the report required under section 9305(k)(4) of the Omnibus Budget Reconciliation Act of 1986.

(f) DELAY IN PUBLISHING REGULATIONS WITH RESPECT TO DEEMING THE STATUS OF ENTITIES.—The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall not deem any entity to be a provider of services (as defined in section 1861(u) of the Social Security Act) for purposes of title XVIII of such Act—

(1) on any date prior to 6 months after the date on which the Secretary has published a proposed rule with respect to the deeming of the entity, and

(2) until the Secretary publishes a final rule with respect to the deeming of the entity.

(g) USE OF INTERIM FINAL REGULATIONS.—The Secretary of Health and Human Services shall issue such regulations (on an interim or other basis) as may be necessary to implement this subtitle and the amendments made by this subtitle.

PART 3—RELATING TO PART B

Subpart A—Provisions Relating to Payments for Physicians' Services

SEC. 4041. FREEZE IN PAYMENTS FOR PHYSICIANS' SERVICES; EXTENSION OF SEQUESTER ORDER.

(a) Three-Month Freeze on Increases in Physician Payments.—

(1) In general.—Section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended—

(A) in subsection (b)(4)—

(i) in subparagraph (A), by redesignating clause (v) as clause (vi) and by inserting after clause (iv) the following new clause:

"(v) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during the 3-month period beginning January 1, 1988, the Secretary shall not set any level higher than the same level as was set for the 12-month period beginning January 1, 1987.", and

(ii) in subparagraph (B), by adding at the end the following new clause:

"(iii) In determining the reasonable charge under paragraph (3) for physicians' services furnished during the 3-month period beginning January 1, 1988, the customary charges shall be the same customary charges as were recognized under this section for the 12-month period beginning January 1, 1987."; and

(B) in subsection (j)(1)(C), by adding at the end thereof the following new clause:

"(vii) Notwithstanding any other provision of this subparagraph, the maximum allowable actual charge for a particular physicians' service furnished by a nonparticipating physician to individuals enrolled under this part during the 3-month period beginning on January 1, 1988, shall be the amount determined under this subparagraph for 1987. The maximum allowable actual charge for any such service otherwise determined under this subparagraph for 1988 shall take effect on April 1, 1988.".

(2) Extension of physician participation agreements and related provisions.—Notwithstanding any other provision of law—

(A) subject to the last sentence of this paragraph, each agreement with a participating physician in effect on December 31, 1987, under section 1842(h)(1) of the Social Security Act shall remain in effect for the three-month period beginning on January 1, 1988;

(B) the effective period for agreements under such section entered into for 1988 shall be the nine-month period beginning on April 1, 1988, and the Secretary shall provide an opportunity for physicians to enroll as participating physicians prior to April 1, 1988;

(C) instead of publishing, under section 1842(h)(4) of the Social Security Act at the beginning of 1988, directories of participating physicians for 1988, the Secretary shall provide for such publication, at the beginning of the 9-month period beginning on April 1, 1988, of such directories of participating physicians for such period; and

(D) instead of providing to nonparticipating physicians, under section 1842(b)(3)(G) of the Social Security Act at the beginning of 1988, a list of maximum allowable actual charges for 1988, the Secretary shall provide, at the beginning of the 9-month period beginning on April 1, 1988, to such physicians such a list for such 9-month period.

An agreement with a participating physician in effect on December 31, 1987, under section 1842(h)(1) of the Social Security Act shall not remain in effect for the period described in subparagraph (A) if the participating physician requests on or before December 31, 1987, that the agreement be terminated.

(3)(A) Section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended—

(i) in subsection (b)(2), by adding at the end the following: "In establishing such standards and criteria, the Secretary shall provide a system to measure a carrier's performance of responsibilities described in paragraph (3)(H) and subsection (h)."; and

(ii) in subsection (c)(1), by inserting "(A)" after "(c)(1)" and by adding at the end the following new subparagraph:

"(B) Of the amounts appropriated for administrative activities to carry out this part, the Secretary shall provide payments, totaling 1 percent of the total payments to carriers for claims processing in any fiscal year, to carriers under this section, to reward carriers for their success in increasing the proportion of physicians in the carrier's service area who are participating physicians or in increasing the proportion of total payments for physicians' services which are payments for such services rendered by participating physicians.".

(B) Section 9332(a) of the Omnibus Budget Reconciliation Act of 1986 is amended—

(i) by striking paragraphs (2) and (3),

(ii) in paragraph (4)(B), by striking "under paragraph (2)" and inserting "under the last sentence of section 1842(b)(2) of the Social Security Act", and

(iii) in paragraph (4)(C)—

(I) by striking "under paragraph (3)" and inserting "under section 1842(c)(1)(B) of the Social Security Act",

(II) by striking "April" and inserting "July", and

(III) by striking "at the end of 1987" and inserting "before April 1, 1988".

(b) Extension of Reduction Under Sequester Order.—Notwithstanding any other provision of law (including any other provision of this Act), the reductions in the amount of payments required under title XVIII of the Social Security Act made by the final sequester order issued by the President on November 20, 1987, pursuant to section 252(b) of the Balanced Budget Emergency Deficit Control Act of 1985 shall continue to be effective (as provided by sections 252(a)(4)(B) and 256(d)(2) of such Act) through March 31, 1988, with respect to payments for physicians' services under part B of such title.

SEC. 4042. GENERAL UPDATE IN PAYMENTS FOR PHYSICIANS' SERVICES.

(a) Increase in MEI for 1988 and 1989.—Section 1842(b)(4) of the Social Security Act (42 U.S.C. 1395u(b)(4)) is amended by adding at the end the following new subparagraph:

"(F)(i) For purposes of this part for physicians' services furnished in 1987, the percentage increase in the MEI is 3.2 percent.

"(ii) For purposes of this part for physicians' services furnished in 1988, on or after April 1, the percentage increase in the MEI is—

"(I) 3.6 percent for primary care services (as defined in subparagraph (E)(iii)), and

"(II) 1 percent for other physicians' services.

"(iii) For purposes of this part for physicians' services furnished in 1989, the percentage increase in the MEI is—

"(I) 3.0 percent for primary care services; and

"(II) 1 percent for other physician's services.".

(b) Primary Care Services Defined.—Section 1842(b)(4)(E) of such Act (42 U.S.C. 1395u(b)(4)(E)) is amended by adding at the end thereof the following new clause:

"(iii) The term 'primary care services' means physicians' services which constitute office medical services, emergency department services, home medical services, skilled nursing, intermediate care, and long-term care medical services, or nursing home, boarding home, domiciliary, or custodial care medical services.".

(c) Participating Physician Differential.—Section 1842(b)(4)(A)(iv) of such Act (42 U.S.C. 1395u(b)(4)(A)(iv)) is amended—

(1) by striking "96 percent" and inserting "applicable percent", and

(2) by adding at the end the following: "In the previous sentence, the term 'applicable percent' means for services furnished (I) on or after January 1, 1987, and before April 1, 1988, 96 percent, (II) on or after April 1, 1988, and before January 1, 1988, 95.5 percent, and (III) on or after January 1, 1989, 95 percent.".

SEC. 4043. INCENTIVE PAYMENTS FOR PHYSICIANS' SERVICES FURNISHED IN UNDERSERVED AREAS.

(a) In General.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(m) In the case of physicians' services furnished to an individual, who is covered under the insurance program established by this part and who incurs expenses for such services, in an area that is designated (under section 332(a)(1)(A) of the Public Health Service Act) as a class 1 or class 2 health manpower shortage area, in addition to the amount otherwise paid under this part, there also shall be paid to the physician (or to an employer or facility in the cases described in clause (A) of section 1842(b)(6)) (on a monthly or quarterly basis) from the Federal Supplementary Medical Insurance Trust Fund an amount equal to 5 percent of the payment amount for the service under this part.".

(b) Study.—The Secretary of Health and Human Services shall study and report to Congress, by not later than January 1, 1990, on the feasibility of making additional payments described in section 1833(m) of the Social Security Act with respect to physician services which are performed in health manpower shortage areas located in urban areas.

(c) Effective Date.—The amendments made by this subsection (a) shall apply with respect to services furnished in a rural area (as defined in section 1886(d)(2)(D) of the Social Security Act)) on or after January 1, 1989, and to other services furnished on or after January 1, 1991.

SEC. 4044. ADJUSTMENT IN PREVAILING CHARGE LEVEL FOR PRIMARY CARE SERVICES.

(a) Increase in Prevailing Charges for Primary Care Services.—Section 1842(b)(4)(A) of the Social Security Act (42 U.S.C. 1395u(b)(4)(A)), as amended by section 4041(a)(1) of this subtitle, is further amended by redesignating clause (vi) as clause (vii) and by inserting after clause (v) the following new clause:

"(vi) Before each year (beginning with 1989), the Secretary shall establish a prevailing charge floor for primary care services (as defined in subparagraph (E)(iii)) equal to 50 percent of the average of the prevailing charge levels (determined, for participating physicians under the third and fourth sentences of paragraph (3) and under paragraph (4), without regard to this clause and without regard to physician specialty) for

such service for all localities in the United States (weighted by the relative frequency of the service in each locality) for the year.".

(b) Effective Date.—The amendments made by subsection (a) shall apply to payment for physicians' services furnished on or after January 1, 1989.

SEC. 4045. REDUCTION IN PREVAILING CHARGE LEVEL FOR OVERPRICED PROCEDURES.

(a) In General.—Paragraph (10) of section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is amended to read as follows:

"(10)(A)(i) In determining the reasonable charge under paragraph (3) for procedures described in subparagraph (C) and performed during the 9-month period beginning on April 1, 1988, the prevailing charge for such procedure for participating and nonparticipating physicians shall be the prevailing charge otherwise recognized for such procedure for 1987—

"(I) subject to clause (iii), reduced by 2.0 percent, and

"(II) further reduced by the applicable percentage specified in clause (ii).

"(ii) For purposes of clause (i), the applicable percentage specified in this clause is—

"(I) 15 percent, in the case of a prevailing charge otherwise recognized (without regard to this paragraph and determined without regard to physician specialty) that is at least 150 percent of the weighted national average (as determined by the Secretary) of such prevailing charges for such procedure for all localities in the United States for 1987;

"(II) 0 percent, in the case of a prevailing charge that does not exceed 85 percent of such weighted national average; and

"(III) in the case of any other prevailing charge, a percent determined on the basis of a straight-line sliding scale, equal to $\frac{3}{13}$ of a percentage point for each percent by which the prevailing charge exceeds 85 percent of such weighted national average.

"(iii) In no case shall the reduction under clause (i) for a procedure result in a prevailing charge in a locality for 1988 which is less than 85 percent of the Secretary's estimate of the weighted national average of such prevailing charges for such procedure for all localities in the United States for 1987 (based upon the best available data and determined without regard to physician specialty) after making the reduction described in clause (i)(II).

"(B) The procedures described in this subparagraph are as follows: bronchoscopy, carpal tunnel repair, cataract surgery, coronary artery bypass surgery, diagnostic and/or therapeutic dilation and curettage, knee arthroscopy, knee arthroplasty, pacemaker implantation surgery, total hip replacement, suprapubic prostatectomy, transurethral resection of the prostate, and upper gastrointestinal endoscopy.

"(C) In the case of a reduction in the reasonable charge for a physicians' service under subparagraph (A), if a nonparticipating physician furnishes the service to an individual entitled to benefits under this part, after the effective date of such reduction, the physician's actual charge is subject to a limit under subsection (j)(1)(D).

"(D) There shall be no administrative or judicial review section 1869 or otherwise of any determination under subparagraph (A) or under paragraph (11)(B)(ii).".

(b) Modification of Geographic Index.—Section 1845(e)(4)(A)(i) of such Act (42 U.S.C. 1395w-1(e)(4)(A)(i)) is amended by inserting "and costs of living" after "costs of practice".

(c) Consolidated Charge Limitation Provisions.—

(1) Penalties for excess charges.—Section 1842 of such Act is further amended—

(A) in subsection (b)(11)(C)—

(i) in clause (i), by striking "(subject to clause (iv))" and all that follows through the end and inserting the following: ", the physician's actual charge is subject to a limit under subsection (j)(1)(D).";

(ii) in clause (i), by striking "(i)" after "(C)"; and

(iii) by striking clauses (ii) through (iv); and

(B) in subsection (j)(1), by adding at the end the following new subparagraph:

"(D)(i) If an action described in clause (ii) results in a reduction in a reasonable charge for a physicians' service or item and a nonparticipating physician furnishes the service or item to an individual entitled to benefits under this part after the effective date of such action, the physician may not charge the individual more than 125 percent of the reduced payment allowance (as defined in clause (iii)) plus (for services or items furnished during the 12-month period (or 9-month period in the case of an action described in clause (ii)(II)) beginning on the effective date of the action) $\frac{1}{2}$ of the amount by which the physician's maximum allowable actual charge for the service or item for the previous 12-month period exceeds such 125 percent level.

"(ii) The first sentence of clause (i) shall apply to—

"(I) an adjustment under subsection (b)(8)(B) (relating to inherent reasonableness),

"(II) a reduction under subsection (b)(10)(A) (relating to certain overpriced procedures),

"(III) a reduction under subsection (b)(11)(B) (relating to certain cataract procedures), and

"(IV) an adjustment under section 1833(l)(3)(B) (relating to physician supervision of certified registered nurse anesthetists).

"(iii) In clause (i), the term 'reduced payment allowance' means, with respect to an action—

"(I) under subsection (b)(8)(B), the inherently reasonable charge established under subsection (b)(8); or

"(II) under subsection (b)(10)(A) or (b)(11)(B) or under section 1833(l)(3)(B), the prevailing charge for the service after the action.

"(iv) If a physician knowingly and willfully imposes a charge in violation of clause (i) (whether or not such charge violates subparagraph (B)), the Secretary may apply sanctions against such physician in accordance with paragraph (2).

"(v) Clause (i) shall not apply to items and services furnished after the earlier of (I) December 31, 1990, or (II) one-year after the date the Secretary reports to Congress, under section 1845(e)(3), on the development of the relative value scale under section 1845.".

(2) Conforming amendments.—(A) Section 1833(l)(6) of such Act (42 U.S.C. 1395l(l)(6)) is amended—

(i) in subparagraph (A), by striking "(subject to subparagraph (D))" and all that follows through the end and inserting the following: "after the effective date of the reduction, the physician's actual charge is subject to a limit under section 1842(j)(1)(D).";

(ii) in subparagraph (A), by striking "(A)" after "(6)"; and

(iii) by striking subparagraphs (B) through (D).

(B) Section 1842(b)(11)(B)(i) of such Act (42 U.S.C. 1395u(b)(11)(B)(i)) is amended by striking "and shall be further reduced" and all that follows through "1988".

(C) Section 9334(b)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "1842(b)(10)" and inserting "1842(j)(1)(D)".

(d) Effective Date.—The amendments made by this section shall apply to items and services furnished on or after April 1, 1988, except the amendment made by subsection (c)(2)(B) shall apply to services furnished on or after January 1, 1988.

SEC. 4046. LIMITS ON PAYMENT FOR OPHTHALMIC ULTRASOUND.

(a) In General.—Section 1842 of the Social Security Act (42 U.S.C. 1395u), as previously amended by this subpart is amended—

(1) in subsection (b)(11)—

(A) in subparagraph (C), as redesignated under section 4045(c)(1)(A)(ii) of this title, by inserting "or (C)" after "subparagraph (B)";

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) The prevailing charge level determined with respect to A-mode ophthalmic ultrasound procedures may not exceed 5 percent of the prevailing charge level established with respect to extracapsular cataract removal with lens implantation."; and

(2) in subparagraph (D) of subsection (j)(1), as added by section 4045(c)(1)(B) of this subtitle—

(A) in clause (ii), by striking "and" at the end of subclause (III), by redesignating subclause (IV) as subclause (V) and by inserting before such subclause the following new subclause:

"(IV) a prevailing charge limit is established under subsection (b)(11)(C)(i), and"; and

(B) in clause (iii)(II), by striking "or (b)(11)(B)" and inserting ", (b)(11)(B), or (b)(11)(C)(i)".

(b) Effective Date.—The amendments made by subsection (a) shall apply to services furnished on or after April 1, 1988.

SEC. 4047. CUSTOMARY CHARGES FOR PRIMARY CARE SERVICES OF NEW PHYSICIANS.

(a) In General.—Section 1842(b)(4) of the Social Security Act, as amended by section 4042(a), is further amended by adding at the end thereof the following new subparagraph:

"(G) In determining the customary charges for physicians' services (other primary care services and other than services furnished in a rural area (as defined in section 1886(d)(2)(D)) that is designated, under section 332(a)(1)(A) of the Public Health Service Act, as a health manpower shortage area) for which adequate actual charge data are not available because a physician has not yet been in practice for a sufficient period of time, the Secretary shall set a customary charge at a level no higher than 80 percent of the prevailing charge (as determined under the third and fourth sentences of paragraph (3) and under paragraph (4)) for a service.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to physicians who first furnish services to medicare beneficiaries after April 1, 1988.

SEC. 4048. PAYMENT FOR PHYSICIAN ANESTHESIA SERVICES.

(a) In General.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is further amended by adding at the end the following new paragraph:

"(14)(A) In determining the reasonable charge under paragraph (3) of a physician

for medical direction of two or more nurse anesthetists performing, on or after April 1, 1988, and before January 1, 1991, anesthesia services in whole or in part concurrently, the number of base units which may be recognized with respect to such medical direction for each concurrent procedure (other than cataract surgery or an iridectomy) shall be reduced by—

"(i) 10 percent, in the case of medical direction of 2 nurse anesthetists concurrently,

"(ii) 25 percent, in the case of medical direction of 3 nurse anesthetists concurrently, and

"(iii) 40 percent, in the case of medical direction of 4 nurse anesthetists concurrently.

"(B) In determining the reasonable charge under paragraph (3) of a physician for medical direction of two or more nurse anesthetists performing, on or after January 1, 1989, and before January 1, 1991, anesthesia services in whole or in part concurrently, the number of base units which may be recognized with respect to such medical direction for each concurrent cataract surgery or iridectomy procedure shall be reduced by 10 percent.

"(C) The Secretary shall require claims for physicians' services for medical direction of nurse anesthetists during the periods in which the provisions of subparagraph (A) or (B) apply to indicate the number of such anesthetists being medically directed concurrently at any time during the procedure, the name of each nurse anesthetist being directed, and the type of procedure for which the services are provided.".

(b) Development of Uniform Relative Value Guide.—The Secretary of Health and Human Services, in consultation with groups representing physicians who furnish anesthesia services, shall establish by regulation a relative value guide for use in all carrier localities in making payment for physician anesthesia services furnished under part B of title XVIII of the Social Security Act on and after January 1, 1989. Such guide shall be designed so as to result in expenditures under such title for such services in an amount that would not exceed the amount of such expenditures which would otherwise occur.

(c) Study of Prevailing Charges for Anesthesia Services.—The Secretary of Health and Human Services shall conduct a study of the variations in conversion factors used by carriers under section 1842(b) of the Social Security Act to determine the prevailing charge for anesthesia services and shall report the results of the study and make recommendations for appropriate adjustments in such factors not later than January 1, 1989.

(d) GAO Studies.—(1) The Comptroller General shall conduct a study—

(A) to determine the average anesthesia times reported for medicare reimbursement purposes,

(B) to verify those times from patient medical records,

(C) to compare anesthesia times to average surgical times, and

(D) to determine whether the current payments for physician supervision of nurse anesthetists are excessive.

The Comptroller General shall report to Congress, by not later than January 1, 1989, on such study and in the report include recommendations regarding the appropriateness of the anesthesia times recognized by medicare for reimbursement purposes and recommendations regarding adjustments of payments for physician supervision of nurse anesthetists.

(2) The Comptroller General shall conduct a study on the impact of the amendment made by subsection (a), and shall report to Congress on the results of such study by April 1, 1990.

SEC. 4049. FEE SCHEDULES FOR RADIOLOGIST SERVICES.

(a) In General.—Part B of title XVIII of the Social Security Act is amended—

(1) in section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by section 4062(c)(3) of this subtitle by striking "and" before "(I)", and by adding at the end the following new clause: "and (J) with respect to expenses incurred for radiologist services (as defined in section 1834(b)(5)), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or the amount provided under the fee schedule established under section 1834(b),"; and

(2) by adding at the end of section 1834, as subsequently inserted by section 4062(a) of this subtitle, the following new subsection:

"(b) Fee Schedules for Radiologist Services.—

"(1) Development.—The Secretary shall develop—

"(A) a relative value scale to serve as the basis for the payment for radiologist services under this part, and

"(B) using such scale and appropriate conversion factors, fee schedules (on a regional, statewide, or carrier service area basis) for payment for radiologist services under this part, to be implemented for such services furnished during 1989.

"(2) Consultation.—In carrying out paragraph (1), the Secretary shall regularly consult closely with the Physician Payment Review Commission, the American College of Radiology, and other organizations representing physicians or suppliers who furnish radiologist services and shall share with them the data and data analysis being used to make the determinations under paragraph (1), including data on variations in current medicare payments by geographic area, and by service and physician specialty.

"(3) Considerations.—In developing the relative value scale and fee schedules under paragraph (1), the Secretary—

"(A) shall take into consideration variations in the cost of furnishing such services among geographic areas and among different sites where services are furnished, and

"(B) may also take into consideration such other factors respecting the manner in which physicians in different specialties furnish such services as may be appropriate to assure that payment amounts are equitable and designed to promote effective and efficient provision of radiologist services by physicians in the different specialties.

"(4) Savings.—

"(A) Budget neutral fee schedules.—The Secretary shall develop preliminary fee schedules for 1989, which are designed to result in the same amount of aggregate payments (net of any insurance and deductibles under section 1835(a)(1)(I) and 1833(b)) for radiologist services furnished in 1989 as would have been made if this subsection had not been enacted.

"(B) Initial savings.—The fee schedules established for payment purposes under this subsection for services furnished in 1989 shall be 97 percent of the amounts permited under this preliminary fee schedules developed under subparagraph (A).

"(C) Subsequent updating.—Radiologist services furnished in subsequent years, the fee schedules shall be the schedules for the previous year updated by the percentage increase in the MEI (as defined in section 1842(b)(4)(E)(ii)) for the year.

"(C) Nonparticipating physicians.—Each fee schedule so established shall provide that the payment rate recognized for nonparticipating physicians and suppliers is equal to the appropriate percent (as defined in section 1842(b)(4)(A)(iv)) of the payment rate recognized for participating physicians and suppliers.

"(5) Limiting charges of nonparticipating physicians.—

"(A) In general.—In the case of radiologist services furnished after January 1, 1989, for which payment is made under a fee schedule under this subsection, if a nonparticipating physician or supplier furnishes the service to an individual entitled to benefits under this part, the physician or supplier may not charge the individual more than the limiting charge (as defined in subparagraph (B)).

"(B) Limiting charge defined.—In subparagraph (A), the term 'limiting charge' means, with respect to a service furnished—

"(i) in 1989, 125 percent of the amount specified for the service in the appropriate fee schedule established under paragraph (1),

"(ii) in 1990, 120 percent of the amount specified for the service in the appropriate fee schedule established under paragraph (1), and

"(iii) after 1990, 115 percent of the amount specified for the service in the appropriate fee schedule established under paragraph (1).

"(C) Enforcement.—If a physician or supplier knowingly and willfully imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).

"(5) Radiologist services defined.—For the purposes of this subsection, section 1833(a)(1)(I), and section 1842(h)(1)(B), the term 'radiologist services' only includes radiologic services performed by, or under the direction or supervision of, a physician—

"(A) who is certified, or eligible to be certified, by the American Board of Radiology, or

"(B) for whom radiologic services account for at least 50 percent of billings made under this part.".

(b) Deadlines and Effective Date.—

(1) The Secretary of Health and Human Services shall establish the relative value scale and fee schedules for radiologist services (under section 1834(b) of the Social Security Act) by not later than August 1, 1988, and shall report to Congress on the development of such fee schedules not later than August 1, 1988.

(2) The amendments made by this section shall apply to services performed on or after January 1, 1989, and until such time as the Secretary of Health and Human Services implements physician fee schedules based on the relative value scale developed under section 1845(e) of the Social Security Act.

SEC. 4050. FEE SCHEDULES FOR PHYSICIAN PATHOLOGY SERVICES.

(a) In General.—The Secretary of Health and Human Services shall develop—

(1) a relative value scale to serve as the basis for the payment for physician pathology services under part B of title XVIII of the Social Security Act,

(2) using such scale and appropriate conversion factors, proposed fee schedules (on a regional, statewide, or carrier service area basis) for payment for physician pathology services under such part, that could be im-

plemented for such services furnished during 1990, and

(3) an appropriate index to be applied to updating such fee schedules annually for physician pathology services furnished in years after 1990.

(b) CONSULTATION.—In carrying out subsection (a), the Secretary shall regularly consult closely with the Physician Payment Review Commission, the College of American Pathologists, and other organizations representing physicians who furnish physician pathology services and shall share with them the data and data analysis being used to make the determinations under subsection (a), including data on variations in current medicare payments by geographic area, and by service and physician specialty.

(c) CONSIDERATION.—In developing the fee schedules under subsection (a), the Secretary shall take into consideration variations in the cost of furnishing physician pathology services among geographic areas.

(d) REPORT.—The Secretary shall report, not later than April 1, 1989, to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the relative value scale, fee schedules, and the index developed under this section. Such report shall include recommendations on how to protect medicare beneficiaries against excessive charges for physician pathology services above the payment amounts established by the fee schedules.

SEC. 4051. ELIMINATION OF MARKUP FOR CERTAIN PURCHASED SERVICES.

(a) IN GENERAL.—Section 1842 of the Social Security Act (42 U.S.C. 1935u) is amended by adding at the end the following new subsection:

"(n)(1) If a physician's bill or a request for payment for services billed by a physician includes a charge to a patient for a diagnostic test described in section 1861(s)(3) (other than a clinical diagnostic laboratory test) for which payment does not indicate that the billing physician personally performed or supervised the performance of the test or that another physician with whom the physician who shares his practice personally performed or supervised the test, the amount payable with respect to the test shall be determined as follows:

"(A) If the bill or request for payment indicates that the test was performed by a supplier, identifies the supplier, and indicates the amount the supplier charged the billing physician, payment for the test (less the applicable deductible and coinsurance amounts) shall be the actual acquisition costs (net of any discounts) * * *.

"(B) If the bill or request for payment (i) does not indicate who performed the test, or (ii) indicates that the test was performed by a supplier but does not identify the supplier or include the amount charged by the supplier, no payment shall be made under this part.

"(2) A physician may not bill an individual enrolled under this part—

"(A) any amount other than any applicable deductible and coinsurance for a diagnostic test for which payment is made pursuant to paragraph (1)(A), or

"(B) any amount for a diagnostic test for which payment may not be made pursuant to paragraph (1)(B).

"(3) If a physician knowingly and willfully in repeated cases bills one or more individuals in violation of paragraph (2), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).".

(b) ADJUSTMENT IN MEDICARE PREVAILING CHARGES.—

(1) REVIEW.—The Secretary of Health and Human Services shall review payment levels under part B of title XVIII of the Social Security Act for diagnostic tests (described in section 1861(s)(3) of such Act, but excluding clinical diagnostic laboratory tests) which are commonly performed by independent suppliers, sold as a service to physicians, and billed by such physicians, in order to determine the reasonableness of payment amounts for such tests (and for associated professional services component of such tests). The Secretary may require physicians and suppliers to provide such information on the purchase or sale price (net of any discounts) for such tests as is necessary to complete the review and make the adjustments under this subsection. The Secretary shall also review the reasonableness of payment levels for comparable in-office diagnostic tests.

(2) ESTABLISHMENT OF REVISED PAYMENT SCREENS.—If, as a result of such review, the Secretary determines, after notice and opportunity of at least 60 days for public comment, that the current prevailing charge levels (under the third and fourth sentences of section 1842(b) of the Social Security Act) for any such tests or associated professional services are excessive, the Secretary shall establish such charge levels at levels which, consistent with assuring that the test is widely and consistently available to medicare beneficiaries, reflect a reasonable price for the test without any markup. Alternatively, the Secretary, pursuant to guidelines published after notice and opportunity of at least 60 days for public comment, may delegate to carriers with contracts under section 1842 of the Social Security Act the establishment of new prevailing charge levels under this paragraph. When such charge levels are established, the provisions of section 1842(j)(1)(D) of such Act shall apply in the same manner as they apply to a reduction under section 1842(b)(8)(A) of such Act.

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to diagnostic tests performed on or after April 1, 1988.

(2) The Secretary of Health and Human Services shall complete the review and make an appropriate adjustment of prevailing charge levels under subsection (b) for items and services furnished no later than January 1, 1989.

SEC. 4052. COLLECTION OF PAST-DUE AMOUNTS OWED BY PHYSICIANS WHO BREACHED CONTRACTS UNDER THE NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM.

(a) IN GENERAL.—Title XVIII of the Social Security Act, as previously amended by this subtitle, is amended by adding at the end thereof the following new section:

"OFFSET OF PAYMENTS TO PHYSICIANS TO COLLECT PAST-DUE OBLIGATIONS ARISING FROM BREACH OF SCHOLARSHIP CONTRACT

"SEC. 1892. (a) IN GENERAL.—

"(1)(A) Subject to subparagraph (B), the Secretary shall enter into an agreement under this section with any physician who, by reason of a breach of a contract entered into by such physician pursuant to the National Health Service Corps Scholarship Program, owes a past-due obligation to the United States (as defined in subsection (b)).

"(B) The Secretary shall not enter into an agreement with a physician under this section to the extent—

"(i)(I) the physician has entered into a contract with the Secretary pursuant to section 204(a)(1) of the Public Health Service Amendments of 1987, and

"(II) the physician has fulfilled or (as determined by the Secretary) is fulfilling the terms of such contract; or

"(ii) the liability of the physician under such section 204(a)(1) has otherwise been relieved under such section; or

"(iii) the physician is performing such physician's service obligation under a forbearance agreement entered into with the Secretary under subpart II of part D of title III of the Public Health Service Act.

"(2) The agreement under this section shall provide that—

"(A) deductions shall be made from the amounts otherwise payable to the physician under this title, in accordance with a formula and schedule agreed to by the Secretary and the physician, until such past-due obligation (and accrued interest) have been repaid;

"(B) payment under this title for services provided by such physician shall be made only on an assignment-related basis;

"(C) if the physician does not provide services, for which payment would otherwise be made under this title, of a sufficient quantity to maintain the offset collection according to the agreed upon formula and schedule—

"(i) the Secretary shall immediately inform the Attorney General, and the Attorney General shall immediately commence an action to recover the full amount of the past-due obligation, and

"(ii) subject to paragraph (3), the Secretary shall immediately exclude the physician from the program under this title, until such time as the entire past-due obligation has been repaid.

"(3) If the physician refuses to enter into an agreement or breaches any provision of the agreement—

"(A) the Secretary shall immediately inform the Attorney General, and the Attorney General shall immediately commence an action to recover the full amount of the past-due obligation, and

"(B) subject to paragraph (3), the Secretary shall immediately exclude the physician from the program under this title, until such time as the entire past-due obligation has been repaid.

"(4) The Secretary shall not bar a physician pursuant to paragraph (2)(C)(ii) or paragraph (3)(B) if such physician is a sole community physician or sole source of essential specialized services in a community.

"(b) PAST-DUE OBLIGATION.—For purposes of this section, a past-due obligation is any amount—

"(1) owed by a physician to the United States by reason of a breach of a scholarship contract under section 338E of the Public Health Service Act, and

"(2) which has not been paid by the deadline established by the Secretary pursuant to section 338E of the Public Health Service Act, and has not been canceled, waived, or suspended by the Secretary pursuant to such section.

"(c) COLLECTION UNDER THIS SECTION SHALL NOT BE EXCLUSIVE.—This section shall not preclude the United States from applying other provisions of law otherwise applicable to the collection of obligations owed to the United States, including (but not limited to) the use of tax refund offsets pursuant to section 3720A of title 31, United States Code, and the application of other procedures provided under chapter 37 of title 31, United States Code.

"(d) COLLECTION FROM PROVIDERS AND HEALTH MAINTENANCE ORGANIZATIONS.—

"(1) In the case of a physician who owes a past-due obligation, and who is an employee of, or affiliated by a medical services agreement with, a provider having an agreement under section 1866 or a health maintenance organization or competitive medical plan having a contract under section 1833 or section 1876, the Secretary shall deduct the amounts of such past-due obligation from amounts otherwise payable under this title to such provider, organization, or plan.

"(2) Deductions shall be in accordance with a formula and schedule agreed to by the Secretary, the physician and the provider, organization, or plan. The deductions shall be made from the amounts otherwise payable to the physician under this title as long as the physician continued to be employed or affiliated by a medical services agreement.

"(3) Such deduction shall not be made until 6 months after the Secretary notifies the provider, organization, or plan of the amount to be deducted and the particular physicians to whom the deductions are attributable.

"(4) A deduction made under this subsection shall relieve the physician of the obligation (to the extent of the amount collected) to the United States, but the provider, organization, or plan shall have a right of action to collect from such physician the amount deducted pursuant to this subsection (including accumulated interest).

"(5) No deduction shall be made under this subsection if, within the 6-month period after notice is given to the provider, organization, or plan, the physician pays the past-due obligation, or ceases to be employed by the provider, organization, or plan.

"(6) The Secretary shall also apply the provisions of this subsection in the case of a physician who is a member of a group practice, if such group practice submits bills under this program as a group, rather than by individual physicians.

"(e) TRANSFER FROM TRUST FUNDS.—Amounts equal to the amounts deducted pursuant to this section shall be transferred from the Trust Fund from which the payment to the physician, provider, or other entity would otherwise have been made, to the general fund in the Treasury, and shall be credited as payment of the past-due obligation of the physician from whom (or with respect to whom) the deduction was made.".

(b) CONFORMING REFERENCE.—Section 338E(b)(1) of the Public Health Service Act (42 U.S.C. 254o(b)(1)) is amended by adding at the end thereof the following new sentence: "Amounts not paid within such period shall be subject to collection through deductions in Medicare payments pursuant to section 1892 of the Social Security Act.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of the enactment of this Act.

SEC. 4052. ELIMINATION OF 1975 FLOOR FOR PREVAILING PHYSICIAN CHARGES.

(a) IN GENERAL.—Section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)) is amended by striking the next-to-last sentence (which begins "Notwithstanding the provisions of").

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payment for services furnished on or after January 1, 1988.

SEC. 4053. APPLICATION OF MAXIMUM ALLOWABLE ACTUAL CHARGE (MAAC).

(a) APPLICATION ON INDIVIDUAL CHARGE BASIS.—Section 1842(j)(1) of the Social Security Act (42 U.S.C. 1395u(j)(1)) is amended—

(1) in the first sentence of subparagraph (B)(i), by striking "each such physician's actual charges" and inserting "the actual charges of each such physician";

(2) in the second sentence of subparagraph (B)(i), by striking "for such a service a physician's actual charge (as defined in subparagraph (C)(vi)" and inserting "on a repeated basis for such a service an actual charge"; and

(3) in subparagraph (C)(vi), by striking "and subparagraph (B)".

(b) ADJUSTMENT.—In the case of a physician who did not have actual charges under title XVIII of the Social Security Act for a procedure in the calendar quarter beginning on April 1, 1984, but who establishes to the satisfaction of a carrier that he or she had actual charges (whether under such title or otherwise) for the procedure performed prior to June 30, 1984, the carrier shall compute the maximum allowable actual charge under section 1842(j) of the Social Security Act for such procedure performed by such physician in 1988 based on such physician's actual charges for the procedure.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to charges imposed for services furnished on or after April 1, 1988.

SEC. 4054. APPLYING COPAYMENT AND DEDUCTIBLE TO CERTAIN OUTPATIENT PHYSICIANS' SERVICES.

Notwithstanding any other provision of law, payment under part B of title XVIII of the Social Security Act for physicians' services specified in section 1833(i)(1) of such Act and furnished on or after April 1, 1988, in an ambulatory surgical center or hospital outpatient department on an assignment-related basis shall be subject to the deductible under section 1833(b) of such Act and 20 percent coinsurance.

SEC. 4055. PHYSICIAN PAYMENT STUDIES.

(a) DEFINITIONS OF MEDICAL AND SURGICAL PROCEDURES.—

(1) REPORT ON VARIATIONS IN CARRIER PAYMENT PRACTICE.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct a study of variations in payment practices for physicians' services among the different carriers under section 1842 of the Social Security Act. Such study shall examine carrier variations in the services included in global fees and pre- and post-operative services included in payment for the operation. The Secretary shall report to Congress on such study by not later than May 1, 1988.

(2) UNIFORM DEFINITIONS OF PROCEDURES FOR PAYMENT PURPOSES.—The Secretary shall develop, in consultation with appropriate national medical specialty societies and by not later than July 1, 1989, uniform definitions of physicians' services (including appropriate classification scheme for procedures) which could serve as the basis for making payments for such services under part B of title XVIII of the Social Security Act. In developing such list, to the extent practicable—

(A) ancillary services commonly performed in conjunction with a major procedure would be included with the major procedure;

(B) pre- and post-procedure services would be included in the procedure; and

(C) similar procedures would be listed together if the procedures are similar in resource requirements.

(b) EXPANSION OF RELATIVE VALUE SCALE (RVS) STUDY.—

(1) ADDITIONAL SERVICES.—The Secretary shall expand the study being conducted, under section 1845(e) of the Social Security Act, to develop a relative value scale for physicians' services to include physicians' services in the fields of cardiology, dermatology, emergency medicine, gastroenterology, hematology, infectious disease, nephrology, neurology, neurosurgery, nuclear medicine, oncology, physical medicine and rehabilitation, plastic surgery, pulmonary medicine, and radiation therapy, and for physicians who specialize in osteopathic procedures.

(2) NO DELAY IN CURRENT STUDY.—The expansion under paragraph (1) shall not be conducted in a manner that delays the completion of the current study or the report to Congress required under section 1845(e)(3) of the Social Security Act. The Secretary shall report to Congress on the services described in paragraph (1) by not later than October 1, 1989.

(3) PROMPT SUBMITTAL OF STUDY RESULTS TO PHYSICIAN PAYMENT REVIEW COMMISSION.—The Secretary shall submit to the Physician Payment Review Commission a copy of any report submitted to the Secretary pursuant to a cooperative agreement in the fulfillment of the requirement of section 1845(e) of such Act, with all relevant supporting data (including survey data, analytic data files, and file documentation), by no later than 30 days after the date the final report is received by the Secretary.

(c) OTHER PHYSICIAN PAYMENT STUDIES.—

(1) FEE SCHEDULE IMPLEMENTATION.—The Secretary shall conduct a study of changes in the payment system for physicians' services, under part B of title XVIII of the Social Security Act, that would be required for the implementation of a national fee schedule for such services furnished on or after January 1, 1990. Such study shall identify any major technical problems related to such implementation and recommendations on ways in which to address such problems. The Secretary shall report to the Congress on such study by not later than July 1, 1989.

(2) VOLUME AND INTENSITY OF PHYSICIAN SERVICES.—The Secretary shall conduct a study of issues relating to the volume and intensity of physicians' services under part B of title XVIII of the Social Security Act, including—

(A) historical trends with regard to increases in the volume and intensity of physicians' services furnished on a per enrollee basis (with appropriate adjustments to account for changes in the demographic composition of the medicare population);

(B) geographic variations in volume and intensity in physicians' services;

(C) an analysis of the effectiveness of methods currently used under such part to ensure that payments under such part are made only for services which are medically necessary;

(D) the development and analysis of alternative methods to control the volume of services; and

(E) the impact of the implementation of the relative value scale developed under section 1845(e) of such Act on the volume and intensity of physicians' services.

The Secretary shall submit to Congress an interim report on such study not later than May 1, 1988, and a final report on such study not later than May 1, 1989.

(3) SURVEY OF OUT-OF-POCKET COSTS OF MEDICARE BENEFICIARIES FOR HEALTH CARE SERVICES.—The Secretary shall conduct a survey to determine the distribution of—

(A) the liabilities and expenditures for health care services of individuals entitled to benefits under title XVIII of the Social Security Act, including liabilities for

charges (not paid on an assignment-related basis) in excess of the reasonable charge recognized, and

(B) the collection rates among different classes of physicians for such liabilities, including collection rates for required coinsurance and for charges (not paid on an assignment-related basis) in excess of the reasonable charge recognized.

The Secretary shall report to Congress on such study by not later than July 1, 1990.

(d) STUDY OF PAYMENT FOR CHEMOTHERAPY IN PHYSICIANS' OFFICES.—

(1) IN GENERAL.—The Secretary shall study ways of modifying part B of title XVIII of the Social Security Act to permit adequate payment under such part for the costs associated with providing chemotherapy to cancer patients in physicians' offices. The study shall be performed in consultation with physicians and other health care providers who are experts in cancer therapy and with representation of health insurers who have experience in these payment issues.

(2) REPORT.—The Secretary shall report to Congress on the results of the study by not later than April 1, 1989.

Subpart B—Provisions Relating to Payments for Other Services

SEC. 4061. EXTENSION OF REDUCTION FOR OTHER PART B ITEMS AND SERVICES PAYMENTS UNDER SEQUESTER ORDER.

Notwithstanding any other provision of law (including any other provision of this Act), the reductions in the amount of payments required under title XVIII of the Social Security Act made by the final sequester order issued by the President on November 20, 1987, pursuant to section 252(b) of the Balanced Budget Emergency Deficit Control Act of 1985 shall continue to be effective (as provided by sections 252(a)(4)(B) and 256(d)(2) of such Act) through March 31, 1988, with respect to payments for all items and services (other than physicians' services) under part B of such title.

SEC. 4062. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT, PROSTHETIC DEVICES, ORTHOTICS, AND PROSTHETICS.

(a) 1-YEAR FREEZE ON CHARGE LIMITATIONS.—

(1) IN GENERAL.—In imposing limitations on allowable charges for items and services (other than physicians' services) furnished in 1988 under part B of title XVIII of such Act and for which payment is made on the basis of the reasonable charge for the item or service, the Secretary of Health and Human Services shall not impose any limitation at a level higher than the same level as was in effect in December 1987.

(2) TRANSITION.—The provisions of section 4041(a)(2) (other than subparagraph (D) thereof) of this subtitle shall apply to suppliers of items and services described in paragraph (1), and directories of participating suppliers of such items and services, in the same manner as such section applies to physicians furnishing physicians' services, and directories of participating physicians.

(b) AMOUNT AND FREQUENCY OF PAYMENT FOR DURABLE MEDICAL EQUIPMENT, PROSTHETIC DEVICES, ORTHOTICS, AND PROSTHETICS.—Part B of title XVIII of the Social Security Act is amended by inserting after section 1833 the following new section:

"SPECIAL PAYMENT RULES FOR PARTICULAR SERVICES

"SEC. 1834. (a) PAYMENT FOR DURABLE MEDICAL EQUIPMENT, PROSTHETIC DEVICES, ORTHOTICS, AND PROSTHETICS.—

"(1) GENERAL RULE FOR PAYMENT.—

"(A) IN GENERAL.—With respect to a covered item (as defined in paragraph (13)) for which payment is determined under this subsection, payment shall be made in the frequency specified in paragraphs (2) through (7) and in an amount equal to 80 percent of the payment basis described in subparagraph (B).

"(B) PAYMENT BASIS.—The payment basis described in this subparagraph is the lesser of—

"(i) the actual charge for the item, or

"(ii) the payment amount recognized under paragraphs (2) through (7) of this subsection for the item;

except that clause (i) shall not apply if the covered item is furnished by a public home health agency (or by another home health agency which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low income) free of charge or at nominal charges to the public.

"(C) EXCLUSIVE PAYMENT RULE.—This subsection shall constitute the exclusive provision of this title for payment for covered items under this part.

"(2) PAYMENT FOR INEXPENSIVE AND OTHER ROUTINELY PURCHASED DURABLE MEDICAL EQUIPMENT.—

"(A) IN GENERAL.—Payment for an item of durable medical equipment (as defined in paragraph (13)(A))—

"(i) the purchase price of which does not exceed $150, or

"(ii) which the Secretary determines is acquired at least 75 percent of the time by purchase,

shall be made on a rental basis or in a lump-sum amount for the purchase of the item. The payment amount recognized for purchase or rental of such equipment is the amount specified in subparagraph (B) for purchase or rental, except that the total amount of rental payments with respect to an item may not exceed the payment amount specified in subparagraph (B) with respect to the purchase of the item.

"(B) PAYMENT AMOUNT.—For purposes of subparagraph (A), the amount specified in this subparagraph, with respect to the purchase or rental of an item furnished in a carrier service area—

"(i) in 1989 is the average allowed charge in the area for the purchase or rental, respectively, of the item for the 12-month period ending on June 30, 1987, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 6-month period ending with December 1987; or

"(ii) in a subsequent year, is the amount specified in this subparagraph for the preceding year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of that preceding year.

"(3) PAYMENT FOR ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—

"(A) IN GENERAL.—Payment for a covered item (such as ventilators , aspirators, IPPB machines, and nebulizers) for which there must be frequent and substantial servicing in order to avoid risk to the patient's health shall be made on a monthly basis for the rental of the item and the amount recognized is the amount specified in subparagraph (B).

"(B) PAYMENT AMOUNT.—For purposes of subparagraph (A), the amount specified in this subparagraph, with respect to an item or device furnished in a carrier service area—

"(i) in 1989 is the average allowable charge in the area for the rental of the item or device for the 12-month period ending with June, 1987, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 6-month period ending with December 1987; or

"(ii) in a subsequent year, is the amount specified in this subparagraph for the preceding year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of that preceding year.

"(4) PAYMENT FOR CERTAIN CUSTOMIZED ITEMS.—Payment with respect to a covered item that is uniquely constructed or substantially modified to meet the specific needs of an individual patient shall be made in a lump-sum amount for the purchase of the item in a payment amount based upon the carrier's individual consideration for that item, and for the reasonable and necessary maintenance and service for parts and labor not covered by the supplier's or manufacturer's warranty, when necessary during the period of medical need, and the amount recognized for such maintenance and service shall be paid on a lump-sum, as needed basis based upon the carrier's individual consideration for that item.

"(5) PAYMENT FOR OXYGEN AND OXYGEN EQUIPMENT.—

"(A) IN GENERAL.—Payment for oxygen and oxygen equipment shall be made on a monthly basis in the monthly payment amount recognized under paragraph (9) for oxygen and oxygen equipment (other than portable oxygen equipment), subject to subparagraphs (B) and (C).

"(B) ADD-ON FOR PORTABLE OXYGEN EQUIPMENT.—When portable oxygen equipment is used, but subject to subparagraph (D), the payment amount recognized under subparagraph (A) shall be increased by the monthly payment amount recognized under paragraph (9) for portable oxygen equipment.

"(C) VOLUME ADJUSTMENT.—When the attending physician prescribes an oxygen flow rate—

"(i) exceeding 4 liters per minute, the payment amount recognized under subparagraph (A), subject to subparagraph (D), shall be increased by 50 percent, or

"(ii) of less than 1 liter per minute, the payment amount recognized under subparagraph (A) shall be decreased by 50 percent.

"(D) LIMIT ON ADJUSTMENT.—When portable oxygen equipment is used and the attending physician prescribes an oxygen flow rate exceeding 4 liters per minute, there shall only be an increase under either subparagraph (B) or (C), whichever increase is larger, and not under both such subparagraphs.

"(6) PAYMENT FOR OTHER COVERED ITEMS (OTHER THAN DURABLE MEDICAL EQUIPMENT).—Payment for other covered items (other than durable medical equipment and other covered items described in paragraph (3), (4), or (5)) shall be made in a lump-sum amount for the purchase of the item in the amount of the purchase price recognized under paragraph (8).

"(7) PAYMENT FOR OTHER ITEMS OF DURABLE MEDICAL EQUIPMENT.—

"(A) IN GENERAL.—In the case of an item of durable medical equipment not described in paragraphs (2) through (6)—

"(i) payment shall be made on a monthly basis for the rental of such item during the period of medical need (but payments under this subparagraph may not extend over a period of continuous use of longer than 15 months), and, subject to subparagraph (B), the amount recognized for each such month is 10 percent of the purchase price recog-

nized under paragraph (8) with respect to the item;

"(ii) during the succeeding 6-month period of medical need, no payment shall be made for rental or servicing of the item; and

"(iii) during the first month of each succeeding 6-month period of medical need, a service and maintenance payment may be made (for parts and labor not covered by the supplier's or manufacturer's warranty, as determined by the Secretary to be appropriate for the particular type of durable medical equipment) and the amount recognized for each such 6-month period is the lower of (I) a reasonable and necessary maintenance and servicing fee established by the carrier, or (II) 10 percent of the total of the purchase price recognized under paragraph (8) with respect to the item.

The Secretary shall determine the meaning of the term 'continuous' in subparagraph (A).

"(B) RANGE FOR RENTAL AMOUNTS.—

"(i) FOR 1989.—For items furnished during 1989, the payment amount recognized under subparagraph (A)(i) shall not be more than 115 percent, and shall not be less than 85 percent, of the prevailing charge established for rental of the item January 1987, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 6-month period ending with December 1987.

"(ii) FOR 1990.—For items furnished during 1990, the payment amount recognized under subparagraph (A)(i) shall not be more than the maximum amount established under clause (i), and shall not be less than the minimum amount established under such clause, for 1989, each such amount increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June 1989.

"(8) PURCHASE PRICE RECOGNIZED FOR MISCELLANEOUS DEVICES AND ITEMS.—For purposes of paragraphs (6) and (7), the amount that is recognized under this paragraph as the purchase price for a covered item is the amount described in subparagraph (C) of this paragraph, determined as follows:

"(A) COMPUTATION OF LOCAL PURCHASE PRICE.—Each carrier under section 1842 shall compute a base local purchase price for the item as follows:

"(i) The carrier shall compute a base local purchase price, for each item described—

"(I) in paragraph (6) equal to the average allowable charge in the locality for the purchase of the item for the 12-month period ending with June 1987, or

"(II) in paragraph (7) equal to the average of the purchase prices on the claims submitted on an assignment-related basis for the unused item supplied during the 6-month period ending with December 1986.

"(ii) The carrier shall compute a local purchase price, with respect to the furnishing of each particular item—

"(I) in 1989, equal to the base local purchase price computed under clause (i) increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 6-month period ending with December 1987, or

"(II) in 1990, 1991, or 1992, equal to the local purchase price computed under this clause for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(B) COMPUTATION OF REGIONAL PURCHASE PRICE.—With respect to the furnishing of a particular item in each region (as defined in section 1886(d)(2)(D)), the Secretary shall compute a regional purchase price—

"(i) for 1991, and for 1992, equal to the average (weighted by relative volume of all claims among carriers) of the local purchase prices for the carriers in the region computed under subparagraph (A)(ii)(II) for the year, and

"(ii) for each subsequent year, equal to the regional purchase price computed under this subparagraph for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(C) PURCHASE PRICE RECOGNIZED.—For purposes of paragraphs (6) and (7) and subject to subparagraph (D), the amount that is recognized under this paragraph as the purchase price for each item furnished—

"(i) in 1989 or 1990, is 100 percent of the local purchase price computed under subparagraph (A)(ii)(I);

"(ii) in 1991, is the sum of (I) 75 percent of the local purchase price computed under subparagraph (A)(ii)(II) for 1991, and (II) 25 percent of the regional purchase price computed under subparagraph (B) for 1991;

"(iii) in 1992, is the sum of (I) 50 percent of the local purchase price computed under subparagraph (A)(ii)(II) for 1992, and (II) 50 percent of the regional purchase price computed under subparagraph (B) for 1992; and

"(iv) in 1993 or a subsequent year, is the regional purchase price computed under subparagraph (B) for that year.

"(D) RANGE ON AMOUNT RECOGNIZED.—The amount that is recognized under subparagraph (C) as the purchase price for an item furnished—

"(i) in 1991, may not exceed 130 percent, and may not be lower than 80 percent, of the average of the purchase prices recognized under such subparagraph for all the carrier service areas in the United States in that year; and

"(ii) in a subsequent year, may not exceed 125 percent, and may not be lower than 85 percent, of the average of the purchase prices recognized under such subparagraph for all the carrier service areas in the United States in that year.

"(9) MONTHLY PAYMENT AMOUNT RECOGNIZED WITH RESPECT TO OXYGEN AND OXYGEN EQUIPMENT.—For purposes of paragraph (5), the amount that is recognized under this paragraph for payment for oxygen and oxygen equipment is the monthly payment amount described in subparagraph (C) of this paragraph. Such amount shall be computed separately (i) for all items of oxygen and oxygen equipment (other than portable oxygen equipment) and (ii) for portable oxygen equipment (each such group referred to in this paragraph as an 'item').

"(A) COMPUTATION OF LOCAL MONTHLY PAYMENT RATE.—Each carrier under this section shall compute a base local payment rate for each item as follows:

"(i) The carrier shall compute a base local average monthly payment rate per beneficiary as an amount equal to (I) the total reasonable charges for the item during the 12-month period ending with December 1986, divided by (II) the total number of months for all beneficiaries receiving the item in the area during the 12-month period for which the carrier made payment for the item under this title.

"(ii) The carrier shall compute a local average monthly payment rate for the item applicable—

"(I) to 1989, equal to 95 percent of the base local average monthly payment rate computed under clause (i) for the item increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 6-month period ending with December 1987, or

"(II) to 1990 and to 1991, equal to the local average monthly payment rate computed under this clause for the item for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(B) COMPUTATION OF REGIONAL MONTHLY PAYMENT RATE.—With respect to the furnishing of an item in each region (as defined in section 1886(d)(2)(D)), the Secretary shall compute a regional monthly payment rate—

"(i) for 1991, and 1992, equal to the average (weighted by relative volume of all claims among carriers) of the local monthly payment rates for the carriers in the region computed under subparagraph (A)(ii)(II) for the year, and

"(ii) for each subsequent year, equal to the regional monthly payment rates computed under this subparagraph for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(C) MONTHLY PAYMENT AMOUNT RECOGNIZED.—For purposes of paragraph (5), the amount that is recognized under this paragraph as the base monthly payment amount for each item furnished—

"(i) in 1989 and in 1990, is 100 percent of the local average monthly payment rate computed under subparagraph (A)(ii)(I) for the item;

"(ii) in 1991, is the sum of (I) 75 percent of the local average monthly payment rate computed under subparagraph (A)(ii)(II) for the item for 1991, and (II) 25 percent of the regional monthly payment rate computed under subparagraph (B)(i) for the item for 1991;

"(iii) in 1992, is the sum of (I) 50 percent of the local average monthly payment rate computed under subparagraph (A)(ii)(II) for the item for 1992, and (II) 50 percent of the regional monthly payment rate computed under subparagraph (B)(i) for the item for 1992; and

"(iv) in a subsequent year, is the regional monthly payment rate computed under subparagraph (B) for the item for that year.

"(D) RANGE ON AMOUNT RECOGNIZED.—The amount that is recognized under subparagraph (C) as the base monthly payment amount for an item furnished—

"(i) in 1991, may not exceed 130 percent, and may not be lower than 80 percent, of the average of the base monthly payment amounts recognized under such subparagraph for all the carrier service areas in the United States in that year; and

"(ii) in a subsequent year, may not exceed 125 percent, and may not be lower than 85 percent, of the average of the base monthly payment amounts recognized under such subparagraph for all the carrier service areas in the United States in that year.

"(10) EXCEPTIONS AND ADJUSTMENTS.—

"(A) AREAS OUTSIDE CONTINENTAL UNITED STATES.—Exceptions to the amounts recognized under the previous provisions of this subsection shall be made to take into account the unique circumstances of covered items furnished in Alaska, Hawaii, or Puerto Rico.

"(B) ADJUSTMENT FOR INHERENT REASONABLENESS.—For covered items furnished on or after January 1, 1991, the Secretary is authorized to apply the provisions of paragraphs (8) and (9) (other than subparagraph (D)) of section 1842(b) to covered items and suppliers of such items.

"(C) TRANSCUTANEOUS ELECTRICAL NERVE STIMULATOR (TENS).—In order to permit an attending physician time to determine whether the purchase of a transcutaneous electrical nerve stimulator is medically appropriate for a particular patient, the Secretary may determine an appropriate payment amount for the initial rental of such item for a period of not more than 2 months. If such item is subsequently purchased, the payment amount with respect to such purchase is the payment amount determined under paragraph (2).

"(11) IMPROPER BILLING AND REQUIREMENT OF PHYSICIAN ORDER.—

"(A) IMPROPER BILLING FOR CERTAIN RENTAL ITEMS.—Notwithstanding any other provision of this title, a supplier of a covered item for which payment is made under this subsection and which is furnished on a rental basis shall continue to supply the item without charge (other than a charge provided under this subsection for the servicing of the item) after rental payments may no longer be made under this subsection. If a supplier knowingly and willfully violates the previous sentence, the Secretary may apply sanctions against the supplier under subsection (j)(2) in the same manner such sanctions may apply with respect to a physician.

"(B) REQUIREMENT OF PHYSICIAN ORDER.—The Secretary is authorized to require, for specified covered items, that payment may be made under this subsection with respect to the item only if a physician has communicated to the supplier, before delivery of the item, a written order for the item.

"(12) REGIONAL CARRIERS.—The Secretary may designate, by regulation under section 1842, one carrier for each region (as defined in section 1886(d)(2)(D)) to process all claims within the region for covered items under this section.

"(13) COVERED ITEM.—In this subsection, the term 'covered item' means—

"(A) durable medical equipment (as defined in section 1861(n)), including such equipment described in section 1861(m)(5);

"(B) prosthetic devices (described in section 1861(s)(8)), but not including parenteral and enteral nutrition nutrients, supplies, and equipment; and

"(C) orthotics and prosthetics (described in section 1861(s)(9));

but does not include intraocular lenses.

"(14) CARRIER.—In this subsection, any reference to the term 'carrier' includes a reference, with respect to durable medical equipment furnished by a home health agency as part of home health services, to a fiscal intermediary.".

(c) STUDY AND EVALUATION.—(1) The Secretary of Health and Human Services shall monitor the impact of the amendments made by this section on the availability of covered items and shall evaluate the appropriateness of the volume adjustment for oxygen and oxygen equipment under section 1834(a)(5)(C) of the Social Security Act (as amended by subsection (b) of this section). The Secretary shall report to Congress, by not later than January 1, 1991, on such impact and on the evaluation and shall include in such report recommendations for changes in payment methodology for covered items under section 1834(a) of such Act.

(2) Before January 1, 1991, the Secretary may not conduct any demonstration project respecting alternative methods of payment for covered items under title XVIII of the Social Security Act.

(3) In this subsection, the term "covered item" has the meaning given such term in section 1834(a)(13) of the Social Security Act (as amended by subsection (b) of this section).

(4) The Secretary shall, upon written request, provide the data and information used in determining the payment amounts for covered items under section 1834(a) of the Social Security Act.

(5) The Comptroller General shall conduct a study on the appropriateness of the level of payments allowed for covered items under the medicare program, and shall report to Congress on the results of such study (including recommendations on the transition to regional or national rates) by not later than January 1, 1991. Entities furnishing such items which fail to provide the Comptroller General with reasonable access to necessary records to carry out the study under this paragraph are subject to exclusion from the medicare program under section 1128(a) of the Social Security Act.

(d) CONFORMING AMENDMENTS.—

(1) Section 1814 of such Act (42 U.S.C. 1395f) is amended—

(A) in subsection (j)(2)(B), by amending subparagraph (B) to read as follows:

"(B) Section 1834(a)(1)(B).", and

(B) in subsection (k), by striking all that follows "shall be" and insert "the amount described in section 1834(a)(1).".

(2) Section 1832(a) of such Act (42 U.S.C. 1395k(a)) is amended—

(A) in paragraph (2)(A), by inserting "(other than items described in subparagraph (G))" after "services";

(B) in paragraph (2)(B), by inserting "(other than items described in subparagraph (G))" after "medical and other health services"; and

(C) in paragraph (2)—

(i) by striking "and" at the end of subparagraph (E),

(ii) by striking the period at the end of subparagraph (F) and inserting "; and", and

(iii) by adding at the end the following new subparagraph:

"(G) covered items (described in section 1834(a)(13)) furnished by a provider of services or by others under arrangements with them made by a provider of services.".

(3) Section 1833(a) of such Act (42 U.S.C. 1395l(a)) is amended—

(A) in paragraph (1)—

(i) by striking "; and" at the end of clause (G) and inserting a comma, and

(ii) by adding at the end the following: "and (I) with respect to covered items (described in section 1834(a)(13)), the amounts paid shall be the amounts described in section 1834(a)(1),";

(B) in paragraph (2)—

(i) by striking "and (F)" and inserting "(F), and (G)", and

(ii) in subparagraph (A), by striking "(other than durable medical equipment)";

(B) by striking "and" at the end of paragraph (3);

(C) by striking the period at the end of paragraph (4) and inserting "; and"; and

(D) by adding at the end the following new paragraph:

"(5) in the case of covered items (described in section 1834(a)(13)) the amounts described in section 1834(a)(1).".

(4) Section 1866(a)(2)(A) of such Act (42 U.S.C. 1395cc(a)(2)(A)) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence of this subparagraph, a home health agency may charge such an individual or person, with respect to covered items subject to payment under section 1834(a), the amount of any deduction imposed under section 1833(b) and 20 percent of the payment basis described in section 1834(a)(2).".

(5) Section 1889 of such Act (42 U.S.C. 1395zz) is repealed.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to covered items furnished on or after January 1, 1989.

SEC. 4063. PAYMENT FOR INTRAOCULAR LENSES.

(a) PROVIDED IN PHYSICIAN'S OFFICE.—Section 1842 of the Social Security Act (42 U.S.C. 1395u), as previously amended is amended—

(1) in subsection (b)(11)(C), as inserted by section 4046(a)(1)(C) of this subtitle—

"(A) by inserting "(i)" after "(C)" and by adding at the end the following new clause:

"(ii) The reasonable charge for an intraocular lens implanted during cataract surgery in a physician's office may not exceed the actual acquisition cost for the lens (taking into account any discount) plus a handling fee (not to exceed 5 percent of such actual acquisition cost).", and

(C) in subparagraph (D), as so redesignated and as amended by section 4046(a)(1) of this subtitle, by inserting "or item" after "service" or "services" each place either appears; and

(2) in subsection (j)(1)(D), as added by section 4045(c)(1)(B) of this subtitle and as amended by 4046(a)(2) of this subtitle—

(A) in clause (ii), by striking "and" at the end of subclause (IV), by redesignating subclause (V) as subclause (VI) and by inserting before such subclause the following new subclause:

"(IV) a reasonable charge limit is established under subsection (b)(11)(C)(ii), and"; and

(B) in clause (iii)—

(i) by striking "or" at the end of subclause (I),

(ii) in subclause (II), by striking "(b)(11)(C)" and inserting "(b)(11)(C)(i)",

(iii) by striking the period at the end of subclause (II) and inserting "; or", and

(iv) by adding at the end the following new subclause:

"(III) under subsection (b)(11)(C)(ii), the payment allowance established under such subsection.".

(b) PROVIDED IN AMBULATORY SURGICAL CENTERS.—Section 1833(i)(2)(A) of such Act (42 U.S.C. 1395l(i)(2)(A)) is amended—

(1) by striking "and" at the end of clause (i),

(2) by striking the period at the end of clause (ii) and inserting ", and", and

(3) by inserting after clause (ii) the following new clause:

"(iii) in the case of implantation of an intraocular lens during cataract surgery includes payment which is reasonable and related to the cost of acquiring the class of lens involved.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after July 1, 1988.

(d) SPECIAL RULE.—With respect to the the establishment of a reasonable charge limit under section 1842(b)(11)(C)(ii) of the Social Security Act, in applying section 1842(j)(1)(D)(i) of such Act, the matter beginning with "plus" shall be considered to have been deleted.

SEC. 4064. CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) Limitation on Changes in Fee Schedules.—

(1) 3-MONTH FREEZE IN FEE SCHEDULES.—Notwithstanding any other provision of law, any change in the fee schedules for clinical laboratory diagnostic laboratory tests under part B of title XVIII of such Act which would have become effective for tests furnished on or after January 1, 1988, shall not be effective for tests furnished during the 3-month period beginning on January 1, 1988.

(2) No CPI INCREASE IN 1988.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not adjust the fee schedules established under section 1833(h) of the Social Security Act for 1988 to take into account any increase in the consumer price index.

(b) Fee Schedules and Payment Limits.—

(1) Rebasing of fee schedules for certain automated and similar tests.—Section 1833(h)(2) of the Social Security Act (42 U.S.C. 1395l(h)(2)) is amended by adding at the end the following: "In establishing fee schedules under the first sentence of this paragraph with respect to automated tests and tests (other than cytopathology tests) which before July 1, 1984, the Secretary made subject to a limit based on lowest charge levels under the sixth sentence of section 1842(b)(3) performed after March 31, 1988, the Secretary shall reduce by 8.3 percent the fee schedules otherwise established for 1988.".

(2) Nationwide payment limits.—Section 1833(h)(4)(B) of such Act is amended—

(A) in clause (i), by striking "January" and inserting "April", and

(B) by amending clause (ii) to read as follows:

"(ii) March 31, 1988, and so long as a fee schedule for the test has not been established on a nationwide basis, is equal to the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

(3) Effective dates.—The amendments made by paragraphs (1) and (2) shall apply with respect to services furnished on or after April 1, 1988.

(4) GAO study of fee schedules.—The Comptroller General shall conduct a study of the level of the fee schedules established for clinical diagnostic laboratory services under section 1833(h)(2) of the Social Security Act to determine, based on the costs of, and revenues received for, such tests the appropriateness of such schedules. The Comptroller General shall report to the Congress on the results of such study by not later than January 1, 1990. Suppliers of such tests which fail to provide the Comptroller General with reasonable access to necessary records to carry out the study under this paragraph are subject to exclusion from the medicare program under section 1128(a) of the Social Security Act.

(c) Limitation on Application of 2 Percent Hospital Lab Differential.—Section 1833(h)(2) of such Act is amended by striking "hospital laboratory" and inserting "laboratory in a sole community hospital".

(d) Intermediate Sanctions.—

(1) Part B of title XVIII of such Act is amended by adding at the end thereof the following new section:

"INTERMEDIATE SANCTIONS FOR PROVIDERS OF CLINICAL DIAGNOSTIC LABORATORY TESTS"

"Sec. 1846. (a) If the Secretary determines that any provider or clinical laboratory certified for participation under this title no longer substantially meets the conditions of participation specified under this title with respect to the provision of clinical diagnostic laboratory tests under this part, the Secretary may (for a period not to exceed one year) impose intermediate sanctions developed pursuant to subsection (b), in lieu of canceling immediately the certification of the provider or clinical laboratory.

"(b)(1) The Secretary shall develop and implement—

"(A) a range of intermediate sanctions to apply to providers or certified clinical laboratories under the conditions described in subsection (a), and

"(B) appropriate procedures for appealing determinations relating to the imposition of such sanctions.

"(2)(A) The intermediate sanctions developed under paragraph (1) shall include—

"(i) directed plans of correction,

"(ii) civil fines and penalties,

"(iii) payment for the costs of onsite monitoring by an agency responsible for conducting certification surveys, and

"(iv) suspension of all or part of the payments to which a provider or certified clinical laboratory would otherwise be entitled under this title with respect to clinical diagnostic laboratory tests provided on or after the date in which the Secretary determines that intermediate sanctions should be imposed pursuant to subsection (a).

"(B) The sanctions specified in subparagraph (A) are in addition to sanctions otherwise available under State or Federal law.

"(3) The Secretary shall develop and implement specific procedures with respect to when and how each of the intermediate sanctions developed under paragraph (1) is to be applied, the amounts of any fines, and the severity of each of these penalties. Such procedures shall be designed so as to minimize the time between identification of violations and imposition of these sanctions and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies.".

(2) The amendment made by paragraph (1) shall become effective on January 1, 1990.

(e) State Certification of High-Volume Physician Office Labs.—

(1) Section 1861(s) of such Act (42 U.S.C. 1395x(s)) is amended, in the sentence following paragraph (11), by inserting "a laboratory not independent of a physician's office that has a volume of clinical diagnostic laboratory tests exceeding 5,000 per year" after "physician's office,".

(2) The amendment made by paragraph (1) shall apply to diagnostic tests performed on or after January 1, 1990.

SEC. 4065. RETURN ON EQUITY PAYMENTS TO OUTPATIENT DEPARTMENTS.

(a) In General.—Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) is amended by adding at the end thereof the following new subparagraph:

"(S) Such regulations shall not include provision for specific recognition of any return on equity capital with respect to hospital outpatient departments.".

(b) Conforming Amendment.—Section 1881(b)(2)(C) of such Act (42 U.S.C. 1395rr(b)(2)(C)) is amended by striking "facilities" and inserting "facilities (other than hospital outpatient departments)".

(c) Effective Date.—The amendments made by this section shall become effective on January 1, 1988.

SEC. 4066. PAYMENTS TO HOSPITAL OUTPATIENT DEPARTMENTS FOR RADIOLOGY.

(a) Amounts Payable.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended—

(1) in subsection (a)(2)—

(A) by striking "and" in subparagraph (C),

(B) by adding "and" at the end of subparagraph (D), and

(C) by adding at the end thereof the following new subparagraph:

"(E) with respect to—

"(i) outpatient hospital radiology services (including diagnostic and therapeutic radiology, nuclear medicine and CAT scan procedures, magnetic resonance imaging, and ultrasound and other imaging services), and

"(ii) effective for procedures performed on or after October 1, 1989, diagnostic procedures (as defined by the Secretary) described in section 1861(s)(3) (other than diagnostic X-ray tests and diagnostic laboratory tests), the amount determined under subsection (n);"; and

(2) by adding at the end, as previously amended, the following new subsection:

"(n)(1)(A) The aggregate amount of the payments to be made for all or part of a cost reporting period beginning on or after October 1, 1988 under this part for services described in subsection (a)(2)(E) shall be equal to the lesser of—

"(i) the amount determined with respect to such services under subsection (a)(2)(B), or

"(ii) the blend amount for radiology services and diagnostic procedures determined in accordance with subparagraph (B).

"(B)(i) The blend amount for radiology services and diagnostic procedures for a cost reporting period is the sum of—

"(I) the cost proportion (as defined in clause (ii)) of the amount described in subparagraph (A)(i); and

"(II) the charge proportion (as defined in clause (ii)(II)) of 62 percent (for services described in subsection (a)(2)(E)(i)), or (for procedures described in subsection (a)(2)(E)(ii)), 42 percent or such other percent established by the Secretary (or carriers acting pursuant to guidelines issued by the Secretary) based on prevailing charges established with actual charge data, of 80 percent of the prevailing charge for participating physicians for the same services as if they were furnished in a physician's office in the same locality as determined under section 1842(b).

"(ii) In this subparagraph:

"(I) The term 'cost proportion' means 65 percent for all or any part of cost reporting periods which occur in fiscal year 1989 and 50 percent for other cost reporting periods.

"(II) The term 'charge proportion' means 35 percent for all or any parts of cost reporting periods which occur in fiscal year 1989 and 50 percent for other cost reporting periods.".

(b) Conforming Amendment.—Section 1833(a)(2)(B) of such Act (42 U.S.C. 1395l(a)(2)(B)) is amended in the matter preceding clause (i) by striking "(C) or (D)" and inserting "(C), (D), or (E)".

(c) Effective Date.—The amendments made by subsection (a) shall apply with respect to outpatient hospital radiology services furnished on or after October 1, 1988, and other diagnostic procedures performed on or after October 1, 1989.

SEC. 4067. UPDATING MAXIMUM RATE OF PAYMENT PER VISIT FOR INDEPENDENT RURAL HEALTH CLINICS.

(a) In General.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is further amended by inserting after subsection (e) the following new subsection:

"(f) In establishing limits under subsection (a) on payment for rural health clinic services provided by independent rural

health clinics, the Secretary shall establish such limit, for services provided—

"(1) in 1988, after March 31, at $46, and

"(2) in a subsequent year, at the limit established under this subsection for the previous year increased by the percentage increase in the medicare economic index (referred to in the fourth sentence of section 1842(b)(3)) applicable to physicians' services furnished as of the first day of that year.".

(b) Report on Rates.—The Secretary of Health and Human Services shall report to Congress, by not later than March 1, 1989, on the adequacy of the amounts paid under title XVIII of the Social Security Act for rural health clinic services provided by independent rural health clinics.

(c) Effective Date.—The amendment made by subsection (a) shall apply to services furnished on or after April 1, 1988.

SEC. 4068. PAYMENT FOR AMBULATORY SURGERY AT EYE, AND EYE AND EAR, SPECIALTY HOSPITALS.

(a) In General.—Section 1833(i)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395l(i)(3)(B)(ii)) is amended—

(1) by striking "In" and inserting "Subject to the last sentence of this clause, in"; and

(2) by adding at the end thereof the following:

"In the case of a hospital that makes application to the Secretary and demonstrates that it specializes in eye services or eye and ear services (as determined by the Secretary), receives more than 30 percent of its total revenues from outpatient services and was an eye specialty hospital or an eye and ear specialty hospital on October 1, 1987, the cost proportion and ASC proportion in effect under subclauses (I) and (II) for cost reporting periods beginning in fiscal year 1988 shall remain in effect for cost reporting periods beginning in fiscal year 1989 or fiscal year 1990.".

(b) Development of Prospective Payment Methodology for Outpatient Hospital Services.—Section 1135(d) of the Social Security Act (42 U.S.C. 1320b-5(d)) is amended—

(1) by adding at the end of paragraph (3) the following: "In establishing such rates, the Secretary shall consider whether a differential payment rate is appropriate for speciality hospitals."; and

(2) by adding at the end the following new paragraph:

"(7) The Secretary shall solicit the views of the Prospective Payment Assessment Commission in developing the systems under paragraphs (1) and (6), and shall include in the Secretary's reports under this subsection any views the Commission may submit with respect to such systems.".

(c) Effective Date.—The amendments made by subsection (a) shall be effective as if included in the amendment made by section 9343(a)(1)(B) of the Omnibus Budget Reconciliation Act of 1986.

Subpart C—Eligibility and Benefits Changes

SEC. 4070. COVERAGE OF MENTAL HEALTH SERVICES.

(a) Outpatient Services Under Part B.—Section 1833(c) of the Social Security Act (42 U.S.C. 1395l(c)) is amended—

(1) by striking "$312.50" and inserting "$1375.00"; and

(2) by adding at the end thereof the following:

"For purposes of this subsection, the term 'treatment' does not include brief office visits (as defined by the Secretary) for the sole purpose of prescribing or monitoring prescription drugs used in the treatment of such disorders.".

(b) Partial Hospitalization Coverage.—

(1) Section 1861(s)(2)(B) of such Act (42 U.S.C. 1395x(s)(2)(B)) is amended by inserting "and partial hospitalization services incident to such services" before the semicolon.

(2) Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"(ff)(1) The term 'partial hospitalization services' means the items and services described in paragraph (2) prescribed by a physician and provided under a program described in paragraph (3) under the supervision of a physician pursuant to an individualized, written plan of treatment established and periodically reviewed by a physician (in consultation with appropriate staff participating in such program), which plan sets forth the physician's diagnosis, the type, amount, frequency, and duration of the items and services provided under the plan, and the goals for treatment under the plan.

"(2) The items and services described in this paragraph are—

"(A) individual and group therapy with physicians or psychologists (or other mental health professionals to the extent authorized under State law),

"(B) occupational therapy requiring the skills of a qualified occupational therapist,

"(C) services of social workers, trained psychiatric nurses, and other staff trained to work with psychiatric patients,

"(D) drugs and biologicals furnished for therapeutic purposes (which cannot, as determined in accordance with regulations, be self-administered),

"(E) individualized activity therapies that are not primarily recreational or diversionary,

"(F) family counseling (the primary purpose of which is treatment of the individual's condition),

"(G) patient training and education (to the extent that training and educational activities are closely and clearly related to individual's care and treatment),

"(H) diagnostic services, and

"(I) such other items and services as the Secretary may provide (but in no event to include meals and transportation);

that are reasonable and necessary for the diagnosis or active treatment of the individual's condition, reasonably expected to improve or maintain the individual's condition and functional level and to prevent relapse or hospitalization, and furnished pursuant to such guidelines relating to frequency and duration of services as the Secretary shall by regulation establish (taking into account accepted norms of medical practice and the reasonable expectation of patient improvement).

"(3) A program described in this paragraph is a program which is hospital-based or hospital-affiliated (as defined by the Secretary) and which is a distinct and organized intensive ambulatory treatment service offering less than 24-hour-daily care.".

(3) Section 1835(a)(2) of such Act (42 U.S.C. 1395n(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(C) by inserting after subparagraph (E) the following new subparagraph:

"(F) in the case of partial hospitalization services, (i) the individual would require inpatient psychiatric care in the absence of such services, (ii) an individualized, written plan for furnishing such services has been established by a physician and is reviewed periodically by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician.".

(4) Section 1833(c) of such Act, as amended by subsection (a), is further amended at the end thereof by inserting "or partial hospitalization services that are not directly provided by a physician" before the period.

(c) Effective Date; Implementation.—

(1) The amendment made by subsection (a)(1) shall apply with respect to calendar years beginning with 1988; except that with respect to 1988, any reference in section 1833(c) of the Social Security Act, as amended by subsection (a), to "$1375.00" is deemed a reference to "$562.50". The amendment made by subsection (a)(2) shall apply to services furnished on or after January 1, 1989.

(2)(A) The amendments made by subsection (b) shall become effective on the date of enactment of this Act.

(B) The Secretary of Health and Human Services shall implement the amendments made by subsection (b) so as to ensure that there is no additional cost to the medicare program by reason of such amendments.

SEC. 4071. COVERAGE OF INFLUENZA VACCINE AND ITS ADMINISTRATION.

(a) In General.—Section 1861(s)(10)(A) of the Social Security Act (42 U.S.C. 1395x(a)(10)(A)) is amended by inserting before the semicolon the following: "and influenza vaccine and its administration".

(b) Contingent Effective Date; Demonstration Project.—

(1) The provisions of subsection (e) of section 4072 of this subpart shall apply to this section in the same manner as it applies to section 4072.

(2) In conducting the demonstration project pursuant to paragraph (1), in order to determine the cost effectiveness of including influenza vaccine in the medicare program, the Secretary of Health and Human Services is required to conduct a demonstration of the provision of influenza vaccine as a service for medicare beneficiaries and to expend $25,000,000 each year of the demonstration project for this purpose. In conducting this demonstration, the Secretary is authorized to purchase in bulk influenza vaccine and to distribute it in a manner to make it widely available to medicare beneficiaries, to develop projects to provide vaccine in the same manner as other covered medicare services in large scale demonstration projects, including statewide projects, and to engage in other appropriate use of moneys to provide influenza vaccine to medicare beneficiaries and evaluate the cost effectiveness of its use. In determining cost effectiveness, the Secretary shall consider the direct cost of the vaccine, the utilization of vaccine which might otherwise not have occurred, the costs of illnesses and nursing home days avoided, and other relevant factors, except that extended life for beneficiaries shall not be considered to reduce the cost effectiveness of the vaccine.

SEC. 4072. PAYMENT FOR THERAPEUTIC SHOES FOR INDIVIDUALS WITH SEVERE DIABETIC FOOT DISEASE.

(a) Coverage Under Part B.—Section 1861(s) of the Social Security Act (42 U.S.C. 1395x(s)) is amended—

(1) by redesignating paragraphs (12) through (15) as paragraphs (13) through (16), respectively,

(2) by striking out "and" at the end of paragraph (10),

(3) by striking out the period at the end of paragraph (11) and inserting "; and", and

(4) by inserting after paragraph (11) the following new paragraph:

"(12) extra-depth shoes with inserts or custom molded shoes for an individual with diabetes, if—

"(A) the physician who is managing the individual's diabetic condition (i) documents that the individual has peripheral neuropathy with evidence of callus formation, a history of pre-ulcerative calluses, a history of previous ulceration, foot deformity, or previous amputation, or poor circulation, and (ii) certifies that the individual needs such shoes under a comprehensive plan of care related to the individual's diabetic condition;

"(B) the particular type of shoes are prescribed by a podiatrist or other qualified physician (as established by the Secretary); and

"(C) the shoes are fitted and furnished by a podiatrist or other qualified individual (such as a pedorthist or orthotist, as established by the Secretary) who is not the physician described in subparagraph (A) (unless the Secretary finds that the physician is the only such qualified individual in the area).".

(b) LIMITATION ON BENEFIT.—Section 1833 of such Act (42 U.S.C. 1395) is amended by inserting after subsection (e) the following new subsection:

"(f)(1) In the case of shoes described in section 1861(s)(12)—

"(A) no payment may be made under this part for the furnishing of more than one pair of shoes for any individual for any calendar year, and

"(B) with respect to expenses incurred in any calendar year, no more than the limit established under paragraph (2) shall be considered as incurred expenses for purposes of subsections (a) and (b).

Payment for shoes under this part shall be considered to include payment for any expenses for the fitting of such shoes.

"(2)(A) Except as provided by the Secretary under subparagraphs (B) and (C), the limit established under this paragraph—

"(i) for the furnishing of one pair of custom molded shoes is $300;

"(ii) for the furnishing of extra-depth shoes and inserts is—

"(I) $100 for the pair of shoes itself, and

"(II) $50 for inserts for a pair of shoes.

"(B) The Secretary or a carrier may establish limits for shoes that are lower than the limits established under subparagraph (A) if the Secretary finds that shoes and inserts of an appropriate quality are readily available at or below such lower limits.

"(C) For each year after 1988, each dollar amount under subparagraph (A) or (B) (as previously adjusted under this subparagraph) shall be increased by the same percentage increase as the Secretary provides with respect to durable medical equipment for that year, except that if such increase is not a multiple of $1, it shall be rounded to the nearest multiple of $1.

"(3) In this title, the term 'shoes' includes, except for purposes of subparagraphs (A)(ii) and (B) of paragraph (2), inserts for extra-depth shoes.".

(c) MODIFICATION OF EXCLUSION.—Section 1862(a)(8) of such Act (42 U.S.C. 1395y(a)(8)) is amended by inserting ", other than shoes furnished pursuant to section 1861(s)(12)" before the semicolon.

(d) CONFORMING AMENDMENTS.—Sections 1864(a), 1865(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) of such Act (42 U.S.C. 1395aa(a), 1395bb(a), 1396a(a)(9)(C), 1396n(a)(1)(B)(ii)(I)) are each amended by striking out "paragraphs (12) and (13)" and inserting "paragraphs (13) and (14)".

(e) CONTINGENT EFFECTIVE DATE; DEMONSTRATION PROJECT.—

(1) The amendments made by this section shall become effective (if at all) in accordance with paragraph (2).

(2)(A) The Secretary of Health and Human Services (in this paragraph referred to as the "Secretary"), shall establish a demonstration project to begin on October 1, 1988, to test the cost-effectiveness of furnishing therapeutic shoes under the medicare program to the extent provided under the amendments made by this section to a sample group of medicare beneficiaries.

(B)(i) The demonstration project under subparagraph (A) shall be conducted for an initial period of 24 months. Not later than October 1, 1990, the Secretary shall report to the Congress on the results of such project. If the Secretary finds, on the basis of existing data, that furnishing therapeutic shoes under the medicare program to the extent provided under the amendments made by this section is cost-effective, the Secretary shall include such finding in such report, such project shall be discontinued, and the amendments made by this section shall become effective on November 1, 1990.

(ii) If the Secretary determines that such finding cannot be made on the basis of existing data, such project shall continue for an additional 24 months. Not later than April 1, 1993, the Secretary shall submit a final report to the Congress on the results of such project. The amendments made by this section shall become effective on the first day of the first month to begin after such report is submitted to the Congress unless the report contains a finding by the Secretary that furnishing therapeutic shoes under the medicare program to the extent provided under the amendments made by this section is not cost-effective (in which case the amendments made by this section shall not become effective).

SEC. 4073. COVERAGE OF CERTIFIED NURSE-MIDWIFE SERVICES.

(a) COVERAGE OF SERVICES.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (J);

(2) by adding "and" at the end of subparagraph (K); and

(3) by adding at the end thereof the following new subparagraph:

"(L) certified nurse-midwife services;".

(b) PAYMENT OF BENEFITS.—

(1) Section 1832(a)(2)(B) of such Act (42 U.S.C. 1395k(a)(2)(B)) is amended—

(A) by striking "and" at the end of clause (ii);

(B) by striking the semicolon at the end of clause (iii) and inserting a comma; and

(C) by adding at the end thereof the following new clause:

"(iv) certified nurse-midwife services; and".

(2) Section 1833(a)(1) of such Act (42 U.S.C. 1395k(a)(1)) is amended—

(A) by striking "and" at the end of clause (F);

(B) by striking "services; and" in clause (G) and inserting "services,"; and

(D) by adding at the end thereof the following: "and (I) with respect to certified nurse-midwife services under section 1861(s)(2)(L), the amounts paid shall be the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph (but in no event more than 65 percent of the prevailing charge that would be allowed for the same service performed by a physician);".

(3) Section 1833 of such Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(m) In the case of certified nurse-midwife services for which payment may be made under this part only pursuant to section 1861(s)(2)(L), payment may only be made under this part for such services on an assignment-related basis.".

(c) DEFINITION.—Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"Certified Nurse-Midwife Services

"(ff)(1) The term 'certified nurse-midwife services' means such services furnished by a certified nurse-midwife (as defined in paragraph (2)) and such services and supplies furnished as an incident to his service which the certified nurse-midwife is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) as would otherwise be covered if furnished by a physician or as an incident to a physician's service.

"(2) The term 'certified nurse-midwife' means a registered nurse who has successfully completed a program of study and clinical experience meeting guidelines prescribed by the Secretary, or has been certified by an organization recognized by the Secretary, and performs services in the area of management of the care of mothers and babies throughout the maternity cycle.".

(c) CONFORMING CHANGES.—

(1) Section 1905(a)(17) of such Act (42 U.S.C. 1396d(a)(17)) is amended by striking "as defined in subsection (m)" and inserting "as defined in section 1861(ff)".

(2) Section 1905 of such Act (42 U.S.C. 1396d) is amended by striking subsection (m).

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to services performed on or after July 1, 1988.

SEC. 4074. COVERAGE OF SOCIAL WORKER SERVICES FURNISHED BY A HEALTH MAINTENANCE ORGANIZATION TO ITS MEMBERS.

(a) IN GENERAL.—Section 1861(s)(2)(H)(ii) of the Social Security Act (42 U.S.C. 1395x(s)(2)(H)(ii)) is amended—

(1) by inserting "or by a clinical social worker (as defined in subsection (ff))" after "clinical psychologist (as defined by the Secretary)"; and

(2) by striking "incident to his services" and inserting "incident to such clinical psychologist's services or clinical social worker's services".

(b) CLINICAL SOCIAL WORKER DEFINED.—Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Clinical Social Worker

"(ff) The term 'clinical social worker' means an individual who—

"(1) possesses a master's or doctor's degree in social work;

"(2) after obtaining such degree has performed at least 2 years of supervised clinical social work; and

"(3)(A) is licensed or certified as a clinical social worker by the State in which the services are performed, or

"(B) in the case of an individual in a State which does not provide for licensure or certification—

"(i) has completed at least 2 years or 3,000 hours of post-master's degree supervised clinical social work practice under the supervision of a master's level social worker in an appropriate setting (as determined by the Secretary), and

"(ii) meets such other criteria as the Secretary establishes.".

(c) Effective Date.—The amendments made by this section shall be effective with respect to services performed on or after January 1, 1988.

SEC. 4075. CLARIFICATION OF COVERAGE OF DRUGS USED IN IMMUNOSUPPRESSIVE THERAPY.

(a) In General.—Section 1861(s)(2)(J) of the Social Security Act (42 U.S.C. 1395x(s)(2)(J)) is amended by striking "immunosuppressive drugs" and inserting "prescription drugs used in immunosuppressive therapy".

(b) Effective Date.—The amendment made by subsection (a) shall apply to drugs dispensed on or after the date of the enactment of this Act.

SEC. 4076. SERVICES OF A PHYSICIAN ASSISTANT.

(a) Services Covered.—Section 1861(s)(2)(K) of the Social Security Act (42 U.S.C. 1395x(s)(2)(K)) is amended by inserting ", in a rural area (as defined in section 1886(d)(2)(D)) that is designated, under section 332(a)(1)(A) of the Public Health Service Act, as a health manpower shortage area," after "1905(c))".

(b) Effective Date.—The amendments made by this section shall apply with respect to services furnished on or after January 1, 1989.

SEC. 4077. PSYCHOLOGIST SERVICES IN CLINICS.

(a) Coverage of Psychologists' Services Furnished at Rural Health Clinics.—

(1) Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking "physician assistant or by a nurse practitioner" and inserting "physician assistant or a nurse practitioner (as defined in paragraph (3)), or by a clinical psychologist (as defined by the Secretary),".

(2) The amendment made by paragraph (1) shall be effective with respect to services furnished on or after the date of enactment of this Act.

(b) Direct Payment for Psychologists' Services Furnished at a Community Mental Health Center.—

(1) Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended, is amended—

(A) by striking "and" at the end of subparagraph (K);

(B) by adding "and" at the end of subparagraph (L); and

(C) by adding at the end thereof the following new subparagraph:

"(M) qualified psychologist services;".

(2) Section 1832(a)(2)(B) of such Act (42 U.S.C. 1395k(a)(2)(B)) is amended—

(A) by striking "and" at the end of clause (ii);

(B) by striking the semicolon in clause (iii) and inserting a comma; and

(C) by adding at the end thereof the following new clause:

"(iv) qualified psychologist services; and".

(3) Section 1833(a)(1) of such Act (42 U.S.C. 1395k(a)(1)) is amended—

(A) by striking "and" at the end of subparagraph (G);

(B) by striking "services; and" in subparagraph (H) and inserting "services,";

(C) by adding "and" at the end of subparagraph (I); and

(D) by adding at the end thereof the following new subparagraph: "(J) with respect to qualified psychologist services under section 1861(s)(2)(M), the amounts paid shall be the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph;".

(4) The subsection added by section 4073(b)(3) of this subpart is amended by inserting "and in the case of qualified psychologists services for which payment may be made under this part only pursuant to section 1861(s)(2)(M)" after "1861(s)(2)(L)".

(5) Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"Qualified Psychologist Services

"(gg) The term 'qualified psychologist services' means such services and such services and supplies furnished as an incident to his service furnished by a clinical psychologist (as defined by the Secretary) at a community mental health center (as such term is used in the Public Health Service Act) which the psychologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) as would otherwise be covered if furnished by a physician or as an incident to a physician's service.

(5) The amendments made by this subsection shall be effective with respect to services performed on or after July 1, 1988.

SEC. 4078. PROVISION OF OFFSITE COMPREHENSIVE OUTPATIENT REHABILITATION SERVICES.

Section 1861(cc)(1) of the Social Security Act (42 U.S.C. 1395x(cc)(1)) is amended by adding at the end thereof the following: "In the case of physical therapy, occupational therapy, and speech pathology services, there shall be no requirement that the item or service be furnished at any single fixed location if the item or service is furnished pursuant to such plan and payments are not otherwise made for the item or service under this title.".

SEC. 4079. DEMONSTRATION PROJECTS TO PROVIDE PAYMENT ON A PREPAID, CAPITATED BASIS FOR COMMUNITY NURSING AND AMBULATORY CARE FURNISHED TO MEDICARE BENEFICIARIES.

(a) In General.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into an agreement with not less than four eligible organizations submitting applications under this section to conduct demonstration projects to provide payment on a prepaid, capitated basis for community nursing and ambulatory care furnished to any individual entitled to benefits under part A and enrolled under part B of title XVIII of the Social Security Act (other than an individual medically determined to have end-stage renal disease) who resides in the geographic area served by the organization and enrolls with such organization (in accordance with subsection (c)(2)).

(b) Definitions of Community Nursing and Ambulatory Care and Eligible Organization.—As used in this section:

(1) The term "community nursing and ambulatory care" means the following services:

(A) Part-time or intermittent nursing care furnished by or under the supervision of registered professional nurses.

(B) Physical, occupational, or speech therapy.

(C) Social and related services supportive of a plan of ambulatory care.

(D) Part-time or intermittent services of a home health aide.

(E) Medical supplies (other than drugs and biologicals) and durable medical equipment while under a plan of care.

(F) Medical and other health services described in paragraphs (2)(H)(ii) and (5) through (9) of section 1861(s) of the Social Security Act.

(G) Rural health clinic services described in section 1861(aa)(1)(C) of such Act.

(H) Certain other related services listed in section 1915(c)(4)(B) of such Act to the extent the Secretary finds such services are appropriate to prevent the need for institutionalization of a patient.

(2) The term "eligible organization" means a public or private entity, organized under the laws of any State, which meets the following requirements:

(A) The entity (or a division or part of such entity) is primarily engaged in the direct provision of community nursing and ambulatory care.

(B) The entity provides directly, or through arrangements with other qualified personnel, the services described in paragraph (1).

(C) The entity provides that all nursing care (including services of home health aids) is furnished by or under the supervision of a registered nurse.

(D) The entity provides that all services are furnished by qualified staff and are coordinated by a registered professional nurse.

(E) The entity has policies governing the furnishing of community nursing and ambulatory care that are developed by registered professional nurses in cooperation with (as appropriate) other professionals.

(F) The entity maintains clinical records on all patients.

(G) The entity has protocols and procedures to assure, when appropriate, timely referral to or consultation with other health care providers or professionals.

(H) The entity complies with applicable State and local laws governing the provision of community nursing and ambulatory care to patients.

(I) The requirements of subparagraphs (B), (D), and (E) of section 1876(b)(2) of the Social Security Act.

(c) Agreements With Eligible Organizations To Conduct Demonstration Projects.—

(1) The Secretary may not enter into an agreement with an eligible organization to conduct a demonstration project under this section unless the organization meets the requirements of this subsection and subsection (d) with respect to members enrolled with the organization under this section.

(2) The organization shall have an open enrollment period for the enrollment of individuals under this section. The duration of such period of enrollment and any other requirement pertaining to enrollment or termination of enrollment shall be specified in the agreement with the organization.

(3) The organization must provide to members enrolled with the organization under this section, through providers and other persons that meet the applicable requirements of titles XVIII and XIX of the Social Security Act, community nursing and ambulatory care (as defined in subsection (b)(1)) which is generally available to individuals residing in the geographic area served by the organization, except that the organization may provide such members with such additional health care services as the members may elect, at their option, to have covered.

(4) The organization must make community nursing and ambulatory care (and such other health care services as such individuals have contracted for) available and accessible to each individual enrolled with the

organization under this section, within the area served by the organization, with reasonable promptness and in a manner which assures continuity.

(5) Section 1876(c)(5) of the Social Security Act shall apply to organizations under this section in the same manner as it applies to organizations under section 1876 of such Act.

(6) The organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to such individuals under the demonstration project conducted under this section, which program (A) stresses health outcomes and (B) provides review by health care professionals of the process followed in the provision of such health care services.

(7) Under a demonstration project under this section—

(A) the Secretary could require the organization to provide financial or other assurances (including financial risk-sharing) that minimize the inappropriate substitution of other services under title XVIII of such Act for community nursing services; and

(B) if the Secretary determines that the organization has failed to perform in accordance with the requirements of the project (including meeting financial responsibility requirements under the project, any pattern of disproportionate or inappropriate institutionalization) the Secretary shall, after notice, terminate the project.

(d) Determination of Per Capita Payment Rates.—

(1) The Secretary shall determine for each 12-month period in which a demonstration project is conducted under this section, and shall announce (in a manner intended to provide notice to interested parties) not later than three months before the beginning of such period, with respect to each eligible organization conducting a demonstration project under this section, a per capita rate of payment for each class of individuals who are enrolled with such organization who are entitled to benefits under part A and enrolled under part B of title XVIII of the Social Security Act.

(2)(A) Except as provided in paragraph (3), the per capita rate of payment under paragraph (1) shall be determined in accordance with this paragraph.

(B) The Secretary shall define appropriate classes of members, based on age, disability status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence.

(C) The per capita rate of payment under paragraph (1) for each such class shall be equal to 95 percent of the adjusted average per capita cost (as defined in subparagraph (D)) for that class.

(D) For purposes of subparagraph (C), the term 'adjusted average per capita cost' means the average per capita amount that the Secretary estimates in advance (on the basis of actual experience, or retrospective actuarial equivalent based upon an adequate sample and other information and data, in a geographic area served by an eligible organization or in a similar area, with appropriate adjustments to assure actuarial equivalence) would be payable in any contract year for those services covered under parts A and B of title XVIII of the Social Security Act and types of expenses otherwise reimbursable under such parts A and B which are described in subparagraphs (A) through (G) of subsection (b)(1) (including administrative costs incurred by organizations described in sections 1816 and 1842 of such Act), if the services were to be furnished by other than an eligible organization.

(3) The Secretary shall, in consultation with providers, health policy experts, and consumer groups develop capitation-based reimbursement rates for such classes of individuals entitled to benefits under part A and enrolled under part B of the Social Security Act as the Secretary shall determine. Such rates shall be applied in determining per capita rates of payment under paragraph (1) with respect to at least one eligible organization conducting a demonstration project under this section.

(4)(A) In the case of an eligible organization conducting a demonstration project under this section, the Secretary shall make monthly payments in advance and in accordance with the rate determined under paragraph (2) or (3), except as provided in subsection (e)(3)(B), to the organization for each individual enrolled with the organization.

(B) The amount of payment under paragraph (2) or (3) may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this section and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

(5) The payment to an eligible organization under this section for individuals enrolled under this section with the organization and entitled to benefits under part A and enrolled under part B of the Social Security Act shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established under such Act in such proportions from each such trust fund as the Secretary deems to be fair and equitable taking into consideration benefits attributable to such parts A and B, respectively.

(6) During any period in which an individual is enrolled with an eligible organization conducting a demonstration project under this section, only the eligible organization (and no other individual or person) shall be entitled to receive payments from the Secretary under this title for community nursing and ambulatory care (as defined in subsection (b)(1)) furnished to the individual.

(e) Restriction on Premiums, Deductibles, Copayments, and Coinsurance.—

(1) In no case may the portion of an eligible organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (with respect to community nursing and ambulatory care) to individuals who are enrolled under this section with the organization, exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this section with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this section with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B of the Social Security Act, if they were not members of an eligible organization.

(2) If the eligible organization provides to its members enrolled under this section services in addition to community nursing and ambulatory care, election of coverage for such additional services shall be optional for such members and such organization shall furnish such members with information on the portion of its premium rate or other charges applicable to such additional services. In no case may the sum of—

(A) the portion of such organization's premium rate charged, with respect to such additional services, to members enrolled under this section, and

(B) the actuarial value of its deductibles, coinsurance, and copayments charged, with respect to such services to such members exceed the adjusted community rate for such services (as defined in section 1876(e)(3) of the Social Security Act).

(3)(A) Subject to subparagraphs (B) and (C), each agreement to conduct a demonstration project under this section shall provide that if—

(i) the adjusted community rate, referred to in paragraph (2), for community nursing and ambulatory care covered under parts A and B of title XVIII of the Social Security Act (as reduced for the actuarial value of the coinsurance and deductibles under those parts) for members enrolled under this section with the organization,

is less than

(ii) the average of the per capita rates of payment to be made under subsection (d)(1) at the beginning of the 12-month period (as determined on such basis as the Secretary determines appropriate) described in such subsection for members enrolled under this section with the organization,

the eligible organization shall provide to such members the additional benefits described in section 1876(g)(3) of the Social Security Act which are selected by the eligible organization and which the Secretary finds are at least equal in value to the difference between that average per capita payment and the adjusted community rate (as so reduced).

(B) Subparagraph (A) shall not apply with respect to any organization which elects to receive a lesser payment to the extent that there is no longer a difference between the average per capita payment and adjusted community rate (as so reduced).

(C) An organization conducting a demonstration project under this section may provide (with the approval of the Secretary) that a part of the value of such additional benefits under subparagraph (A) be withheld and reserved by the Secretary as provided in section 1876(g)(5) of the Social Security Act.

(4) The provisions of paragraphs (3), (5), and (6) of section 1876(g) of the Social Security Act shall apply in the same manner to agreements under this section as they apply to risk-sharing contracts under section 1876 of such Act, and, for this purpose, any reference in such paragraphs to paragraph (2) is deemed a reference to paragraph (3) of this subsection.

(5) Section 1876(e)(4) of the Social Security Act shall apply to eligible organizations under this section in the same manner as it applies to eligible organizations under section 1876 of such Act.

(f) Commencement and Duration of Projects.—Each demonstration project under this section shall begin not later than July 1, 1989, and shall be conducted for a period of three years.

(g) Report.—Not later than January 1, 1992, the Secretary shall submit to the Congress a report on the results of the demonstration projects conducted under this section.

SEC. 4080. PART B PREMIUM.

Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended—

(1) in subsection (e), by striking "1989" each place it appears and inserting in lieu thereof "1990";

(2) in subsection (f)(1), by striking "or 1987" and inserting in lieu thereof "1987, or 1988"; and

(3) in subsection (f)(2), by striking "or 1988" and inserting in lieu thereof "1988, or 1989".

Subpart D—Other Provisions

SEC. 4081. SUBMISSION OF CLAIMS TO SUPPLEMENTAL INSURANCE CARRIERS.

(a) IN GENERAL.—Section 1842(h)(3) of the Social Security Act (42 U.S.C. 1395u(h)(3)) is amended by inserting "(A)" after "(3)" and by adding at the end the following new subparagraph:

"(B) The Secretary shall establish a procedure whereby an individual enrolled under this part may assign, in an appropriate manner on the form claiming a benefit under this part for an item or service furnished by a participating physician or supplier, the individual's rights of payment under a medicare supplemental policy (described in section 1882(g)(1)) in which the individual is enrolled. In the case such an assignment is properly executed and a claims determination is made by a carrier with a contract under this section, the carrier shall transmit to the private entity issuing the medicare supplemental policy notice of such fact and including such information as the Secretary determines is generally provided to enable the entity to decide whether (and the amount of) any payment is due under the policy. The Secretary may enter into arrangements for the transmittal of such information to entities electronically. The Secretary shall impose user fees for the transmittal of information under this subparagraph, whether electronically or otherwise.".

(b) MEDIGAP POLICY STANDARDS.—Section 1882 of such Act (42 U.S.C. 1395ss) is amended—

(1) in subsection (b)(1)—

(A) by amending subparagraph (B) to read as follows:

"(B) includes requirements equal to or more stringent than the requirements described in paragraphs (2) and (3) of subsection (c);",

(B) by adding "and" at the end of subparagraph (C), and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) provides the Secretary periodically (but at least annually) with a list containing the name and address of the issuer of each such policy and the name and number of each such policy (including an indication of policies that have been previously approved, newly approved, or withdrawn from approval since the previous list was provided),";

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting "; and", and

(C) by inserting after paragraph (2) the following new paragraph:

"(3)(A) accepts a notice under section 1842(h)(3)(B) as a claims form for benefits under such policy in lieu of any claims form otherwise required and agrees to make a payment determination on the basis of the information contained in such claims form;

"(B) where such a notice is received—

"(i) provides notice to such physician or supplier and the beneficiary of the payment determination, and

"(ii) provides any appropriate payment directly to the participating physician or supplier involved;

"(C) provides each enrollee at the time of enrollment a card listing the policy name and number and a single mailing address to which notices under section 1842(h)(3)(B) respecting the policy are to be sent;

"(D) agrees to pay any user fees established under section 1842(h)(3)(B) with respect to information transmitted to the issuer of the policy; and

"(E) provides to the Secretary at least annually, for transmittal to carriers, a single mailing address to which notices under section 1842(h)(3)(B) respecting the policy are to be sent.".

(c) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply to contracts with carriers for claims for items and services furnished by participating physicians and suppliers on or after January 1, 1989.

(2)(A) The amendments made by subsection (b) shall apply to medicare supplemental policies as of January 1, 1989 (or, if applicable, the date established under subparagraph (B)).

(B) In the case of a State which the Secretary of Health and Human Services identifies as—

(i) requiring State legislation (other than legislation appropriating funds) in order for medical supplemental policies to be changed to meet the requirements of section 1882(c)(3) of the Social Security Act, and

(ii) having a legislature which is not scheduled to meet in 1988 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1989, and in which legislation described in clause (i) may be considered.

SEC. 4082. REVISION OF PART B HEARINGS.

(a) CLARIFICATION OF OBRA AMENDMENT.—Section 1869(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ff(b)(3)(B)) is amended by striking "chapter 5" and inserting "section 553".

(b) EXPEDITED ADMINISTRATIVE HEARING WHERE ONLY ISSUES OF LAW.—Section 1869(b) of such Act (42 U.S.C. 1395ff(b)) is amended by adding at the end the following new paragraph:

"(5) In an administrative hearing pursuant to paragraph (1), where the moving party alleges that there are no material issues of fact in dispute, the administrative law judge shall make an expedited determination as to whether any such facts are in dispute and, if not, shall determine the case expeditiously.".

(c) TIMELY CARRIER HEARINGS ON PART B APPEALS.—Section 1842(b)(5) of such Act (42 U.S.C. 1395u(b)(5)) is amended—

(1) by inserting "(A)" after "(5)", and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary shall establish standards for evaluating carriers' performance of reviews of initial carrier determinations and of fair hearings under paragraph (3)(C), under which a carrier is expected—

"(i) to complete such reviews, within 45 days after the date of a request by an individual enrolled under this part for such a review, in 95 percent of such requests, and

"(ii) to make a final determination, within 120 days after the date of receipt of a request by an individual enrolled under this part for a fair hearing under paragraph (3)(C), in 90 percent of such cases.".

(d) GAO STUDY.—The Comptroller General shall conduct a study concerning the cost effectiveness of requiring hearings with a carrier under part B of title XVIII of the Social Security Act before having a hearing before an administrative law judge respecting carrier determinations under that part. The Comptroller General shall report to the Congress on the results of such study by not later than June 30, 1989.

(e) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to requests for hearings filed after the end of the 60-day period beginning on the date of the enactment of this Act.

(3) The amendments made by subsection (c) shall apply to evaluation of performance of carriers under contracts entered into or renewed on or after October 1, 1988.

SEC. 4083. PROVISIONS RELATING TO PHYSICIAN PAYMENT REVIEW COMMISSION.

(a) REVISION OF APPOINTMENT PROCESS FOR THE PHYSICIAN PAYMENT REVIEW COMMISSION.—

(1) IN GENERAL.—Section 1845(a) of Social Security Act (42 U.S.C. 1395w-1(a)(3)) is amended—

(A) in paragraph (1), by striking "with expertise in the provision and financing of physicians' services" and inserting "with national recognition for their expertise in health economics, physician reimbursement, medical practice, and other related fields"; and

(B) in paragraph (3), by striking the last sentence.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to appointments made after the date of the enactment of this Act.

(b) TREATMENT OF EMPLOYEES FOR CERTAIN PURPOSES.—

(1) IN GENERAL.—Section 1886(e)(6)(D) of the Social Security Act (42 U.S.C. 1395ww(e)(6)(D)) is amended by adding at the end the following: "For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

(c) CHANGE IN DATE FOR ANNUAL REPORT OF PHYSICIAN PAYMENT REVIEW COMMISSION.—

(1) Section 1845(b)(1) of such Act (42 U.S.C. 1395w-1(b)(1)) is amended by striking "March 1" and inserting "March 31".

(2) The amendment made by paragraph (1) shall apply with respect to reports for years after 1987.

SEC. 4084. TECHNICAL AMENDMENTS RELATED TO CERTIFIED REGISTERED NURSE ANESTHETISTS.

(a) IN GENERAL.—Section 1833(l) of the Social Security Act (42 U.S.C. 1395l(l)), as added by section 9320(e) of the Omnibus Budget Reconciliation Act of 1986, is amended—

(1) in paragraph (2), by striking "1985" and inserting "1985 and such other data as the Secretary determines necessary"; and

(2) in paragraph (5)(A), by striking "or group practice" each place it appears and

inserting "group practice, or ambulatory surgical center".

(b) Effective Date.—The amendments made by subsection (a) shall apply as if included in the amendment made by section 9320(e)(2) of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4085. MISCELLANEOUS AND TECHNICAL PROVISIONS.

(a) Prompt Submittal of Data by Secretary.—Section 1845 of the Social Security Act (42 U.S.C. 1395w-1) is amended by adding at the end the following new subsection:

"(f)(1) Not later than October 1st of each year (beginning with 1988), the Secretary shall transmit to the Physician Payment Review Commission, to the Congressional Budget Office, and to the Congressional Research Service of the Library of Congress national data (known as the Part B Medicare Annual Data System) for the previous year respecting part B of this title.

"(2) In order to ensure that the data are available for transmittal under paragraph (1) on a timely basis, the Secretary shall require, in the standards and criteria established under section 1842(b)(2), that carriers submit data for a year under the system referred to in paragraph (1) not later than July 1st of the following year.

"(3) The Secretary, in consultation with the Physician Payment Review Commission, the Congressional Budget Office, and the Congressional Research Service of the Library of Congress, shall establish and annually revise standards for the data reporting system described in paragraph (1).

"(4) The Secretary shall also provide to the entities described in paragraph (1) additional data respecting the program under this part as may be reasonably requested by them on an agreed-upon schedule.

"(5) The Secretary shall develop, in consultation with the Physician Payment Review Commission, the Congressional Budget Office, and the Congressional Research Service of the Library of Congress, a system for providing to each of such entities on a quarterly basis summary data on aggregate expenditures under this part by type of service and by type of provider. Such data shall be provided not later than 90 days after the end of each quarter (for quarters beginning with the calendar quarter ending on March 31, 1989).".

(b) Clarification of Penalties for Unassigned Laboratory Services.—

(1) In general.—Section 1833(h)(5) of the Social Security Act (42 U.S.C. 1395l(h)(5)) is amended by adding at the end the following new subparagraph:

"(D) If a person knowingly and willfully and on a repeated basis bills an individual enrolled under this part for charges for a clinical diagnostic laboratory test for which payment may only be made on an assignment-related basis under subparagraph (C), the Secretary may apply sanctions against the person in the same manner as the Secretary may apply sanctions against a physician in accordance with section 1842(j)(2).".

(2) Effective date.—The amendment made by paragraph (1) shall apply to procedures performed on or after January 1, 1988.

(c) Extension of Moratorium on Laboratory Payment Demonstration.—Section 9204(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 9339(e) of the Omnibus Budget Reconciliation Act of 1986, is amended by striking "January 1, 1988" and inserting "January 1, 1989".

(d) Prompt Payment for Comprehensive Outpatient Rehabilitation Facilities.—

(1) Section 1816(c)(2)(C) of the Social Security Act (42 U.S.C. 1395h(c)(2)(C)) is amended by striking "or hospice program" and inserting "hospice program, comprehensive outpatient rehabilitation facility, or rehabilitation agency".

(2)(A) The amendment made by paragraph (1) shall apply to claims received on or after the date of enactment of this Act.

(B) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816, and regulations, to such extent as may be necessary to implement the amendment made by paragraph (1).

(e) Capacity To Set Geographic Payment Limits.—The Secretary of Health and Human Services shall develop the capability to implement (for services furnished on or after January 1, 1989) geographic limits on charges and payments under part B of title XVIII of the Social Security Act for physicians' services based on statewide, regional, or national average (or percentile in a distribution) of prevailing charges or payment amounts (weighted by frequency of services). Any such limits shall take into account adjustments for geographic differences in cost of practice and cost of living.

(f) Delay in Effective Date for Establishing Physician Identifier System.—Section 9202(g) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking "July 1, 1987" and inserting "October 1, 1988".

(g) Date for Applying Civil Penalties for Improper Use of Assistants in Performing Cataract Surgery.—

(1) Section 1842(k) of the Social Security Act (42 U.S.C. 1395u(k)) is amended in paragraphs (1) and (2) by striking "(j)(2)" each place it appears and inserting "(j)(2) in the case of surgery performed on or after March 1, 1987".

(2) The amendment made by paragraph (1) shall be effective as if included in section 9307(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985.

(h) Utilization Screens for Physician Services Provided to Patients in Rehabilitation Hospitals.—

(1) The Secretary of Health and Human Services shall establish (in consultation with appropriate physician groups, including those representing rehabilitative medicine) a separate utilization screen for physician visits to patients in rehabilitation hospitals and rehabilitative units (and patients in long-term care hospitals receiving rehabilitation services) to be used by carriers under section 1842 of the Social Security Act in performing functions under subsection (a) of such section related to the utilization practices of physicians in such hospitals and units.

(2) Not later than 12 months after the date of enactment of this Act, the Secretary of Health and Human Services shall take appropriate steps to implement the utilization screen established under paragraph (1).

(i) Technical Amendments.—

(1) Section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) is amended—

(A) in paragraphs (1)(D)(i) and (2)(D)(i), by striking, "on the basis of an assignment described in section 1842(b)(3)(B)(ii), under the procedure described in section 1870(f)(1)," and inserting "on an assignment-related basis";

(B) in paragraph (1), by striking "and" before "(G)"; and

(C) in subsection (b)(3)(A), by striking "on the basis of an assignment described in section 1842(b)(3)(B)(ii), under the procedure described in section 1870(f)(1)" and inserting "on an assignment-related basis".

(2) Section 1833(h)(1)(C) of such Act (42 U.S.C. 1395l(h)(1)(C)) is amended by inserting before the period the following: ", and ending on December 31, 1989. For such tests furnished on or after January 1, 1990, the fee schedule shall be established on a nationwide basis".

(3) Section 1833(h)(5)(A) of such Act (42 U.S.C. 1395l(h)(5)(A)) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", and", and by adding at the end the following new clause:

"(iii) in the case of a clinical diagnostic laboratory test provided under an arrangement (as defined in section 1861(w)(1)) made by a hospital, payment shall be made to the hospital.".

(4) Section 1835(a)(2)(C) of such Act (42 U.S.C. 1395n(a)(2)(C)) is amended by striking the second comma at the end of clause (i).

(5) Section 1842(b)(3)(C) of such Act (42 U.S.C. 1395u(b)(3)(C)) is amended by striking "not more than" and inserting "less than".

(6) Section 1842(h)(5) of such Act (42 U.S.C. 1395u(h)(5)) is amended by striking "the" before "participation".

(7) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986, section 1842(j)(1) of the Social Security Act (42 U.S.C. 1395u(j)(1)) is amended—

(A) in subparagraph (C)(i), by inserting "maximum allowable" after "If the physician's",

(B) in subparagraph (C)(v), by striking "1987" and insert "1986", and

(C) by adding at the end of subparagraph (C) the following new clause:

"(vii) In the case of a nonparticipating physician who was a participating physician during a previous period, for the purpose of computing the physician's maximum allowable actual charge during the physician's period of nonparticipation, the physician shall be deemed to have had a maximum allowable actual charge during the period of participation, and such deemed maximum allowable actual charge shall be determined accordingly to clauses (i) through (vi).".

(8) Paragraph (4) of section 1845(e) of the Social Security Act (42 U.S.C. 1395w-1(e)) is amended by moving the alignment of each of its provisions (including any clauses therein) 2 ems to the left.

(9) Section 1861(b)(4) of such Act (42 U.S.C. 1395x(b)(4)) is amended by striking the comma before "anesthesia" and inserting "and" and by striking "certified" the second place it appears.

(10) The heading of subsection (g) of section 1861 of such Act (42 U.S.C. 1395x) is amended to read as follows:

"Outpatient Occupational Therapy Services".

(11) Section 1861(s) of such Act (42 U.S.C. 1395x(s)), as amended by section 9367(a) of this Act, is amended by striking "which—" before paragraph (15) and all that follows through the end of paragraph (16) and inserting the following: "which would not be included under subsection (b) if it were furnished to an inpatient of a hospital.".

(12) Section 1861(v)(5)(A) of such Act (42 U.S.C. 1395x(v)(5)(A)) is amended by striking "section 1861(p)" and "section 1861(g)" and inserting "subsection (p)" and "subsection (g)", respectively.

(13) The heading of subsection (bb) of section 1861 of such Act (42 U.S.C. 1395x) is amended to read as follows:

"Services of a Certified Registered Nurse Anesthetist".

(14) The heading of subsection (ee) of section 1861 of such Act (42 U.S.C. 1395x) is amended to read as follows:

"Discharge Planning Process".

(15) Section 1862(a)(1)(A) of such Act (42 U.S.C. 1395y(a)(1)(A)) is amended by striking "or (D)" and inserting "(D), or (E)".

(16) Section 1862(a)(14) of such Act (42 U.S.C. 1395y(a)(14)) is amended by striking "an patient" and inserting "a patient".

(17) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986, section 1866(g) of the Social Security Act (42 U.S.C. 1395cc(g)) is amended by striking "for a hospital outpatient service" and all that follows through "subsection (a)(1)(H)" and inserting "inconsistent with an arrangement under subsection (a)(1)(H) or in violation of the requirement for such an arrangement".

(18) Section 1869(a) of the Social Security Act (42 U.S.C. 1395ff(a)) is amended by inserting "or a claim for benefits with respect to home health services under part B" before "shall".

(19) Section 1869(b)(2) of such Act (42 U.S.C. 1395ff(b)(2)) is amended by inserting "and (1)(D)" after "paragraph (1)(C)" each place it appears.

(20) Section 1875(c)(3)(B) of such Act (42 U.S.C. 1395ll(c)(3)(B)) is amended by striking "years 1987" and inserting "year 1987".

(21) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986—

(A) section 9313(d)(3) of such Act is amended by striking "2 years after the date of the enactment of this Act" and inserting "January 1, 1990";

(B) section 9332(a)(3) of such Act is amended by inserting before the period at the end the following: "or in increasing the proportion of total payments for physicians' services which are payments for such services rendered by participating physicians";

(C) section 9335(j)(2) of such Act is amended by inserting before the period at the end the following: "except that, until network administrative organizations are established under section 1881(c)(1)(A) of the Social Security Act (as amended by subsection (d)(1) of this section), the distribution of payments described in the last sentence of section 1881(b)(7) of such Act shall be made based on the distribution of payments under section 1881 of such Act to network administrative organizations for fiscal year 1986"; and

(D) section 9343 of such Act is amended—

(i) amending subparagraph (A) of subsection (e)(2) to read as follows:

"(2)(A) Section 1833 (42 U.S.C. 1395l) is amended—

"(i) in subsection (a)(1)(F), by striking '(i)(3)' and inserting '(i)(4)', and

"(ii) in subsection (b)(3), by striking 'or under subsection (i)(2) or (i)(4)'.";

(ii) in subsection (h)(2), by striking "(d)" and inserting "(c)" and by adding at the end the following: "The amendments made by subsection (c) shall apply to services furnished after June 30, 1987."; and

(iii) in subsection (h)(4), by striking "(c)" and inserting "(d)".

PART 4—PEER REVIEW ORGANIZATIONS

SEC. 4091. CONTRACT PROVISIONS.

(a) EXTENSIONS OF PEER REVIEW CONTRACT PERIOD.—

(1) ONE-TIME EXTENSIONS TO PERMIT STAGGERING OF EXPIRATION DATES.—

(A) IN GENERAL.—In order to permit the Secretary of Health and Human Services an adequate time to complete contract renewal negotiations with utilization and quality control peer review organizations under part B of title XI of the Social Security Act and to provide for a staggered period of contract expiration dates, notwithstanding section 1153(c) of such Act, the Secretary may provide for extensions of existing contracts, but the total of such extensions may not exceed 24 months for any contract.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to renewals occurring on or after the date of the enactment of this Act.

(2) 3-YEAR CONTRACT PERIOD.—

(A) Section 1153(c)(3) of such Act (42 U.S.C. 1320c-2(c)(3)) is amended by striking "two" and "biennial" and inserting "three" and "triennial", respectively.

(B) The amendment made by subparagraph (A) shall apply with respect to contracts entered into or renewed on or after the date of the enactment of this Act.

(b) CONTRACT REQUIREMENTS.—

(1) Section 1153 of the Social Security Act (42 U.S.C. 1320c–2) is amended by adding at the end the following new subsection:

"(h)(1) The Secretary shall publish in the Federal Register any new policy or procedure adopted by the Secretary that affects substantially the performance of contract obligations under this section not less than 30 days before the date on which such policy or procedure is to take effect. This paragraph shall not apply to the extent it is inconsistent with a statutory deadline.

"(2) The Secretary shall publish in the Federal Register the general criteria and standards used for evaluating the efficient and effective performance of contract obligations under this section and shall provide opportunity for public comment with respect to such criteria and standards.

"(3) The Secretary shall regularly furnish each peer review organization with a contract under this section with a report that documents the performance of the organization in relation to the performance of other such organizations.".

(2) Section 1153(e) of such Act (42 U.S.C. 1320c–2(e)) is amended—

(A) by inserting "(1)" after "(e)";

(B) by striking "Contracting" and inserting "Except as provided in paragraph (2), contracting"; and

(C) by adding at the end the following new paragraph:

"(2) If a peer review organization with a contract under this section is required to carry out a review function in addition to any function required to be carried out at the time the Secretary entered into or renewed the contract with the organization, the Secretary shall, before requiring such organization to carry out such additional function, negotiate the necessary contractual modifications, including modifications that provide for an appropriate adjustment (in light of the cost of such additional function) to the amount of reimbursement made to the organization.".

(3) The amendments made by paragraphs (1) and (2) shall become effective on the date of enactment of this Act.

SEC. 4092. PREFERENCE IN CONTRACTING WITH IN-STATE ORGANIZATIONS.

(a) IN GENERAL.—Section 1153 of the Social Security Act (42 U.S.C. 1320c–2), as amended by section 4091(b)(1) of this part, is further amended by adding at the end the following new subsection:

"(i)(1) Notwithstanding any other provision of this section, the Secretary shall not renew a contract with any organization that is not an in-State organization (as defined in paragraph (3)) unless the Secretary has first complied with the requirements of paragraph (2).

"(2)(A) Not later than six months before the date on which a contract period ends with respect to an organization that is not an in-State organization, the Secretary shall publish in the Federal Register—

"(i) the date on which such period ends; and

"(ii) the period of time in which an in-State organization may submit a proposal for the contract ending on such date.

"(B) If one or more qualified in-State organizations submits a proposal within the period of time specified under subparagraph (A)(ii), the Secretary shall not automatically renew the current contract on a noncompetitive basis, but shall provide for competition for the contract in the same manner as a new contract under subsection (b).

"(3) For purposes of this subsection, an in-State organization is an organization that has its primary place of business in the State in which review will be conducted (or, which is owned by a parent corporation the headquarters of which is located in such State).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to contracts scheduled to be renewed on or after the first day of the eighth month to begin after the date of enactment of this Act.

SEC. 4093. REQUIRING REASONABLE NOTICE AND OPPORTUNITY FOR DISCUSSION PRIOR TO DENIAL OF CLAIM.

(a) IN GENERAL.—Section 1154(a)(3) of the Social Security Act (42 U.S.C. 1320c–3(a)(3)) is amended to read as follows:

"(3)(A) Subject to subparagraph (B), whenever the organization makes a determination that any health care services or items furnished or to be furnished to a patient by any practitioner or provider are disapproved, the organization shall promptly notify such patient and the agency or organization responsible for the payment of claims under title XVIII of this Act of such determination.

"(B) The notification under subparagraph (A) shall not occur until 20 days after the date that the organization has—

"(i) made a preliminary notification to such practitioner or provider of such proposed determination, and

"(ii) provided such practitioner or provider an opportunity for discussion and review of the proposed determination.

The discussion and review conducted under subparagraph (B)(ii) shall not affect the rights of a practitioner or provider to a formal reconsideration of a determination under this part (as provided under section 1155).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to determinations made on or after April 1, 1988.

SEC. 4094. PEER REVIEW NORMS AND EDUCATION.

(a) STANDARDS APPLIED BY PROs.—Section 1154(a)(6) of the Social Security Act (42 U.S.C. 1320c-3(a)(6)) is amended by adding after and below subparagraph (B) thereof the following:

"As a component of the norms described in clause (i) or (ii), the organization shall take into account the special problems associated with delivering care in remote rural areas, the availability of service alternatives to inpatient hospitalization, and other appropriate factors (such as the distance from a patient's residence to the site of care, family support, availability of proximate alternative sites of care, and the patient's ability to carry out necessary or prescribed self-care regimens) that could adversely affect the safety or effectiveness of treatment provided on an outpatient basis.".

(b) ON-SITE REVIEW.—Section 1154(a) of such Act (42 U.S.C. 1320c-3(a)) is amended by adding at the end the following new paragraph:

"(15) During each year of the contract entered into under section 1153(b), the organization shall perform significant on-site review activities, including on-site review at at least 20 percent of the rural hospitals in the organization's area.".

(c) REPORTS TO PROVIDERS AND EDUCATIONAL ACTIVITIES.—

(1)(A) Section 1154(a)(6) such Act (42 U.S.C. 1320c-3(a)(6)) is amended—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(ii) by inserting "(A)" after "(6)", and

(iii) by adding at the end the following:

"(B) The organization shall—

"(i) offer to provide, several times each year, for a physician representing the organization to meet (at a hospital or at a regional meeting) with medical and administrative staff of each hospital (the services of which are reviewed by the organization) respecting the organization's review of the hospital's services for which payment may be made under title XVIII, and

"(ii) publish (not less often than annually) and distribute to providers and practitioners whose services are subject to review a report that describes the organization's findings with respect to the types of cases in which the organization has frequently determined that (I) inappropriate or unnecessary care has been provided, (II) services were rendered in an inappropriate setting, or (III) services did not meet professionally recognized standards of health care.".

(B) The amendments made by subparagraph (A) shall apply to contracts under part B of title XI of the Social Security Act entered into or renewed more than 6 months after the date of the enactment of this Act.

(2)(A) Section 1154(a)(4)(B) of the Social Security Act (42 U.S.C. 1320c-3(a)(4)(B)) is amended—

(i) by inserting before the period at the end of the first sentence the following: "and whether individuals enrolled with an eligible organization have adequate access to health care services provided by or through such organization (as determined, in part, by a survey of individuals enrolled with the organization who have not yet used the organization to receive such services). The contract of each organization shall also provide that with respect to health care provided by a health maintenance organization or competitive medical plan under section 1876, the organization shall maintain a beneficiary outreach program designed to apprise individuals receiving care under such section of the role of the peer review system, of the rights of the individual under such system, and of the method and purposes for contacting the organization"; and

(ii) by striking "previous sentence" and inserting "previous two sentences".

(B) Section 1154(a)(7)(A) of such Act (42 U.S.C. 1320c-3(a)(7)(A)) is amended—

(i) by inserting "(i)" after "(A)",

(ii) by striking the semicolon and inserting "; and", and

(iii) by adding at the end thereof the following new clause:

"(ii) in the case of psychiatric and physical rehabilitation services, make arrangements to ensure that (to the extent possible) initial review of such services be made by a physician who is trained in psychiatry or physical rehabilitation (as appropriate).".

(C) The amendments made by this paragraph shall apply with respect to contracts entered into or renewed on or after the date of enactment of this Act.

(d) PEER REVIEW EMPHASIS ON EDUCATIONAL ACTIVITIES. —

(1) Section 1153(c) of such Act (42 U.S.C. 1320c-2(c)) is amended by adding after and below paragraph (8) the following: "In evaluating the performance of utilization and quality control peer review organizations under contracts under this part, the Secretary shall place emphasis on the performance of such organizations in educating providers and practitioners (particularly those in rural areas) concerning the review process and criteria being applied by the organization.".

(2) The amendment made by paragraph (1) shall apply to contracts under part B of title XI of the Social Security Act as of January 1, 1988.

(e) TELECOMMUNICATIONS DEMONSTRATION PROJECTS.—The Secretary of Health and Human Services shall enter into agreements with entities submitting applications under this subsection (in such form as the Secretary may provide) to establish demonstration projects to examine the feasibility of requiring instruction and oversight of rural physicians, in lieu of imposing sanctions, through use of video communication between rural hospitals and teaching hospitals under this title. Under such demonstration projects, the Secretary may provide for payments to physicians consulted via video communication systems. No funds may be expended under the demonstration projects for the acquisition of capital items including computer hardware.

SEC. 4095. PREEXCLUSION HEARINGS.

(a) IN GENERAL.—Section 1156(b) of the Social Security Act (42 U.S.C. 1320c-5(b)) is amended by adding at the end the following new paragraph:

"(5) Before the Secretary may effect an exclusion under paragraph (2) in the case of a provider or practitioner located in a rural health manpower shortage area (HMSA) or in a county with a population of less than 70,000, the provider or practitioner adversely affected by the determination is entitled to a hearing before an administrative law judge (described in section 205(b)) respecting whether the provider or practitioner should be able to continue furnishing services to individuals entitled to benefits under this Act, pending completion of the administrative review procedure under paragraph (4). If the judge does not determine, by a preponderance of the evidence, that the provider or practitioner will pose a serious risk to such individuals if permitted to continue furnishing such services, the Secretary shall not effect the exclusion under paragraph (2) until the provider or practitioner has been provided reasonable notice and opportunity for an administrative hearing thereon under paragraph (4).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to determinations made by the Secretary of Health and Human Services under section 1156(b) of the Social Security Act on or after the date of the enactment of this Act.

(c) TRANSITION FOR CURRENT CASES.—In the case of a practitioner or person—

(1) for whom a notice of determination under section 1156(b) of the Social Security Act has been provided within 365 days before the date of the enactment of this Act,

(2) who has not exhausted the administrative remedies available under section 1156(b)(4) of such Act for review of the determination, and

(3) who requests, within 90 days after the date of the enactment of this Act, a hearing established under this subsection,

the Secretary of Health and Human Services shall provide for a hearing described in section 1156(b)(5) of the Social Security Act (as amended by subsection (a) of this section).

(d) REDETERMINATIONS IN CERTAIN CASES.—If, in hearing under subsection (c), the judge does not determine, by a preponderance of the evidence, that the provider or practitioner will pose a serious risk to individuals entitled to benefits under title XVIII of the Social Security Act if permitted to continue or resume furnishing such services, the Secretary shall not effect the exclusion (or shall suspend the exclusion, if previously effected) under paragraph (2) of section 1156(b) of such Act until the provider or practitioner has been provided an administrative hearing thereon under paragraph (4) of such section, notwithstanding any failure by the provider or practitioner to request the hearing on a timely basis.

(e) REPORT ON IMPROVEMENTS IN PROCEDURES FOR IMPOSING SANCTIONS.—Not later than one year after the date of enactment of this Act, the Secretary of Health and Human Services shall report to Congress on the improved procedures for imposing sanctions against a practitioner or person under section 1156 of the Social Security Act established through agreement by the Health Care Financing Administration, the American Association of Retired Persons, the American Medical Association, and the Office of the Inspector General in the Department of Health and Human Services. The report shall set forth such improved procedures, describe the response of physicians and providers to the procedures, assess whether the procedures effect an appropriate balance between procedural fairness and the need for ensuring quality medical care, comment on the alternative provider-patient notification procedure contained in the agreement, and recommend whether such procedures should apply to institutional providers of health care services.

SEC. 4096. LIMITATION OF BENEFICIARY LIABILITY FOR SERVICES DISALLOWED BY PEER REVIEW ORGANIZATIONS.

(a) PART B SERVICES.—

(1) Section 1842 of the Social Security Act (42 U.S.C 1395u) is amended—

(A) in subsection (b)(3)(ii), by inserting "(and to refund amounts already collected)" after "agrees not to charge", and by striking "and (II)" and inserting ", (II) the physician or other person furnishing such service agrees not to charge (and to refund amounts already collected) for services for which payment under this title is denied under section 1154(a)(2) by reason of a determination under section 1154(a)(1)(B), and (III)";

(B) in subsection (l)(1)(A)(iii), by inserting "(I)" after "(iii)" and by inserting before the comma the following: "or (II) payment under this title for such services is denied under section 1154(a)(2) by reason of a determination under section 1154(a)(1)(B)"; and

(C) in subsection (l)(1)(C), by inserting "in the case described in subparagraph (A)(iii)(I)" after "to an individual".

(2) Section 1870(f) of such Act (42 U.S.C. 1395gg(f)) is amended by striking "that the reasonable charge is the full charge for the services" each place it appears and inserting "to the terms specified in subclauses (I) and (II) of section 1842(b)(3)(B)(ii) with respect to the services".

(b) INDEMNIFICATION.—Section 1879(b) of such Act (42 U.S.C. 1395pp(b)) is amended—

(1) in the first sentence, by striking ", subject to the deductible and coinsurance provisions of this title,", and

(2) by adding at the end the following: "No item or service for which an individual is indemnified under this subsection shall be taken into account in applying any limitation on the amount of items and services for which payment may be made to or on behalf of the individual under this title.".

(c) PATIENT LIABILITY FOR HOSPITAL CHARGES DURING APPEAL OF DISCHARGE NOTICE.—

(1) Section 1154(e)(2) of such Act (42 U.S.C. 1320c-3(e)(2)) is amended by adding at the end thereof the following: "If the hospital requests such a review, it shall also notify the patient that the review has been requested.".

(2) Sections 1154(e)(3)(A)(i) (42 U.S.C. 1320c-3(e)(3)(A)(i)) and 1154(e)(3)(B) (42 U.S.C. 1320c-3(e)(3)(B)) of such Act are each amended by inserting "or (2)" after "paragraph (1)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1988.

SEC. 4097. SEPARATE FUNDING LEVELS.

(a) AGGREGATE FUNDING.—Section 1866(a)(1)(F)(i)(III) of the Social Security Act (42 U.S.C. 1395cc(a)(1)(F)(i)(III)) is amended—

(1) by striking "1986" and inserting "1988"; and

(2) inserting "and for any direct or administrative costs incurred as a result of review functions added with respect to a subsequent fiscal year" after "inflation".

(b) PAYMENT.—Section 1866(a)(4)(C)(ii) of such Act (42 U.S.C. 1395cc(a)(4)(C)(ii)) is amended to read as follows:

"(ii) shall not be less in the aggregate for a fiscal year—

"(I) in the case of hospitals, than the amount specified in paragraph (1)(F)(i)(III), and

"(II) in the case of facilities and agencies, than the amounts the Secretary determines to be sufficient to cover the costs of such organizations' conducting the activities described in subparagraph (A) with respect to such facilities or agencies under part B of title XI.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 1988.

SUBTITLE B—MEDICAID

PART 1—ELIGIBILITY AND BENEFITS

SEC. 4101. MEDICAID BENEFITS FOR POOR CHILDREN AND PREGNANT WOMEN.

(a) MEDICAID OPTIONAL COVERAGE FOR ADDITIONAL LOW-INCOME PREGNANT WOMEN AND CHILDREN.—

(1) Section 1902(l) of the Social Security Act (42 U.S.C. 1396a(l)) is amended—

(A) in paragraph (2)—

(i) by striking "(2) For purposes of paragraph (1)" and inserting "(2)(A) For purposes of paragraph (1) with respect to individuals described in subparagraph (A) or (B) of that paragraph",

(ii) by striking "100 percent" and inserting "185 percent", and

(iii) by adding at the end the following new subparagraph:

"(B) If a State elects, under subsection (a)(10)(A)(ii)(IX), to cover individuals not described in subparagraph (A) or (B) of paragraph (1), for purposes of that paragraph and with respect to individuals not described in such subparagraphs the State shall establish an income level which is a percentage (not more than 100 percent, or, if less, the percentage established under subparagraph (A)) of the income official poverty line described in subparagraph (A)."; and

(B) in paragraph (3)(D), by inserting "appropriate" after "applied is the".

(2) Section 1902(e)(4) of such Act (42 U.S.C. 1396a(e)(4)) is amended by adding at the end the following new sentence: "During the period in which a child is deemed under the preceding sentence to be eligible for medical assistance, the medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires).".

(3) The amendments made by this subsection shall apply to medical assistance furnished on or after July 1, 1988.

(b) ALLOWING ACCELERATED COVERAGE OF CHILDREN UP TO AGE 5.—

(1) Section 1902(l)(1) of such Act (42 U.S.C. 1396a(l)(1)) is amended—

(A) by inserting "and" at the end of subparagraph (B), and

(B) by striking subparagraphs (C) through (F) and inserting the following:

"(C) children born after September 30, 1983, and who have attained one year of age but have not attained 2, 3, 4, or 5 years of age (as selected by the State),".

(2)(A) Section 1902(l) of such Act is further amended—

(i) in paragraph (3)(C), by striking ", (C), (D), (E), or (F)" and inserting "or (C)", and

(ii) in paragraph (4)(B)(ii), by striking ", (D), (E), or (F)".

(B) Section 1902(e)(7) of such Act (42 U.S.C. 1396a(e)(7)) is amended by striking ", (C), (D), (E), or (F)" and inserting "or (C)".

(C) Section 9401(f)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "(A)" after "(2)" and by striking subparagraphs (B) through (D).

(3) The amendments made by this subsection shall apply with respect to medical assistance furnished on or after July 1, 1988.

(c) COVERAGE OF CHILDREN UP TO AGE 8.—

(1) Section 1905(n)(2) of such Act (42 U.S.C. 1396d(n)(2)) is amended by striking "is under 5 years of age" and inserting "has not attained the age of 7 (or any age designated by the State that exceeds 7 but does not exceed 8)".

(2) Section 1902(l)(1)(C) of such Act, as amended by subsection (b)(1)(B), is further amended by striking "or 5 years" and inserting "5, 6, 7, or 8 years".

(3)(A) The amendments made by this subsection shall apply to medical assistance furnished on or after October 1, 1988.

(B) For purposes of section 1905(n)(2) of the Social Security Act (as amended by subsection (a)) for medical assistance furnished during fiscal year 1989, any reference to "age of 7" is deemed to be a reference to "age of 6".

(d) PREMIUM.—

(1) Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended—

(A) in subsection (a)(1), by inserting "(except for a premium imposed under subsection (c))" before the semicolon;

(B) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(C) by inserting after subsection (b) the following new subsection:

"(c)(1) The State plan of a State may at the option of the State provide for imposing a monthly premium (in an amount that does not exceed the limit established under paragraph (2)) with respect to an individual described in subparagraph (A) or (B) of section 1902(l)(1) who is receiving medical assistance on the basis of section 1902(a)(10)(A)(ii)(IX) and whose family income (as determined in accordance with the methodology specified in section 1902(l)(3)) equals or exceeds 150 percent of the nonfarm income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(2) In no case may the amount of any premium imposed under paragraph (1) exceed 10 percent of the amount by which the family income (less expenses for the care of a dependent child) of an individual exceeds 150 percent of the line described in paragraph (1).

"(3) A State shall not require prepayment of a premium imposed pursuant to paragraph (1) and shall not terminate eligibility of an individual for medical assistance under this title on the basis of failure to pay any such premium until such failure continues for a period of not less than 60 days. The State may waive payment of any such premium in any case where the State determines that requiring such payment would create an undue hardship.

"(4) A State may permit State or local funds available under other programs to be used for payment of a premium imposed under paragraph (1). Payment of a premium with such funds shall not be counted as income to the individual with respect to whom such payment is made.".

(2) The amendments made by paragraph (1) shall become effective on July 1, 1988.

(e) MISCELLANEOUS PROVISIONS RELATING TO SERVICES FOR PREGNANT WOMEN AND CHILDREN.—

(1) Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)) is amended, in subdivision (VII) of the matter following subparagraph (E), by striking "and postpartum" and inserting "postpartum, and family planning".

(2) Section 1902(e)(5) of such Act (42 U.S.C. 1396a(e)(5)) is amended by striking "until the end of the 60-day period beginning on the last day of her pregnancy" and inserting "through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends".

(3) Section 1902(l)(3)(E) of such Act (42 U.S.C. 1396a(l)(3)(E)) is amended by inserting after "title IV" the following: "(except to the extent such methodology is inconsistent with clause (D) of subsection (a)(17))".

(4) Section 1902(l)(4)(A) of such Act (42 U.S.C. 1396a(l)(4)(A)) is amended by striking "April 17, 1986" and inserting "July 1, 1987".

(5) Section 1902(l)(4) of such Act (42 U.S.C. 1396a(l)(4)) is amended by adding at the end the following new subparagraph:

"(C) A State plan may not provide, in its election of the option of furnishing medical assistance to individuals described in paragraph (1), that such individuals must apply for benefits under part A of title IV as a condition of applying for, or receiving, medical assistance under this title.".

(6)(A) The amendment made by paragraphs (1) shall become effective on the date of enactment of this Act.

(B) The amendments made by paragraphs (2) and (3) shall be effective as if they had been included in the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985.

(C) The amendment made by paragraph (4) shall apply to elections made on or after the enactment of this Act.

(D) The amendment made by paragraph (5) shall apply as if included in the enactment of section 9401 of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4102. HOME AND COMMUNITY-BASED SERVICES FOR THE ELDERLY.

(a) IN GENERAL.—

(1) Section 1915 of the Social Security Act (42 U.S.C. 1396n) is amended—

(A) by transferring subsection (d) to the end of such section and redesignating it as subsection (h), and

(B) by inserting after subsection (c) the following new subsection:

"(d)(1) Subject to paragraph (2), the Secretary shall grant a waiver to provide that a State plan approved under this title shall include as 'medical assistance' under such plan payment for part or all of the cost of home or community-based services (other than room and board) which are provided pursuant to a written plan of care to individuals 65 years of age or older with respect to whom there has been a determination that but for the provision of such services the individuals would be likely to require the level of care provided in a skilled nursing facility or intermediate care facility the cost of which could be reimbursed under the State plan.

"(2) A waiver shall not be granted under this subsection unless the State provides assurances satisfactory to the Secretary that—

"(A) necessary safeguards (including adequate standards for provider participation) have been taken to protect the health and welfare of individuals provided services under the waiver and to assure financial accountability for funds expended with respect to such services;

"(B) with respect to individuals 65 years of age or older who—

"(i) are entitled to medical assistance for skilled nursing or intermediate care facility services under the State plan,

"(ii) may require such services, and

"(iii) may be eligible for such home or community-based services under such waiver,

the State will provide for an evaluation of the need for such skilled nursing facility or intermediate care facility services; and

"(C) such individuals who are determined to be likely to require the level of care provided in a skilled nursing facility or intermediate care facility are informed of the feasible alternatives to the provision of skilled nursing facility or intermediate care facility services, which such individuals may choose if available under the waiver.

Each State with a waiver under this subsection shall provide to the Secretary annually, consistent with a reasonable data collection plan designed by the Secretary, information on the impact of the waiver granted under this subsection on the type and amount of medical assistance provided under the State plan and on the health and welfare of recipients.

"(3) A waiver granted under this subsection may include a waiver of the requirements of section 1902(a)(1) (relating to statewideness), section 1902(a)(10)(B) (relating to comparability), and section 1902(a)(10)(C)(i)(III) (relating to income and resource rules applicable in the community). Subject to a termination by the State (with notice to the Secretary) at any time, a waiver under this subsection shall be for an initial term of 3 years and, upon the request of a State, shall be extended for additional 5-year periods unless the Secretary determines that for the previous waiver period the assurances provided under paragraph (2) have not been met. A waiver may provide, with respect to post-eligibility treatment of income of all individuals receiving services under the waiver, that the maximum amount of the individual's income which may be disregarded for any month is equal to the amount that may be allowed for that purpose under a waiver under subsection (c).

"(4) A waiver under this subsection may, consistent with paragraph (2), provide medical assistance to individuals for case management services, homemaker/home health aide services and personal care services, adult day health services, respite care, and other medical and social services that can contribute to the health and well-being of individuals and their ability to reside in a community-based care setting.

"(5)(A) In the case of a State having a waiver approved under this subsection, notwithstanding any other provision of section 1903 to the contrary, the total amount expended by the State for medical assistance with respect to skilled nursing facility services, intermediate care facility services, and home and community-based services under the State plan for individuals 65 years of age or older during a waiver year under this subsection may not exceed the projected amount determined under subparagraph (B).

"(B) For purposes of subparagraph (A), the projected amount under this subparagraph is the sum of the following:

"(i) The aggregate amount of the State's medical assistance under this title for skilled nursing facility services and intermediate care facility services furnished to individuals who have attained the age of 65 for the base year increased by a percentage which is equal to the lesser of 7 percent times the number of years beginning after the base year and ending before the waiver year involved or the sum of—

"(I) the percentage increase (based on an appropriate market-basket index representing the costs of elements of such services) between the base year and the waiver year involved, plus

"(II) the percentage increase between the base year and the waiver year involved in the number of residents in the State who have attained the age of 65, plus

"(III) 2 percent for each year beginning after the base year and ending before the waiver year.

"(ii) The aggregate amount of the State's medical assistance under this title for home and community-based services for individuals who have attained the age of 65 for the base year increased by a percentage which is equal to the lesser of 7 percent times the number of years beginning after the base year and ending before the waiver year involved or the sum of—

"(I) the percentage increase (based on an appropriate market-basket index representing the costs of elements of such services) between the base year and the waiver year involved, plus

"(II) the percentage increase between the base year and the waiver year involved in the number of residents in the State who have attained the age of 65, plus

"(III) 2 percent for each year beginning after the base year and ending before the waiver year.

"(iii) The Secretary shall develop and promulgate by regulation (by not later than October 1, 1989)—

"(I) a method, based on an index of appropriately weighted indicators of changes in the wages and prices of the mix of goods and services which comprise both skilled nursing facility services and intermediate care facility services (regardless of the source of payment for such services), for projecting the percentage increase for purposes of clause (i)(I);

"(II) a method, based on an index of appropriately weighted indicators of changes in the wages and prices of the mix of goods and services which comprise home- and community-based services (regardless of the source of payment for such services), for projecting the percentage increase for purposes of clause (ii)(I); and

"(III) a method for projecting, on a State specific basis, the percentage increase in the number of residents in each State who are over 75 years of age for any period.

Effective on and after the date the Secretary promulgates the regulation under clause (iii), any reference in this subparagraph to the 'lesser of 7 percent' shall be deemed to be a reference to the 'greater of 7 percent'.

"(C) In this paragraph:

"(i) The term 'home- and community-based services' includes services described in sections 1905(a)(7) and 1905(a)(8), services described in subsection (c)(4)(B), services described in paragraph (4)(B), personal care services, and services furnished pursuant to a waiver under subsection (c).

"(ii)(I) Subject to subclause (II), the term 'base year' means the most recent year (ending before the date of the enactment of this subsection) for which actual final expenditures under this title have been reported to, and accepted by, the Secretary.

"(II) For purposes of subparagraph (C), in the case of a State that does not report expenditures on the basis of the age categories described in such subparagraph for a year ending before the date of the enactment of this subsection, the term 'base year' means fiscal year 1989.

"(iii) The term 'intermediate care facility services' does not include services furnished in an institution certified in accordance with section 1905(d).

"(6)(A) A determination by the Secretary to deny a request for a waiver (or extension of waiver) under this subsection shall be subject to review to the extent provided under section 1116(b).

"(B) Notwithstanding any other provision of this Act, if the Secretary denies a request of the State for an extension of a waiver under this subsection, any waiver under this subsection in effect on the date such request is made shall remain in effect for a period of not less than 90 days after the date on which the Secretary denies such request (or, if the State seeks review of such determination in accordance with subparagraph (A), the date on which a final determination is made with respect to such review).".

(2) The amendments made by paragraph (1) shall become effective on January 1, 1988.

(b) CONFORMING AMENDMENTS.—

(1) Section 1902(a)(10)(A)(ii)(VI) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)(VI)) is amended by striking "section 1915(c)" each place it appears and inserting "subsection (c) or (d) of section 1915".

(2) Section 1915(h) of such Act, as redesignated by subsection (a), is amended by striking "(c)" and inserting in lieu thereof "(c) or (d)".

(c) Extension of Waiver.—In the case of a State which, as of December 1, 1987, has a waiver approved with respect to elderly individuals under section 1915(c) of the Social Security Act, which waiver is scheduled to expire before July 1, 1988, if the State notifies the Secretary of Health and Human Services of the State's intention to file an application for a waiver under section 1915(d) of such Act (as amended by subsection (a) of this section), the Secretary shall extend approval of the State's waiver, under section 1915(c) of such Act, on the same terms and conditions through September 30, 1988.

SEC. 4103. PHYSICIANS' SERVICES FURNISHED BY DENTISTS.

(a) Clarifying Coverage.—Section 1905(a)(5) of the Social Security Act (42 U.S.C. 1396d(a)(5)) is amended by inserting "(A)" after "(5)" and by inserting before the semicolon at the end the following: ", and (B) medical and surgical services furnished by a dentist (described in section 1861(r)(2)) to the extent such services may be performed under State law either by a doctor of medicine or by a doctor of dental surgery or dental medicine and would be described in subparagraph (A) if furnished by a physician (as defined in section 1861(r)(1))".

(b) Effective Date.—

(1) The amendment made by subsection (a) applies (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1988, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendment made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act.

SEC. 4104. OPTIONAL MEDICAID COVERAGE OF INDIVIDUALS IN CERTAIN STATES RECEIVING ONLY OPTIONAL STATE SUPPLEMENTARY PAYMENTS.

Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(1) by striking "or" at the end of subclause (IX) and inserting "or" at the end of subclause (X); and

(2) by adding at the end the following new subclause:

"(XI) who receive only an optional State supplementary payment based on need and paid on a regular basis, equal to the difference between the individual's countable income and the income standard used to determine eligibility for such supplementary payment (with countable income being the income remaining after deductions as established by the State pursuant to standards that are more restrictive than the standards for supplementary security income benefits under title XVI), which are available to all individuals in the State (but which may be based on different income standards by political subdivision according to cost of living differences), and which are paid by a State that does not have an agreement with the Secretary under section 1616 or 1634.".

SEC. 4105. CLARIFICATION OF COVERAGE OF CLINIC SERVICES FURNISHED TO HOMELESS OUTSIDE FACILITY.

(a) In General.—Section 1905(a)(9) of the Social Security Act (42 U.S.C. 1396d(a)(9)) is amended by inserting before the semicolon at the end the following: ", including such services furnished outside the clinic by clinic personnel to an eligible individual who does not reside in a permanent dwelling or does not have a fixed home or mailing address".

(b) Effective Date.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1988, without regard to whether regulations to implement such amendment are promulgated by such date.

SEC. 4106. MEDICALLY NEEDY INCOME LEVELS FOR CERTAIN 2-MEMBER COUPLES IN CALIFORNIA.

For purposes of section 1903(f)(1)(B) of the Social Security Act, for payments made to California on or after July 1, 1983, in the case of a family consisting only of two individuals both of whom are adults and at least one of whom is aged, blind, or disabled, the "highest amount which would ordinarily be paid to a family of the same size" under the State's plan approved under part A of title IV of such Act shall, at California's option, be the amount determined by the State agency to be the amount of the aid which would ordinarily be payable under such plan to a family which consists of one adult and two children and which is without any income or resources. Section 1902(a)(10)(C)(i)(III) of the Social Security Act shall not prevent California from establishing (under the previous sentence) an applicable income limitation for families described in that sentence which is greater than the income limitation applicable to other families, if California has an applicable income limitation under section 1903(f) of such Act which is equal to the maximum applicable income limitation permitted consistent with paragraph (1)(B) of such section for families other than those described in the previous sentence.

PART 2—OTHER PROVISIONS

SEC. 4111. INCREASING THE MAXIMUM ANNUAL MEDICAID PAYMENTS THAT MAY BE MADE TO THE COMMONWEALTHS AND TERRITORIES.

(a) In General.—Subsection (c) of section 1108 of the Social Security Act (42 U.S.C. 1308) is amended to read as follows:

"(c) The total amount certified by the Secretary under title XIX with respect to a fiscal year for payment to—

"(1) Puerto Rico shall not exceed (A) $73,400,000 for fiscal year 1988, (B) $76,200,000 for fiscal year 1989, and (C) $79,000,000 for fiscal year 1990 (and each succeeding fiscal year);

"(2) the Virgin Islands shall not exceed (A) $2,430,000 for fiscal year 1988, (B) $2,515,000 for fiscal year 1989, and (C) $2,600,000 for fiscal year 1990 (and each succeeding fiscal year);

"(3) Guam shall not exceed (A) $2,320,000 for fiscal year 1988, (B) $2,410,000 for fiscal year 1989, and (C) $2,500,000 for fiscal year 1990 (and each succeeding fiscal year);

"(4) the Northern Mariana Islands shall not exceed (A) $636,700 for fiscal year 1988, (B) $693,350 for fiscal year 1989, and (C) $750,000 for fiscal year 1990 (and each succeeding fiscal year); and

"(5) American Samoa shall not exceed (A) $1,330,000 for fiscal year 1988, (B) $1,390,000 for fiscal year 1989, and (C) $1,450,000 for fiscal year 1990 (and each succeeding fiscal year).".

(b) Effective Date.—The amendment made by subsection (a) shall apply to payments for fiscal years beginning with fiscal year 1988.

SEC. 4112. ADJUSTMENT IN MEDICAID PAYMENT FOR INPATIENT HOSPITAL SERVICES FURNISHED BY DISPROPORTIONATE SHARE HOSPITALS.

(a) Implementation of Requirement.—

(1) A State's plan under title XIX of the Social Security Act shall not be considered to meet the requirement of section 1902(a)(13)(A) of such Act (insofar as it requires payments to hospitals to take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs), as of July 1, 1988, unless the State has submitted to the Secretary of Health and Human Services, by not later than such date, an amendment to such plan that—

(A) specifically defines the hospitals so described (and includes in such definition any disproportionate share hospital described in subsection (b)(1) which meets the requirement of subsection (d)), and

(B) provides, effective for inpatient hospital services provided not later than July 1, 1988, for an appropriate increase in the rate or amount of payment for such services provided by such hospitals, consistent with subsection (c).

(2)(A) In order to be considered to have met such requirement of section 1902(a)(13)(A) as of July 1, 1989, the State must submit to the Secretary of Health and Human Services by not later than such date, the State plan amendment described in paragraph (1), consistent with subsection (c).

(B) In order to be considered to have met such requirement of section 1902(a)(13)(A) as of July 1, 1990, the State must submit to the Secretary of Health and Human Services by not later than such date, the State plan amendment described in paragraph (1), consistent with subsection (c).

The Secretary shall, not later than June 30 of each year in which the State is required to submit an amendment under this subsection, review each such amendment for compliance with such requirement and by such date shall approve or disapprove each such amendment. If the Secretary disapproves such an amendment, the State shall immediately submit a revised amendment which meets such requirement. The requirement of this subsection may not be waived under section 1915(b)(4) of the Social Security Act.

(b) Hospitals Deemed Disproportionate Share.—

(1) For purposes of subsection (a)(1), a hospital which meets the requirement of subsection (d) is deemed to be a disproportionate share hospital if—

(A) the hospital's medicaid inpatient utilization rate (as defined in paragraph (2)) is at least one standard deviation above the mean medicaid inpatient utilization rate for hospitals receiving medicaid payments in the State; or

(B) the hospital's low-income utilization rate (as defined in paragraph (3)) exceeds 25 percent.

(2) For purposes of paragraph (1)(A), the term "medicaid inpatient utilization rate" means, for a hospital, a fraction (expressed as a percentage), the numerator of which is the hospital's number of inpatient days attributable to patients who (for such days) were eligible for medical assistance under the State plan approved under title XIX of the Social Security Act in a period, and the denominator of which is the total number of the hospital's inpatient days in that period.

(3) For purposes of paragraph (1)(B), the term "low-income utilization rate" means, for a hospital, the sum of—

(A) the fraction (expressed as a percentage)—

(i) the numerator of which is the sum (for a period) of (I) the total revenues paid the hospital for patient services under a State plan under title XIX of the Social Security Act and (II) the amount of the cash subsidies for patient services received directly from State and local governments, and

(ii) the denominator of which is the total amount of revenues of the hospital for patient services (including the amount of such cash subsidies) in the period; and

(B) a fraction (expressed as a percentage)—

(i) the numerator of which is the total amount of the hospital's charges for inpatient hospital services which are attributable to charity care in a period, and

(ii) the denominator of which is the total amount of the hospital's charges for inpatient hospital services in the hospital in the period.

The numerator under subparagraph (B)(i) shall not include contractual allowances and discounts (other than for indigent patients not eligible for medical assistance under a State plan approved under title XIX of the Social Security Act).

(c) PAYMENT ADJUSTMENT.—In order to be consistent with this subsection, a payment adjustment for a disproportionate share hospital must either—

(1) be in an amount equal to the product of (A) the amount paid under the State plan to the hospital for operating costs for inpatient hospital services (of the kind described in section 1886(a)(4)), and (B) the hospital's disproportionate share adjustment percentage (established under section 1886(d)(5)(F)(iv)); or

(2) provide for a minimum specified additional payment amount (or increased percentage payment) and for an increase in such a payment amount (or percentage payment) in proportion to the percentage by which the hospital's medicaid utilization rate (as defined in subsection (b)(2)) exceeds one standard deviation above the mean medicaid inpatient utilization rate for hospitals receiving medicaid payments in the State;

except that, for purposes of paragraphs (2)(A) and (2)(B), the payment adjustment for a disproportionate share hospital is consistent with this subsection if the appropriate increase in the rate or amount of payment is equal to one-third of the increase otherwise applicable under subsection (c) (in the case of paragraph (2)(A)) and two-thirds of such increase (in the case of paragraph (2)(B)).

(d) REQUIREMENT TO QUALIFY AS DISPROPORTIONATE SHARE HOSPITAL.—

(1) Except as provided in paragraph (2), no hospital may be defined or deemed as a disproportionate share hospital under a State plan under title XIX of the Social Security Act or under subsection (b) of this section unless the hospital has at least 2 obstetricians who have staff privileges at the hospital and who have agreed to provide obstetric services to individuals who are entitled to medical assistance for such services under such State plan.

(2)(A) Paragraph (1) shall not apply to a hospital—

(i) the inpatients of which are predominantly individuals under 18 years of age; or

(ii) which does not offer nonemergency obstetric services to the general population as of the date of the enactment of this Act.

(B) In the case of a hospital located in a rural area (as defined for purposes of section 1886 of the Social Security Act), in paragraph (1) the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures.

(e) SPECIAL RULE.—A State plan shall be considered to meet the requirement of section 1902(a)(13)(A) (insofar as it requires payments to hospitals to take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs) without regard to the requirement of subsection (a) if the plan provided for payment adjustments for disproportionate share hospitals as of January 1, 1984, and if the aggregate amount of the payment adjustments under the plan for such hospitals is not less than the aggregate amount of such adjustments otherwise required to be made under such subsection.

SEC. 4113. HMO-RELATED PROVISIONS.

(a) TREATMENT OF GARDEN STATE HEALTH PLAN.—

(1) Section 1903(m) of the Social Security Act (42 U.S.C. 1396(m)) is amended—

(A) by adding at the end the following new paragraph:

"(6)(A) For purposes of this subsection and section 1902(e)(2)(A), in the case of the State of New Jersey, the term 'contract' shall be deemed to include an undertaking by the State agency, in the State plan under this title, to operate a program meeting all requirements of this subsection.

"(B) The undertaking described in subparagraph (A) must provide—

"(i) for the establishment of a separate entity responsible for the operation of a program meeting the requirements of this subsection, which entity may be a subdivision of the State agency administering the State plan under this title;

"(ii) for separate accounting for the funds used to operate such program;

"(iii) for setting the capitation rates and any other payment rates for services provided in accordance with this subsection using a methodology satisfactory to the Secretary designed to ensure that total Federal matching payments under this title for such services will be lower than the matching payments that would be made for the same services, if provided under the State plan on a fee for service basis to an actuarially equivalent population; and

"(iv) that the State agency will contract, for purposes of meeting the requirement under section 1902(a)(30)(C), with an organization or entity that under section 1154 reviews services provided by an eligible organization pursuant to a contract under section 1876 for the purpose of determining whether the quality of services meets professionally recognized standards of health care.

"(C) The undertaking described in subparagraph (A) shall be subject to approval (and annual re-approval) by the Secretary in the same manner as a contract under this subsection.

"(D) The undertaking described in subparagraph (A) shall not be eligible for a waiver under section 1915(b)."; and

(B) in paragraph (2)(F), by striking all that precedes "a State plan may restrict" and inserting the following:

"(F) In the case of—

(i) a contract with an entity described in subparagraph (G) or with a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) which meets the requirement of subparagraph (A)(ii), or

"(ii) a program pursuant to an undertaking described in paragraph (6) in which at least 25 percent of the membership enrolled on a prepaid basis are individuals who (I) are not insured for benefits under part B of title XVIII or eligible for benefits under this title, and (II) (in the case of such individuals whose prepayments are made in whole or in part by any government entity) had the opportunity at the time of enrollment in the program to elect other coverage of health care costs that would have been paid in whole or in part by any governmental entity,".

(2) Section 1902(e)(2)(A) of such Act (42 U.S.C. 1396a(e)(2)(A)) is amended by striking "section 1903(m)(2)(G)" and inserting "paragraph (2)(G) or (6) of section 1903(m)".

(b) MEDICAID MATCHING RATE FOR QUALITY REVIEW OF HMO SERVICES.—

(1) Section 1902(a)(30)(C) of such Act (42 U.S.C. 1396a(a)(30)(C)) is amended by inserting ", an entity which meets the requirements of section 1152, as determined by the Secretary," after "title XI)".

(2) Section 1902(d) of such Act (42 U.S.C. 1396a(d)) is amended—

(i) by inserting after "contracts with" the following: "an entity which meets the requirements of section 1152, as determined by the Secretary, for the performance of the quality review functions described in subsection (a)(30)(C), or", and

(ii) by striking "organization (or organizations)" each place it appears and inserting "such an entity or organization".

(3) Section 1903(a)(3)(C) of such Act (42 U.S.C. 1396b(a)(3)(C)) is amended by inserting "or by an entity which meets the requirements of section 1152, as determined by the Secretary," after "utilization and quality control peer review organization".

(c) FREEDOM OF CHOICE.—

(1) Section 1902(a)(23) of such Act (42 U.S.C. 1396a(a)(23)) is amended—

(A) by inserting "(A)" after "Guam, provide that", and

(B) by inserting before the semicolon at the end the following: ", and (B) an enrollment of an individual eligible for medical assistance in a primary care case-management system (described in section 1915(b)(1)), a health maintenance organization, or a similar entity shall not restrict the choice of the qualified person from whom the individual may receive services under section 1905(a)(4)(C)".

(2) Section 1902(e)(2)(A) of such Act (42 U.S.C. 1396a(e)(2)(A)) is amended by striking "but only" and inserting "but, except for benefits furnished under section 1905(a)(4)(C), only".

(3) The amendments made by this subsection shall apply to services furnished on and after July 1, 1988.

(d) TECHNICAL AMENDMENTS.—

(1) Section 1903(m)(2)(F) of such Act (42 U.S.C. 1396b(m)(2)(F)) is amended by striking "subparagraph (G)" and inserting "subparagraphs (E) or (G)".

"Subtitle F—Benefits

"Sec. 170. Benefits agreements.
"Sec. 171. Content of agreements.
"Sec. 172. Review panel.
"Sec. 173. Termination.

"Subtitle G—Other Benefits

"Sec. 174. Consideration in siting facilities.
"Sec. 175. Report.

"Subtitle H—Transportation

"Sec. 180. Transportation.

(3) adding at the end of title II the following new section:

"Sec. 224. Subseabed disposal."; and

(4) adding at the end the following new titles:

"TITLE IV—NUCLEAR WASTE NEGOTIATOR

"Sec. 401. Definition.
"Sec. 402. The Office of Nuclear Waste Negotiator.
"Sec. 403. Duties of the Negotiator.
"Sec. 404. Environmental assessment of sites.
"Sec. 405. Site characterization; licensing.
"Sec. 406. Monitored retrievable storage.
"Sec. 407. Environmental impact statement.
"Sec. 408. Administrative powers of the Negotiator.
"Sec. 409. Cooperation of other departments and agencies.
"Sec. 410. Termination of the office.
"Sec. 411. Authorization of appropriations.

"TITLE V—NUCLEAR WASTE TECHNICAL REVIEW BOARD

"Sec. 501. Definitions.
"Sec. 502. Nuclear Waste Technical Review Board.
"Sec. 503. Functions.
"Sec. 504. Investigatory powers.
"Sec. 505. Compensation of members.
"Sec. 506. Staff.
"Sec. 507. Support services.
"Sec. 508. Report.
"Sec. 509. Authorization of appropriations.
"Sec. 510. Termination of the Board.".

SEC. 5066. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated from the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) for activities under such Act—

(1) in fiscal year 1988, no more than $567,000,000;

(2) in fiscal year 1989, no more than $545,000,000; and

(3) in fiscal year 1990, no more than $484,000,000.

SUBTITLE B—FEDERAL ONSHORE OIL AND GAS LEASING REFORM ACT OF 1987

SEC. 5101. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This subtitle may be cited as the "Federal Onshore Oil and Gas Leasing Reform Act of 1987".

(b) REFERENCES.—Any reference in this subtitle to the "Act of February 25, 1920", is a reference to the Act of February 25, 1920, entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain" (30 U.S.C. 181 and following).

SEC. 5102. OIL AND GAS LEASING SYSTEM.

(a) COMPETITIVE BIDDING.—Section 17(b)(1) of the Act of February 25, 1920 (30 U.S.C. 226(b)(1)), is amended to read as follows:

"(b)(1)(A) All lands to be leased which are not subject to leasing under paragraph (2) of this subsection shall be leased as provided in this paragraph to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than 2,560 acres, except in Alaska, where units shall be not more than 5,760 acres. Such units shall be as nearly compact as possible. Lease sales shall be conducted by oral bidding. Lease sales shall be held for each State where eligible lands are available at least quarterly and more frequently if the Secretary of the Interior determines such sales are necessary. A lease shall be conditioned upon the payment of a royalty at a rate of not less than 12.5 percent in amount or value of the production removed or sold from the lease. The Secretary shall accept the highest bid from a responsible qualified bidder which is equal to or greater than the national minimum acceptable bid, without evaluation of the value of the lands proposed for lease. Leases shall be issued within 60 days following payment by the successful bidder of the remainder of the bonus bid, if any, and the annual rental for the first lease year. All bids for less than the national minimum acceptable bid shall be rejected. Lands for which no bids are received or for which the highest bid is less than the national minimum acceptable bid shall be offered promptly within 30 days for leasing under subsection (c) of this section and shall remain available for leasing for a period of 2 years after the competitive lease sale.

"(B) The national minimum acceptable bid shall be $2 per acre for a period of 2 years from the date of enactment of the Federal Onshore Oil and Gas Leasing Reform Act of 1987. Thereafter, the Secretary may establish by regulation a higher national minimum acceptable bid for all leases based upon a finding that such action is necessary: (i) to enhance financial returns to the United States; and (ii) to promote more efficient management of oil and gas resources on Federal lands. Ninety days before the Secretary makes any change in the national minimum acceptable bid, the Secretary shall notify the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The proposal or promulgation of any regulation to establish a national minimum acceptable bid shall not be considered a major Federal action subject to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969.".

(b) NONCOMPETITIVE LEASING.—Section 17(c) of the Act of February 25, 1920 (30 U.S.C. 226(c)), is amended to read as follows:

"(c)(1) If the lands to be leased are not leased under subsection (b)(1) of this section or are not subject to competitive leasing under subsection (b)(2) of this section, the person first making application for the lease who is qualified to hold a lease under this Act shall be entitled to a lease of such lands without competitive bidding, upon payment of a non-refundable application fee of at least $75. A lease under this subsection shall be conditioned upon the payment of a royalty at a rate of 12.5 percent in amount or value of the production removed or sold from the lease. Leases shall be issued within 60 days of the date on which the Secretary identifies the first responsible qualified applicant.

"(2)(A) Lands (i) which were posted for sale under subsection (b)(1) of this section but for which no bids were received or for which the highest bid was less than the national minimum acceptable bid and (ii) for which, at the end of the period referred to in subsection (b)(1) of this section no lease has been issued and no lease application is pending under paragraph (1) of this subsection, shall again be available for leasing only in accordance with subsection (b)(1) of this section.

"(B) The land in any lease which is issued under paragraph (1) of this subsection or under subsection (b)(1) of this section which lease terminates, expires, is cancelled or is relinquished shall again be available for leasing only in accordance with subsection (b)(1) of this section.".

(c) RENTALS.—Section 17(d) of the Act of February 25, 1920 (30 U.S.C. 226(d)), is amended to read as follows:

"(d) All leases issued under this section, as amended by the Federal Onshore Oil and Gas Leasing Reform Act of 1987, shall be conditioned upon payment by the lessee of a rental of not less than $1.50 per acre per year for the first through fifth years of the lease and not less than $2 per acre per year for each year thereafter. A minimum royalty in lieu of rental of not less than the rental which otherwise would be required for that lease year shall be payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the lands leased.".

(d) NOTICE AND RECLAMATION.—(1) Section 17 of the Act of February 25, 1920 (30 U.S.C. 226), is amended by redesignating subsections (f) through (k) as subsections (i) through (n) and by adding the following new subsections (f) through (h):

"(f) At least 45 days before offering lands for lease under this section, and at least 30 days before approving applications for permits to drill under the provisions of a lease or substantially modifying the terms of any lease issued under this section, the Secretary shall provide notice of the proposed action. Such notice shall be posted in the appropriate local office of the leasing and land management agencies. Such notice shall include the terms or modified lease terms and maps or a narrative description of the affected lands. Where the inclusion of maps in such notice is not practicable, maps of the affected lands shall be made available to the public for review. Such maps shall show the location of all tracts to be leased, and of all leases already issued in the general area. The requirements of this subsection are in addition to any public notice required by other law.

"(g) The Secretary of the Interior, or for National Forest lands, the Secretary of Agriculture, shall regulate all surface-disturbing activities conducted pursuant to any lease issued under this Act, and shall determine reclamation and other actions as required in the interest of conservation of surface resources. No permit to drill on an oil and gas lease issued under this Act may be granted without the analysis and approval by the Secretary concerned of a plan of operations covering proposed surface-disturbing activities within the lease area. The Secretary concerned shall, by rule or regulation, establish such standards as may be necessary to ensure that an adequate bond, surety, or other financial arrangement will be established prior to the commencement of surface-disturbing activities on any lease, to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease. The Secretary shall not issue a lease or leases or approve the assignment of any lease or leases under the terms of this section to any person, association, corporation, or any subsidiary, affiliate, or person controlled by or under common control with such person, association, or corporation, during any period in which, as determined by the Secretary of the Interior or Secretary of Agriculture, such entity has failed or refused to comply in any material respect with the reclamation requirements and other standards established under this section for any prior lease to which such requirements and standards applied. Prior to making such determination with respect to any such entity the concerned Secretary shall provide such entity with adequate notification and an opportunity to comply with such reclamation requirements and other standards and shall consider whether any administrative or judicial appeal is pending. Once the entity has complied with the reclamation requirement or other standard concerned an oil or gas lease may be issued to such entity under this Act.

"(h) The Secretary of the Interior may not issue any lease on National Forest System Lands reserved from the public domain over the objection of the Secretary of Agriculture.".

(2) Section 31(h) of the Act of February 25, 1920 (30 U.S.C. 188(h)), is amended by striking out "section 17(j)" and substituting "section 17(m)".

SEC. 5103. ASSIGNMENTS.

Sections 30(a) and 30(b) of the Act of February 25, 1920 (30 U.S.C. 187a, 187b), are redesignated as sections 30A and 30B, respectively, and the third sentence of section 30A, as so redesignated, is amended to read as follows: "The Secretary shall disapprove the assignment or sublease only for lack of qualification of the assignee or sublessee or for lack of sufficient bond: Provided, however, That the Secretary may, in his discretion, disapprove an assignment of any of the following, unless the assignment constitutes the entire lease or is demonstrated to further the development of oil and gas:

"(1) A separate zone or deposit under any lease.

"(2) A part of a legal subdivision.

"(3) Less than 640 acres outside Alaska or of less than 2,560 acres within Alaska.

Requests for approval of assignment or sublease shall be processed promptly by the Secretary. Except where the assignment or sublease is not in accordance with applicable law, the approval shall be given within 60 days of the date of receipt by the Secretary of a request for such approval.".

SEC. 5104. LEASE CANCELLATION.

The first sentence of section 31(b) of the Act of February 25, 1920 (30 U.S.C. 188(b)) is amended to read as follows: "Any lease issued after August 21, 1935, under the provisions of section 17 of this Act shall be subject to cancellation by the Secretary of the Interior after 30 days notice upon the failure of the lessee to comply with any of the provisions of the lease, unless or until the leasehold contains a well capable of production of oil or gas in paying quantities, or the lease is committed to an approved cooperative or unit plan or communitization agreement under section 17(m) of this Act which contains a well capable of production of unitized substances in paying quantities.".

SEC. 5105. ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.

Section 1008 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3148) is amended as follows:

(1) Subsections (c) and (e) are deleted in their entirety.

(2) The second sentence of subsection 1008(d) is deleted.

SEC. 5106. PENDING APPLICATIONS, OFFERS, AND BIDS.

(a) Notwithstanding any other provision of this subtitle and except as provided in subsection (b) of this section, all noncompetitive oil and gas lease applications and offers and competitive oil and gas bids pending on the date of enactment of this subtitle shall be processed, and leases shall be issued under the provisions of the Act of February 25, 1920, as in effect before its amendment by this subtitle, except where the issuance of any such lease would not be lawful under such provisions or other applicable law.

(b) No noncompetitive lease applications or offers pending on the date of enactment of this subtitle for lands within the Shawnee National Forest, Illinois; the Ouachita National Forest, Arkansas; Fort Chaffee, Arkansas; or Eglin Air Force Base, Florida; shall be processed until these lands are posted for competitive bidding in accordance with section 5102 of this subtitle. If any such tract does not receive a bid equal to or greater than the national minimum acceptable bid from a responsible qualified bidder then the noncompetitive applications or offers pending for such a tract shall be reinstated and noncompetitive leases issued under the Act of February 25, 1920, as in effect before its amendment by this subtitle, except where the issuance of any such lease would not be lawful under such provisions or other applicable law. If competitive leases are issued for any such tract, then the pending noncompetitive application or offer shall be rejected.

(c) Except as provided in subsections (a) and (b) of this section, all oil and gas leasing pursuant to the Act of February 25, 1920, after the date of enactment of this subtitle shall be conducted in accordance with the provisions of this subtitle.

SEC. 5107. REGULATIONS; TEST SALE.

(a) REGULATIONS.—The Secretary shall issue final regulations to implement this subtitle within 180 days after the enactment of this subtitle. The regulations shall be effective when published in the Federal Register.

(b) TREATMENT UNDER OTHER LAW.—The proposal or promulgation of such regulations shall not be considered a major Federal action subject to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969.

(c) TEST SALE.—The Secretary may hold one or more lease sales conducted in accordance with the amendments made by this subtitle before promulgation of regulations referred to in subsection (a). Sale procedures for such sale shall be established in the notice of sale.

SEC. 5108. ENFORCEMENT.

The Act of February 25, 1920, is amended by inserting after section 40 the following new section:

"SEC. 41. ENFORCEMENT.

"(a) VIOLATIONS.—It shall be unlawful for any person:

"(1) to organize or participate in any scheme, arrangement, plan, or agreement to circumvent or defeat the provisions of this Act or its implementing regulations, or

"(2) to seek to obtain or to obtain any money or property by means of false statements of material facts or by failing to state material facts concerning:

"(A) the value of any lease or portion thereof issued or to be issued under this Act;

"(B) the availability of any land for leasing under this Act;

"(C) the ability of any person to obtain leases under this Act; or

"(D) the provisions of this Act and its implementing regulations.

"(b) PENALTY.—Any person who knowingly violates the provisions of subsection (a) of this section shall be punished by a fine of not more than $500,000, imprisonment for not more than five years, or both.

"(c) CIVIL ACTIONS.—Whenever it shall appear that any person is engaged, or is about to engage, in any act which constitutes or will constitute a violation of subsection (a) of this section, the Attorney General may institute a civil action in the district court of the United States for the judicial district in which the defendant resides or in which the violation occurred or in which the lease or land involved is located, for a temporary restraining order, injunction, civil penalty of not more than $100,000 for each violation, or other appropriate remedy, including but not limited to, a prohibition from participation in exploration, leasing, or development of any Federal mineral, or any combination of the foregoing.

"(d) CORPORATIONS.—(1) Whenever a corporation or other entity is subject to civil or criminal action under this section, any officer, employee, or agent of such corporation or entity who knowingly authorized, ordered, or carried out the proscribed activity shall be subject to the same action.

"(2) Whenever any officer, employee, or agent of a corporation or other entity is subject to civil or criminal action under this section for activity conducted on behalf of the corporation or other entity, the corporation or other entity shall be subject to the same action, unless it is shown that the officer, employee, or agent was acting without the knowledge or consent of the corporation or other entity.

"(e) REMEDIES, FINES, AND IMPRISONMENT.—The remedies, penalties, fines, and imprisonment prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies, penalties, fines, and imprisonment prescribed in this section shall be in addition to any other remedies, penalties, fines, and imprisonment afforded by any other law or regulation.

"(f) STATE CIVIL ACTIONS.—(1) A State may commence a civil action under subsection (c) of this section against any person conducting activity within the State in violation of this section. Civil actions brought by a State shall only be brought in the United States district court for the judicial district in which the defendant resides or in which the violation occurred or in which the lease or land involved is located. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to order appropriate remedies and penalties as described in subsection (c) of this section.

"(2) A State shall notify the Attorney General of the United States of any civil action filed by the State under this subsection within 30 days of filing of the action. The Attorney General of the United States shall notify a State of any civil action arising from activity conducted within that State filed by the Attorney General under this subsection within 30 days of filing of the action.

"(3) Any civil penalties recovered by a State under this subsection shall be retained by the State and may be expended in such manner and for such purposes as the State deems appropriate. If a civil action is joint-

ly brought by the Attorney General and a State, by more than one State or by the Attorney General and more than one State, any civil penalties recovered as a result of the joint action shall be shared by the parties bringing the action in the manner determined by the court rendering judgment in such action.

"(4) If a State has commenced a civil action against a person conducting activity within the State in violation of this section, the Attorney General may join in such action but may not institute a separate action arising from the same activity under this section. If the Attorney General has commenced a civil action against a person conducting activity within a State in violation of this section, that State may join in such action but may not institute a separate action arising from the same activity under this section.

"(5) Nothing in this section shall deprive a State of jurisdiction to enforce its own civil and criminal laws against any person who may also be subject to civil and criminal action under this section.".

SEC. 5109. PAYMENTS TO STATES.

Section 35 of the Act of February 25, 1920 (30 U.S.C. 191) is amended by adding the following at the end thereof: "In determining the amount of payments to States under this section, the amount of such payments shall not be reduced by any administrative or other costs incurred by the United States.".

SEC. 5110. REPORT.

The Secretary shall submit annually for 5 years after enactment of this subtitle to the Congress a report containing appropriate information to facilitate congressional monitoring of this subtitle. Such report shall include, but not be limited to—

(1) the number of acres leased, and the number of leases issued, competitively and noncompetitively;

(2) the amount of revenue received from bonus bids, filing fees, rentals, and royalties;

(3) the amount of production from competitive and noncompetitive leases; and

(4) such other data and information as will facilitate—

(A) an assessment of the onshore oil and gas leasing system, and

(B) a comparison of the system as revised by this subtitle with the system in operation prior to the enactment of this subtitle.

SEC. 5111. LAND USE STUDY.

The National Academy of Sciences and the Comptroller General of the United States shall conduct a study of the manner in which oil and gas resources are considered in the land use plans developed by the Secretary of the Interior in accordance with provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743) and the Secretary of Agriculture in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476), as amended by the National Forest Management Act of 1976 (90 Stat. 2949), and recommend any improvements that may be necessary to ensure that—

(1) potential oil and gas resources are adequately addressed in planning documents;

(2) the social, economic, and environmental consequences of exploration and development of oil and gas resources are determined; and

(3) any stipulations to be applied to oil and gas leases are clearly identified.

SEC. 5112. LANDS NOT SUBJECT TO OIL AND GAS LEASING.

The Act of February 25, 1920, is amended by adding the following at the end thereof:

"SEC. 43. LANDS NOT SUBJECT TO OIL AND GAS LEASING.

"(a) PROHIBITION.—The Secretary shall not issue any oil and gas lease under this Act on any of the following Federal lands:

"(1) Lands recommended for wilderness allocation by the surface managing agency.

"(2) Lands within Bureau of Land Management wilderness study areas.

"(3) Lands designated by Congress as wilderness study areas, except where oil and gas leasing is specifically allowed to continue by the statute designating the study area.

"(4) Lands within areas allocated for wilderness or further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document numbered 96-119), unless such lands are allocated to uses other than wilderness by a land and resource management plan or have been released to uses other than wilderness by an act of Congress.

"(b) EXPLORATION.—In the case of any area of National Forest or public lands subject to this section, nothing in this section shall affect any authority of the Secretary of the Interior (or for National Forest Lands reserved from the public domain, the Secretary of Agriculture) to issue permits for exploration for oil and gas by means not requiring construction of roads or improvement of existing roads if such activity is conducted in a manner compatible with the preservation of the wilderness environment.".

SEC. 5113. SHORT TITLE.

The Act of February 25, 1920, is amended by inserting after section 43 the following new section:

"SEC. 44. SHORT TITLE.

"This Act may be cited as the 'Mineral Leasing Act'.".

SUBTITLE C—LAND AND WATER CONSERVATION FUND AND TONGASS TIMBER SUPPLY FUND

SEC. 5201. LAND AND WATER CONSERVATION FUND ACT AMENDMENTS.

(a) ADMISSION FEES.—Section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(a)) is amended as follows:

(1) Paragraph (1) is amended by striking out "$10" and inserting in lieu thereof "$25" in the first sentence.

(2) Paragraph (1) is further amended by striking out "(1)" and inserting in lieu thereof "(1)(A)" and adding the following new subparagraph at the end thereof:

"(B) For admission into a specific designated unit of the National Park System, or into several specific units located in a particular geographic area, the Secretary is authorized to make available an annual admission permit for a reasonable fee. The fee shall not exceed $15 regardless of how many units of the park system are covered. The permit shall convey the privileges of, and shall be subject to the same terms and conditions as, the Golden Eagle Passport, except that it shall be valid only for admission into the specific unit or units of the National Park System indicated at the time of purchase.".

(3) Paragraph (2) is amended by adding the following sentences at the end thereof: "The fee for a single-visit permit at any designated area applicable to those persons entering by private, noncommercial vehicle shall be no more than $5 per vehicle. The single-visit permit shall admit the permittee and all persons accompanying him in a single vehicle. The fee for a single-visit permit at any designated area applicable to those persons entering by any means other than a private noncommercial vehicle shall be no more than $3 per person. Except as otherwise provided in this subsection, the maximum fee amounts set forth in this paragraph shall apply to all designated areas.".

(4) Paragraph (3) is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of this Act, no admission fee may be charged at any unit of the National Park System which provides significant outdoor recreation opportunities in an urban environment and to which access is publicly available at multiple locations.".

(5) Add the following new paragraphs:

"(6)(A) No later than 60 days after the date of enactment of this paragraph, the Secretary of the Interior shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report on the entrance fees proposed to be charged at units of the National Park System. The report shall include a list of units of the National Park System and the entrance fee proposed to be charged at each unit. The Secretary of the Interior shall include in the report an explanation of the guidelines used in applying the criteria in subsection (d).

"(B) Following submittal of the report to the respective committees, any proposed changes to matters covered in the report, including the addition or deletion of park units or the increase or decrease of fee levels at park units shall not take effect until 60 days after notice of the proposed change has been submitted to the committees.

"(7) No admission fee may be charged at any unit of the National Park System for admission of any person 16 years of age or less.

"(8) No admission fee may be charged at any unit of the National Park System for admission of organized school groups or outings conducted for educational purposes by schools or other bona fide educational institutions.

"(9) No admission fee may be charged at the following units of the National Park System: U.S.S. Arizona Memorial, Independence National Historical Park, any unit of the National Park System within the District of Columbia, Arlington House—Robert E. Lee National Memorial, San Juan National Historic Site, and Canaveral National Seashore.

"(10) For each unit of the National Park System where an admission fee is collected, the Director shall annually designate at least one day during periods of high visitation as a 'Fee-Free Day' when no admission fee shall be charged.

"(11) In the case of the following parks, the fee for a single-visit permit applicable to those persons entering by private, noncommercial vehicle (the permittee and all persons accompanying him in a single vehicle) shall be no more than $10 per vehicle and the fee for a single-visit permit applicable to persons entering by any means other than a private noncommercial vehicle shall be no more than $5 per person: Yellowstone National Park and Grand Teton National Park and after the end of fiscal year 1990, Grand Canyon National Park. In the case of Yellowstone and Grand Teton, a single-visit fee collected at one unit shall also admit the vehicle or person who paid such fee for a single-visit to the other unit.

"(12) Notwithstanding section 203 of the Alaska National Interest Lands Conservation Act, the Secretary may charge an ad-

mission fee under this section at Denali National Park and Preserve in Alaska."

(b) Visitor Reservation Services.—Section 4(f) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(f)) is amended to read as follows:

"(f) The head of any Federal agency, under such terms and conditions as he deems appropriate, may contract with any public or private entity to provide visitor reservation services. Any such contract may provide that the contractor shall be permitted to deduct a commission to be fixed by the agency head from the amount charged the public for providing such services and to remit the net proceeds therefrom to the contracting agency.".

(c) Special Provisions.—Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a) is amended by adding the following new subsections at the end thereof:

"(i)(1) Except in the case of fees collected by the United States Fish and Wildlife Service or the Tennessee Valley Authority, all receipts from fees collected pursuant to this section by any Federal agency (or by any public or private entity under contract with a Federal agency) shall be covered into a special account for that agency established in the Treasury of the United States. Fees collected by the Secretary of Agriculture pursuant to this subsection shall continue to be available for the purposes of distribution to States and counties in accordance with applicable law.

"(2) Amounts covered into the special account for each agency during each fiscal year shall, after the end of such fiscal year, be available for appropriation solely for the purposes and in the manner provided in this subsection. No funds shall be transferred from fee receipts made available under this Act to each unit of the national park system: Provided, however, That in making appropriations, funds derived from such fees may be used for any purpose authorized therein. Funds credited to the special account shall remain available until expended.

"(3) For agencies other than the National Park Service, such funds shall be made available for resource protection, research, interpretation, and maintenance activities related to resource protection in areas managed by that agency at which outdoor recreation is available. To the extent feasible, such funds should be used for purposes (as provided for in this paragraph) which are directly related to the activities which generated the funds, including but not limited to water-based recreational activities and camping.

"(4) Amounts covered into the special account for the National Park Service shall be allocated among park system units in accordance with subsection (j) for obligation or expenditure by the Director of the National Park Service for the following purposes:

"(A) In the case of receipts from the collection of admission fees: for resource protection, research, and interpretation at units of the National Park System.

"(B) In the case of receipts from the collection of user fees: for resource protection, research, interpretation, and maintenance activities related to resource protection at units of the National Park System.

"(j)(1) 10 percent of the funds made available to the Director of the National Park Service under subsection (i) in each fiscal year shall be allocated among units of the National Park System on the basis of need in a manner to be determined by the Director.

"(2) 40 percent of the funds made available to the Director of the National Park Service under subsection (i) in each fiscal year shall be allocated among units of the National Park System in accordance with paragraph (3) of this subsection and 50 percent shall be allocated in accordance with paragraph (4) of this subsection.

"(3) The amount allocated to each unit under this paragraph for each fiscal year shall be a fraction of the total allocation to all units under this paragraph. The fraction for each unit shall be determined by dividing the operating expenses at that unit during the prior fiscal year by the total operating expenses at all units during the prior fiscal year.

"(4) The amount allocated to each unit under this paragraph for each fiscal year shall be a fraction of the total allocation to all units under this paragraph. The fraction for each unit shall be determined by dividing the user fees and admission fees collected under this section at that unit during the prior fiscal year by the total of user fees and admission fees collected under this section at all units during the prior fiscal year.

"(5) Amounts allocated under this subsection to any unit for any fiscal year and not expended in that fiscal year shall remain available for expenditure at that unit until expended.

"(k) When authorized by the head of the collecting agency, volunteers at designated areas may sell permits and collect fees authorized or established pursuant to this section. The head of such agency shall ensure that such volunteers have adequate training regarding—

"(1) the sale of permits and the collection of fees,

"(2) the purposes and resources of the areas in which they are assigned, and

"(3) the provision of assistance and information to visitors to the designated area.

The Secretary shall require a surety bond for any such volunteer performing services under this subsection. Funds available to the collecting agency may be used to cover the cost of any such surety bond. The head of the collecting agency may enter into arrangements with qualified public or private entities pursuant to which such entities may sell (without cost to the United States) annual admission permits (including Golden Eagle Passports) at any appropriate location. Such arrangements shall require each such entity to reimburse the United States for the full amount to be received from the sale of such permits at or before the agency delivers the permits to such entity for sale.

"(l)(1) Where the National Park Service provides transportation to view all or a portion of any unit of the National Park System, the Director may impose a charge for such service in lieu of an admission fee under this section. The charge imposed under this paragraph shall not exceed the maximum admission fee under subsection (a).

"(2) Notwithstanding any other provision of law, half of the charges imposed under paragraph (1) shall be retained by the unit of the National Park System at which the service was provided. The remainder shall be covered into the special account referred to in subsection (i) in the same manner as receipts from fees collected pursuant to this section. Fifty percent of the amount retained shall be expended only for maintenance of transportation systems at the unit where the charge was imposed. The remaining 50 percent of the retained amount shall be expended only for activities related to resource protection at such units.

"(m) Where the primary public access to a unit of the National Park System is provided by a concessioner, the Secretary may charge an admission fee at such units only to the extent that the total of the fee charged by the concessioner for access to the unit and the admission fee does not exceed the maximum amount of the admission fee which could otherwise be imposed under subsection (a).".

(d) Repeals.—(1) Title I of Public Law 96-514 is amended by striking out the following provisions which appear under the heading "Land and Water Conservation Fund": "Notwithstanding the provisions of Public Law 90-401, revenues from recreation fee collections by Federal agencies shall hereafter be paid into the Land and Water Conservation Fund, to be available for appropriation for any or all purposes authorized by the Land and Water Conservation Fund Act of 1965, as amended, without regard to the source of such revenues.".

(2) Section 402 of the Act of October 12, 1979 (93 Stat. 664), is hereby repealed.

(3) The seventh paragraph of title I of the Energy and Water Development Appropriation Act, 1982, entitled "Special Recreation Use Fees" is hereby repealed.

(e) Study.—(1) The Secretary of the Interior shall assess the extent to which traffic congestion and overcrowding occurs at certain park system units during times of seasonally high usage and shall conduct a study of the following—

(A) the feasibility of reducing vehicular traffic within national park system units through fee reductions for visitors traveling by bus and through other means which could shift visitation from automobiles to buses; and

(B) the feasibility of encouraging more even seasonal distribution of visitation.

(2) The study shall include a pilot project to be carried out in Yosemite National Park. For purposes of such pilot project, the Secretary may reduce the fees for admission of various classes or categories of visitors to Yosemite National Park and may reduce the admission fees imposed at the park during seasons with low visitation. A report containing the results of the study shall be transmitted to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate within 3 years after the enactment of this Act.

(f) Extension of Land and Water Conservation Fund.—(1) Section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601 and following) is amended as follows:

(A) In the matter preceding subsection (a) strike "1989" and substitute "2015".

(B) In subsection (c)(1) strike "1989" and substitute "2015".

(2) The last sentence of section 3 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601 and following) is amended to read as follows: "Moneys made available for obligation or expenditure from the fund or from the special account established under section 4(i)(1) may be obligated or expended only as provided in this Act.".

(g) Relationship to Fiscal Year 1988 Appropriations.—For purposes of legislation providing appropriations for the fiscal year 1988 to the Department of the Interior, the provisions of this section shall be treated as "permanent statutory language" establishing entrance fees for the National Park Service.

SEC. 5202. TONGASS TIMBER SUPPLY FUND

From the period beginning on October 1, 1987, and extending until September 30, 1989, the provisions of section 705(a) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 539(d)) shall not be effective. In lieu thereof, the following provision shall apply:

"There is hereby authorized to be appropriated the sum of at least $40,000,000 annually (or such sums as the Secretary of Agriculture determines necessary) to maintain the timber supply from the Tongass National Forest to dependent industry at a rate of 4,500,000,000 foot board measure per decade.".

SUBTITLE D—RECLAMATION

SEC. 5301. SALE OF BUREAU OF RECLAMATION LOANS.

(a) SALE.—The Secretary of the Interior (hereinafter in this section referred to as the "Secretary"), under such terms as the Secretary shall prescribe, shall sell or otherwise dispose of loans made pursuant to the Distribution System Loans Act (43 U.S.C. 421a-421d), the Small Reclamation Projects Act (43 U.S.C. 422a-422l), and the Rehabilitation and Betterment Act (43 U.S.C. 504-505) in such amounts as to realize net proceeds to the Federal Government of not less than $130,000,000 in the fiscal year ending September 30, 1988. In the conduct of such sales, the Secretary shall take such actions as he deems appropriate to accommodate, effectuate, and otherwise protect the rights and obligations of the United States and the borrowers under the contracts executed to provide for repayment of such loans.

(b) SAVINGS PROVISIONS.—Nothing in this section, including the prepayment or other disposition of any loan or loans, shall—

(1) except to the extent that prepayment may have been authorized heretofore, relieve the borrower from the application of the provisions of Federal Reclamation law (Act of June 17, 1902, and Acts amendatory thereof or supplementary thereto, including the Reclamation Reform Act of 1982), including acreage limitations, to the extent such provisions would apply absent such prepayment, or

(2) authorize the transfer of title to any federally owned facilities funded by the loans specified in subsection (a) of this section without a specific Act of Congress.

(c) FEES AND EXPENSES OF PROGRAM.—Proceeds from the conduct of the program authorized by this section shall be first used to pay the fees and expenses of such program and the net proceeds shall be deposited in the Treasury of the United States as miscellaneous receipts.

(d) TERMINATION.—The authority granted by this section to sell or otherwise dispose of loans shall terminate on December 31, 1988.

SEC. 5302. RECLAMATION REFORM ACT AMENDMENTS.

(a) AUDIT.—Section 224 of the Reclamation Reform Act of 1982 (Public Law 97-293) is amended by adding the following new subsections after subsection (f):

"(g) In addition to any other audit or compliance activities which may otherwise be undertaken, the Secretary of the Interior, or his designee, shall conduct a thorough audit of the compliance with the reclamation law of the United States, specifically including this Act, by legal entities and individuals subject to such law. At a minimum, the Secretary shall complete audits of those legal entities and individuals whose landholdings or operations exceed 960 acres within 3 years. The Secretary shall submit an annual written report to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs. Such report shall summarize the legal entities and individuals audited, the results of such audits, and the actions taken by the Secretary to correct any instances of noncompliance with the reclamation law.

"(h) The provisions of section 205(c) are and have been applicable to all recordable contracts executed prior to October 12, 1982, and any decision, rule, or regulation promulgated by the Department of the Interior to the contrary is hereby revoked: Provided, That notwithstanding the provisions of subsection (i), the Secretary shall not seek reimbursement for any amounts due under this subsection or section 205(c) which was due prior to the date of enactment of this subsection.

"(i) When the Secretary finds that any individual or legal entity subject to reclamation law, including this Act, has not paid the required amount for irrigation water delivered to a landholding pursuant to reclamation law, including this Act, he shall collect the amount of any underpayment with interest accruing from the date the required payment was due until paid. The interest rate shall be determined by the Secretary of the Treasury on the basis of the weighted average yield of all interest bearing marketable issues sold by the Treasury during the period of underpayment.".

(b) REVOCABLE TRUSTS.—Section 214 of the Reclamation Reform Act of 1982 (Public Law 97-293) is amended by inserting "(a)" after "214" and by adding the following new subsection at the end thereof:

"(b) Lands placed in a revocable trust shall be attributable to the grantor if—

"(1) the trust is revocable at the discretion of the grantor and revocation results in the title to such lands reverting either directly or indirectly to the grantor; or

"(2) the trust is revoked or terminated by its terms upon the expiration of a specified period of time and the revocation or termination results in the title to such lands reverting either directly or indirectly to the grantor.".

SUBTITLE E—PANAMA CANAL

SEC. 5401. REFERENCE TO THE PANAMA CANAL ACT OF 1979.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Panama Canal Act of 1979 (22 U.S.C. 3601 and following).

PART 1—PANAMA CANAL REAUTHORIZATION

SEC. 5411. OPERATING EXPENSES.

There is authorized to be appropriated from the Panama Canal Commission Fund to the Panama Canal Commission (hereafter in this part referred to as the "Commission") for the fiscal year beginning October 1, 1987, not to exceed $467,050,000, for necessary expenses of the Commission incurred under the Panama Canal Act of 1979 (22 U.S.C. 3601 and following), including expenses for—

(1) the hire of passenger motor vehicles and aircraft;

(2) the purchase of passenger motor vehicles as may be necessary for fiscal year 1988, the number and price of which shall not exceed the amount provided in appropriation Acts; except that large heavy-duty passenger sedans used to transport Commission employees across the Isthmus of Panama may be purchased for fiscal year 1988 without regard to price limitations set forth in applicable regulations of any department or agency of the United States;

(3) official receptions and representation expenses, except that not more than $43,000 may be made available for such expenses, of which (A) not more than $10,000 may be made available for such expenses of the Supervisory Board of the Commission, (B) not more than $5,000 may be made available for such expenses of the Secretary of the Commission, and (C) not more than $28,000 may be made available for such expenses of the Administrator of the Commission;

(4) the procurement of expert and consultant services as provided in section 3109 of title 5, United States Code;

(5) a residence for the Administrator of the Commission;

(6) uniforms, or allowances therefor, as authorized by section 5901 and 5902 of title 5, United States Code;

(7) disbursements by the Administrator of the Commission for employee recreation and community projects; and

(8) the operation of guide services.

SEC. 5412. CAPITAL OUTLAY.

Of any funds appropriated pursuant to section 5411, not more than $37,000,000 (which is authorized to remain available until expended) may be made available for the acquisition, construction, replacement and improvements of facilities, structures, and equipment required by the Commission.

SEC. 5413. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.

In addition to the amount authorized to be appropriated by section 5411, there are authorized to be appropriated to the Commission for the fiscal year 1988 such amounts as may be necessary for—

(1) increases in salary, pay, retirement, and other employee benefits provided by law;

(2) covering payments to Panama under paragraph 4(a) of Article XIII of the Panama Canal Treaty of 1977, as provided by section 1341(a) of the Panama Canal Act of 1979 (22 U.S.C. 3751(a)); and

(3) increased costs for fuel.

SEC. 5414. INSURANCE.

Section 1419 (22 U.S.C. 3779) is amended by inserting "or other unpredictable events" after "marine accidents".

SEC. 5415. AUTHORITY TO LEASE OFFICE SPACE.

Notwithstanding section 210 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490), the Commission is authorized to negotiate directly and enter into contracts for the lease of, and for improvements to, real property in the United States for use by the Commission as office space, on such terms as the Commission considers to be in the interest of the United States, and to make direct payments therefor.

SEC. 5416. COMPENSATION OF BOARD MEMBERS.

Section 1102(b) (22 U.S.C. 3612(b)) is amended by inserting before the period at the end thereof the following: "or, as authorized by the Chairman of the Board, while an official Panama Canal Commission business".

SEC. 5417. SETTLEMENT OF CLAIMS.

(a) SETTLEMENT OF CLAIMS.—Section 1401(b) (22 U.S.C. 3761(b)) is amended to read as follows:

"(b) The Commission may pay not more than $50,000 on any claim described in subsection (a).".

(b) INJURIES TO VESSELS WITHOUT PILOTS.—Section 1411(b)(1) (22 U.S.C. 3771(b)(1)) is amended by striking out "adjust and pay" and all that follows through "$50,000" and inserting in lieu thereof "pay not more than $50,000 on the claim".

SEC. 5418. REPORT TO CONGRESS.

Out of the funds authorized to be appropriated by this part, the Commission shall prepare and submit to the Congress a report on—

(1) the condition of the Panama Canal and potential adverse effects on United States shipping and commerce;

(2) the effect on canal operations of the military forces under General Noriega; and

(3) the Commission's evaluation of the effect on canal operations if the Panamanian Government continues to withhold its consent to major factors in the United States Senate's ratification of the Panama Canal Treaties.

PART 2—PANAMA CANAL REVOLVING FUND

SEC. 5421. SHORT TITLE.

This part may be referred to as the "Panama Canal Revolving Fund Act".

SEC. 5422. ESTABLISHMENT OF REVOLVING FUND.

(a) ESTABLISHMENT.—Section 1302 (22 U.S.C. 3712) is amended by striking out subsections (a) through (d) and inserting in lieu thereof the following:

"SEC. 1302. (a)(1) There is established in the Treasury of the United States a revolving fund to be known as the 'Panama Canal Revolving Fund'. The Panama Canal Revolving Fund shall, subject to subsection (c), be available to the Commission to carry out the purposes, functions, and powers authorized by this Act, including for—

"(A) the hire of passenger motor vehicles and aircraft;

"(B) uniforms or allowances therefor, as authorized by sections 5901 and 5902 of title 5, United States Code;

"(C) official receptions and representation expenses of the Board, the Secretary of the Commission, and the Administrator;

"(D) the operation of guide services;

"(E) a residence for the Administrator;

"(F) disbursements by the Administrator for employee and community projects; and

"(G) the procurement of expert and consultant services as provided in section 3109 of title 5, United States Code.

"(2) On the effective date of the Panama Canal Revolving Fund Act—

"(A) the Panama Canal Commission Fund shall be terminated and the unappropriated balance, including undeposited receipts as of the close of business on the day before the effective date of the Panama Canal Revolving Fund Act, shall be transferred to the Panama Canal Revolving Fund;

"(B) the unexpended balance of appropriations to the Commission, as of the close of business on the day before the effective date of the Panama Canal Revolving Fund Act, shall be transferred to the Panama Canal Revolving Fund, and such amounts, including amounts appropriated for capital expenditures, shall remain available until expended;

"(C) the assets and liabilities recorded before such effective date under the 'Panama Canal Commission Fund' shall be recorded under the Panama Canal Revolving Fund; and

"(D) the Panama Canal Emergency Fund shall be terminated and the remaining balance shall be transferred to the Panama Canal Revolving Fund.

"(b) Upon completion of the transfers of funds under subsection (a)—

"(1) amounts attributable to interest on the investment of the United States in the Panama Canal which accrued before January 1, 1986, shall be transferred from the Panama Canal Revolving Fund to the general fund of the Treasury; and

"(2) such amounts as were appropriated to the Commission in the fiscal year which ended September 30, 1980, and for which the Commission has not reimbursed the general fund of the Treasury, shall be transferred to the general fund of the Treasury.

"(c)(1) There shall be deposited in the Panama Canal Revolving Fund, on a continuing basis, toll receipts and all other receipts of the Commission. Except as provided in section 1303 and subject to paragraph (2), no funds may be obligated or expended by the Commission in any fiscal year unless such obligation or expenditure has been specifically authorized by law.

"(2) No funds may be obligated or expended by the Commission in any fiscal year for administrative expenses except to the extent or in such amounts as are provided in appropriations Acts.

"(3) No funds may be authorized for the use of the Commission, or obligated or expended by the Commission in any fiscal year in excess of—

"(A) the amount of revenues deposited in the Panama Canal Revolving Fund during such fiscal year, plus

"(B) the amount of revenues deposited in the Panama Canal Revolving Fund before such fiscal year and remaining unexpended at the beginning of such fiscal year.

Not later than 30 days after the end of each fiscal year, the Secretary of the Treasury shall report to the Congress the amount of revenues deposited in the Panama Canal Revolving Fund during such fiscal year.

"(d) With the approval of the Secretary of the Treasury, the Commission may deposit amounts in the Panama Canal Revolving Fund in any Federal Reserve bank, any depository for public funds, or in such other places and in such manner as the Commission and the Secretary may agree.

"(e) The Committee on Appropriations of each House of Congress shall review the annual budget of the Commission, including operations and capital expenditures.".

(b) CONFORMING AMENDMENTS.—(1) The section heading for section 1302 is amended to read as follows:

"PANAMA CANAL REVOLVING FUND".

(2) The item relating to section 1302 in the table of contents of the Panama Canal Act of 1979 is amended to read as follows:

"1302. Panama Canal Revolving Fund.".

SEC. 5423. EMERGENCY AUTHORITY.

(a) GRANT OF AUTHORITY.—Section 1303 (22 U.S.C. 3713) is amended to read as follows:

"SEC. 1303. If authorizing legislation described in section 1302(c)(1) has not been enacted for a fiscal year, then the Commission may withdraw funds from the Panama Canal Revolving Fund in order to defray emergency expenses and to ensure the continuous, efficient, and safe operation of the Panama Canal, including expenses for capital projects. The authority of this section may not be used for administrative expenses. The authority of this section may be exercised only until authorizing legislation described in section 1302(c)(1) is enacted, or for a period of 24 months after the end of the fiscal year for which such authorizing legislation was last enacted, whichever occurs first. Within 60 days after the end of any calendar quarter in which expenditures are made under this section, the Commission shall report such expenditures to the appropriate committees of the Congress.".

(b) CONFORMING AMENDMENTS.—(1) The section heading for section 1303 is amended by striking out "FUND" and inserting in lieu thereof "AUTHORITY".

(2) The item relating to section 1303 in the table of contents of the Panama Canal Act of 1979 is amended by striking out "fund" and inserting in lieu thereof "authority".

SEC. 5424. BORROWING AUTHORITY.

(a) GRANT OF AUTHORITY.—Subchapter I of chapter 3 of title I (22 U.S.C. 3711 and following) is amended by adding at the end thereof the following new section:

"BORROWING AUTHORITY

"SEC. 1304. (a) The Panama Canal Commission may borrow from the Treasury, for any of the purposes of the Commission, not more than $100,000,000 outstanding at any time. For this purpose, the Commission may issue to the Secretary of the Treasury its notes or other obligations—

"(1) which shall have maturities (of not later than December 31, 1999) agreed upon by the Commission and the Secretary of the Treasury, and

"(2) which may be redeemable at the option of the Commission before maturity.

"(b) Amounts borrowed under this section shall not be available for payments to Panama under Article XIII of the Panama Canal Treaty of 1977.

"(c) Amounts borrowed under this section shall increase the investment of the United States in the Panama Canal, and repayment of such amounts shall decrease such investment.

"(d) The Commission shall report to the Congress and to the Office of Management and Budget on each exercise of borrowing authority under this section.".

(b) CONFORMING AMENDMENT.—The table of contents of the Panama Canal Act of 1979 is amended by inserting after the item relating to section 1303 the following:

"1304. Borrowing authority.".

SEC. 5425. CALCULATION OF INTEREST.

(a) CALCULATION OF INTEREST.—Section 1603 (22 U.S.C. 3793) is amended—

(1) in subsection (b)(1)(A), by striking out "appropriations to the Commission made on or after the effective date of this Act" and inserting in lieu thereof "the Panama Canal Revolving Fund,";

(2) in subsection (b)(2)(A), by striking out "covered into the Panama Canal Commission Fund pursuant to section 1302 of this Act" and inserting in lieu thereof "deposited in the Panama Canal Revolving Fund"; and

(3) by adding at the end thereof the following new subsection:

"(d) The Panama Canal Commission shall pay to the Treasury of the United States interest on the investment of the United States, as determined under this section. Such interest shall be deposited in the general fund of the Treasury.".

SEC. 5426. PAYMENTS TO THE REPUBLIC OF PANAMA.

The second sentence of section 1341(e) (22 U.S.C. 3751(e)) is amended—

(1) by striking out "and" before "(6)"; and

(2) by inserting before the period ", and (7) amounts programmed to meet working capital requirements".

SEC. 5427. BASES OF TOLLS.

Section 1602(b) (22 U.S.C 3792(b)) is amended by inserting "working capital," after "depreciation,".

SEC. 5428. TECHNICAL AND CONFORMING AMENDMENTS.

(a) APPLIANCES FOR EMPLOYEES INJURED BEFORE SEPTEMBER 7, 1916.—Section 1246 (22 U.S.C. 3683) is amended by striking out "appropriated" and inserting in lieu thereof "available".

(b) DISASTER RELIEF.—Section 1343 (22 U.S.C. 3753) is amended by striking out "available funds appropriated" and inserting in lieu thereof "funds available".

(c) CONGRESSIONAL RESTRAINTS ON PROPERTY TRANSFERS AND TAX EXPENDITURES.—Section 1344(b)(4) (22 U.S.C. 3754(b)(4)) is amended—

(1) by striking out "appropriated to or" and inserting in lieu thereof "available"; and

(2) by striking out "Panama Canal Commission Fund" and inserting in lieu thereof "Panama Canal Revolving Fund".

(d) CIVIL SERVICE RETIREMENT AND DISABILITY FUND.—Section 8348(i)(2) of title 5, United States Code, is amended by striking out "The Secretary of the Treasury shall pay to the Fund from appropriations" and inserting in lieu thereof "The Panama Canal Commission shall pay to the Fund from funds available to it".

(e) CANAL ZONE GOVERNMENT FUNDS.—Section 1301 (22 U.S.C. 3711) is amended—

(1) by amending the second sentence to read as follows: "The Commission may, to the extent of funds available to it, pay claims or make payments chargeable to such accounts, upon proper audit of such claims or payments."; and

(2) by striking out the third sentence.

SEC. 5429. EFFECTIVE DATE.

This part and the amendments made by this part take effect on January 1, 1988.

SUBTITLE F—ABANDONED MINE FUNDS IN WYOMING

SEC. 5501. ALLOCATION OF ABANDONED MINE RECLAMATION FUNDS IN WYOMING.

Notwithstanding any other provision of law, the State of Wyoming may, subject to a plan approved by the Governor, expend not more than $2,000,000 from its allocation of fiscal year 1987 appropriated funds under section 402(g) of Public Law 95-87 for direct assistance to citizens evacuated from their homes in the Rawhide and Horizon Subdivisions in Campbell County, Wyoming, due to hazards from methane and hydrogen sulfide gases.

SUBTITLE G—NUCLEAR REGULATORY COMMISSION USER FEES

SEC. 5601. USER FEES.

Section 7601(b)(1)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272; 100 Stat. 147) is amended by inserting "; except that for fiscal years 1988 and 1989, such percentage shall be increased an additional 6 percent of such costs plus all other assessments made by the Nuclear Regulatory Commission pursuant to House Joint Resolution 395, 100th Congress, 1st Session, as enacted; but in no event shall such percentage be less than a total of 45 percent of such costs in each such fiscal year" after "with respect to such fiscal year".

TITLE VI—CIVIL SERVICE AND POSTAL SERVICE PROGRAMS

SEC. 6001. PARTIAL DEFERRED PAYMENT OF LUMP-SUM CREDIT FOR CERTAIN INDIVIDUALS ELECTING ALTERNATIVE FORMS OF ANNUITIES.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (c), any lump-sum credit payable to an employee or Member pursuant to the election of an alternative form of annuity by such employee or Member under section 8343a or section 8420a of title 5, United States Code, shall be paid in accordance with the schedule under subsection (b) (instead of the schedule which would otherwise apply), if the commencement date of the annuity payable to such employee or Member occurs after January 3, 1988, and before October 1, 1989.

(b) SCHEDULE OF PAYMENTS.—The schedule of payment of any lump-sum credit subject to this section is as follows:

(1) 60 percent of the lump-sum credit shall be payable on the date on which, but for the enactment of this section, the full amount of the lump-sum credit would otherwise be payable.

(2) The remainder of the lump-sum credit shall be payable on the date which occurs 12 months after the date described in paragraph (1).

An amount payable in accordance with paragraph (2) shall be payable with interest, computed using the rate under section 8334(e)(3) of title 5, United States Code.

(c) EXCEPTIONS.—The Office of Personnel Management shall prescribe regulations under which this section shall not apply—

(1) in the case of any individual who is separated from Government service involuntarily, other than for cause on charges of misconduct or delinquency; and

(2) in the case of any individual as to whom the application of this section would be against equity and good conscience, due to a life-threatening affliction or other critical medical condition affecting such individual.

(d) ANNUITY BENEFITS NOT AFFECTED.—Nothing in this section shall affect the commencement date, the amount, or any other aspect of any annuity benefits payable under section 8343a or section 8420a of title 5, United States Code.

(e) DEFINITIONS.—For purposes of this section, the terms "lump-sum credit", "employee", and "Member" each has the meaning given such term by section 8331 or section 8401 of title 5, United States Code, as appropriate.

SEC. 6002. CONTRIBUTIONS BY THE UNITED STATES POSTAL SERVICE TO THE CIVIL SERVICE RETIREMENT AND DISABILITY FUND.

(a) ESTABLISHMENT OF POSTAL SERVICE ESCROW FUND.—There is established as a separate account in the United States Treasury, the "Postal Service Escrow Fund." Such Fund shall—

(1) have such amounts described under subsection (b)(2) deposited no later than October 31, 1988;

(2) not be available for expenditures of any amounts therein during the existence of such Fund; and

(3) cease to exist on October 1, 1989, and on such date all amounts deposited in such Fund under subsection (b)(2) shall be deposited in the Postal Service Fund established under section 2003 of title 39, United States Code.

(b) DEPOSIT OF CERTAIN SAVINGS IN CERTAIN FUNDS.—

(1) FISCAL YEAR 1988.—From all funds available to the United States Postal Service in fiscal year 1988, the Postal Service shall deposit into the Civil Service Retirement and Disability Fund established under section 8348 of title 5, United States Code, an amount of $350,000,000 in fiscal year 1988, in addition to any amount deposited pursuant to subsection (h) of such section.

(2) FISCAL YEAR 1989.—From all funds available to the United States Postal Service in fiscal year 1989, the Postal Service shall deposit into the Postal Service Escrow Fund an amount of $465,000,000 no later than October 31, 1988.

(c) CAPITAL LIMITATIONS FOR FISCAL YEARS 1988 AND 1989.—

(1) The United States Postal Service may not make any commitment or obligation to expend any monies deposited in the Postal Service Fund established under section 2003 of title 39, United States Code, for the capital investment program—

(A) in excess of $625,000,000 in fiscal year 1988; and

(B) in excess of $1,995,000,000 in fiscal year 1989.

(2) CAPITAL INVESTMENT PROGRAMS.—For the purposes of paragraph (1) the term "capital investment program" shall include all investments in long-term assets and capital investment expenditures (including direct and indirect costs associated with such investments and expenditures, such as obligations through contracts).

SEC. 6003. CONTRIBUTIONS BY THE UNITED STATES POSTAL SERVICE TO THE EMPLOYEES HEALTH BENEFITS FUND.

(a) CONTRIBUTIONS FOR CERTAIN ANNUITANTS OF THE UNITED STATES POSTAL SERVICE.—As partial payment to the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, for benefits of certain annuitants and survivor annuitants (no portion of the cost of which was paid by the Postal Service before the date of enactment of this section) the Postal Service shall pay into the Employee Health Benefits Fund $160,000,000 in fiscal year 1988, and $270,000,000 in fiscal year 1989 in addition to any amount deposited into such Fund pursuant to section 8906 of such title 5 in each such fiscal year.

(b) PAYMENT LIMITATIONS IN FISCAL YEARS 1988 AND 1989.—The partial payment required by subsection (a) of this section shall—

(1) be from all funds available to the United States Postal Service in each such fiscal year;

(2) be from funds representing savings to the United States Postal Service resulting from savings from the operating budget of the United States Postal Service in each such fiscal year; and

(3) be paid into such Fund in each such fiscal year, without—

(A) increasing borrowing under section 2005 of title 39, United States Code;

(B) using any budgetary resources other than budgetary resources derived from the operating budget of the United States Postal Service; or

(C) increasing postal rates under chapter 36 of title 39, United States Code,

for the purposes of financing such payment.

(c) IMPLEMENTATION PLANS, PROGRESS REPORTS, AND COMPLIANCE FOR FISCAL YEARS 1988 AND 1989.—

(1) IMPLEMENTATION.—No later than March 1, 1988 for fiscal year 1988, and October 1, 1988 for fiscal year 1989, the United States Postal Service shall—

(A) formulate an implementation plan specifically enumerating the methods by which the Postal Service shall make the payments required under subsection (b) and fulfill the conditions required under paragraphs (1), (2), and (3) of such subsection; and

(B) submit such plan to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives.

(2) INTERIM REPORT.—No later than July 15, 1988 for fiscal year 1988, and March 1, 1989 for fiscal year 1989, the United States Postal Service shall submit an interim report to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives on the status of meeting the guidelines and goals of the plans submitted under paragraph (1)(B), and any adjustments necessary to meet the requirements under the provisions of subsection (b) of this section for each such fiscal year.

(3) PRELIMINARY AUDIT AND REPORT BY THE GENERAL ACCOUNTING OFFICE.—No later than September 1, 1988 for fiscal year 1988, and September 1, 1989 for fiscal year 1989, the General Accounting Office shall—

(A) conduct an audit of the plans and adjustments to the plans submitted by the United States Postal Service under paragraphs (1) and (2) of this subsection and determine the extent of compliance of the Postal Service with such plans and the requirements of subsection (b) of this section; and

(B) submit a report of such audit and determinations to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives.

(4) DETERMINATION OF COMPLIANCE.—

On October 31, 1988 for fiscal year 1988, and on October 31, 1989 for fiscal year 1989, the General Accounting Office shall—

(A) make a final audit and determination of whether the United States Postal Service is in compliance with the requirements of subsection (b) of this section;

(B) submit a final report for each such fiscal year on such compliance to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives; and

(C) include in each final report submitted under subparagraph (B), such recommendations (if applicable) for any actions to enforce compliance with the provisions of subsection (b) of this section.

(5) COMPLIANCE IN FISCAL YEARS 1988 AND 1989.—Based on the determination of compliance required by subsection (c)(4) of this section for fiscal years 1988 and 1989, the Congress shall (after receiving the recommendation of the General Accounting Office under paragraph (4)(C)) determine appropriate action, if necessary, to enforce compliance with any payment limitation under subsection (b) of this section.

SEC. 6004. TECHNICAL CLARIFICATION.

For purposes of section 202 of the Balanced Budget and Emergency Deficit Reaffirmation Act of 1987, the amendments made by this title shall be considered an exception under subsection (b) of such section.

TITLE VII—VETERANS' PROGRAMS

SEC. 7001. SALES OF VENDEE LOANS WITH OR WITHOUT RECOURSE.

Section 1816(d) of title 38, United States Code, is amended—

(1) by redesignating paragraph (3) as subparagraph (C);

(2) by inserting after paragraph (2) the following:

"(3)(A) Before October 1, 1989, notes evidencing such loans may be sold with or without recourse as determined by the Administrator, with respect to specific proposed sales of such notes, to be in the best interest of the effective functioning of the loan guaranty program under this chapter, taking into consideration the comparative cost-effectiveness of each type of sale. In comparing the cost-effectiveness of conducting a proposed sale of such notes with recourse or without recourse, the Administrator shall, based on available estimates regarding likely market conditions and other pertinent factors as of the time of the sale, determine and consider—

"(i) the average amount by which the selling price for such notes sold with recourse would exceed the selling price for such notes if sold without recourse; and

"(ii) the total cost of selling such notes with recourse, including—

"(I) any estimated discount or premium;

"(II) the projected cost, based on Veterans' Administration experience with the sale of notes evidencing vendee loans with recourse and the quality of the loans evidenced by the notes to be sold, of repurchasing defaulted notes;

"(III) the total servicing cost with respect to repurchased notes, including the costs of taxes and insurance, collecting monthly payments, servicing delinquent accounts, and terminating insoluble loans;

"(IV) the costs of managing and disposing of properties acquired as the result of defaults on such notes;

"(V) the loss or gain on resale of such properties; and

"(VI) any other cost determined appropriate by the Administrator.

"(B) Not later than 60 days after making any sale described in subparagraph (A) of this paragraph occurring before October 1, 1989, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report describing—

"(i) the application of the provisions of such subparagraph, and each of the determinations required thereunder, in the case of such sale;

"(ii) the results of the sale in comparison to the anticipated results; and

"(iii) actions taken by the Administrator to facilitate the marketing of the notes involved."; and

(3) in subparagraph (C), as redesignated by clause (1) of this section—

(A) by striking out "The Administrator may sell any note securing" and inserting in lieu thereof "Beginning on October 1, 1989, the Administrator may sell any note evidencing"; and

(B) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively.

SEC. 7002. LOAN FEE EXTENSION.

Section 1829(c) of title 38, United States Code, is amended by striking out "1987" and inserting in lieu thereof "1989".

SEC. 7003. CASH SALES OF PROPERTIES ACQUIRED THROUGH FORECLOSURES.

(a) IN GENERAL.—Section 1816(d)(1) of title 38, United States Code, is amended by striking out "not more than 75 percent, nor less than 60 percent," in the first sentence and inserting in lieu thereof "not more than 65 percent, nor less than 50 percent,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of October 1, 1987.

SEC. 7004. STATUTORY CONSTRUCTION.

(a) STATUTORY CONSTRUCTION FOR PURPOSES OF THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL REAFFIRMATION ACT OF 1987.—For the purposes of subsections (a) and (b) of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), the amendments made by section 7003 achieve savings made possible by changes in program requirements.

(b) RULE FOR CONSTRUCTION OF DUPLICATE PROVISIONS.—In applying the provisions of this title and the provisions of the Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987 which make the same amendments as the provisions of this title—

(1) the identical provisions of title 38, United States Code, amended by the provisions of this title and the provisions of such Act shall be treated as having been amended only once; and

(2) in executing to title 38, United States Code, the amendments made by this title and by such Act, such amendments shall be executed so as to appear only once in the law.

TITLE VIII—BUDGET POLICY AND FISCAL PROCEDURES

SEC. 8001. DEFENSE AND DOMESTIC DISCRETIONARY SPENDING LIMITS.

(a) AGGREGATE ALLOCATIONS FOR DEFENSE.—The levels of budget authority and budget outlays for fiscal years 1988 and 1989 for major functional category 050 (National Defense) shall be:

(1) Fiscal year 1988:

(A) New budget authority, $292,000,000,000.

(B) Outlays, $285,400,000,000.

(2) Fiscal year 1989:

(A) New budget authority, $299,500,000,000.

(B) Outlays, $294,000,000,000.

(b) AGGREGATE ALLOCATIONS FOR DOMESTIC DISCRETIONARY SPENDING.—The levels of total budget authority and total budget outlays for fiscal years 1988 and 1989 for all discretionary spending in categories other than major functional category 050 (National Defense) shall be:

(1) Fiscal year 1988:

(A) New budget authority, $162,900,000,000.

(B) Outlays, $176,800,000,000.

(2) Fiscal year 1989:

(A) New budget authority, $166,200,000,000.

(B) Outlays, $185,300,000,000.

(c) FISCAL YEAR 1989 BUDGET RESOLUTION.—

(1) HOUSE OF REPRESENTATIVES.—The Committee on the Budget of the House of Representative shall report a concurrent resolution on the budget for fiscal year 1989, pursuant to section 301 of the Congressional Budget Act of 1974, in accordance with the appropriate levels of budget authority and budget outlays for major functional category 050 (National Defense) and for all discretionary spending in categories other than major functional category 050 as set forth in subsections (a)(2) and (b)(2).

(2) POINT OF ORDER IN THE SENATE ON AGGREGATE ALLOCATIONS FOR DEFENSE AND DOMESTIC DISCRETIONARY SPENDING FOR FISCAL YEAR 1989.—

(A) Except as provided in subparagraph (E), it shall not be in order in the Senate to consider any concurrent resolution on the budget for fiscal year 1989 (including a conference report thereon), or any amendment to such a resolution, that would fail to be consistent with the allocations in subsections (a) and (b) for such fiscal year.

(B) Subparagraph (A) may be waived or suspended by a vote of three-fifths of the Members of the Senate, duly chosen and sworn.

(C) If the ruling of the presiding officer of the Senate sustains a point of order raised pursuant to subparagraph (A), a vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of such ruling. Debate on any such appeal shall be limited to two hours, to be equally divided between, and controlled by, the Majority and Minority Leaders, or their designees.

(D) For purposes of this paragraph, the levels of new budget authority, spending authority as described in section 401(c)(2), outlays, and new credit authority for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(E) This paragraph shall not apply if a declaration of war by the Congress is in effect or if a resolution pursuant to section 254(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 has been enacted.

(d) ALLOCATIONS PURSUANT TO FISCAL YEAR 1989 BUDGET RESOLUTION.—(1) The allocations required to be included in the joint explanatory statement accompanying the conference report on the concurrent resolution on the budget for fiscal year 1989, pursuant to section 302(a) of the Congressional Budget Act of 1974, shall be based upon the levels set forth in subsections (a)(2) and (b)(2) of this section.

(2) The Committee on Appropriations of each House shall, after consulting with the Committee on Appropriations of the other House, make the subdivisions required under section 302(b)(1) of the Congressional Budget Act of 1974 consistent with the allocations in subsections (a)(2) and (b)(2) for fiscal year 1989.

SEC. 8002. RESTORATION OF FUNDS SEQUESTERED.

(a) ORDER RESCINDED.—Upon the enactment of this Act and House Joint Resolution 395, 100th Congress, 1st session, the orders issued by the President on October 20, 1987, and November 20, 1987, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 are hereby rescinded.

(b) AMOUNTS RESTORED.—Except as otherwise provided in sections 4001, 4041(b), and 4061, any action taken to implement the orders referred to in subsection (a) shall be reversed, and any sequesterable resource that has been reduced or sequestered by such orders is hereby restored, revived, or released and shall be available to the same extent and for the same purpose as if the orders had not been issued.

SEC. 8003. TECHNICAL AMENDMENTS TO THE CONGRESSIONAL BUDGET ACT OF 1974.

(a) REFERENCES IN SECTION.—Except as otherwise specifically provided, whenever in this section an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Congressional Budget and Impoundment Control Act of 1974.

(b) REVISION OF TABLE OF CONTENTS.—Section 1(b) is amended by striking "Disapproval of proposed deferrals" and inserting "Proposed deferrals".

(c) REDESIGNATION OF SUBPARAGRAPH HEADINGS.—Section 3(7) (as amended by section 106(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by—

(1) striking section 3(7)(C);

(2) redesignating section 3(7)(D) as 3(7)(C);

(3) redesignating section 3(7)(E) as 3(7)(D);

(4) redesignating section 3(7)(F) as 3(7)(E);

(5) redesignating section 3(7)(G) as 3(7)(F);

(6) redesignating section 3(7)(H) as 3(7)(G); and

(7) redesignating section 3(7)(I) as 3(7)(H).

(d) GRAMMATICAL CLARIFICATION OF SECTION 305(c).—Section 305(c) (as amended by section 209 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by inserting a comma after "therewith".

(e) SUBSTITUTION OF "PROPOSED" FOR "MADE" WITH REGARD TO AMENDMENTS IN COMMITTEE.—Section 252(c)(2)(F)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by section 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by striking "made" and inserting "proposed".

(f) CLARIFICATION OF BUDGET BASELINE.—Section 251(a)(6)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by section 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by striking out "and" before "contract authority" and by inserting before the semicolon at the end thereof the following: ", and that authority to provide insurance through the Federal Housing Administration Fund is continued".

SEC. 8004. PREPARATION OF PRINTED ENROLLED BILL.

(a) PREPARATION OF PRINTED ENROLLMENT.—(1) Upon the enactment of this Act enrolled as a hand enrollment, the Clerk of the House of Representatives shall prepare a printed enrollment of this Act as in the case of a bill or joint resolution to which sections 106 and 107 of title 1, United States Code, apply. Such enrollment shall be a correct enrollment of this Act as enrolled in the hand enrollment.

(2) A printed enrollment prepared pursuant to paragraph (1) may, in order to conform to customary style for printed laws, include corrections in spelling, punctuation, indentation, type face, and type size and other necessary stylistic corrections to the hand enrollment. Such a printed enrollment shall include notations (in the margins or as otherwise appropriate) of all such corrections.

(b) TRANSMITTAL TO PRESIDENT.—A printed enrollment prepared pursuant to subsection (a) shall be signed by the presiding officers of both Houses of Congress as a correct printing of the hand enrollment of this Act and shall be transmitted to the President.

(c) CERTIFICATION BY PRESIDENT; LEGAL EFFECT.—Upon certification by the President that a printed enrollment transmitted pursuant to subsection (b) is a correct printing of the hand enrollment of this Act, such printed enrollment shall be considered for all purposes as the original enrollment of this Act and as valid evidence of the enactment of this Act.

(d) ARCHIVES.—A printed enrollment certified by the President under subsection (c) shall be transmitted to the Archivist of the United States, who shall preserve it with the hand enrollment. In preparing this Act for publication in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall use the printed enrollment certified by the President under subsection (c) in lieu of the hand enrollment.

(e) HAND ENROLLMENT DEFINED.—As used in this section, the term "hand enrollment" means enrollment in a form other than the printed form required by sections 106 and 107 of title 1, United States Code, as authorized by the joint resolution entitled "Joint resolution authorizing the hand enrollment of the budget reconciliation bill and of the full-year continuing resolution for fiscal year 1988", approved December 1987 (H.J. Res. 426 of the 100th Congress).

SEC. 8005. ASSET SALES.

In the fiscal year 1989 budget process, Congress commits to pass legislation sufficient to achieve the budget summit agreement of $3,500,000,000 of asset sales in fiscal year 1989.

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SUBTITLE A—OASDI PROVISIONS

PART I—COVERAGE AND BENEFITS

SEC. 9001. COVERAGE OF INACTIVE DUTY MILITARY TRAINING.

(a) SOCIAL SECURITY ACT AMENDMENTS.—(1) Paragraph (1) of section 210(l) of the Social Security Act is amended to read as follows:

"(l)(1) Except as provided in paragraph (4), the term 'employment' shall, notwithstanding the provisions of subsection (a) of this section, include—

"(A) service performed after December 1956 by an individual as a member of a uniformed service on active duty, but such term shall not include any such service which is performed while on leave without pay, and

"(B) service performed after December 1987 by an individual as a member of a uniformed service on inactive duty training.".

(2) The second indented paragraph following subsection (s) in section 209 of such Act (relating to service in the uniformed services) is amended by striking "only his basic pay" and all that follows and inserting "only (1) his basic pay as described in chapter 3 and section 1009 of title 37, United States Code, in the case of an individual performing service to which subparagraph (A) of such section 210(l)(1) applies, or (2) his compensation for such service as determined under section 206(a) of title 37, United States Code, in the case of an individual performing service to which subparagraph (B) of such section 210(l)(1) applies.".

(b) FICA AMENDMENTS.—(1) Paragraph (1) of section 3121(m) of the Internal Revenue Code of 1986 (relating to inclusion of service in the uniformed services) is amended to read as follows:

"(1) INCLUSION OF SERVICE.—The term 'employment' shall, notwithstanding the provisions of subsection (b) of this section, include—

"(A) service performed by an individual as a member of a uniformed service on active duty, but such term shall not include any such service which is performed while on leave without pay, and

"(B) service performed by an individual as a member of a uniformed service on inactive duty training.".

(2) Paragraph (2) of section 3121(i) of such Code (relating to computation of wages for individuals performing service in the uniformed services) is amended by striking "only his basic pay" and all that follows and inserting "only (A) his basic pay as described in chapter 3 and section 1009 of title 37, United States Code, in the case of an individual performing service to which subparagraph (A) of such subsection (m)(1) applies, or (B) his compensation for such service as determined under section 206(a) of

title 37, United States Code, in the case of an individual performing service to which subparagraph (B) of such subsection (m)(1) applies.".

(c) CONFORMING AMENDMENT.—Section 229(a) of the Social Security Act is amended by striking "section 210(l)" and inserting "210(l)(1)(A)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1987.

SEC. 9002. COVERAGE OF ALL CASH PAY OF AGRICULTURAL EMPLOYEES WHOSE EMPLOYERS SPEND $2,500 OR MORE A YEAR FOR AGRICULTURAL LABOR.

(a) SOCIAL SECURITY ACT AMENDMENT.—Paragraph (2) of section 209(h) of the Social Security Act is amended by striking clause (B) and inserting "(B) the employer's expenditures for agricultural labor in such year equal or exceed $2,500;".

(b) FICA AMENDMENT.—Subparagraph (B) of section 3121(a)(8) of the Internal Revenue Code of 1986 (relating to wages) is amended by striking clause (ii) and inserting "(ii) the employer's expenditures for agricultural labor in such year equal or exceed $2,500;".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration for agricultural labor paid after December 31, 1987.

SEC. 9003. COVERAGE OF THE EMPLOYER COST OF GROUP-TERM LIFE INSURANCE.

(a) COVERAGE UNDER OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM.—

(1) SOCIAL SECURITY ACT AMENDMENT.—Clause (3) of section 209(b) of the Social Security Act is amended by striking "death" and inserting "death, except that this subsection does not apply to a payment for group-term life insurance to the extent that such payment is includible in the gross income of the employee under the Internal Revenue Code of 1986".

(2) FICA AMENDMENT.—Subparagraph (C) of section 3121(a)(2) of the Internal Revenue Code of 1986 (relating to wages) is amended by striking "death" and inserting "death, except that this paragraph does not apply to a payment for group-term life insurance to the extent that such payment is includible in the gross income of the employee".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to group-term life insurance coverage in effect after December 31, 1987.

SEC. 9004. COVERAGE OF SERVICES PERFORMED BY ONE SPOUSE IN THE EMPLOY OF THE OTHER.

(a) SOCIAL SECURITY ACT AMENDMENTS.—

(1) IN GENERAL.—Subparagraph (A) of section 210(a)(3) of the Social Security Act is amended by striking "performed by an individual in the employ of his spouse, and service".

(2) EXCEPTION FOR CERTAIN DOMESTIC SERVICE IN THE PRIVATE HOME OF A SPOUSE.—Paragraph (3) of section 210(a) of such Act is amended by striking so much of subparagraph (B) as precedes clause (i) and inserting the following:

"(B) Service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual in the employ of his spouse or son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service performed by an individual in the employ of his son or daughter if—".

(b) FICA AMENDMENTS.—

(1) IN GENERAL.—Subparagraph (A) of section 3121(b)(3) of the Internal Revenue Code of 1986 (relating to employment) is amended by striking "performed by an individual in the employ of his spouse, and service".

(2) EXCEPTION FOR CERTAIN DOMESTIC SERVICE IN THE PRIVATE HOME OF A SPOUSE.—Paragraph (3) of section 3121(b) of such Code (relating to employment) is amended by striking so much of subparagraph (B) as precedes clause (i) and inserting the following:

"(B) service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual in the employ of his spouse or son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service performed by an individual in the employ of his son or daughter if—".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1987.

SEC. 9005. TREATMENT OF SERVICE PERFORMED BY AN INDIVIDUAL IN THE EMPLOY OF A PARENT.

(a) SOCIAL SECURITY ACT AMENDMENTS.—

(1) AGE BELOW WHICH SERVICE FOR PARENT IS EXCLUDED FROM COVERED EMPLOYMENT REDUCED TO AGE 18.—Subparagraph (A) of section 210(a)(3) of the Social Security Act (as amended by section 9004(a)(1) of this Act) is further amended by striking "twenty-one" and inserting "18".

(2) EXCEPTION FOR CERTAIN DOMESTIC SERVICE IN THE PRIVATE HOME OF PARENT.—Subparagraph (B) of section 210(a)(3) of such Act (as amended by section 9004(a)(2) of this Act) is further amended by inserting "under the age of 21 in the employ of his father or mother, or performed by an individual" after "individual" the first place it appears.

(b) FICA AMENDMENTS.—

(1) AGE BELOW WHICH SERVICE FOR PARENT IS EXCLUDED FROM COVERED EMPLOYMENT REDUCED TO AGE 18.—Subparagraph (A) of section 3121(b)(3) of the Internal Revenue Code of 1986 (as amended by section 9004(b)(1) of this Act) is further amended by striking "21" and inserting "18".

(2) EXCEPTION FOR CERTAIN DOMESTIC SERVICE IN THE PRIVATE HOME OF PARENT.—Subparagraph (B) of section 3121(b)(3) of such Code (as amended by section 9004(b)(2) of this Act) is further amended by inserting "under the age of 21 in the employ of his father or mother, or performed by an individual" after "individual" the first place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1987.

SEC. 9006. APPLICATION OF EMPLOYER TAXES TO EMPLOYEES' CASH TIPS.

(a) APPLICATION OF TAX TO TIPS.—Section 3121(q) of the Internal Revenue Code of 1986 (relating to inclusion of tips for employee taxes) is amended—

(1) by striking "EMPLOYEE TAXES" in the heading and inserting "BOTH EMPLOYEE AND EMPLOYER TAXES":

(2) by striking "other than for purposes of the taxes imposed by section 3111";

(3) by striking "remuneration for employment" and inserting "remuneration for such employment (and deemed to have been paid by the employer for purposes of subsections (a) and (b) of section 3111)"; and

(4) by inserting after "at the time received" the following: "; except that, in determining the employer's liability in connection with the taxes imposed by section 3111 with respect to such tips in any case where no statement including such tips was so furnished (or to the extent that the statement so furnished was inaccurate or incomplete), such remuneration shall be deemed for purposes of subtitle F to be paid on the date on which notice and demand for such taxes is made to the employer by the Secretary".

(b) CONFORMING AMENDMENTS.—(1) Subsections (a) and (b) of section 3111(a) of such Code (relating to rate of tax on employers) are each amended by striking "and (t)".

(2) Section 3121(t) of such Code (relating to special rule) is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to tips received (and wages paid) on and after January 1, 1988.

SEC. 9007. APPLICABILITY OF GOVERNMENT PENSION OFFSET TO CERTAIN FEDERAL EMPLOYEES.

(a) WIFE'S INSURANCE BENEFITS.—Paragraph (4) of section 202(b) of the Social Security Act is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a wife's insurance benefit for each month (as determined after application of the provisions of subsections (q) and (k)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the wife (or divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day she was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the wife (or divorced wife) is eligible for benefits under this subsection and has made a valid application for such benefits.".

(b) HUSBAND'S INSURANCE BENEFITS.—Paragraph (2) of section 202(c) of such Act is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a husband's insurance benefit for each month (as determined after application of the provisions of subsections *(q) and (k)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the husband (or divorced husband) for such month which is based upon his earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day he was employed by such entity—*

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the husband (or divorced husband) is eligible for benefits under this subsection and has made a valid application for such benefits.".

(c) WIDOW'S INSURANCE BENEFITS.—Paragraph (7) of section 202(e) of such Act is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a widow's insurance benefit for each month (as determined after application of the provisions of subsections (q) and (k), paragraph (2)(D), and paragraph (3)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the widow (or surviving divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day she was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the widow (or surviving divorced wife) is eligible for benefits under this subsection and has made a valid application for such benefits.".

(d) WIDOWER'S INSURANCE BENEFITS.—Paragraph (2) of section 202(f) of such Act is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a widower's insurance benefit for each month (as determined after application of the provisions of subsections (q) and (k), paragraph (3)(D), and paragraph (4)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the widower (or surviving divorced husband) for such month which is based upon his earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day he was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the widower (or surviving divorced husband) is eligible for benefits under this subsection and has made a valid application for such benefits.".

(e) MOTHER'S AND FATHER'S INSURANCE BENEFITS.—Paragraph (4) of section 202(g) of such Act is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a mother's or father's insurance benefit for each month (as determined after application of the provisions of subsection (k)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the individual for such month which is based upon the individual's earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day the individual was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the individual is eligible for benefits under this subsection and has made a valid application for such benefits.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply only with respect to benefits for months after December 1987; except that nothing in such amendments shall affect any exemption (from the application of the pension offset provisions contained in subsection (b)(4), (c)(2), (e)(7), (f)(2), or (g)(4) of section 202 of the Social Security Act) which any individual may have by reason of subsection (g) or (h) of section 334 of the Social Security Amendments of 1977.

SEC. 9008. MODIFICATION OF AGREEMENT WITH IOWA TO PROVIDE COVERAGE FOR CERTAIN POLICEMEN AND FIREMEN.

(a) IN GENERAL.—Notwithstanding subsection (d)(5)(A) of section 218 of the Social Security Act and the references thereto in subsections (d)(1) and (d)(3) of such section 218, the agreement with the State of Iowa heretofore entered into pursuant to such section 218 may, at any time prior to January 1, 1989, be modified pursuant to subsection (c)(4) of such section 218 so as to apply to services performed in policemen's or firemen's positions required to be covered by a retirement system pursuant to section 410.1 of the Iowa Code as in effect on July 1, 1953, if the State of Iowa has at any time prior to the date of the enactment of this Act paid to the Secretary of the Treasury, with respect to any of the services performed in such positions, the sums prescribed pursuant to subsection (e)(1) of such section 218 (as in effect on December 31, 1986, with respect to payments due with respect to wages paid on or before such date).

(b) SERVICE TO BE COVERED.—Notwithstanding the provisions of subsection (e) of section 218 of the Social Security Act (as so redesignated by section 9002(c)(1) of the Omnibus Budget Reconciliation Act of 1986)), any modification in the agreement with the State of Iowa under subsection (a) shall be made effective with respect to—

(1) all services performed in any policemen's or firemen's position to which the modification relates on or after January 1, 1987, and

(2) all services performed in such a position before January 1, 1987, with respect to which the State of Iowa has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e)(1) of such section 218 (as in effect on December 31, 1986, with respect to payments due with respect to wages paid on or before such date) at the time or times established pursuant to such subsection (e)(1), if and to the extent that—

(A) no refund of the sums so paid has been obtained, or

(B) a refund of part or all of the sums so paid has been obtained but the State of Iowa repays to the Secretary of the Treasury the amount of such refund within 90 days after the date on which the modification is agreed to by the State and the Secretary of Health and Human Services.

SEC. 9009. CONTINUATION OF DISABILITY BENEFITS DURING APPEAL.

Subsection (g) of section 223 of the Social Security Act is amended—

(1) in paragraph (1)(iii), by striking "June 1988" and inserting "June 1989"; and

(2) in paragraph (3)(B), by striking "January 1, 1988" and inserting "January 1, 1989".

SEC. 9010. EXTENSION OF DISABILITY RE-ENTITLEMENT PERIOD FROM 15 MONTHS TO 36 MONTHS.

(a) DISABILITY INSURANCE BENEFITS.—Paragraph (1) of section 223(a) of the Social Security Act is amended by striking "15 months" and inserting "36 months".

(b) CHILD'S INSURANCE BENEFITS BASED ON DISABILITY.—Clause (i) of section 202(d)(1)(G) of such Act is amended by striking "15 months" and inserting "36 months".

(c) WIDOW'S INSURANCE BENEFITS BASED ON DISABILITY.—Paragraph (1) of section 202(e) of such Act is amended, in subclause (II) of the last sentence, by striking "15 months" and inserting "36 months".

(d) WIDOWER'S INSURANCE BENEFITS BASED ON DISABILITY.—Paragraph (1) of section 202(f) of such Act is amended, in subclause (II) of the last sentence, by striking "15 months" and inserting "36 months".

(e) CONFORMING AMENDMENTS.—

(1) TERMINATION OF PERIOD OF DISABILITY.—Subparagraph (D) of section 216(i)(2) of such Act is amended by striking "15-month" and inserting "36-month".

(2) TERMINATION OF BENEFITS DURING RE-ENTITLEMENT PERIOD.—Subsection (e) of section 223 of such Act is amended by striking "15-month" and inserting "36-month".

(3) SPECIAL RULE FOR DETERMINATION OF CONTINUED MEDICARE ELIGIBILITY BASED ON ENTITLEMENT TO DISABILITY BENEFITS.—Section 226(b) of such Act is amended by adding at the end the following new sentence: "In determining when an individual's entitlement or status terminates for purposes of the preceding sentence, the second sentence of section 223(a) shall be applied as though the term '36 months' (in such second sentence) read '15 months'.".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1988, and shall apply with respect to—

(1) individuals who are entitled to benefits which are payable under subsection (d)(1)(B)(ii), (d)(6)(A)(ii), (d)(6)(B), (e)(1)(B)(ii), or (f)(1)(B)(ii) of section 202 of the Social Security Act or subsection (a)(1) of section 223 of such Act for any month after December 1987, and

(2) individuals who are entitled to benefits which are payable under any provision referred to in paragraph (1) for any month before January 1988 and with respect to whom the 15-month period described in the applicable provision amended by this section has not elapsed as of January 1, 1988.

PART 2—OTHER SOCIAL SECURITY PROVISIONS

SEC. 9021. MORATORIUM ON REDUCTIONS IN ATTORNEYS' FEES; STUDIES OF ATTORNEYS' FEE PAYMENT SYSTEM.

(a) MORATORIUM.—(1) The provisions of the memorandum of the Associate Commissioner of Social Security dated March 31, 1987 (relating to revised delegations of authority for administrative law judges to determine fees of representatives) which amend sections 1-220 through 1-226 of the Office of Hearings and Appeals Staff Guides and Programs Digest (commonly referred to as the OHA Handbook), and Interim Circular No. 122 (relating to the determination authority regarding fees for representation of claimants), are hereby declared to be null and void. The preceding sentence shall apply with respect to all attorneys' fees finally authorized in connection with claims for benefits under title II of the Social Security Act on and after the date of the enactment of this Act, regardless of when the legal services involved were performed; and no reconsideration of any such fee finally authorized prior to that date shall be required.

(2) Until July 1, 1989, neither the Secretary nor the Social Security Administration may modify any of the rules and regulations relating to attorneys' fees in connection with claims for benefits under title II of the Social Security Act.

(b) STUDIES.—(1) The Secretary of Health and Human Services shall conduct a study of the attorneys' fee payment process under title II of the Social Security Act. Such study shall—

(A) assess the levels of reimbursement to attorneys, giving consideration to the contingent nature of most arrangements between claimants and their legal representatives, and propose alternative methods for establishing fees which take the nature of these arrangements into account, and

(B) suggest changes aimed at eliminating unnecessary delays in the approval and payment of attorneys' fees and thereby streamlining the payment process.

In conducting this study, the Secretary shall consult with individuals who represent the views of attorneys and with others who represent the views of claimants.

(2) At the same time, the Comptroller General shall conduct a study of the fee approval system, including at a minimum—

(A) a study of the impact of the current system on claimants and attorneys,

(B) an identification of obstacles to the timely payment of attorneys' fees under present law, and

(C) an assessment of the effect, if any, which the reduced limit on attorneys' fees in effect immediately prior to the enactment of this Act has had on access to legal representation by applicants for disability insurance benefits.

(3) The studies required by paragraphs (1) and (2), along with any recommendations resulting therefrom, shall be submitted to the Congress no later than July 1, 1988.

SEC. 9022. CORPORATE DIRECTORS.

(a) SOCIAL SECURITY ACT AMENDMENT.—Section 211(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"Any income of an individual which results from or is attributable to the performance of services by such individual as a director of a corporation during any taxable year shall be deemed to have been derived (and received) by such individual in that year, at the time the services were performed, regardless of when the income is actually paid to or received by such individual (unless it was actually paid and received prior to that year).".

(b) SECA AMENDMENT.—Section 1402(a) of the Internal Revenue Code of 1986 (relating to definition of net earnings from self-employment) is amended by adding at the end thereof the following new paragraph:

"Any income of an individual which results from or is attributable to the performance of services by such individual as a director of a corporation during any taxable year shall be deemed to have been derived (and received) by such individual in that year, at the time the services were performed, regardless of when the income is actually paid to or received by such individual (unless it was actually paid and received prior to that year).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services performed in taxable years beginning on or after January 1, 1988.

SEC. 9023. TECHNICAL CORRECTIONS.

(a) The heading of section 210(p) of the Social Security Act is amended to read as follows:

"Medicare Qualified Government Employment".

(b)(1) Section 211(a)(7) of such Act is amended—

(A) by inserting "and" before "section 911"; and

(B) by striking "and section 931 (relating to income from sources within possessions of the United States) of the Internal Revenue Code of 1954".

(2) Section 211(a)(8) of such Act is amended to read as follows:

"(8) The exclusion from gross income provided by section 931 of the Internal Revenue Code of 1986 shall not apply;".

(c) Section 218(v) of such Act is amended—

(1) by striking "(v)" and inserting "(n)";

(2) by striking paragraph (3); and

(3) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(d) Section 3121(a)(5) of the Internal Revenue Code of 1986 is amended—

(1) by striking "; or" at the end of subparagraph (F) and inserting ", or"; and

(2) by striking the comma at the end of subparagraph (G) and inserting a semicolon.

PART 3—RAILROAD RETIREMENT PROGRAM

SEC. 9031. INCREASE IN RATES OF TIER 2 RAILROAD RETIREMENT TAX ON EMPLOYEES FOR 1988 AND THEREAFTER.

(a) IN GENERAL.—Subsection (b) of section 3201 of the Internal Revenue Code of 1986 (relating to tier 2 employee tax) is amended to read as follows:

"(b) TIER 2 TAX.—In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to 4.90 percent of the compensation received during any calendar year by such employee for services rendered by such employee.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to compensation received after December 31, 1987.

SEC. 9032. INCREASE IN RATES OF TIER 2 RAILROAD RETIREMENT TAX ON EMPLOYERS FOR 1988 AND THEREAFTER.

(a) In General.—Subsection (b) of section 3221 of the Internal Revenue Code of 1986 (relating to tier 2 employer tax) is amended to read as follows:

"(b) Tier 2 Tax.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to 16.10 percent of the compensation paid during any calendar year by such employer for services rendered to such employer.".

(b) Effective Date.—The amendments made by this section shall apply with respect to compensation paid after December 31, 1987.

SEC. 9033. COMMISSION ON RAILROAD RETIREMENT REFORM.

(a) Commission on Railroad Retirement Reform.—There is established a commission to be known as the Commission on Railroad Retirement Reform (in this section referred to as the "Commission").

(b) Study.—The Commission shall conduct a comprehensive study of the issues pertaining to the long-term financing of the railroad retirement system (in this section referred to as the "system") and the system's short-term and long-term solvency. The Commission shall submit a report containing a detailed statement of its findings and conclusions together with recommendations to the Congress for revisions in, or alternatives to, the current system to assure the provision of retirement benefits to former, present, and future railroad employees on an actuarially sound basis. The study will take into account—

(1) the possibility of restructuring the financing of railroad retirement benefits through increases in the tier 2 tax rate, increases in the tier 2 tax wage base, the imposition of a tax on operating revenues, revisions in the investment policy of the railroad retirement pension fund, and establishing a privately funded and administered railroad industry pension plan;

(2) the economic outlook for the railroad industry, and the nature of the relationships between the railroad retirement system, levels of railroad employment and compensation, and the performance of the rail sector;

(3) the ability of the system under current law to pay benefits to current and future retirees and other beneficiaries;

(4) the financial relationship of the system to the railroad unemployment insurance system, the social security system, and the General Fund; and

(5) any other matters which the Commission considers would be necessary, appropriate, or useful to the Congress in developing legislation to reform the system.

(c) Membership of the Commission.—

(1) Number and appointment.—The Commission shall be composed of seven members, as follows:

(A) four individuals appointed by the President—

(i) one of whom shall be appointed on the basis of recommendations made by representatives of employers (as defined in section 1(a) of the Railroad Retirement Act of 1974) so as to provide representation on the Commission satisfactory to the largest number of employers concerned,

(ii) one of whom shall be appointed on the basis of recommendations made by representatives of employees (as defined in section 1(b) of the Railroad Retirement Act of 1974) so as to provide representation on the Commission satisfactory to the largest number of employees concerned,

(iii) one of whom shall be appointed on the basis of recommendations made by representatives of commuter railroads, and

(iv) one of whom shall be appointed from members of the public;

(B) one individual appointed by the Speaker of the House of Representatives from among members of the public;

(C) one individual appointed by the President pro tempore of the Senate from among members of the public; and

(D) one individual appointed by the Comptroller General from among members of the public with expertise in the fields of retirement systems and pension plans.

All public members of the Commission shall be appointed from among individuals who are not in the employment of and are not pecuniarily or otherwise interested in any employer (as so defined) or organization of employees (as so defined). In making appointments under this section, the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall ensure that the members of the Commission, collectively, possess special knowledge of retirement income policy, social insurance, private pensions, taxation, and the structure of the transportation industry. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(2) Pay.—Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

(3) Quorum.—Five members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(4) Chairman.—The members of the Commission shall elect a chairman from among the membership.

(d) Staff of Commission; Experts and Consultants.—

(1) Staff.—Subject to such rules as may be prescribed by the Commission, the Chairman may appoint and fix the pay of such personnel as the Chairman considers appropriate.

(2) Applicability of certain civil service laws.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(3) Experts and consultants.—Subject to such rules as may be prescribed by the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(4) Staff of federal agencies.—Upon request of the Commission, the Railroad Retirement Board and any other Federal agency may detail, on a reimbursable basis, any of the personnel thereof to the Commission to assist the Commission in carrying out its duties under this section.

(e) Access to Official Data and Services.—

(1) Official data.—The Commission may, as appropriate, secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman of the Commission, the head of such department or agency shall, as appropriate, furnish such information to the Commission.

(2) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(3) Administrative Support Services.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(f) Report.—The Commission shall transmit a report to the President and to each House of the Congress not later than October 1, 1989. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its legislative recommendations.

(g) Termination.—The Commission shall cease to exist 60 days after submitting its report pursuant to subsection (f).

(h) Authorization of Appropriations.—There is authorized to be appropriated the sum of $1,000,000 for purposes of this section, to remain available until expended but in no event beyond the date of termination provided in subsection (g).

SEC. 9034. TRANSFER TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended—

(1) by inserting "(other than amounts described in subparagraph (B))" after "amounts";

(2) by striking "1988" and inserting "1989"; and

(3) by striking the last sentence.

Subtitle B—Provisions Relating to Public Assistance and Unemployment Compensation

PART 1—AFDC AND SSI AMENDMENTS

SEC. 9101. PERMANENT EXTENSION OF DISREGARD OF NONPROFIT ORGANIZATIONS' IN-KIND ASSISTANCE TO SSI AND AFDC RECIPIENTS.

Effective as of October 1, 1987, section 2639(d) of the Deficit Reduction Act of 1984 is amended by striking "; but" and all that follows and inserting a period.

SEC. 9102. FRAUD CONTROL UNDER AFDC PROGRAM.

(a) In General.—Part A of title IV of the Social Security Act is amended by adding at the end the following new section:

"FRAUD CONTROL

"Sec. 416. (a) Any State, in the administration of its State plan approved under section 402, may elect to establish and operate a fraud control program in accordance with this section.

"(b) Under any such program, if an individual who is a member of a family applying for or receiving aid under the State plan approved under section 402 is found by a Federal or State court or pursuant to an administrative hearing meeting requirements determined in regulations of the Secretary, on the basis of a plea of guilty or nolo contendere or otherwise, to have intentionally—

"(1) made a false or misleading statement or misrepresented, concealed, or withheld facts, or

"(2) committed any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity,

for the purpose of establishing or maintaining the family's eligibility for aid under *such State plan or of increasing (or preventing a reduction in) the amount of such aid, then the needs of such individual shall not be taken into account in making the determination under section 402(a)(7) with respect to his or her family (A) for a period of 6 months upon the first occasion of any such offense, (B) for a period of 12 months upon the second occasion of any such offense, and (C) permanently upon the third or a subsequent occasion of any such offense.*

"(c) The State agency involved shall proceed against any individual alleged to have committed an offense described in subsection (b) either by way of administrative hearing or by referring the matter to the appropriate authorities for civil or criminal action in a court of law. The State agency shall coordinate its actions under this section with any corresponding actions being taken under the food stamp program in any case where the factual issues involved arise from the same or related circumstances.

"(d) Any period for which sanctions are imposed under subsection (b) shall remain in effect, without possibility of administrative stay, unless and until the finding upon which the sanctions were imposed is subsequently reversed by a court of appropriate jurisdiction; but in no event shall the duration of the period for which such sanctions are imposed be subject to review.

"(e) The sanctions provided under subsection (b) shall be in addition to, and not in substitution for, any other sanctions which may be provided for by law with respect to the offenses involved.

"(f) Each State which has elected to establish and operate a fraud control program under this section must provide all applicants for aid to families with dependent children under its approved State plan, at the time of their application for such aid, with a written notice of the penalties for fraud which are provided for under this section.".

(b) State Plan Requirement.—Section 402(a) of such Act is amended—

(1) by striking "and" after the semicolon at the end of paragraph (38);

(2) by striking the period at the end of paragraph (39) and inserting "; and"; and

(3) by inserting immediately after paragraph (39) the following new paragraph:

"(40) provide, if the State has elected to establish and operate a fraud control program under section 416, that the State will submit to the Secretary (with such revisions as may from time to time be necessary) a description of and budget for such program, and will operate such program in full compliance with that section.".

(c) Federal Matching.—Section 403(a)(3) of such Act is amended—

(1) by striking "and" after the final comma in subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D);

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) 75 percent of so much of such expenditures as are for the costs of carrying out a fraud control program under section 416, including costs related to the investigation, prosecution, and administrative hearing of fraudulent cases and the making of any resultant collections, and"; and

(4) by striking "(C)" in the matter following subparagraph (D) (as redesignated by paragraph (2) of this subsection) and inserting "(D)".

(d) Effective Date.—The amendments made by this section shall become effective April 1, 1988.

SEC. 9103. EXCLUSION OF REAL PROPERTY WHEN IT CANNOT BE SOLD.

(a) In General.—Section 1613(b) of the Social Security Act is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraph:

"(2) Notwithstanding the provisions of paragraph (1), the Secretary shall not require the disposition of any real property for so long as it cannot be sold because (A) it is jointly owned (and its sale would cause undue hardship, due to loss of housing, for the other owner or owners), (B) its sale is barred by a legal impediment, or (C) as determined under regulations issued by the Secretary, the owner's reasonable efforts to sell it have been unsuccessful.".

(b) Effective Date.—The amendments made by subsection (a) shall become effective April 1, 1988.

SEC. 9104. ADJUSTMENT OF PENALTY WHERE ASSET IS TRANSFERRED FOR LESS THAN FAIR MARKET VALUE.

(a) In General.—Section 1613(c) of the Social Security Act is amended—

(1) by inserting immediately after "the exclusions under subsection (a)" in paragraph (1) the following: ", and subject to paragraph (4) of this subsection"; and

(2) by adding at the end the following new paragraph:

"(4) The Secretary shall by regulation provide for suspending the application of paragraph (1) to the extent (in any instance) that the Secretary determines that such suspension is necessary to avoid undue hardship.".

(b) Effective Date.—The amendments made by subsection (a) shall become effective April 1, 1988.

SEC. 9105. EXCLUSION OF INTEREST ON BURIAL ACCOUNTS.

(a) In General.—Section 1613(d) of the Social Security Act is amended—

(1) in paragraph (1), by striking "if the inclusion" and all that follows and inserting a period; and

(2) in paragraph (3), by striking "aside" and inserting "aside in cases where the inclusion of any portion of the amount would cause the resources of such individual, or of such individual and spouse, to exceed the limits specified in paragraph (1) or (2) (whichever may be applicable) of section 1611(a)".

(b) Effective Date.—The amendments made by subsection (a) shall become effective April 1, 1988.

SEC. 9106. EXCEPTION FROM SSI RETROSPECTIVE ACCOUNTING FOR AFDC AND CERTAIN OTHER ASSISTANCE PAYMENTS.

(a) In General.—Section 1611(c) of the Social Security Act is amended—

(1) by striking "paragraphs (2), (3), and (4)" in paragraph (1) and inserting "paragraphs (2), (3), (4), and (5)";

(2) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) Notwithstanding paragraphs (1) and (2), any income which is paid to or on behalf of an individual in any month pursuant to (A) a State plan approved under part A of title IV of this Act (relating to aid to families with dependent children), (B) section 472 of this Act (relating to foster care assistance), (C) section 412(e) of the Immigration and Nationality Act (relating to assistance for refugees), (D) section 501(a) of Public Law 96-422 (relating to assistance for Cuban and Haitian entrants), or (E) the Act of November 2, 1921 (42 Stat. 208), as amended (relating to assistance furnished by the Bureau of Indian Affairs), shall be taken into account in determining the amount of the benefit under this title of such individual (and his eligible spouse, if any) only for that month, and shall not be taken into account in determining the amount of the benefit for any other month.".

(b) Effective Date.—The amendments made by subsection (a) shall become effective April 1, 1988.

SEC. 9107. TECHNICAL AMENDMENT RELATING TO 1986 AMENDMENT CONCERNING THE TREATMENT OF CERTAIN COUPLES IN MEDICAL INSTITUTIONS.

Effective November 10, 1986, section 1611(e)(5) of the Social Security Act is amended—

(1) by striking "sharing a room or comparable accommodation in a hospital, home, or facility" and inserting "living in the same hospital, home, or facility"; and

(2) by striking "shared such a room or accommodation" and inserting "lived in the same such hospital, home, or facility".

SEC. 9108. EXTENSION OF DEADLINE FOR DISABLED WIDOWS TO APPLY FOR MEDICAID PROTECTION UNDER 1984 AMENDMENTS.

Effective July 1, 1987, section 1634(b)(3) of the Social Security Act is amended by striking "during the 15-month period beginning with the month in which this subsection is enacted" and inserting "no later than July 1, 1988".

SEC. 9109. INCREASE IN SSI EMERGENCY ADVANCE PAYMENTS.

(a) In General.—Section 1631(a)(4)(A) of the Social Security Act is amended by striking "a cash advance against such benefits in an amount not exceeding $100" and inserting "a cash advance against such benefits, including any federally-administered State supplementary payments, in an amount not exceeding the monthly amount that would be payable to an eligible individual with no other income for the first month of such presumptive eligibility".

(b) Effective Date.—The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

SEC. 9110. MODIFICATION OF INTERIM ASSISTANCE REIMBURSEMENT PROGRAM.

(a) In General.—The first sentence of section 1631(g)(2) of the Social Security Act is amended by striking "at the time the Secretary makes the first payment of benefits" and inserting "at the time the Secretary makes the first payment of benefits with respect to the period described in clause (A) or (B) of paragraph (3)".

(b) Definition of Interim Assistance.—Section 1631(g)(3) of such Act is amended—

(1) by inserting "(A)" after "basic needs"; and

(2) by inserting before the period at the end the following: ", or (B) during the period beginning with the first month for which the individual's benefits (as defined in paragraph (2)) have been terminated or suspended if the individual was subsequently found to have been eligible for such benefits".

(c) Effective Date.—The amendments made by this section shall become effective with the 13th month following the month in which this Act is enacted, or, if sooner, with the first month for which the Secretary of Health and Human Services determines that it is administratively feasible.

SEC. 9111. SPECIAL NOTICE TO BLIND RECIPIENTS.

(a) IN GENERAL.—(1) Section 1631 of the Social Security Act is amended by adding at the end the following new subsection:

"Special Notice to Blind Individuals with Respect to Hearings and Other Official Actions

"(l)(1) In any case where an individual who is applying for or receiving benefits under this title on the basis of blindness is entitled (under subsection (c) or otherwise) to receive notice from the Secretary of any decision or determination made or other action taken or proposed to be taken with respect to his or her rights under this title, such individual shall at his or her election be entitled either (A) to receive a supplementary notice of such decision, determination, or action, by telephone, within 5 working days after the initial notice is mailed, (B) to receive the initial notice in the form of a certified letter, or (C) to receive notification by some alternative procedure established by the Secretary and agreed to by the individual.

"(2) The election under paragraph (1) may be made at any time; but an opportunity to make such an election shall in any event be given (A) to every individual who is an applicant for benefits under this title on the basis of blindness, at the time of his or her application, and (B) to every individual who is a recipient of such benefits on the bsis of blindness, at the time of each redetermination of his or her eligibility. Such an election, once made by an individual, shall apply with respect to all notices of decisions, determinations, and actions which such individual may thereafter be entitled to receive under this title until such time as it is revoked or changed.".

(2) Not later than one year after the date on which the amendment made by paragraph (1) becomes effective, the Secretary of Health and Human Services shall provide every individual receiving benefits under title XVI of the Social Security Act on the basis of blindness an opportunity to make an election under section 1631(l)(1) of such Act (as added by such amendment).

(b) STUDY.—The Secretary of Health and Human Services shall study the desirability and feasibility of extending special or supplementary notices of the type provided to blind individuals by section 1631(l) of the Social Security Act (as added by subsection (a) of this section) to other individuals who may lack the ability to read and comprehend regular written notices, and shall report the results of such study to the Congress, along with such recommendations as may be appropriate, within 12 months after the date of the enactment of this Act.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective July 1, 1988.

SEC. 9112. REHABILITATION SERVICES FOR BLIND SSI RECIPIENTS.

(a) IN GENERAL.—Section 1631(a)(6) of the Social Security Act is amended—

(1) by inserting "blindness (as determined under section 1614(a)(2)) or" before "disability (as determined under section 1614(a)(3))";

(2) by inserting "blindness or other" before "physical or mental impairment"; and

(3) by inserting "blindness and" before "disability benefit rolls" in subparagraph (B).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective April 1, 1988.

SEC. 9113. EXTENDING THE NUMBER OF MONTHS THAT AN INDIVIDUAL IN A PUBLIC EMERGENCY SHELTER CAN BE ELIGIBLE FOR SSI.

(a) IN GENERAL.—Section 1611(e)(1)(D) of the Social Security Act is amended by striking "three months in any 12-month period" and inserting "6 months in any 9-month period".

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a) shall become effective January 1, 1988.

(2) In the application of section 1611(e)(1)(D) of the Social Security Act on and after the effective date of such amendment, months before January 1988 in which a person was an eligible individual or eligible spouse by reason of such section shall not be taken into account.

SEC. 9114. EXCLUSION OF UNDERPAYMENTS FROM RESOURCES.

(a) IN GENERAL.—Section 1613(a)(7) of the Social Security Act is amended by inserting after "shall be limited to the first 6 months following the month in which such amount is received" the following: "(or to the first 9 months following such month with respect to any amount so received during the period beginning October 1, 1987, and ending September 30, 1989)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective January 1, 1988.

SEC. 9115. CONTINUATION OF FULL BENEFIT STANDARD FOR INDIVIDUALS TEMPORARILY INSTITUTIONALIZED.

(a) IN GENERAL.—Section 1611(e)(1) of the Social Security Act is amended—

(1) in subparagraph (A), by striking "and (E)" and inserting "(E), and (G)";

(2) in subparagraph (B), by inserting "(subject to subparagraph (G))' ' after "throughout any month"; and

(3) by adding at the end the following new subparagraphs:

"(G) A person may be an eligible individual or eligible spouse for purposes of this title, and subparagraphs (A) and (B) shall not apply, with respect to any particular month throughout which he or she is an inmate of a public institution the primary purpose of which is the provision of medical or psychiatric care, or which is a hospital, extended care facility, nursing home, or intermediate care facility receiving payments (with respect to such individual or spouse) under a State plan approved under title XIX, if it is determined in accordance with subparagraph (H) that—

"(i) such person's stay in that institution or facility (or in that institution or facility and one or more other such institutions or facilities during a continuous period of institutionalization) is likely (as certified by a physician) not to exceed 3 months, and the particular month involved is one of the first 3 months throughout which such person is in such an institution or facility during a continuous period of institutionalization; and

"(ii) such person needs to continue to maintain and provide for the expenses of the home or living arrangement to which he or she may return upon leaving the institution or facility.

The benefit of any person under this title (including State supplementation if any) for each month to which this subparagraph applies shall be payable, without interruption of benefit payments and on the date the benefit involved is regularly due, at the rate that was applicable to such person in the month prior to the first month throughout which he or she is in the institution or facility.

"(H) The Secretary shall establish procedures for the determinations required by clauses (i) and (ii) of subparagraph (G), and may enter into agreements for making such determinations (or for providing information or assistance in connection with the making of such determinations) with appropriate State and local public and private agencies and organizations. Such procedures and agreements shall include the provision of appropriate assistance to individuals who, because of their physical or mental condition, are limited in their ability to furnish the information needed in connection with the making of such determinations.".

(b) CONFORMING AMENDMENT.—Section 1902(l) of such Act is amended by striking "section 1611(e)(1)(E)" and inserting "subparagraph (E) or (G) of section 1611(e)(1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective July 1, 1988.

SEC. 9116. RETENTION OF MEDICAID WHEN SSI BENEFITS ARE LOST UPON ENTITLEMENT TO EARLY WIDOW'S OR WIDOWER'S INSURANCE BENEFITS.

(a) IN GENERAL.—Section 1634 of the Social Security Act is amended by adding at the end the following new subsection:

"(d) If any person—

"(1) applies for and obtains benefits under subsection (e) or (f) of section 202 (or under any other subsection of section 202 if such person is also eligible for benefits under such subsection (e) or (f)) as required by section 1611(e)(2), being then at least 60 years of age but not entitled to hospital insurance benefits under part A of title XVIII, and

"(2) is determined to be ineligible (by reason of the receipt of such benefits under section 202) for supplemental security income benefits under this title or for State supplementary payments of the type described in section 1616(a),

such person shall nevertheless be deemed to be a recipient of supplemental security income benefits under this title for purposes of title XIX, so long as he or she (A) would be eligible for such supplemental security income benefits, or such State supplementary payments, in the absence of such benefits under section 202, and (B) is not entitled to hospital insurance benefits under part A of title XVIII.".

(b) NOTICE.—The Secretary of Health and Human Services, acting through the Social Security Administration, shall (within 3 months after the date of the enactment of this Act) issue a notice to all individuals who will have attained age 60 but not age 65 as of April 1, 1988, and who received supplemental security income benefits under title XVI of the Social Security Act prior to attaining age 60 but lost those benefits by reason of the receipt of widow's or widower's insurance benefits (or other benefits as described in section 1634(d)(1) of that Act as added by subsection (a) of this section) under title II of that Act. Each such notice shall set forth and explain the provisions of section 1634(d) of the Social Security Act (as so added), and shall inform the individual that he or she should contact the Secretary or the appropriate State agency concerning his or her possible eligibility for medical assistance benefits under such title XIX.

(c) STATE DETERMINATIONS.—Any determination required under section 1634(d) of the Social Security Act with respect to whether an individual would be eligible for benefits under title XVI of such Act (or State supplementary payments) in the absence of benefits under section 202 shall be made by the appropriate State agency.

(d) Conforming Amendments.—Section 1922(a)(2) of the Social Security Act is amended—

(1) by striking "1634 (b)" in subparagraph (B) and inserting "1634 (b) and (c)"; and

(2) by adding at the end the following new subparagraph:

"(C) Section 1634(d) of this Act (relating to individuals who lose eligibility for SSI benefits due to entitlement to early widow's or widower's insurance benefits under section 202 (e) or (f) of this Act).".

(e) Effective Date.—The amendments made by subsection (a) shall apply with respect to any individual without regard to whether the determination of his or her ineligibility for supplemental security income benefits by reason of the receipt of benefits under section 202 of the Social Security (as described in section 1634(d)(2) of such Act) occurred before, on, or after the date of the enactment of this Act; but no individual shall be eligible for assistance under title XIX of such Act by reason of such amendments for any period before July 1, 1988.

SEC. 9117. DEMONSTRATION PROGRAM TO ASSIST HOMELESS INDIVIDUALS.

(a) In General.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") is authorized to make grants to States for projects designed to demonstrate and test the feasibility of special procedures and services to ensure that homeless individuals are provided SSI and other benefits under the Social Security Act to which they are entitled and receive assistance in using such benefits to obtain permanent housing, food, and health care. Each project approved under this section shall meet such conditions and requirements, consistent with this section, as the Secretary shall prescribe.

(b) Scope of Projects.—Projects for which grants are made under this section shall include, more specifically, procedures and services to overcome barriers which prevent homeless individuals (particularly the chronically mentally ill) from receiving and appropriately using benefits, including—

(1) the creation of cooperative approaches between the Social Security Administration, State and local governments, shelters for the homeless, and other providers of services to the homeless;

(2) the establishment, where appropriate, of multi-agency SSI Outreach Teams (as described in subsection (c)), to facilitate communication between the agencies and staff involved in taking and processing claims for SSI and other benefits by the homeless who use shelters;

(3) special efforts to identify homeless individuals who are potentially eligible for SSI or other benefits under the Social Security Act;

(4) the provision of special assistance to the homeless in applying for benefits, including assistance in obtaining and developing evidence of disability and supporting documentation for nondisability-related eligibility requirements;

(5) the provision of special training and assistance to public and private agency staff, including shelter employees, on disability eligibility procedures and evidentiary requirements;

(6) the provision of ongoing assistance to formerly homeless individuals to ensure their responding to information requests related to periodic redeterminations of eligibility for SSI and other benefits;

(7) the provision of assistance in ensuring appropriate use of benefit funds for the purpose of enabling homeless individuals to obtain permanent housing, nutrition, and physical and mental health care, including the use, where appropriate, of the disabled individual's representative payee for case management services; and

(8) such other procedures and services as the Secretary may approve.

(c) SSI Outreach Team Projects.—(1) If a State applies for funds under this section for the purpose of establishing a multi-agency SSI Outreach Team, the membership and functions of such team shall be as follows (except as provided in paragraph (2)):

(A) The membership of the Team shall include a social services case worker (or case workers, if necessary); a consultative medical examiner who is qualified to provide consultative examinations for the Disability Determination Service of the State; a disability examiner, from the State Disability Determination Service; and a claims representative from an office of the Social Security Administration.

(B) The Team shall have designated members responsible for—

(i) identification of homeless individuals who are potentially eligible for SSI or other benefits under the Social Security Act;

(ii) ensuring that such individuals understand their rights under the programs;

(iii) assisting such individuals in applying for benefits, including assistance in obtaining and developing evidence and supporting documentation relating to disability- and nondisability-related eligibility requirements;

(iv) arranging transportation and accompanying applicants to necessary examinations, if needed; and

(v) providing for the tracking and monitoring of all claims for benefits by individuals under the project.

(2) If the Secretary determines that an application by a State for an SSI Outreach Team Project under this section which proposes a membership and functions for such Team different from those prescribed in paragraph (1) but which is expected to be as effective, the Secretary may waive the requirements of such paragraph.

(d) Information and Reports; Evaluation.—(1) Each State having an approved SSI Outreach Team Project shall periodically submit to the Secretary such information (with respect to the project) as may be necessary to enable the Secretary to evaluate such project in particular and the demonstration program under this section in general.

(2)(A) The Secretary shall from time to time (but not less often than annually) submit to the Congress a full and complete report on the program under this section, together with a detailed evaluation of such program and of the projects thereunder along with such recommendations as may be deemed appropriate. Such evaluation and such recommendations shall be designed to serve as a basis for determining whether (and to what extent) the activities and procedures included in the demonstration program under this section should be continued, expanded, or modified, or converted (with or without changes) into a regular feature of permanent law.

(B) The criteria used by the Secretary in evaluating the program and the projects thereunder shall not be limited to those which would normally be used in evaluating programs and activities of the kind involved, but shall fully take into account the special circumstances of the homeless and their need for personalized attention and follow-through assistance, and shall emphasize the extent to which the procedures and assistance made available to applicants under such projects are recognizing those circumstances and meeting that need.

(e) Authorization of Appropriations.—To carry out this section, there are authorized to be appropriated to the Secretary—

(A) the sum of $1,250,000 for the fiscal year 1988;

(B) the sum of $2,500,000 for the fiscal year 1989; and

(C) such sums as may be necessary for each fiscal year thereafter.

SEC. 9118. ASSISTANCE TO HOMELESS AFDC FAMILIES.

The Secretary of Health and Human Services may not take any action, prior to October 1, 1988, that would have the effect of implementing in whole or in part the proposed regulation published in the Federal Register on December 14, 1987, with respect to emergency assistance and the need for and amount of assistance under the program of aid to families with dependent children, or that would change current policy with respect to any of the matters addressed in such proposed regulation.

SEC. 9119. INCREASE IN PERSONAL NEEDS ALLOWANCE FOR SSI RECIPIENTS.

(a) Increase in Standard.—Section 1611(e)(1)(B) of the Social Security Act is amended—

(1) by striking "$300 per year" in clauses (i) and (ii)(I) and inserting "$360 per year"; and

(2) by striking "$600 per year" in clause (iii) and inserting "$720 per year".

(b) Mandatory Pass-Through of Increased Personal Needs Allowance.—Section 1618 of such Act is amended by adding at the end the following new subsection:

"(g) In order for any State which makes supplementary payments of the type described in section 1616(a) (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66) to recipients of benefits determined under section 1611(e)(1)(B), on or after October 1, 1987, to be eligible for payments pursuant to title XIX with respect to any calendar quarter which begins—

"(1) after October 1, 1987, or, if later

"(2) after the calendar quarter in which it first makes such supplementary payments to recipients of benefits so determined,

such State must have in effect an agreement with the Secretary whereby the State will—

"(3) continue to make such supplementary payments to recipients of benefits so determined, and

"(4) maintain such supplementary payments to recipients of benefits so determined at levels which assure (with respect to any particular month beginning with the month in which this subsection is first effective) that—

"(A) the combined level of such supplementary payments and the amounts payable to or on behalf of such recipients under section 1611(e)(1)(B) for that particular month,

is not less than—

"(B) the combined level of such supplementary payments and the amounts payable to or on behalf of such recipients under section 1611(e)(1)(B) for October 1987 (or, if no such supplementary payments were made for that month, the combined level for the first subsequent month for which such payments were made), increased—

"(i) in a case to which clause (i) of such section 1611(e)(1)(B) applies or (with respect to the individual or spouse who is in the hospital, home, or facility involved) to *which clause (ii) of such section applies, by $5, and*

"(ii) in a case to which clause (iii) of such section 1611(e)(1)(B) applies, by $10.".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall become effective July 1, 1988.

SEC. 9120. EXCLUSION OF DEATH BENEFITS TO THE EXTENT SPENT ON LAST ILLNESS AND BURIAL.

(a) In General.—Subparagraphs (D) and (E) of section 1612(a)(2) of the Social Security Act are amended to read as follows:

"(D) payments to the individual occasioned by the death of another person, to the extent that the total of such payments exceeds the amount expended by such individual for purposes of the deceased person's last illness and burial;

"(E) support and alimony payments, and (subject to the provisions of subparagraph (D) excluding certain amounts expended for purposes of a last illness and burial) gifts (cash or otherwise) and inheritances; and".

(b) Effective Date.—The amendments made by subsection (a) shall become effective April 1, 1988.

SEC. 9121. DEMONSTRATION OF FAMILY INDEPENDENCE PROGRAM.

(a) In General.—Upon application of the State of Washington and approval by the Secretary of Health and Human Services, the State of Washington (in this section referred to as the "State") may conduct a demonstration project in accordance with this section for the purpose of testing whether the operation of its Family Independence Program enacted in May 1987 (in this section referred to as the "Program"), as an alternative to the AFDC program under title IV of the Social Security Act, would more effectively break the cycle of poverty and provide families with opportunities for economic independence and strengthened family functioning.

(b) Nature of Project.—Under the demonstration project conducted under this section—

(1) every individual eligible for aid under the State plan approved under section 402(a) of the Social Security Act shall be eligible to enroll in the Program, which shall operate simultaneously with the AFDC program so long as there are individuals who qualify for the latter;

(2) cash assistance shall be furnished in a timely manner to all eligible individuals under the Program (and the State may not make expenditures for services under the Program until it has paid all necessary cash assistance), with no family receiving less in cash benefits than it would have received under the AFDC program;

(3) individuals may be required to register, undergo assessment, and participate in work, education, or training under the Program, except that—

(A) work or training may not be required in the case of—

(i) a single parent of a child under six months of age, or more than one parent of such a child in a two-parent family,

(ii) a single parent with a child of any age who has received assistance for less than six months,

(iii) a single parent with a child under three years of age who has received assistance for less than three years,

(iv) an individual under 16 years of age or over 64 years of age,

(v) an individual who is incapacitated, temporarily ill, or needed at home to care for an impaired person, or

(vi) an individual who has not yet been individually notified in writing of such requirement or of the expiration of his or her exempt status under this subparagraph;

(B) participation in work or training shall in any case be voluntary during the first two years of the Program, and may thereafter be made mandatory only in counties where more than 50 percent of the enrollees can be placed in employment within three months after they are job ready;

(C) in no case shall the work and training aspect of the Program be mandated in any county where the unemployment level is at least twice the State average; and

(D) mandated work shall not include work in any position created by a reduction in the work force, a bona fide labor dispute, the decertification of a bargaining unit, or a new job classification which subverts the intention of the Program;

(4) there shall be no change in existing State law which would eliminate guaranteed benefits or reduce the rights of applicants or enrollees; and

(5) the Program shall include due process guarantees and procedures no less than those which are available to participants in the AFDC program under Federal law and regulation and under State law.

(c) Waivers.—The Secretary shall (with respect to the project under this section) waive compliance with any requirements contained in title IV of the Social Security Act which (if applied) would prevent the State from carrying out the project or effectively achieving its purpose, or with the requirements of sections 1902(a)(1), 1902(e)(1), and 1916 of that Act (but only to the extent necessary to enable the State to carry out the program as enacted by the State in April 1987).

(d) Funding.—

(1) The Secretary, under section 403(b) or 1903(d) of the Social Security Act, shall reimburse the State for its expenditures under the Program—

(A) at a rate equal to the Federal matching rate applicable to the State under section 403(a)(1) (or 1118) of the Social Security Act, for cash assistance, medical assistance, and child care provided to enrollees;

(B) at a rate equal to the applicable Federal matching rate under section 403(a)(3) of such Act, for administrative expenses; and

(C) at the rate of 75 percent for an evaluation plan approved by the Secretary.

(2) As a condition of approval of the project under this section, the State must provide assurances satisfactory to the Secretary that the total amount of Federal reimbursement over the period of the project will not exceed the anticipated Federal reimbursements (over that period) under the AFDC and Medicaid programs; but this paragraph shall not prevent the State from claiming reimbursement for additional persons who would qualify for assistance under the AFDC program, for costs attributable to increases in the State's payment standard, or for any other federally-matched benefits or services.

(e) Evaluation.—The State must satisfy the Secretary that the program will be evaluated using a reasonable methodology.

(f) Duration of Project.—

(1) The project under this section shall begin on the date on which the first individual is enrolled in the Program and (subject to paragraph (2)) shall end five years after that date.

(2) The project may be terminated at any time, on six months' written notice, by the State or (upon a finding that the State has materially failed to comply with this section) by the Secretary.

SEC. 9122. CHILD SUPPORT DEMONSTRATION PROGRAM IN NEW YORK STATE.

(a) In General.—Upon application by the State of New York and approval by the Secretary of Health and Human Services (in this section referred to as the "Secretary"), the State of New York (in this section referred to as the "State") may conduct a demonstration program in accordance with this section for the purpose of testing a State program as an alternative to the program of Aid to Families with Dependent Children under title IV of the Social Security Act.

(b) Nature of Program.—Under the demonstration program conducted under this section—

(1) all custodial parents of dependent children who are eligible for supplements under the State plan approved under section 402(a) of the Social Security Act (and such other types or classes of such parents as the State may specify) may elect to receive benefits under the State's Child Support Supplement Program in lieu of supplements under such plan; and

(2) the Federal Government will pay to the State with respect to families receiving benefits under the State's Child Support Supplement Program the same amounts as would have been payable with respect to such families under sections 403 and 1903 of the Social Security Act as if the families were receiving aid and medical assistance under the State plans in effect with respect to such sections.

(c) Waivers.—The Secretary shall (with respect to the program under this section) waive compliance with any requirements contained in title IV of the Social Security Act which (if applied) would prevent the State from carrying out the program or effectively achieving its purpose.

(d) Conditions of Approval.—As a condition of approval of the program under this section, the State shall—

(1) provide assurances satisfactory to the Secretary that the State—

(A) will continue to make assistance available to all eligible children in the State who are in need of financial support, and

(B) will continue to operate an effective child support enforcement program;

(2) agree—

(A) to have the program evaluated, and

(B) to report interim findings to the Secretary at such times as the Secretary shall provide; and

(3) satisfy the Secretary that the program will be evaluated using a reasonable methodology that can determine whether changes in work behavior and changes in earnings are attributable to participation in the program.

(e) Application Process.—In order to participate in the program under this section, the State must submit an application under this section not later than two years after the date of enactment of this Act. The Secretary shall approve or disapprove the application of the State not later than 90 days after the date of its submission. If the application is disapproved, the Secretary shall provide to the State a statement of the reasons for such disapproval, of the changes needed to obtain approval, and of the date by which the State may resubmit the application.

(f) Effective Date.—The program under this section shall commence not later than the first day of the third calendar quarter beginning on or after the date on which the application of the State is approved in accordance with subsection (e).

(g) Duration of Program.—

(1) Except as provided in paragraph (2), if the Secretary approves the application of the State, the demonstration program under this section shall be conducted for a period not to exceed five years.

(2)(A) The Governor of the State may before the end of the period described in paragraph (1) terminate the demonstration program under this section if the Governor finds that the program is not successful in testing the State's Child Support Supplement Program as an alternative to the program under title IV of the Social Security Act. The Governor shall notify the Secretary of the decision to terminate the program not less than three months prior to the date of such termination.

(B) The Secretary may terminate the program before the end of such period if the Secretary finds that the program is not in compliance with the terms of the application. The Secretary shall notify the Governor of the decision to terminate the program not less than three months prior to the date of such termination.

SEC. 9123. TECHNICAL CORRECTION.

The subsection of section 1631 of the Social Security Act which was added as subsection (j) by section 11006 of the Anti-Drug Abuse Act of 1986 is redesignated as subsection (m) and is moved to the end of such section 1631 so that it appears immediately after subsection (l) thereof (as added by section 9111(a) of this Act); and the heading of such subsection is amended to read as follows:

"Pre-Release Procedures for
Institutionalized Persons".

PART 2—SOCIAL SERVICES, CHILD WELFARE SERVICES, AND OTHER PROVISIONS RELATING TO CHILDREN

SEC. 9131. PERMANENT EXTENSION OF AUTHORITY FOR VOLUNTARY FOSTER CARE PLACEMENTS.

(a) IN GENERAL.—Section 102 of the Adoption Assistance and Child Welfare Act of 1980 is amended—

(1) in subsection (a)(1) (in the matter preceding subparagraph (A)), by striking "and before October 1, 1987,";

(2) in subsection (c), by striking all that follows "September 30, 1979" and inserting a period; and

(3) in subsection (e), by striking "with respect to which the amendments made by this section are in effect".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective October 1, 1987.

SEC. 9132. 2-YEAR EXTENSION OF FOSTER CARE CEILING AND OF AUTHORITY TO TRANSFER FOSTER CARE FUNDS TO CHILD WELFARE SERVICES.

(a) IN GENERAL.—Section 474 of the Social Security Act is amended—

(1) in paragraphs (1), (2)(A)(iii), (2)(B), (4)(B), and (5)(A)(ii) of subsection (b), by striking "through 1987" and inserting "through 1989";

(2) in paragraph (5)(A) of subsection (b) (in the matter preceding clause (i)), by striking "October 1, 1987" and inserting "October 1, 1989"; and

(3) in paragraphs (1) and (2) of subsection (c), by striking "through 1987" and inserting "through 1989".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective October 1, 1987.

SEC. 9133. MOTHER/INFANT FOSTER CARE.

(a) IN GENERAL.—Section 475(4) of the Social Security Act is amended—

(1) by inserting "(A)" after "(4)"; and

(2) by adding at the end the following new subparagraph:

"(B) In cases where—

"(i) a child placed in a foster family home or child-care institution is the parent of a son or daughter who is in the same home or institution, and

"(ii) payments described in subparagraph (A) are being made under this part with respect to such child,

the foster care maintenance payments made with respect to such child as otherwise determined under subparagraph (A) shall also include such amounts as may be necessary to cover the cost of the items described in that subparagraph with respect to such son or daughter.".

(b) CONFORMING AMENDMENTS RELATING TO ELIGIBILITY UNDER OTHER PROGRAMS.—(1) Section 402(a)(24) of such Act is amended by striking "if an individual is receiving benefits under title XVI, then, for the period for which such benefits are received," and inserting the following: "if an individual is receiving benefits under title XVI or his costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made to his or her minor parent as provided in section 475(4)(B), then, for the period for which such benefits are received or such costs are so covered,".

(2) Section 472(h) of such Act is amended by adding at the end the following new sentence: "For purposes of the preceding sentence, a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are made under this section.".

(3)(A) Section 473(a)(2)(A) of such Act is amended—

(i) by striking "or" at the end of clause (i);

(ii) by adding "or" at the end of clause (ii); and

(iii) by adding after clause (ii) the following new clause:

"(iii) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent as provided in section 475(4)(B),".

(B) Section 473(a)(2)(B)(iii) of such Act is amended by inserting "or (A)(iii)" after "(A)(ii)".

(4) Section 473(b) of such Act is amended by adding at the end the following new sentence: "For purposes of the preceding sentence, a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are being made under section 472.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective April 1, 1988.

SEC. 9134. INCREASED FUNDING FOR SOCIAL SERVICES BLOCK GRANTS.

(a) INCREASE IN FUNDING.—Section 2003(c) of the Social Security Act is amended—

(A) by striking "and" at the end of paragraph (2);

(B) in paragraph (3), by striking "year" the first place it appears and all that follows through the period and inserting "years 1984, 1985, 1986, and 1987, and for each succeeding fiscal year other than the fiscal year 1988; and"; and

(C) by adding at the end the following new paragraph:

"(4) $2,750,000,000 for the fiscal year 1988.".

(b) REQUIREMENT THAT ADDITIONAL FUNDS SUPPLEMENT AND NOT SUPPLANT FUNDS AVAILABLE FROM OTHER SOURCES.—The additional $50,000,000 made available to the States for the fiscal year 1988 pursuant to the amendments made by subsection (a) shall—

(A) be used only for the purpose of providing additional services under title XX of the Social Security Act; and

(B) be expended only to supplement the level of any funds that would, in the absence of the additional funds appropriated pursuant to such amendments, be available from other sources (including any amounts available under title XX of the Social Security Act without regard to such amendments) for services in accordance with such title, and shall in no case supplant such funds from other sources or reduce the level thereof.

SEC. 9135. EXTENSION OF SOCIAL SERVICES BLOCK GRANT AND CHILD WELFARE SERVICES PROGRAMS TO AMERICAN SAMOA.

(a) SOCIAL SERVICES BLOCK GRANT PROGRAM.—(1) Section 1101(a)(1) of the Social Security Act is amended by inserting "American Samoa," after "Guam," in the last sentence.

(2)(A) Section 2003(a) of such Act is amended by adding at the end the following new sentence: "The allotment for fiscal year 1989 and each succeeding fiscal year to American Samoa shall be an amount which bears the same ratio to the amount allotted to the Northern Mariana Islands for that fiscal year as the population of American Samoa bears to the population of the Northern Mariana Islands determined on the basis of the most recent data available at the time such allotment is determined.".

(B) Section 2003(b) of such Act is amended by inserting "American Samoa," after "the Virgin Islands," each place it appears.

(b) CHILD WELFARE SERVICES PROGRAM.—(1) Section 1101(a)(1) of such Act is amended by adding at the end thereof the following new sentence: "Such term when used in part B of title IV also includes American Samoa.".

(2) Section 421(b) of such Act is amended by striking "and Guam" and inserting "Guam, and American Samoa".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 1988.

SEC. 9136. NATIONAL COMMISSION ON CHILDREN.

Part A of title XI of the Social Security Act is amended by adding at the end the following new section:

"NATIONAL COMMISSION ON CHILDREN

"SEC. 1139. (a)(1) There is hereby established a commission to be known as the National Commission on Children (in this section referred to as the 'Commission').

"(b)(1) The Commission shall consist of—

"(A) 12 members to be appointed by the President,

"(B) 12 members to be appointed by the Speaker of the House of Representatives, and

"(C) 12 members to be appointed by the President pro tempore of the Senate.

"(2) The President, the Speaker, and the President pro tempore shall each appoint as members of the Commission—

"(A) 4 individuals who—

"(i) are representatives of organizations providing services to children,

"(ii) are involved in activities on behalf of children, or *"(iii) have engaged in academic research with respect to the problems and needs of children,*

"(B) 4 individuals who are elected or appointed public officials (at the Federal, State, or local level) involved in issues and programs relating to children, and

"(C) 4 individuals who are parents or representatives of parents or parents' organizations.

"(3) The appointments made pursuant to subparagraphs (B) and (C) of paragraph (1) shall be made in consultation with the chairmen of committees of the House of Representatives and the Senate, respectively, having jurisdiction over relevant Federal programs.

"(c)(1) It shall be the duty and function of the Commission to serve as a forum on behalf of the children of the Nation and to conduct the studies and issue the report required by subsection (d).

"(2) The Commission (and any committees that it may form) shall conduct public hearings in different geographic areas of the country, both urban and rural, in order to receive the views of a broad spectrum of the public on the status of the Nation's children and on ways to safeguard and enhance the physical, mental, and emotional well-being of all of the children of the Nation, including those with physical or mental disabilities, and others whose circumstances deny them a full share of the opportunities that parents of the Nation may rightfully expect for their children.

"(3) The Commission shall receive testimony from individuals, and from representatives of public and private organizations and institutions with an interest in the welfare of children, including educators, health care professionals, religious leaders, providers of social services, representatives of organizations with children as members, elected and appointed public officials, and from parents and children speaking in their own behalf.

"(d) The Commission shall submit to the President, and to the Committees on Finance and Labor and Human Resources of the Senate and the Committees on Ways and Means, Education and Labor, and Energy and Commerce of the House of Representatives, an interim report no later than September 30, 1988, and a final report no later than March 31, 1989, setting forth recommendations with respect to the following subjects:

"(1) Questions relating to the health of children that the Commission shall address include—

"(A) how to reduce infant mortality,

"(B) how to reduce the number of low-birth-weight babies,

"(C) how to reduce the number of children with chronic illnesses and disabilities,

"(D) how to improve the nutrition of children,

"(E) how to promote the physical fitness of children,

"(F) how to ensure that pregnant women receive adequate prenatal care,

"(G) how to ensure that all children have access to both preventive and acute care health services, and

"(H) how to improve the quality and availability of health care for children.

"(2) Questions relating to social and support services for children and their parents that the Commission shall address include—

"(A) how to prevent and treat child neglect and abuse,

"(B) how to provide help to parents who seek assistance in meeting the problems of their children,

"(C) how to provide counseling services for children,

"(D) how to strengthen the family unit,

"(E) how children can be assured of adequate care while their parents are working or participating in education or training programs,

"(F) how to improve foster care and adoption services,

"(G) how to reduce drug and alcohol abuse by children and youths, and

"(H) how to reduce the incidence of teenage pregnancy.

"(3) Questions relating to education that the Commission shall address include—

"(A) how to encourage academic excellence for all children at all levels of education,

"(B) how to use preschool experiences to enhance educational achievement,

"(C) how to improve the qualifications of teachers,

"(D) how schools can better prepare the Nation's youth to compete in the labor market,

"(E) how parents and schools can work together to help children achieve success at each step of the academic ladder,

"(F) how to encourage teenagers to complete high school and remain in school to fulfill their academic potential,

"(G) how to address the problems of drug and alcohol abuse by young people,

"(H) how schools might lend support to efforts aimed at reducing the incidence of teenage pregnancy, and

"(I) how schools might better meet the special needs of children who have physical or mental handicaps.

"(4) Questions relating to income security that the Commission shall address include—

"(A) how to reduce poverty among children,

"(B) how to ensure that parents support their children to the fullest extent possible through improved child support collection services, including services on behalf of children whose parents are unmarried, and

"(C) how to ensure that cash assistance to needy children is adequate.

"(5) Questions relating to tax policy that the Commission shall address include—

"(A) how to assure the equitable tax treatment of families with children,

"(B) the effect of existing tax provisions, including the dependent care tax credit, the earned income tax credit, and the targeted jobs tax credit, on children living in poverty,

"(C) whether the dependent care tax credit should be refundable and the effect of such a policy,

"(D) whether the earned income tax credit should be adjusted for family size and the effect of such a policy, and

"(E) whether there are other tax-related policies which would reduce poverty among children.

"(6) In addition to addressing the questions specified in paragraphs (1) through (5), the Commission shall—

"(A) seek to identify ways in which public and private organizations and institutions can work together at the community level to identify deficiencies in existing services for families and children and to develop recommendations to ensure that the needs of families and children are met, using all available resources, in a coordinated and comprehensive manner, and

"(B) assess the existing capacities of agencies to collect and analyze data on the status of children and on relevant programs, identify gaps in the data collection system, and recommend ways to improve the collection of data and the coordination among agencies in the collection and utilization of data.

The reports required by this subsection shall be based upon the testimony received in the hearings conducted pursuant to subsection (c), and upon other data and findings developed by the Commission.

"(e)(1)(A) Members of the Commission shall first be appointed not later than 60 days after the date of the enactment of this section, for terms ending on March 31, 1989.

"(B) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the vacant position was first filled.

"(2) The Commission shall elect one of its members to serve as Chairman of the Commission. The Chairman shall be a nonvoting member of the Commission.

"(3) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

"(4)(A) The Commission shall meet at the call of the Chairman, or at the call of a majority of the members of the Commission.

"(B) The Commission shall meet not less than 4 times during the period beginning with the date of the enactment of this section and ending with March 31, 1989.

"(5) Decisions of the Commission shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

"(6) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

"(f)(1) The Commission shall appoint an Executive Director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule under title 5, United States Code.

"(2) In addition to the Executive Director, the Commission may appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

"(g) In carrying out its duties, the Commission, or any duly organized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters for which it has a responsibility under this section, as the Commission or committee may deem advisable.

"(h)(1) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to carry out its responsibilities.

"(2) Upon request of the Commission, any such department or agency shall furnish any such data or information.

"(i) The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

"(j) There are authorized to be appropriated such sums as may be necessary to carry out this section.".

SEC. 9137. BOARDER BABIES DEMONSTRATION PROJECT.

Section 426 of the Social Security Act is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following new subsection:

"(b)(1) There are authorized to be appropriated $4,000,000 for each of the fiscal years 1988, 1989, and 1990 for grants by the Secretary to public or private nonprofit entities submitting applications under this subsection for the purpose of conducting demonstration projects under this subsection to develop alternative care arrangements for infants who do not have health conditions that require hospitalization and who would otherwise remain in inappropriate hospital settings.

"(2) The demonstration projects conducted under this section may include—

"(A) multidisciplinary projects designed to prevent the inappropriate hospitalization of infants and to allow infants described in paragraph (1) to remain with or return to a parent in a residential setting, where appropriate care for the infant and suitable treatment for the parent (including treatment for drug or alcohol addiction) may be assured, with the goal (where possible) of rehabilitating the parent and eliminating the need for such care for the infant;

"(B) multidisciplinary projects that assure appropriate, individualized care for such infants in a foster home or other non-medical residential setting in cases where such infant does not require hospitalization and would otherwise remain in inappropriate hospital settings, including projects to demonstrate methods to recruit, train, and retain foster care families; and

"(C) such other projects as the Secretary determines will best serve the interests of such infants and will serve as models for projects that agencies or organizations in other communities may wish to develop.

"(3) In the case of any project which includes the use of funds authorized under this subsection for the care of infants in foster homes or other non-medical residential settings away from their parents, there shall be developed for each such infant a case plan of the type described in section 475(1) (to the extent that such infant is not otherwise covered by such a plan), and each such project shall include a case review system of the type described in section 475(5) (covering each such infant who is not otherwise subject to such a system).

"(4) In evaluating applications from entities proposing to conduct demonstration projects under this subsection, the Secretary shall give priority to those projects that serve areas most in need of alternative care arrangements for infants described in paragraph (1).

"(5) No project may be funded unless the application therefor contains assurances that it will—

"(A) provide for adequate evaluation;

"(B) provide for coordination with local governments;

"(C) provide for community education regarding the inappropriate hospitalization of infants;

"(D) use, to the extent practical, other available private, local, State, and Federal sources for the provision of direct services; and

"(E) meet such other criteria as the Secretary may prescribe.

"(6) Grants may be used to pay the costs of maintenance and of necessary medical and social services (to the extent that these costs are not otherwise paid for under other titles of this Act), and for such other purposes as the Secretary may allow.

"(7) The Secretary shall provide training and technical assistance to grantees, as requested.".

SEC. 9138. STUDY OF INFANTS AND CHILDREN WITH AIDS IN FOSTER CARE.

(a) In General.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct (or arrange for) a survey to determine—

(1) the total number of infants and children in the United States who have been diagnosed as having acquired immune deficiency syndrome and who have been placed in foster care;

(2) the problems encountered by social service agencies in placing infants and children with such syndrome in foster care; and

(3) the potential increase (over the five-year period beginning on the date of the enactment of this Act) in the number of infants and children with such syndrome who will require foster care.

For purposes of this section, an infant or child with acquired immune deficiency syndrome includes an infant or child who is infected with the virus associated with such syndrome.

(b) Restriction on Scope of Survey.—In conducting (or arranging for) the survey under subsection (a), the Secretary shall assure that survey activities do not duplicate research activities conducted by the Centers for Disease Control.

(c) Report.—Not later than 12 months after the date of enactment of this Act, the Secretary shall report to the Congress on the results of the survey conducted under subsection (a) and shall make recommendations to the Congress with respect to improving the care of infants and children with acquired immune deficiency syndrome who lack ongoing parental involvement and support.

SEC. 9139. TECHNICAL CORRECTIONS.

(a) The last sentence of section 472(a) of the Social Security Act is amended by striking out "473(a)(1)(B)" and inserting in lieu thereof "473(a)(2)(B)".

(b) Section 201(b)(2)(B) of the Immigration Reform and Control Act of 1986 is amended by striking out "Section 473(a)(1) of such Act" and inserting in lieu thereof "Section 473(a)(2) of such Act (as amended by section 1711(a) of the Tax Reform Act of 1986)".

PART 3—CHILD SUPPORT ENFORCEMENT AMENDMENTS

SEC. 9141. CONTINUATION OF CHILD SUPPORT ENFORCEMENT SERVICES TO FAMILIES NO LONGER RECEIVING AFDC.

(a) In General.—(1) Section 457(c) of the Social Security Act is amended to read as follows:

"(c) Whenever a family with respect to which child support enforcement services have been provided pursuant to section 454(4) ceases to receive assistance under part A of this title, the State shall provide appropriate notice to the family and continue to provide such services, and pay any amount of support collected, subject to the same conditions and on the same basis as in the case of the individuals to whom services are furnished pursuant to section 454(6), except that no application or other request to continue services shall be required of a family to which this subsection applies, and the provisions of section 454(6)(B) may not be applied.".

(2) Section 454(5) of such Act is amended by striking "(except as provided in section 457(c))".

(b) Effective Date.—The amendments made by subsection (a) shall become effective upon enactment.

SEC. 9142. CHILD SUPPORT ENFORCEMENT SERVICES REQUIRED FOR CERTAIN FAMILIES RECEIVING MEDICAID.

(a) In General.—Section 454 of the Social Security Act is amended—

(1)(A) by striking "an assignment under section 402(a)(26) of this title" in paragraph (4)(A) and inserting "an assignment under section 402(a)(26) or section 1912";;

(B) by striking ", and" at the end of paragraph (4)(A) and inserting ", or, in the case of such a child with respect to whom an assignment under section 1912 is in effect, the State agency administering the plan approved under title XIX determines pursuant to section 1912(a)(1)(B) that it is against the best interests of the child to do so, and"; and

(C) by inserting "or medical assistance under a State plan approved under title XIX" immediately after "aid to families with dependent children" in paragraph (4)(B); and

(2)(A) by striking "provide that," and inserting "provide that (A)" in paragraph (5); and

(B) by striking the semicolon at the end of paragraph (5) and inserting "; and (B) in any case in which support payments are collected for an individual pursuant to the assignment made under section 1912, such payments shall be made to the State for distribution pursuant to section 1912, except that this clause shall not apply to such payments for any month after the month in which the individual ceases to be eligible for medical assistance;".

(b) Effective Date.—The amendments made by subsection (a) shall become effective on July 1, 1988.

SEC. 9143. REPEAL OF UNNECESSARY CHILD SUPPORT REVOLVING FUND.

(a) In General.—Section 452(c) of the Social Security Act is amended to read as follows:

"(c) The Secretary of the Treasury shall from time to time pay to each State for distribution in accordance with the provisions of section 457 the amount of each collection made on behalf of such State pursuant to subsection (b).".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to amounts collected after the date of the enactment of this Act.

PART 4—UNEMPLOYMENT COMPENSATION

SEC. 9151. DETERMINATION OF AMOUNT OF FEDERAL SHARE WITH RESPECT TO CERTAIN EXTENDED BENEFITS PAYMENTS.

For the purpose of determining the amount of the Federal payment to any State under section 204(a)(1) of the Federal-State Extended Unemployment Compensation Act of 1970 with respect to the implementation of paragraph (3) of section 202 (a) of such Act (as added by section 1024(a) of the Omnibus Reconciliation Act of 1980), such paragraph shall be considered to apply only with respect to weeks of unemployment beginning after October 31, 1981, except that for any State in which the State legislature did not meet in 1981, it shall be considered to apply for such purpose only with respect to weeks of unemployment beginning after October 31, 1982.

SEC. 9152. DEMONSTRATION PROGRAM TO PROVIDE SELF-EMPLOYMENT ALLOWANCES FOR ELIGIBLE INDIVIDUALS.

(a) In General.—The Secretary of Labor (hereinafter in this section referred to as the "Secretary") shall carry out a demonstration program under this section for the purpose of making available self-employment allowances to eligible individuals. To carry out such program, the Secretary shall enter into agreements with three States that—

(1) apply to participate in such program, and

(2) demonstrate to the Secretary that they are capable of implementing the provisions of the agreement.

(b) Selection of States.—(1) In determining whether to enter into an agreement with a State under this section, the Secretary shall take into consideration at least—

(A) the availability and quality of technical assistance currently provided by agencies of the State to the self-employed;

(B) existing local market conditions and the business climate for new, small business enterprises in the State;

(C) the adequacy of State resources to carry out a regular unemployment compensation program and a program under this section;

(D) the range and extent of specialized services to be provided by the State to individuals covered by such an agreement;

(E) the design of the evaluation to be applied by the State to the program; and

(F) the standards which are to be utilized by the State for the purpose of assuring that individuals who will receive self-employment assistance under this section will have sufficient experience (or training) and ability to be self employed.

(2) The Secretary may not enter into an agreement with any State under this section unless the Secretary makes a determination that the State's unemployment compensation program has adequate reserves.

(c) Provisions of Agreements.—Any agreement entered into with a State under this section shall provide that—

(1) each individual who is an eligible individual with respect to any benefit year beginning during the three-year period commencing on the date on which such agreement is entered into shall receive a self-employment allowance;

(2) self-employment allowances made to any individual under this section shall be made in the same amount, on the same terms, and subject to the same conditions as regular or extended unemployment compensation, as the case may be, paid by such State; except that—

(A) State and Federal requirements relating to availability for work, active search for work, or refusal to accept suitable work shall not apply to such individual; and

(B) such individual shall be considered to be unemployed for purposes of the State and Federal laws applicable to unemployment compensation,

as long as the individual meets the requirements applicable under this section to such individual;

(3) to the extent that such allowances are made to an individual under this section, an amount equal to the amount of such allowances shall be charged against the amount that may be paid to such individual under State law for regular or extended unemployment compensation, as the case may be;

(4) the total amount paid to an individual with respect to any benefit year under this section may not exceed the total amount that could be paid to such individual for regular or extended unemployment compensation, as the case may be, with respect to such benefit year under State law;

(5) the State shall implement a program that—

(A) is approved by the Secretary;

(B) will not result in any cost to the Unemployment Trust Fund established by section 904(a) of the Social Security Act in excess of the cost which would have been incurred by such State and charged to such Fund if the State had not participated in the demonstration program under this section;

(C) is designed to select and assist individuals for self-employment allowances, monitor the individual's self-employment, and provide, as described in subsection (d), to the Secretary a complete evaluation of the use of such allowances; and

(D) otherwise meets the requirements of this section; and

(6) the State, from its general revenue funds, shall—

(A) repay to the Unemployment Trust Fund any cost incurred by the State and charged to the Fund which exceeds the cost which would have been incurred by such State and charged to such Fund if the State had not participated in the demonstration program under this section; and

(B) in any case in which any excess cost described in subparagraph (A) is not repaid in the fiscal year in which it was charged to the Fund, pay to the Fund an amount of interest, on the outstanding balance of such excess cost, which is sufficient (when combined with any repayment by the State described in subparagraph (A)) to reimburse the Fund for any loss which would not have been incurred if such excess cost had not been incurred.

(d) Evaluation.—(1) Each State that enters into an agreement under this section shall carry out an evaluation of its activities under this section. Such evaluation shall be based on an experimental design with random assignment between a treatment group and a control group with not more than one-half of the individuals receiving assistance at any one time being assigned to the treatment group.

(2) The Secretary shall use the data provided from such evaluation to analyze the benefits and the costs of the program carried out under this section, to formulate the reports under subsection (g), and to estimate any excess costs described in subsection (c)(6)(A).

(e) Financing.—(1) Notwithstanding section 303(a)(5) of the Social Security Act and section 3304(a)(4) of the Internal Revenue Code of 1986, amounts in the unemployment fund of a State may be used by a State to make payments (exclusive of expenses of administration) for self-employment allowances made under this section to an individual who is receiving them in lieu of regular unemployment compensation.

(2) In any case in which a self-employment allowance is made under this section to an individual in lieu of extended unemployment compensation under the Federal-State Extended Unemployment Compensation Act of 1970, payments made under this section for self-employment allowances shall be considered to be compensation described in section 204(a)(1) of such Act and paid under State law.

(f) Limitation.—No funds made available to a State under title III of the Social Security Act or any other Federal law may be used for the purpose of administering the program carried out by such State under this section.

(g) Report to Congress.—(1) Not later than two years after the date of the enactment of this Act, the Secretary shall submit an interim report to the Congress on the effectiveness of the demonstration program carried out under this section. Such report shall include—

(A) information on the extent to which this section has been utilized;

(B) an analysis of any barriers to such utilization; and

(C) an analysis of the feasibility of extending the provisions of this section to individuals not covered by State unemployment compensation laws.

(2) Not later than four years after the date of the enactment of this Act, the Secretary shall submit a final report to the Congress on such program.

(h) Fraud and Overpayments.—(1) If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received payment under this section to which he was not entitled, such individual shall be—

(A) ineligible for further assistance under this section; and

(B) subject to prosecution under section 1001 of title 18, United States Code.

(2)(A) If any person received any payment under this section to which such person was not entitled, the State is authorized to require such person to repay such assistance; except that the State agency may waive such repayment if it determines that—

(i) the providing of such assistance or making of such payment was without fault on the part of such person; and

(ii) such repayment would be contrary to equity and good conscience.

(B) No repayment shall be required under subparagraph (A) until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the person, and the determination has become final. Any determination under such subparagraph shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

(i) Definitions.—For purposes of this section—

(1) the term "eligible individual" means, with respect to any benefit year, an individual who—

(A) is eligible to receive regular or extended compensation under the State law during such benefit year;

(B) is likely to receive unemployment compensation for the maximum number of weeks that such compensation is made available under the State law during such benefit year;

(C) submits an application to the State agency for a self-employment allowance under this section; and

(D) meets applicable State requirements,

except that not more than (i) 3 percent of the number of individuals eligible to receive regular compensation in a State at the beginning of a fiscal year, or (ii) the number of persons who exhausted their unemployment compensation benefits in the fiscal year ending before such fiscal year, whichever is lesser, may be considered as eligible individuals for such State for purposes of this section during such fiscal year;

(2) the term "self-employment allowance" means compensation paid under this section for the purpose of assisting an eligible individual with such individual's self-employment; and

(3) the terms "compensation", "extended compensation", "regular compensation", "benefit year", "State", and "State law", have the respective meanings given to such terms by section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

SEC. 9153. EXTENSION OF FUTA TAX.

(a) In General.—Paragraphs (1) and (2) of section 3301 of the Federal Unemployment Tax Act (26 U.S.C. 3301) are amended to read as follows:

"(1) 6.2 percent in the case of calendar years 1988, 1989, and 1990; or

"(2) 6.0 percent in the case of calendar year 1991 and each calendar year thereafter;".

(b) Effective Date.—The amendment made by subsection (a) shall apply to wages paid on or after January 1, 1988.

SEC. 9154. TRANSFER OF FUNDS INTO THE FEDERAL UNEMPLOYMENT ACCOUNT AND THE EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) In General.—Section 901 of the Social Security Act (42 U.S.C. 1101) is amended by adding at the end the following new subsection:

"Transfers For Calendar Years 1988, 1989, and 1990

"(g)(1) With respect to calendar years 1988, 1989, and 1990, the Secretary of the Treasury shall transfer from the employment security administration account—

"(A) to the Federal unemployment account an amount equal to 50 percent of the amount of tax received under section 3301(1) of the Federal Unemployment Tax Act which is attributable to the difference in the tax rates between paragraphs (1) and (2) of such section; and

"(B) to the extended unemployment compensation account an amount equal to 50 percent of such amount of tax received.

"(2) Transfers under this subsection shall be as of the beginning of the month succeeding the month in which the moneys were credited to the employment security administration account pursuant to subsection (b)(2) with respect to wages paid during such calendar years.".

(b) Increase in the Limitation on the Amounts in Such Accounts.—(1) Section 902(a)(2) of such Act (42 U.S.C. 1102(a)(2)) is amended by striking out "one-eighth" and inserting in lieu thereof "five-eighths".

(2) Section 905(b)(2)(B) of such Act (42 U.S.C. 1105(b)(2)(B)) is amended by striking out "one-eighth" and inserting in lieu thereof "three-eighths".

(c) Conforming Amendments.—(1) Section 905(b)(1) of such Act (42 U.S.C. 1105(b)(1)) is amended by striking out the last sentence thereof.

(2) Section 901(c)(3)(C) of such Act (42 U.S.C. 1101(c)(3)(C)) is amended by striking out "(i)" and all that follows through the period and inserting in lieu thereof "a tax rate of 0.6 percent.".

(d) Effective Date.—The amendments made by this section shall become effective on the date of the enactment of this Act.

SEC. 9155. INTEREST ON ADVANCES TO THE FEDERAL UNEMPLOYMENT ACCOUNT AND THE EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) Extended Unemployment Compensation Account.—Section 905(d) of the Social Security Act (42 U.S.C. 1105(d)) is amended—

(1) by striking out "(without interest)" and ", without interest,"; and

(2) by adding the following new sentence at the end: "Amounts appropriated as repayable advances for purposes of this subsection shall bear interest at a rate equal to the average rate of interest, computed as of the end of the calendar month next preceding the date of such advance, borne by all interest bearing obligations of the United States then forming part of the public debt; except that in cases in which such average rate is not a multiple of one-eighth of 1 percent, the rate of interest shall be the multiple of one-eighth of 1 percent next lower than such average rate.".

(b) Federal Unemployment Account.—Section 1203 of such Act (42 U.S.C. 1323) is amended—

(1) by striking out "(without interest)" and ", without interest,"; and

(2) by adding the following new sentence at the end: "Amounts appropriated as repayable advances for purposes of this subsection shall bear interest at a rate equal to the average rate of interest, computed as of the end of the calendar month next preceding the date of such advance, borne by all interest bearing obligations of the United States then forming part of the public debt; except that in cases in which such average rate is not a multiple of one-eighth of 1 percent, the rate of interest shall be the multiple of one-eighth of 1 percent next lower than such average rate.".

(c) Conforming Amendment.—Section 903(a)(1) of such Act (42 U.S.C. 1103(a)(1)) is amended by inserting "and interest" after "all advances".

(d) Effective Date.—The amendments made by this section shall apply to advances made on or after the date of the enactment of this Act.

SEC. 9156. CREDITING TO THE FEDERAL UNEMPLOYMENT ACCOUNT OF INTEREST EARNED ON ADVANCES TO THE STATES.

(a) In General.—Section 1202 of the Social Security Act is amended by adding at the end the following new subsection:

"(c) Interest paid by States in accordance with this section shall be credited to the Federal unemployment account established by section 904(g) in the Unemployment Trust Fund.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to interest paid on advances made on or after the date of the enactment of this Act.

Subtitle C—Manufacturers Excise Tax on Certain Vaccines

SEC. 9201. MANUFACTURERS EXCISE TAX ON CERTAIN VACCINES.

(a) In General.—Chapter 32 of the Internal Revenue Code of 1986 (relating to manufacturers excise taxes) is amended by inserting after subchapter B the following new subchapter:

"Subchapter C—Certain Vaccines

"Sec. 4131. Imposition of tax.

"Sec. 4132. Definitions and special rules.

"SEC. 4131. IMPOSITION OF TAX.

"(a) General Rule.—There is hereby imposed a tax on any taxable vaccine sold by the manufacturer, producer, or importer thereof.

"(b) Amount of Tax.—

"(1) In general.—The amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:

If the taxable vaccine is:	The tax per dose is:
DPT vaccine	$4.56
DT vaccine	0.06
MMR vaccine	4.44
Polio vaccine	0.29.

"(2) Combinations of vaccines.—If any taxable vaccine is included in more than 1 category of vaccines in the table contained in paragraph (1), the amount of the tax imposed by subsection (a) on such vaccine shall be the sum of the amounts determined under such table for each category in which such vaccine is so included.

"(c) Termination of Tax if Amounts Collected Exceed Projected Fund Liability.—

"(1) In general.—If the Secretary estimates under paragraph (3) that the Vaccine Injury Compensation Trust Fund would not have a negative projected balance were the tax imposed by this section to terminate as of the close of any applicable date, no tax shall be imposed by this section after such date.

"(2) Applicable date.—For purposes of paragraph (1), the term 'applicable date' means—

"(A) the close of any calendar quarter ending on or after December 31, 1992, and

"(B) the 1st date on which petitions may not be filed under section 2111 and 2111(a) of the Public Health Service Act by reason of section 2134 of such Act and each date thereafter.

"(3) Estimates by secretary.—

"(A) In general.—The Secretary shall estimate the projected balance of the Vaccine Injury Compensation Trust Fund as of—

"(i) the close of each calendar quarter ending on or after December 31, 1992, and

"(ii) such other times as are appropriate in the case of applicable dates described in paragraph (2)(B).

"(B) Determination of projected balance.—In determining the projected balance of the Fund as of any date, the Secretary shall assume that—

"(i) the tax imposed by this section will not apply after such date, and

"(ii) there shall be paid from such Trust Fund all claims made or to be made against such Trust Fund—

"(I) with respect to vaccines administered before October 1, 1992, in the case of an applicable date described in paragraph (2)(A), or

"(II) with respect to petitions filed under section 2111 or section 2111(a) of the Public Health Service Act, in the case of an applicable date described in paragraph (2)(B).

"SEC. 4132. DEFINITIONS AND SPECIAL RULES.

"(a) Definitions Relating to Taxable Vaccines.—For purposes of this subchapter—

"(1) Taxable vaccine.—The term 'taxable vaccine' means any vaccine—

"(A) which is listed in the table contained in section 4131(b)(1), and

"(B) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.

"(2) DPT vaccine.—The term 'DPT vaccine' means any vaccine containing pertussis bacteria, extracted or partial cell bacteria, or specific pertussis antigens.

"(3) DT vaccine.—The term 'DT vaccine' means any vaccine (other than a DPT vaccine) containing diphtheria toxoid or tetanus toxoid.

"(4) MMR vaccine.—The term "MMR vaccine' means any vaccine against measles, mumps, or rubella. Not more than 1 tax shall be imposed by section 4131 on any

MMR vaccine by reason of being a vaccine against more than 1 of measles, mumps, or rubella.

"(5) POLIO VACCINE.—The term 'polio vaccine' means any vaccine containing polio virus.

"(6) VACCINE.—The term 'vaccine' means any substance designed to be administered to a human being for the prevention of 1 or more diseases.

"(7) UNITED STATES.—The term 'United States' has the meaning given such term by section 4612(a)(4).

"(8) IMPORTER.—The term 'importer' means the person entering the vaccine for consumption, use, or warehousing.

"(b) CREDIT OR REFUND WHERE VACCINE RETURNED TO MANUFACTURER, ETC., OR DESTROYED.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, whenever any vaccine on which tax was imposed by section 4131 is—

"(A) returned (other than for resale) to the person who paid such tax, or

"(B) destroyed,

the Secretary shall abate such tax or allow a credit, or pay a refund (without interest), to such person equal to the tax paid under section 4131 with respect to such vaccine.

"(2) CLAIM MUST BE FILED WITHIN 6 MONTHS.—Paragraph (1) shall apply to any returned or destroyed vaccine only with respect to claims filed within 6 months after the date the vaccine is returned or destroyed.

"(3) CONDITION OF ALLOWANCE OF CREDIT OR REFUND.—No credit or refund shall be allowed or made under paragraph (1) with respect to any vaccine unless the person who paid the tax establishes that he—

"(A) has repaid or agreed to repay the amount of the tax to the ultimate purchaser of the vaccine, or

"(B) has obtained the written consent of such purchaser to the allowance of the credit or the making of the refund.

"(4) TAX IMPOSED ONLY ONCE.—No tax shall be imposed by section 4131 on the sale of any vaccine if tax was imposed by section 4131 on any prior sale of such vaccine and such tax is not abated, credited, or refunded.

"(c) OTHER SPECIAL RULES.—

"(1) FRACTIONAL PART OF A DOSE.—In the case of a fraction of a dose, the tax imposed by section 4131 shall be the same fraction of the amount of such tax imposed by a whole dose.

"(2) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4131."

(b) CERTAIN PROVISIONS RELATING TO TAX-FREE SALES, ETC. NOT TO APPLY.—

(1) Subsection (a) of section 4221 of such Code (relating to certain tax-free sales) is amended by adding at the end thereof the following new sentence: "In the case of the tax imposed by section 4131, paragraphs (3), (4), and (5) shall not apply and paragraph (2) shall apply only if the use of the exported vaccine meets such requirements as the Secretary may by regulations prescribe."

(2) Paragraph (2) of section 6416(b) of such Code (relating to specified uses or resales) is amended by adding at the end thereof the following new sentence: "In the case of the tax imposed by section 4131, subparagraphs (B), (C), and (D) shall not apply and subparagraph (A) shall apply only if the use of the exported vaccine meets such requirements as the Secretary may by regulations prescribe."

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 32 of such Code is amended by inserting after the item relating to subchapter B the following new item:

"Subchapter C. Certain vaccines."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1988.

SEC. 9202. VACCINE INJURY COMPENSATION TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9510. VACCINE INJURY COMPENSATION TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Vaccine Injury Compensation Trust Fund', consisting of such amounts as may be credited to such Trust Fund as provided in section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—

"(1) IN GENERAL.—There are hereby appropriated to the Vaccine Injury Compensation Trust Fund amounts equivalent to the net revenues received in the Treasury from the tax imposed by section 4131 (relating to tax on certain vaccines).

"(2) NET REVENUES.—For purposes of paragraph (1), the term 'net revenues' means the amount estimated by the Secretary based on the excess of—

"(A) the taxes received in the Treasury under section 4131 (relating to tax on certain vaccines), over

"(B) the decrease in the tax imposed by chapter 1 resulting from the tax imposed by section 4131.

"(c) EXPENDITURES FROM TRUST FUND.—

"(1) IN GENERAL.—Amounts in the Vaccine Injury Compensation Trust Fund shall be available, as provided in appropriation Acts, only for the payment of compensation under subtitle 2 of title XXI of the Public Health Service Act (as in effect on the date of the enactment of this section) for vaccine-related injury or death with respect to vaccines administered after September 30, 1988, and before October 1, 1992.

"(2) TRANSFERS FOR CERTAIN REPAYMENTS.—

"(A) IN GENERAL.—The Secretary shall pay from time to time from the Vaccine Injury Compensation Trust Fund into the general fund of the Treasury amounts equivalent to amounts paid under section 4132(b) and section 6416 with respect to the taxes imposed by section 4131.

"(B) TRANSFERS BASED ON ESTIMATES.—Transfers under subparagraph (A) shall be made on the basis of estimates by the Secretary, and proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(d) LIABILITY OF UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Vaccine Injury Compensation Trust Fund may be paid only out of such Trust Fund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in the National Childhood Vaccine Injury Act of 1986 (or in any amendment made by such Act) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Vaccine Injury Compensation Trust Fund.

"(3) ORDER IN WHICH UNPAID CLAIMS TO BE PAID.—If at any time the Vaccine Injury Compensation Trust Fund has insufficient funds to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under paragraph (1) be paid in full in the order in which they are finally determined."

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

"Sec. 9510. Vaccine Injury Compensation Trust Fund."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1988.

SUBTITLE D—PENSION PROVISIONS

PART I—FULL-FUNDING LIMITATIONS

SEC. 9301. FULL-FUNDING LIMITATION FOR DEDUCTIONS TO QUALIFIED PLANS.

(a) GENERAL RULE.—Paragraph (7) of section 412(c) of the Internal Revenue Code of 1986 (defining full-funding limitation) is amended to read as follows:

"(7) FULL-FUNDING LIMITATION.—

"(A) IN GENERAL.—For purposes of paragraph (6), the term 'full-funding limitation' means the excess (if any) of—

"(i) the lesser of (I) 150 percent of current liability, or (II) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be directly calculated under the funding method used for the plan), over

"(ii) the lesser of—

"(I) the fair market value of the plan's assets, or

"(II) the value of such assets determined under paragraph (2).

"(B) CURRENT LIABILITY.—For purposes of subparagraphs (A) and (D), the term 'current liability' has the meaning given such term by subsection (l)(7) (without regard to subparagraph (D) thereof).

"(C) SPECIAL RULE FOR PARAGRAPH (6)(B).—For purposes of paragraph (6)(B), subparagraph (A)(i) shall be applied without regard to subclause (I) thereof.

"(D) REGULATORY AUTHORITY.—The Secretary may by regulations provide—

"(i) for adjustments to the percentage contained in subparagraph (A)(i) to take into account the respective ages or lengths of service of the participants,

"(ii) alternative methods based on factors other than current liability for the determination of the amount taken into account under subparagraph (A)(i), and

"(iii) for the treatment under this section of contributions which would be required to be made under the plan but for the provisions of subparagraph (A)(i)(I)."

(b) AMENDMENT TO ERISA.—Paragraph (7) of section 302(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)) is amended to read as follows:

"(7) FULL-FUNDING LIMITATION.—

"(A) IN GENERAL.—For purposes of paragraph (6), the term 'full-funding limitation' means the excess (if any) of—

"(i) the lesser of (I) 150 percent of current liability, or (II) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be directly calculated under the funding method used for the plan), over

"(ii) the lesser of—

"(I) the fair market value of the plan's assets, or

"(II) the value of such assets determined under paragraph (2).

"(B) Current liability.—For purposes of subparagraphs (A) and (D), the term 'current liability' has the meaning given such term by subsection (d)(7) (without regard to subparagraph (D) thereof).

"(C) Special rule for paragraph (6)(B).—For purposes of paragraph (6)(B), subparagraph (A)(i) shall be applied without regard to subclause (I) thereof.

"(D) Regulatory authority.—The Secretary of the Treasury may by regulations provide—

"(i) for adjustments to the percentage contained in subparagraph (A)(i) to take into account the respective ages or lengths of service of the participants,

"(ii) alternative methods based on factors other than current liability for the determination of the amount taken into account under subparagraph (A)(i), and

"(iii) for the treatment under this section of contributions which would be required to be made under the plan but for the provisions of subparagraph (A)(i)(I)."

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to years beginning after December 31, 1987.

(2) Regulations.—The Secretary of the Treasury or his delegate shall prescribe such regulations as are necessary to carry out the amendments made by this section no later than August 15, 1988.

(3) Study.—The Secretary of the Treasury or his delegate shall study the effect of the amendments made by this section on benefit security under defined benefit pension plans and shall report the results of such study to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate no later than August 15, 1988.

PART II—PENSION FUNDING AND TERMINATION REQUIREMENTS

SEC. 9302. SHORT TITLE; DEFINITIONS.

(a) Short Title.—This part may be cited as the "Pension Protection Act".

(b) Definitions.—For purposes of this part—

(1) 1986 code.—The term "1986 Code" means the Internal Revenue Code of 1986.

(2) ERISA.—The term "ERISA" means the Employee Retirement Income Security Act of 1974.

Subpart A—Modifications of Minimum Funding Standard

SEC. 9303. ADDITIONAL FUNDING REQUIREMENTS.

(a) Amendments to 1986 Code.—

(1) In general.—Section 412 of the 1986 Code (relating to minimum funding standard) is amended by adding at the end thereof the following new subsection:

"(l) Additional Funding Requirements for Plans Which Are Not Multiemployer Plans.—

"(1) In general.—In the case of a defined benefit plan (other than a multiemployer plan) which has an unfunded current liability for any plan year, the amount charged to the funding standard account for such plan year shall be increased by the sum of—

"(A) the excess (if any) of—

"(i) the deficit reduction contribution determined under paragraph (2) for such plan year, over

"(ii) the sum of the charges for such plan year under subparagraphs (B) (other than clauses (iv) and (v) thereof), (C), and (D) of subsection (b)(2), reduced by the sum of the credits for such plan year under subparagraph (B)(i) of subsection (b)(3), plus

"(B) the unpredictable contingent event amount (if any) for such plan year.

Such increase shall not exceed the amount necessary to increase the funded current liability percentage to 100 percent.

"(2) Deficit reduction contribution.—For purposes of paragraph (1), the deficit reduction contribution determined under this paragraph for any plan year is the sum of—

"(A) the unfunded old liability amount, plus

"(B) the unfunded new liability amount.

"(3) Unfunded old liability amount.—For purposes of this subsection—

"(A) In general.—The unfunded old liability amount with respect to any plan for any plan year is the amount necessary to amortize the unfunded old liability under the plan in equal annual installments over a period of 18 plan years (beginning with the 1st plan year beginning after December 31, 1988).

"(B) Unfunded old liability.—The term 'unfunded old liability' means the unfunded current liability of the plan as of the beginning of the 1st plan year beginning after December 31, 1987 (determined without regard to any plan amendment increasing liabilities adopted after October 16, 1987).

"(C) Special rules for benefit increases under existing collective bargaining agreements.—

"(i) In general.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and the employer ratified before October 17, 1987, the unfunded old liability amount with respect to such plan for any plan year shall be increased by the amount necessary to amortize the unfunded existing benefit increase liability in equal annual installments over a period of 18 plan years beginning with—

"(I) the plan year in which the benefit increase with respect to such liability occurs, or

"(II) if the taxpayer elects, the 1st plan year beginning after December 31, 1988.

"(ii) Unfunded existing benefit increase liabilities.—For purposes of clause (i), the unfunded existing benefit increase liability means, with respect to any benefit increase under the agreements described in clause (i) which takes effect during or after the 1st plan year beginning after December 31, 1987, the unfunded current liability determined—

"(I) by taking into account only liabilities attributable to such benefit increase, and

"(II) by reducing the amount determined under paragraph (8)(A)(ii) by the current liability determined without regard to such benefit increase.

"(iii) Extensions, modifications, etc. not taken into account.—For purposes of this subparagraph, any extension, amendment, or other modification of an agreement after October 16, 1987, shall not be taken into account.

"(4) Unfunded new liability amount.—For purposes of this subsection—

"(A) In general.—The unfunded new liability amount with respect to any plan for any plan year is the applicable percentage of the unfunded new liability.

"(B) Unfunded new liability.—The term 'unfunded new liability' means the unfunded current liability of the plan for the plan year determined without regard to—

"(i) the unamortized portion of the unfunded old liability, and

"(ii) the liability with respect to any unpredictable contingent event benefits (without regard to whether the event has occurred).

"(C) Applicable percentage.—The term 'applicable percentage' means, with respect to any plan year, 30 percent, reduced by the product of—

"(i) .25 multiplied by

"(ii) the number of percentage points (if any) by which the funded current liability percentage exceeds 35 percent.

"(5) Unpredictable contingent event amount.—

"(A) In general.—The unpredictable contingent event amount with respect to a plan for any plan year is an amount equal to the greater of—

"(i) the applicable percentage of the product of—

"(I) 100 percent, reduced (but not below zero) by the funded current liability percentage for the plan year, multiplied by

"(II) the amount of unpredictable contingent event benefits paid during the plan year, including (except as provided by the Secretary) any payment for the purchase of an annuity contract for a participant or beneficiary with respect to such benefits, or

"(ii) the amount which would be determined for the plan year if the unpredictable contingent event benefit liabilities were amortized in equal annual installments over 7 plan years (beginning with the plan year in which such event occurs).

"(B) Applicable percentage.—

In the case of plan years beginning in:	*The applicable percentage is:*
1989 and 1990..........	*5*
1991..........................	*10*
1992..........................	*15*
1993..........................	*20*
1994..........................	*30*
1995..........................	*40*
1996..........................	*50*
1997..........................	*60*
1998..........................	*70*
1999..........................	*80*
2000..........................	*90*
2001 and thereafter	*100*

"(C) Paragraph not to apply to existing benefits.—This paragraph shall not apply to unpredictable contingent event benefits (and liabilities attributable thereto) for which the event occurred before October 17, 1987.

"(D) Special rule for first year of amortization.—Unless the employer elects otherwise, the amount determined under subparagraph (A) for the plan year in which the event occurs shall be equal to 150 percent of the amount determined under subparagraph (A)(i). The amount under subparagraph (A)(ii) for subsequent plan years in the amortization period shall be adjusted in the manner provided by the Secretary to reflect the application of this subparagraph.

"(6) Special rules for small plans.—

"(A) Plans with 100 or fewer participants.—This subsection shall not apply to any plan for any plan year if on each day during the preceding plan year such plan had no more than 100 participants.

"(B) Plans with more than 100 but not more than 150 participants.—In the case of a plan to which subparagraph (A) does not apply and which on each day during the preceding plan year had no more than 150 participants, the amount of the increase under paragraph (1) for such plan year shall be equal to the product of—

"(i) such increase determined without regard to this subparagraph, multiplied by

"(ii) 2 percent for the highest number of participants in excess of 100 on any such day.

"(C) AGGREGATION OF PLANS.—For purposes of this paragraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account.

"(7) CURRENT LIABILITY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'current liability' means all liabilities to employees and their beneficiaries under the plan.

"(B) TREATMENT OF UNPREDICTABLE CONTINGENT EVENT BENEFITS.—

"(i) IN GENERAL.—For purposes of subparagraph (A), any unpredictable contingent event benefit shall not be taken into account until the event on which the benefit is contingent occurs.

"(ii) UNPREDICTABLE CONTINGENT EVENT BENEFIT.—The term 'unpredictable contingent event benefit' means any benefit contingent on an event other than—

"(I) age, service, compensation, death, or disability, or

"(II) an event which is reasonably and reliably predictable (as determined by the Secretary).

"(C) INTEREST RATES USED.—The rate of interest used to determine current liability shall be the rate of interest used under subsection (b)(5).

"(D) CERTAIN SERVICE DISREGARDED.—

"(i) IN GENERAL.—In the case of a participant to whom this subparagraph applies, only the applicable percentage of the years of service before such individual became a participant shall be taken into account in computing the current liability of the plan.

"(ii) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the applicable percentage shall be determined as follows:

If the years of participation are:	The applicable percentage is:
1	20
2	40
3	60
4	80
5 or more	100

"(iii) PARTICIPANTS TO WHOM SUBPARAGRAPH APPLIES.—This subparagraph shall apply to any participant who, at the time of becoming a participant—

"(I) has not accrued any other benefit under any defined benefit plan (whether or not terminated) maintained by the employer or a member of the same controlled group of which the employer is a member, and

"(II) who first becomes a participant under the plan in a plan year beginning after December 31, 1987.

"(8) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) UNFUNDED CURRENT LIABILITY.—The term 'unfunded current liability' means, with respect to any plan year, the excess (if any) of—

"(i) the current liability under the plan, over

"(ii) value of the plan's assets determined under subsection (c)(2) reduced by any credit balance in the funding standard account.

"(B) FUNDED CURRENT LIABILITY PERCENTAGE.—The term 'funded current liability percentage' means, with respect to any plan year, the percentage which—

"(i) the amount determined under subparagraph (A)(ii), is of

"(ii) the current liability under the plan.

"(C) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), and (o) of section 414.

"(D) ADJUSTMENTS TO PREVENT OMISSIONS AND DUPLICATIONS.—The Secretary shall provide such adjustments in the unfunded old liability amount, the unfunded new liability amount, the unpredictable contingent event amount, the current payment amount, and any other charges or credits under this section as are necessary to avoid duplication or omission of any factors in the determination of such amounts, charges, or credits."

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 412(b) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For additional requirements in the case of plans other than multiemployer plans, see subsection (l)."

(b) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Section 302 of ERISA (29 U.S.C. 1082) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) ADDITIONAL FUNDING REQUIREMENTS FOR PLANS WHICH ARE NOT MULTIEMPLOYER PLANS.—

"(1) IN GENERAL.—In the case of a defined benefit plan (other than a multiemployer plan) which has an unfunded current liability for any plan year, the amount charged to the funding standard account for such plan year shall be increased by the sum of—

"(A) the excess (if any) of—

"(i) the deficit reduction contribution determined under paragraph (2) for such plan year, over

"(ii) the sum of the charges for such plan year under subparagraphs (B) (other than clauses (iv) and (v) thereof), (C), and (D) of subsection (b)(2), reduced by the sum of the credits for such plan year under subparagraph (B)(i) of subsection (b)(3), plus

"(B) the unpredictable contingent event amount (if any) for such plan year.

Such increase shall not exceed the amount necessary to increase the funded current liability percentage to 100 percent.

"(2) DEFICIT REDUCTION CONTRIBUTION.—For purposes of paragraph (1), the deficit reduction contribution determined under this paragraph for any plan year is the sum of—

"(A) the unfunded old liability amount, plus

"(B) the unfunded new liability amount.

"(3) UNFUNDED OLD LIABILITY AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The unfunded old liability amount with respect to any plan for any plan year is the amount necessary to amortize the unfunded old liability under the plan in equal annual installments over a period of 18 plan years (beginning with the 1st plan year beginning after December 31, 1988).

"(B) UNFUNDED OLD LIABILITY.—The term 'unfunded old liability' means the unfunded current liability of the plan as of the beginning of the 1st plan year beginning after December 31, 1987 (determined without regard to any plan amendment increasing liabilities adopted after October 16, 1987).

"(C) SPECIAL RULES FOR BENEFIT INCREASES UNDER EXISTING COLLECTIVE BARGAINING AGREEMENTS.—

"(i) IN GENERAL.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and the employer ratified before October 17, 1987, the unfunded old liability amount with respect to such plan for any plan year shall be increased by the amount necessary to amortize the unfunded existing benefit increase liability in equal annual installments over a period of 18 plan years beginning with—

"(I) the plan year in which the benefit increase with respect to such liability occurs, or

"(II) if the taxpayer elects, the 1st plan year beginning after December 31, 1988.

"(ii) UNFUNDED EXISTING BENEFIT INCREASE LIABILITIES.—For purposes of clause (i), the unfunded existing benefit increase liability means, with respect to any benefit increase under the agreements described in clause (i) which takes effect during or after the 1st plan year beginning after December 31, 1987, the unfunded current liability determined—

"(I) by taking into account only liabilities attributable to such benefit increase, and

"(II) by reducing the amount determined under paragraph (8)(A)(ii) by the current liability determined without regard to such benefit increase.

"(iii) EXTENSIONS, MODIFICATIONS, ETC. NOT TAKEN INTO ACCOUNT.—For purposes of this subparagraph, any extension, amendment, or other modification of an agreement after October 16, 1987, shall not be taken into account.

"(4) UNFUNDED NEW LIABILITY AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The unfunded new liability amount with respect to any plan for any plan year is the applicable percentage of the unfunded new liability.

"(B) UNFUNDED NEW LIABILITY.—The term 'unfunded new liability' means the unfunded current liability of the plan for the plan year determined without regard to—

"(i) the unamortized portion of the unfunded old liability, and

"(ii) the liability with respect to any unpredictable contingent event benefits (without regard to whether the event has occurred).

"(C) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means, with respect to any plan year, 30 percent, reduced by the product of—

"(i) .25 multiplied by

"(ii) the number of percentage points (if any) by which the funded current liability percentage exceeds 35 percent.

"(5) UNPREDICTABLE CONTINGENT EVENT AMOUNT.—

"(A) IN GENERAL.—The unpredictable contingent event amount with respect to a plan for any plan year is an amount equal to the greater of—

"(i) the applicable percentage of the product of—

"(I) 100 percent, reduced (but not below zero) by the funded current liability percentage for the plan year, multiplied by

"(II) the amount of unpredictable contingent event benefits paid during the plan year, including (except as provided by the Secretary of the Treasury) any payment for the purchase of an annuity contract for a participant or beneficiary with respect to such benefits, or

"(ii) the amount which would be determined for the plan year if the unpredictable contingent event benefit liabilities were amortized in equal annual installments over 7 plan years (beginning with the plan year in which such event occurs).

"(B) APPLICABLE PERCENTAGE.—

In the case of plan years beginning in:	The applicable percentage is:
1989 and 1990	5
1991	10
1992	15
1993	20
1994	30
1995	40

1996	50
1997	60
1998	70
1999	80
2000	90
2001 and thereafter	100

"(C) PARAGRAPH NOT TO APPLY TO EXISTING BENEFITS.—This paragraph shall not apply to unpredictable contingent event benefits (and liabilities attributable thereto) for which the event occurred before October 17, 1987.

"(D) SPECIAL RULE FOR FIRST YEAR OF AMORTIZATION.—Unless the employer elects otherwise, the amount determined under subparagraph (A) for the plan year in which the event occurs shall be equal to 150 percent of the amount determined under subparagraph (A)(i). The amount under subparagraph (A)(ii) for subsequent plan years in the amortization period shall be adjusted in the manner provided by the Secretary of the Treasury to reflect the application of this subparagraph.

"(6) SPECIAL RULES FOR SMALL PLANS.—

"(A) PLANS WITH 100 OR FEWER PARTICIPANTS.—This subsection shall not apply to any plan for any plan year if on each day during the preceding plan year such plan had no more than 100 participants.

"(B) PLANS WITH MORE THAN 100 BUT NOT MORE THAN 150 PARTICIPANTS.—In the case of a plan to which subparagraph (A) does not apply and which on each day during the preceding plan year had no more than 150 participants, the amount of the increase under paragraph (1) for such plan year shall be equal to the product of—

"(i) such increase determined without regard to this subparagraph, multiplied by

"(ii) 2 percent for the highest number of participants in excess of 100 on any such day.

"(C) AGGREGATION OF PLANS.—For purposes of this paragraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account.

"(7) CURRENT LIABILITY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'current liability' means all liabilities to participants and their beneficiaries under the plan.

"(B) TREATMENT OF UNPREDICTABLE CONTINGENT EVENT BENEFITS.—

"(i) IN GENERAL.—For purposes of subparagraph (A), any unpredictable contingent event benefit shall not be taken into account until the event on which the benefit is contingent occurs.

"(ii) UNPREDICTABLE CONTINGENT EVENT BENEFIT.—The term 'unpredictable contingent event benefit' means any benefit contingent on an event other than—

"(I) age, service, compensation, death, or disability, or

"(II) an event which is reasonably and reliably predictable (as determined by the Secretary of the Treasury).

"(C) INTEREST RATES USED.—The rate of interest used to determine current liability shall be the rate of interest used under subsection (b)(5).

"(D) CERTAIN SERVICE DISREGARDED.—

"(i) IN GENERAL.—In the case of a participant to whom this subparagraph applies, only the applicable percentage of the years of service before such individual became a participant shall be taken into account in computing the current liability of the plan.

"(ii) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the applicable percentage shall be determined as follows:

If the years of participation are:	The applicable percentage is:
1	20
2	40
3	60
4	80
5 or more	100

"(iii) PARTICIPANTS TO WHOM SUBPARAGRAPH APPLIES.—This subparagraph shall apply to any participant who, at the time of becoming a participant—

"(I) has not accrued any other benefit under any defined benefit plan (whether or not terminated) maintained by the employer or a member of the same controlled group of which the employer is a member, and

"(II) who first becomes a participant under the plan in a plan year beginning after December 31, 1987.

"(8) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) UNFUNDED CURRENT LIABILITY.—The term 'unfunded current liability' means, with respect to any plan year, the excess (if any) of—

"(i) the current liability under the plan, over

"(ii) value of the plan's assets determined under subsection (c)(2) reduced by any credit balance in the funding standard account.

"(B) FUNDED CURRENT LIABILITY PERCENTAGE.—The term 'funded current liability percentage' means, with respect to any plan year, the percentage which—

"(i) the amount determined under subparagraph (A)(ii), is of

"(ii) the current liability under the plan.

"(C) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986.

"(D) ADJUSTMENTS TO PREVENT OMISSIONS AND DUPLICATIONS.—The Secretary of the Treasury shall provide such adjustments in the unfunded old liability amount, the unfunded new liability amount, the unpredictable contingent event amount, the current payment amount, and any other charges or credits under this section as are necessary to avoid duplication or omission of any factors in the determination of such amounts, charges, or credits."

(c) REVISION OF VALUATION REGULATIONS.—Effective with respect to plan years beginning after December 31, 1987, the provisions of the regulations prescribed under section 412(c)(2) of the 1986 Code which permit asset valuations to be based on a range between 85 percent and 115 percent of average value shall have no force and effect with respect to plans other than multiemployer plans (as defined in section 414(f) of the 1986 Code). The Secretary of the Treasury or his delegate shall amend such regulations to carry out the purposes of the preceding sentence.

(d) VALUATION OF BONDS.—

(1) AMENDMENT TO 1986 CODE.—Subparagraph (B) of section 412(c)(2) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In the case of a plan other than a multiemployer plan, this subparagraph shall not apply, but the Secretary may by regulations provide that the value of any dedicated bond portfolio of such plan shall be determined by using the interest rate under subsection (b)(5)."

(2) AMENDMENT TO ERISA.—Subparagraph (B) of section 302(c)(2) of ERISA is amended by adding at the end thereof the following new sentence: "In the case of a plan other than a multiemployer plan, this subparagraph shall not apply, but the Secretary of the Treasury may by regulations provide that the value of any dedicated bond portfolio of such plan shall be determined by using the interest rate under subsection (b)(5)."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply with respect to plan years beginning after December 31, 1988.

(2) SUBSECTIONS (C) AND (D).—The amendments made by subsections (c) and (d) shall apply with respect to years beginning after December 31, 1987.

(3) SPECIAL RULE FOR STEEL COMPANIES.—

(A) IN GENERAL.—For any plan year beginning before January 1, 1994, any increase in the funding standard account under section 412(l) of the 1986 Code or section 302(d) of ERISA (as added by this section) with respect to any steel employee plan shall not exceed the sum of—

(i) the required percentage of the current liability under such plan, plus

(ii) the amount determined under subparagraph (C)(i) for such plan year.

(B) REQUIRED PERCENTAGE.—For purposes of subparagraph (A), the term "required percentage" means, with respect to any plan year, the excess (if any) of—

(i) the sum of—

(I) the funded current liability percentage as of the beginning of the 1st plan year beginning after December 31, 1988 (determined without regard to any plan amendment adopted after June 30, 1987), plus

(II) 1 percentage point for the plan year for which the determination under this paragraph is being made and for each prior plan year beginning after December 31, 1988, over

(ii) the funded current liability percentage as of the beginning of the plan year for which such determination is being made.

(C) SPECIAL RULES FOR CONTINGENT EVENTS.—In the case of any unpredictable contingent event benefit with respect to which the event on which such benefits are contingent occurs after December 17, 1987—

(i) AMORTIZATION AMOUNT.—For purposes of subparagraph (A)(ii), the amount determined under this clause for any plan year is the amount which would be determined if the unpredictable contingent event benefit liability were amortized in equal annual installments over 10 plan years (beginning with the plan year in which such event occurs).

(ii) BENEFIT AND CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (B), in determining the funded current liability percentage for any plan year, there shall not be taken into account—

(I) the unpredictable contingent event benefit liability, or

(II) any amount contributed to the plan which is attributable to clause (i).

(D) STEEL EMPLOYEE PLAN.—For purposes of this paragraph, the term "steel employee plan" means any plan if—

(i) such plan is maintained by a steel company, and

(ii) substantially all of the employees covered by such plan are employees of such company.

(E) OTHER DEFINITIONS.—For purposes of this paragraph—

(i) STEEL COMPANY.—The term "steel company" means any corporation described in section 806(b) of the Steel Import Stabilization Act.

(ii) OTHER DEFINITIONS.—The terms "current liability", "funded current liability percentage", and "unpredictable contingent event benefit" have the meanings given such terms by section 412(l) of the 1986 Code (as added by this section).

(F) SPECIAL RULE.—The provisions of this paragraph shall apply in the case of a company which was originally incorporated on April 25, 1927, in Michigan and reincorporated on June 3, 1968, in Delaware in the same manner as if such company were a steel company.

SEC. 9304. TIME FOR MAKING CONTRIBUTIONS.

(a) PERIOD DURING WHICH CONTRIBUTIONS MAY BE MADE AFTER CLOSE OF YEAR.—

(1) AMENDMENT TO 1986 CODE.—Paragraph (10) of section 412(c) of the 1986 Code (relating to time when certain contributions deemed made) is amended to read as follows:

"(10) TIME WHEN CERTAIN CONTRIBUTIONS DEEMED MADE.—For purposes of this section—

"(A) PLANS OTHER THAN MULTIEMPLOYER PLANS.—In the case of a plan other than a multiemployer plan, any contributions for a plan year made by an employer during the period—

"(i) beginning on the day after the last day of such plan year, and

"(ii) ending on the day which is 8½ months after the close of the plan year,

shall be deemed to have been made on such last day.

"(B) MULTIEMPLOYER PLANS.—In the case of a multiemployer plan, any contributions for a plan year made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this subparagraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary."

(2) AMENDMENT TO ERISA.—Paragraph (10) of section 302(c) of ERISA (relating to time when certain contributions deemed made) (29 U.S.C. 1082(c)(10)) is amended to read as follows:

"(10) For purposes of this section—

"(A) In the case of a plan other than a multiemployer plan, any contributions for a plan year made by an employer during the period—

"(i) beginning on the day after the last day of such plan year, and

"(ii) ending on the date which is 8½ months after the close of the plan year,

shall be deemed to have been made on such last day.

"(B) In the case of a multiemployer plan, any contributions for a plan year made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this subparagraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary of the Treasury."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1987.

(b) QUARTERLY ESTIMATED PAYMENTS REQUIRED.—

(1) AMENDMENT TO 1986 CODE.—Section 412 of the 1986 Code (relating to minimum funding standard) is amended by adding at the end thereof the following new subsection:

"(m) QUARTERLY CONTRIBUTIONS REQUIRED.—

"(1) IN GENERAL.—If a plan (other than a multiemployer plan) fails to pay the full amount of a required installment for any plan year, then the rate of interest charged to the funding standard account under subsection (b)(5) with respect to the amount of the underpayment for the period of the underpayment shall be equal to the greater of—

"(A) 175 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), or

"(B) the rate under subsection (b)(5).

"(2) AMOUNT OF UNDERPAYMENT, PERIOD OF UNDERPAYMENT.—For purposes of paragraph (1)—

"(A) AMOUNT.—The amount of the underpayment shall be the excess of—

"(i) the required installment, over

"(ii) the amount (if any) of the installment contributed to or under the plan on or before the due date for the installment.

"(B) PERIOD OF UNDERPAYMENT.—The period for which interest is charged under this subsection with regard to any portion of the underpayment shall run from the due date for the installment to the date on which such portion is contributed to or under the plan (determined without regard to subsection (c)(10)).

"(C) ORDER OF CREDITING CONTRIBUTIONS.—For purposes of subparagraph (A)(ii), contributions shall be credited against unpaid required installments in the order in which such installments are required to be paid.

"(3) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this subsection—

"(A) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each plan year.

"(B) TIME FOR PAYMENT OF INSTALLMENTS.—

In the case of the following required installments:	The due date is:
1st	April 15
2nd	July 15
3rd	October 15
4th	January 15 of the following year

"(4) AMOUNT OF REQUIRED INSTALLMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The amount of any required installment shall be the applicable percentage of the required annual payment.

"(B) REQUIRED ANNUAL PAYMENT.—For purposes of subparagraph (A), the term 'required annual payment' means the lesser of—

"(i) 90 percent of the amount required to be contributed to or under the plan by the employer for the plan year under section 412 (without regard to any waiver under subsection (c) thereof), or

"(ii) 100 percent of the amount so required for the preceding plan year.

Clause (ii) shall not apply if the preceding plan year was not a year of 12 months.

"(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

For plan years beginning in:	The applicable percentage is:
1989	6.25
1990	12.5
1991	18.75
1992 and thereafter	25

"(D) SPECIAL RULES FOR UNPREDICTABLE CONTINGENT EVENT BENEFITS.—In the case of a plan with any unpredictable contingent event benefit liabilities—

"(i) such liabilities shall not be taken into account in computing the required annual payment under subparagraph (B), and

"(ii) each required installment shall be increased by the greater of—

"(I) the amount of benefits described in subsection (l)(5)(A)(i) paid during the 3-month period preceding the month in which the due date for such installment occurs, or

"(II) 25 percent of the amount determined under subsection (l)(5)(A)(ii) for the plan year.

"(5) FISCAL YEARS AND SHORT YEARS.—

"(A) FISCAL YEARS.—In applying this subsection to a plan year beginning on any date other than January 1, there shall be substituted for the months specified in this subsection, the months which correspond thereto.

"(B) SHORT PLAN YEAR.—This subsection shall be applied to plan years of less than 12 months in accordance with regulations prescribed by the Secretary."

(2) AMENDMENT TO ERISA.—Section 302 of ERISA (29 U.S.C. 1082) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) QUARTERLY CONTRIBUTIONS REQUIRED.—

"(1) IN GENERAL.—If a plan (other than a multiemployer plan) fails to pay the full amount of a required installment for any plan year, then the rate of interest charged to the funding standard account under subsection (b)(5) with respect to the amount of the underpayment for the period of the underpayment shall be equal to the greater of—

"(A) 175 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of such plan year), or

"(B) the rate under subsection (b)(5).

"(2) AMOUNT OF UNDERPAYMENT, PERIOD OF UNDERPAYMENT.—For purposes of paragraph (1)—

"(A) AMOUNT.—The amount of the underpayment shall be the excess of—

"(i) the required installment, over

"(ii) the amount (if any) of the installment contributed to or under the plan on or before the due date for the installment.

"(B) PERIOD OF UNDERPAYMENT.—The period for which any interest is charged under this subsection with respect to any portion of the underpayment shall run from the due date for the installment to the date on which such portion is contributed to or under the plan (determined without regard to subsection (c)(10)).

"(C) ORDER OF CREDITING CONTRIBUTIONS.—For purposes of subparagraph (A)(ii), contributions shall be credited against unpaid required installments in the order in which such installments are required to be paid.

"(3) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this subsection—

"(A) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each plan year.

"(B) TIME FOR PAYMENT OF INSTALLMENTS.—

In the case of the following required installments:	The due date is:
1st	April 15
2nd	July 15
3rd	October 15

4th	January 15 of the following year

"(4) AMOUNT OF REQUIRED INSTALLMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The amount of any required installment shall be the applicable percentage of the required annual payment.

"(B) REQUIRED ANNUAL PAYMENT.—For purposes of subparagraph (A), the term 'required annual payment' means the lesser of—

"(i) 90 percent of the amount required to be contributed to or under the plan by the employer for the plan year under section 412 of the Internal Revenue Code of 1986 (without regard to any waiver under subsection (c) thereof), or

"(ii) 100 percent of the amount so required for the preceding plan year.

Clause (ii) shall not apply if the preceding plan year was not a year of 12 months.

"(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

For plan years beginning in:	**The applicable percentage is:**
1989	6.25
1990	12.5
1991	18.75
1992 and thereafter	25

"(D) SPECIAL RULES FOR UNPREDICTABLE CONTINGENT EVENT BENEFITS.—In the case of a plan with any unpredictable contingent event benefit liabilities—

"(i) such liabilities shall not be taken into account in computing the required annual payment under subparagraph (B), and

"(ii) each required installment shall be increased by the greater of—

"(I) the amount of benefits described in subsection (d)(5)(A)(i) paid during the 3-month period preceding the month in which the due date for such installment occurs, or

"(II) 25 percent of the amount determined under subsection (d)(5)(A)(ii) for the plan year.

"(5) FISCAL YEARS AND SHORT YEARS.—

"(A) FISCAL YEARS.—In applying this subsection to a plan year beginning on any date other than January 1, there shall be substituted for the months specified in this subsection, the months which correspond thereto.

"(B) SHORT PLAN YEAR.—This section shall be applied to plan years of less than 12 months in accordance with regulations prescribed by the Secretary of the Treasury."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to plan years beginning after 1988.

(c) INCREASE IN EXCISE TAX FROM 5 PERCENT TO 10 PERCENT.—

(1) IN GENERAL.—Section 4971(a) of the 1986 Code (relating to initial tax on failure to meet minimum funding standards) is amended by striking out "5 percent" and inserting in lieu thereof "10 percent (5 percent in the case of a multiemployer plan)".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after 1988.

(d) REQUIREMENT OF NOTICE.—Section 101 of ERISA (relating to duty of disclosure and reporting) (29 U.S.C. 1021) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) NOTICE OF FAILURE TO MEET MINIMUM FUNDING STANDARDS.—

"(1) IN GENERAL.—If an employer of a plan other than a multiemployer plan fails to make a required installment or other payment required to meet the minimum funding standard under section 302 to a plan before the 60th day following the due date for such installment or other payment, the employer shall notify each participant and beneficiary (including an alternate payee as defined in section 206(d)(3)(K)) of such plan of such failure. Such notice shall be made at such time and in such manner as the Secretary may prescribe.

"(2) SUBSECTION NOT TO APPLY IF WAIVER PENDING.—This subsection shall not apply to any failure if the employer has filed a waiver request under section 303 with respect to the plan year to which the required installment relates, except that if the waiver request is denied, notice under paragraph (1) shall be provided within 60 days after the date of such denial.

"(3) DEFINITIONS.—For purposes of this subsection, the terms 'required installment' and 'due date' have the same meanings given such terms by section 302(e)."

(e) IMPOSITION OF LIEN WHERE FAILURE TO MAKE REQUIRED CONTRIBUTIONS.—

(1) AMENDMENT TO 1986 CODE.—Section 412 of the 1986 Code (as amended by this subtitle) is amended by adding at the end thereof the following new subsection:

"(n) IMPOSITION OF LIEN WHERE FAILURE TO MAKE REQUIRED CONTRIBUTIONS.—

"(1) IN GENERAL.—In the case of a plan to which this section applies, if—

"(A) any person fails to make a required installment under subsection (m) or any other payment required under this section before the due date for such installment or other payment, and

"(B) the unpaid balance of such installment or other payment (including interest), when added to the aggregate unpaid balance of all preceding such installments or other payments for which payment was not made before the due date (including interest), exceeds $1,000,000,

then there shall be a lien in favor of the plan in the amount determined under paragraph (3) upon all property and rights to property, whether real or personal, belonging to such person and any other person who is a member of the same controlled group of which such person is a member.

"(2) PLANS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to a defined benefit plan (other than a multiemployer plan) for any plan year for which the funded current liability percentage (within the meaning of subsection (l)(8)(B)) of such plan is less than 100 percent.

"(3) AMOUNT OF LIEN.—For purposes of paragraph (1), the amount of the lien shall be equal to the lesser of—

"(A) the amount by which the unpaid balances described in paragraph (1)(B) (including interest) exceed $1,000,000, or

"(B) the aggregate unpaid balance of required installments and other payments required under this section (including interest)—

"(i) for plan years beginning after 1987, and

"(ii) for which payment has not been made before the due date.

"(4) NOTICE OF FAILURE; LIEN.—

"(A) NOTICE OF FAILURE.—A person committing a failure described in paragraph (1) shall notify the Pension Benefit Guaranty Corporation of such failure within 10 days of the due date for the required installment or other payment.

"(B) PERIOD OF LIEN.—The lien imposed by paragraph (1) shall arise on the 60th day following the due date for the required installment or other payment and shall continue until the last day of the first plan year in which the plan ceases to be described in paragraph (1)(B). Such lien shall continue to run without regard to whether such plan continues to be described in paragraph (2) during the period referred to in the preceding sentence.

"(C) CERTAIN RULES TO APPLY.—Any amount with respect to which a lien is imposed under paragraph (1) shall be treated as taxes due and owing the United States and rules similar to the rules of subsections (c), (d), and (e) of section 4068 of the Employee Retirement Income Security Act of 1974 shall apply with respect to a lien imposed by subsection (a) and the amount with respect to such lien.

"(5) ENFORCEMENT.—Any lien created under paragraph (1) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Pension Benefit Guaranty Corporation, by the contributing sponsor (or any member of the controlled group of the contributing sponsor).

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) DUE DATE; REQUIRED INSTALLMENT.—The terms 'due date' and 'required installment' have the meanings given such terms by subsection (m), except that in the case of a payment other than a required installment, the due date shall be the date such payment is required to be made under this section."

"(B) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsections (b), (c), (m), and (o) of section 414."

(2) AMENDMENT TO ERISA.—Section 302 of ERISA (as amended by this subtitle) (29 U.S.C. 1082) is amended by redesignating subsection (f) as subsection (g) and by adding after subsection (e) the following new subsection:

"(f) IMPOSITION OF LIEN WHERE FAILURE TO MAKE REQUIRED CONTRIBUTIONS.—

"(1) IN GENERAL.—In the case of a plan to which this section applies, if—

"(A) any person fails to make a required installment under subsection (e) or any other payment required under this section before the due date for such installment or other payment, and

"(B) the unpaid balance of such installment or other payment (including interest), when added to the aggregate unpaid balance of all preceding such installments or other payments for which payment was not made before the due date (including interest), exceeds $1,000,000,

then there shall be a lien in favor of the plan in the amount determined under paragraph (3) upon all property and rights to property, whether real or personal, belonging to such person and any other person who is a member of the same controlled group of which such person is a member.

"(2) PLANS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to a defined benefit plan (other than a multiemployer plan) for any plan year for which the funded current liability percentage (within the meaning of subsection (d)(8)(B)) of such plan is less than 100 percent.

"(3) AMOUNT OF LIEN.—For purposes of paragraph (1), the amount of the lien shall be equal to the lesser of—

"(A) the amount by which the unpaid balances described in paragraph (1)(B) (including interest) exceed $1,000,000, or

"(B) the aggregate unpaid balance of required installments and other payments required under this section (including interest)—

"(i) for plan years beginning after 1987, and

"(ii) for which payment has not been made before the due date.

"(4) NOTICE OF FAILURE; LIEN.—

"(A) NOTICE OF FAILURE.—A person committing a failure described in paragraph (1) shall notify the Pension Benefit Guaranty Corporation of such failure within 10 days of the due date for the required installment or other payment.

"(B) PERIOD OF LIEN.—The lien imposed by paragraph (1) shall arise on the 60th day following the due date for the required installment or other payment and shall continue until the last day of the first plan year in which the plan ceases to be described in paragraph (1)(B). Such lien shall continue to run without regard to whether such plan continues to be described in paragraph (2) during the period referred to in the preceding sentence.

"(C) CERTAIN RULES TO APPLY.—Any amount with respect to which a lien is imposed under paragraph (1) shall be treated as taxes due and owing the United States and rules similar to the rules of subsections (c), (d), and (e) of section 4068 shall apply with respect to a lien imposed by subsection (a) and the amount with respect to such lien.

"(5) ENFORCEMENT.—Any lien created under paragraph (1) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Pension Benefit Guaranty Corporation, by the contributing sponsor (or any member of the controlled group of the contributing sponsor).

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) DUE DATE; REQUIRED INSTALLMENT.—The terms 'due date' and 'required installment' have the meanings given such terms by subsection (e), except that in the case of a payment other than a required installment, the due date shall be the date such payment is required to be made under this section."

"(B) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1987.

SEC. 9305. LIABILITY OF MEMBERS OF CONTROLLED GROUP FOR TAXES ON FAILURE TO MEET MINIMUM FUNDING STANDARDS AND TO MAKE MINIMUM FUNDING CONTRIBUTIONS.

(a) EXCISE TAX.—

(1) IN GENERAL.—Section 4971 of the 1986 Code (relating to taxes on failure to meet minimum funding standards) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the tax imposed by subsection (a) or (b) shall be paid by the employer responsible for contributing to or under the plan the amount described in section 412(b)(3)(A).

"(2) JOINT AND SEVERAL LIABILITY WHERE EMPLOYER MEMBER OF CONTROLLED GROUP.—

"(A) IN GENERAL.—In the case of a plan other than a multiemployer plan, if the employer referred to in paragraph (1) is a member of a controlled group, each member of such group shall be jointly and severally liable for the tax imposed by subsection (a) or (b).

"(B) CONTROLLED GROUP.—For purposes of subparagraph (A), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414."

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (a) of section 4971 of the 1986 Code is amended by striking out the last sentence.

(B) Subsection (b) of section 4971 of the 1986 Code is amended by striking out the last sentence.

(b) MINIMUM FUNDING CONTRIBUTIONS.—

(1) AMENDMENT TO 1986 CODE.—Section 412(c) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(11) LIABILITY FOR CONTRIBUTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of any contribution required by this section and any required installments under subsection (m) shall be paid by the employer responsible for contributing to or under the plan the amount described in subsection (b)(3)(A).

"(B) JOINT AND SEVERAL LIABILITY WHERE EMPLOYER MEMBER OF CONTROLLED GROUP.—

"(i) IN GENERAL.—In the case of a plan other than a multiemployer plan, if the employer referred to in subparagraph (A) is a member of a controlled group, each member of such group shall be jointly and severally liable for payment of such contribution or required installment.

"(ii) CONTROLLED GROUP.—For purposes of clause (i), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414."

(2) AMENDMENT TO ERISA.—Section 302(c) of ERISA (29 U.S.C. 1082(c)) is amended by adding at the end thereof the following new paragraph:

"(11) LIABILITY FOR CONTRIBUTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of any contribution required by this section and any required installments under subsection (e) shall be paid by the employer responsible for contributing to or under the plan the amount described in subsection (b)(3)(A).

"(B) JOINT AND SEVERAL LIABILITY WHERE EMPLOYER MEMBER OF CONTROLLED GROUP.—

"(i) IN GENERAL.—In the case of a plan other than a multiemployer plan, if the employer referred to in subparagraph (A) is a member of a controlled group, each member of such group shall be jointly and severally liable for payment of such contribution or required installment.

"(ii) CONTROLLED GROUP.—For purposes of clause (i), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986."

(c) CONFORMING AMENDMENT.—Section 414(b) of the 1986 Code is amended by striking out "the minimum funding standard of section 412, the tax imposed by section 4971, and".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 1987.

SEC. 9306. FUNDING WAIVERS.

(a) REQUIREMENTS FOR WAIVERS.—

(1) AMENDMENTS TO 1986 CODE.—

(A) APPLICATION MUST BE SUBMITTED BEFORE DATE 2½ MONTHS AFTER CLOSE OF YEAR.—Subsection (d) of section 412 of the 1986 Code (relating to variance from minimum funding standard) is amended by adding at the end thereof the following new paragraph:

"(4) APPLICATION MUST BE SUBMITTED BEFORE DATE 2½ MONTHS AFTER CLOSE OF YEAR.—In the case of a plan other than a multiemployer plan, no waiver may be granted under this subsection with respect to any plan for any plan year unless an application therefor is submitted to the Secretary not later than the 15th day of the 3rd month beginning after the close of such plan year."

(B) WAIVER ALLOWED ONLY FOR TEMPORARY HARDSHIP.—Subsection (d) of section 412 of the 1986 Code is amended—

(i) by striking out "substantial business hardship" in paragraphs (1) and (2) and inserting in lieu thereof "temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan)", and

(ii) by striking out "SUBSTANTIAL" in the headings of paragraphs (1) and (2).

(C) HARDSHIP MUST ALSO EXIST AT CONTROLLED GROUP LEVEL.—Subsection (d) of section 412 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE IF EMPLOYER IS MEMBER OF CONTROLLED GROUP.—

"(A) IN GENERAL.—In the case of a plan other than a multiemployer plan, if an employer is a member of a controlled group, the temporary substantial business hardship requirements of paragraph (1) shall be treated as met only if such requirements are met—

"(i) with respect to such employer, and

"(ii) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

The Secretary may provide that an analysis of a trade or business or industry of a member need not be conducted if the Secretary determines such analysis is not necessary because the taking into account of such member would not significantly affect the determination under this subsection.

"(B) CONTROLLED GROUP.—For purposes of subparagraph (A), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414."

(2) AMENDMENTS TO ERISA.—

(A) APPLICATION MUST BE SUBMITTED BEFORE DATE 2½ MONTHS AFTER CLOSE OF YEAR.—Section 303 of ERISA (relating to variance from minimum funding standard) (29 U.S.C. 1083) is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsection:

"(d) SPECIAL RULES.—

"(1) APPLICATION MUST BE SUBMITTED BEFORE DATE 2½ MONTHS AFTER CLOSE OF YEAR.—In the case of a plan other than a multiemployer plan, no waiver may be granted under this section with respect to any plan for any plan year unless an application therefor is submitted to the Secretary of the Treasury not later than the 15th day of the 3rd month beginning after the close of such plan year."

(B) WAIVER ALLOWED ONLY FOR TEMPORARY HARDSHIP.—Section 303 of ERISA (29 U.S.C. 1083) is amended by striking out "substantial business hardship" in subsections (a) and (b) and inserting in lieu thereof "temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan)".

(C) HARDSHIP MUST ALSO EXIST AT CONTROLLED GROUP LEVEL.—Subsection (d) of section 303 of ERISA (as amended by subpara-

graph (A)) (29 U.S.C. 1083) is amended by adding at the end thereof the following new paragraph:

"(2) Special rule if employer is member of controlled group.—

"(A) In general.—In the case of a plan other than a multiemployer plan, if an employer is a member of a controlled group, the temporary substantial business hardship requirements of subsection (a) shall be treated as met only if such requirements are met—

"(i) with respect to such employer, and

"(ii) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

The Secretary of the Treasury may provide that an analysis of a trade or business or industry of a member need not be conducted if the Secretary of the Treasury determines such analysis is not necessary because the taking into account of such member would not significantly affect the determination under this subsection.

"(B) Controlled group.—For purposes of subparagraph (A), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986."

(b) Frequency of Waivers.—

(1) Amendments to 1986 code.—The second sentence of section 412(d)(1) of the 1986 Code is amended by striking out "more than 5 of any 15" and inserting in lieu thereof "more than 3 of any 15 (5 of any 15 in the case of a multiemployer plan)".

(2) Amendments to erisa.—The second sentence of section 303(a) of ERISA (29 U.S.C. 1083(a)) is amended by striking out "more than 5 of any 15" and inserting in lieu thereof "more than 3 of any 15 (5 of any 15 in the case of a multiemployer plan)".

(c) Interest on Repayment of Waived Contributions.—

(1) Amendments to 1986 code.—

(A) Paragraph (1) of section 412(d) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "The interest rate used for purposes of computing the amortization charge described in subsection (b)(2)(C) for any plan year shall be—

"(A) in the case of a plan other than a multiemployer plan, the greater of (i) 150 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), or (ii) the rate of interest used under the plan in determining costs, and

"(B) in the case of a multiemployer plan, the rate determined under section 6621(b)."

(B) Subsection (e) of section 412 of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "In the case of a plan other than a multiemployer plan, the interest rate applicable for any plan year under any arrangement entered into by the Secretary in connection with an extension granted under this subsection shall be the greater of (A) 150 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), or (B) the rate of interest used under the plan in determining costs. In the case of a multiemployer plan, such rate shall be the rate determined under section 6621(b)."

(2) Amendments to erisa.—

(A) Subsection (a) of section 303 of ERISA (29 U.S.C. 1083(a)) is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "The interest rate used for purposes of computing the amortization charge described in subsection (b)(2)(C) for any plan year shall be—

"(A) in the case of a plan other than a multiemployer plan, the greater of (i) 150 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of such plan year), or (ii) the rate of interest used under the plan in determining costs, and

"(B) in the case of a multiemployer plan, the rate determined under section 6621(b)."

(B) Subsection (a) of section 304 of ERISA (29 U.S.C. 1084(a)) is amended by striking out the last sentence and inserting in lieu thereof the following new sentence:

"In the case of a plan other than a multiemployer plan, the interest rate applicable for any plan year under any arrangement entered into by the Secretary in connection with an extension granted under this subsection shall be the greater of (A) 150 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of such plan year), or (B) the rate of interest used under the plan in determining costs. In the case of a multiemployer plan, such rate shall be the rate determined under section 6621(b) of such Code."

(d) Notice to Participants of Application for Funding Waivers.—

(1) Amendment to 1986 code.—Section 412 (f)(4)(A) of the 1986 Code (relating to advance notice) is amended by striking out "plan." and inserting in lieu thereof "plan, and each participant, beneficiary, and alternate payee (within the meaning of section 414(p)(8)). Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV of such Act and the benefit liabilities.".

(2) Amendment to erisa.—Section 303(e)(1) of ERISA (relating to advance notice) (29 U.S.C. 1083(e)(1)) is amended by striking out "plan." and inserting in lieu thereof "plan, and each affected party (as defined in section 4001(a)(21)) other than the Pension Benefit Guaranty Corporation. Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV and the benefit liabilities.".

(e) Decrease in Amount of Deficiencies Required Before Security Required.—

(1) Amendment to 1986 code.—Subparagraph (C) of section 412 (f)(3) is amended by striking out "$2,000,000" and inserting in lieu thereof "$1,000,000".

(2) Amendment to erisa.—Section 306(c)(1) of ERISA (29 U.S.C. 1085a(c)(1)) is amended by striking out "$2,000,000" and inserting in lieu thereof "$1,000,000".

(f) Effective Dates.—

(1) In general.—Except as provided in this subsection, the amendments made by this section shall apply in the case of—

(A) any application submitted after December 17, 1987, and

(B) any waiver granted pursuant to such an application.

(2) Special rule for application requirement.—

(A) In general.—The amendments made by subsections (a)(1)(A) and (a)(2)(A) shall apply to plan years beginning after December 31, 1987.

(B) Transitional rule for years beginning in 1988.—In the case of any plan year beginning during calendar 1988, section 412(d)(4) of the 1986 Code and section 303(d)(1) of ERISA (as added by subsection (a)(1)) shall be applied by substituting "6th month" for "3rd month".

(3) Frequency of waivers.—In applying the second sentence of section 412(d) of the 1986 Code and section 303(a) of ERISA to plans other than multiemployer plans, the number of waivers which may be granted pursuant to applications submitted after December 17, 1987, shall be determined without regard to waivers granted with respect to plan years beginning before January 1, 1988.

(4) Subsection (d).—The amendments made by subsection (d) shall apply to applications submitted more than 90 days after the date of the enactment of this Act.

SEC. 9307. OTHER FUNDING CHANGES.

(a) Amortization Periods.—

(1) Amendments to 1986 code.—

(A) Paragraphs (2)(B)(iv), (2)(C), and (3)(B)(ii) of section 412(b) of the 1986 Code are each amended by striking out "15 plan years" and inserting in lieu thereof "5 plan years (15 plan years in the case of a multiemployer plan)".

(B) Paragraphs (2)(B)(v) and (3)(B)(iii) of section 412(b) of the 1986 Code are each amended by striking out "30 plan years" and inserting in lieu thereof "10 plan years (30 plan years in the case of a multiemployer plan)".

(2) Amendments to erisa.—

(A) Paragraphs (2)(B)(iv), (2)(C), and (3)(B)(ii) of section 302(b) of ERISA (29 U.S.C. 1082(b)) are each amended by striking out "15 plan years" and inserting in lieu thereof "5 plan years (15 plan years in the case of a multiemployer plan)".

(B) Paragraphs (2)(B)(v) and (3)(B)(iii) of section 302(b) of ERISA (29 U.S.C. 1082(b)) are each amended by striking out "30 plan years" and inserting in lieu thereof "10 plan years (30 plan years in the case of a multiemployer plan)".

(b) Actuarial Assumptions Must Be Reasonable.—

(1) Amendment to 1986 code.—Paragraph (3) of section 412(c) of the 1986 Code is amended to read as follows:

"(3) Actuarial assumptions must be reasonable.—For purposes of this section, all costs, liabilities, rates of interest, and other factors under the plan shall be determined on the basis of actuarial assumptions and methods—

"(A) in the case of—

"(i) a plan other than a multiemployer plan, each of which is reasonable (taking into account the experience of the plan and reasonable expectations) or which, in the aggregate, result in a total contribution equivalent to that which would be determined if each such assumption and method were reasonable, or

"(ii) a multiemployer plan, which, in the aggregate, are reasonable (taking into account the experiences of the plan and reasonable expectations), and

"(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan."

(2) Amendment to erisa.—Paragraph (3) of section 302(c) of ERISA (29 U.S.C. 1082(c)(3)) is amended to read as follows:

"(3) For purposes of this section, all costs, liabilities, rates of interest, and other factors under the plan shall be determined on the basis of actuarial assumptions and methods—

"(A) in the case of—

"(i) a plan other than a multiemployer plan, each of which is reasonable (taking into account the experience of the plan and reasonable expectations) or which, in the aggregate, result in a total contribution equiv-

alent to that which would be determined if each such assumption and method were reasonable, or

"(ii) a multiemployer plan, which, in the aggregate, are reasonable (taking into account the experiences of the plan and reasonable expectations), and

"(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan."

(c) Limitation on Deduction for Contributions to Certain Plans Not Less Than Unfunded Current Liability.—Paragraph (1) of section 404(a) of the 1986 Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) Special rule in case of certain plans.—In the case of any defined benefit plan (other than a multiemployer plan) which has more than 100 participants for the plan year, except as provided in regulations, the maximum amount deductible under the limitations of this paragraph shall not be less than the unfunded current liability determined under section 412(l) (without regard to any reduction by the credit balance in the funding standard account). For purposes of this subparagraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group (within the meaning of section 412(l)(8)(c))) shall be treated as 1 plan, but only employees of such member or employer shall be taken into account."

(d) Limitation on Amortization of Past Service Credits.—Clause (iii) of section 404(a)(1)(A) of the 1986 Code (relating to pension trusts) is amended by striking out "to amortize such credits" and inserting in lieu thereof "to amortize the unfunded costs attributable to such credits".

(e) Limitation on Interest Rate.—

(1) Amendment to 1986 code.—Paragraph (5) of section 412(b) of the 1986 Code (relating to interest) is amended to read as follows:

"(5) Interest.—

"(A) In general.—The funding standard account (and items therein) shall be charged or credited (as determined under regulations prescribed by the Secretary) with interest at the appropriate rate consistent with the rate or rates of interest used under the plan to determine costs.

"(B) Required change of interest rate.—For purposes of determining a plan's current liability and for purposes of determining a plan's required contribution under section 412(l) for any plan year—

"(i) In general.—If any rate of interest used under the plan to determine cost is not within the permissible range, the plan shall establish a new rate of interest within the permissible range.

"(ii) Permissible range.—For purposes of this subparagraph—

"(I) In general.—Except as provided in subclause (II), the term 'permissible range' means a rate of interest which is not more than 10 percent above, and not more than 10 percent below, the weighted average of the rates of interest on 30-year Treasury securities during the 4-year period ending on the last day before the beginning of the plan year.

"(II) Secretarial authority.—If the Secretary finds that the lowest rate of interest permissible under subclause (I) is unreasonably high, the Secretary may prescribe a lower rate of interest, except that such rate may not be less than 80 percent of the average rate determined under subclause (I).

"(iii) Assumptions.—Notwithstanding subsection (c)(3)(A)(i), for purposes of this section and for purposes of determining current liability, the interest rate used under the plan shall be—

"(I) determined without taking into account the experience of the plan and reasonable expectations, but

"(II) consistent with the assumptions which reflect the purchase rates which would be used by insurance companies to satisfy the liabilities under the plan.".

(2) Amendment to ERISA.—Paragraph (5) of section 302(b) of ERISA (relating to interest) (29 U.S.C. 1082(b)(5)) is amended to read as follows:

"(5) Interest.—For purposes of determining a plan's current liability and for purposes of determining a plan's required contribution under section 412(l) for any plan year—

"(A) In general.—The funding standard account (and items therein) shall be charged or credited (as determined under regulations prescribed by the Secretary of the Treasury) with interest at the appropriate rate consistent with the rate or rates of interest used under the plan to determine costs.

"(B) Required change of interest rate.—

"(i) In general.—If any rate of interest used under the plan to determine cost is not within the permissible range, the plan shall establish a new rate of interest within the permissible range.

"(ii) Permissible range.—For purposes of this subparagraph—

"(I) In general.—Except as provided in subclause (II), the term 'permissible range' means a rate of interest which is not more than 10 percent above, and not more than 10 percent below, the average rate of interest on 30-year Treasury securities during the 4-year period ending on the last day before the beginning of the plan year.

"(II) Secretarial authority.—If the Secretary finds that the lowest rate of interest permissible under subclause (I) is unreasonably high, the Secretary may prescribe a lower rate of interest, except that such rate may not be less than 80 percent of the average rate determined under subclause (I).

"(iii) Assumptions.—Notwithstanding subsection (c)(3)(A)(i), for purposes of this section and for purposes of determining current liability, the interest rate used under the plan shall be—

"(I) determined without taking into account the experience of the plan and reasonable expectations, but

"(II) consistent with the assumptions which reflect the purchase rates which would be used by insurance companies to satisfy the liabilities under the plan.".

(f) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1987.

Subpart B—Plan Terminations

SEC. 9311. LIMITATIONS ON EMPLOYER REVERSIONS UPON PLAN TERMINATION.

(a) Restrictions on Reversions Pursuant to Recently Amended Plans.—

(1) In general.—Section 4044(d) of ERISA (29 U.S.C. 1344(d)) is amended—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2)(A) In determining the extent to which a plan provides for the distribution of plan assets to the employer for purposes of paragraph (1)(C), any such provision, and any amendment increasing the amount which may be distributed to the employer, shall not be treated as effective before the end of the fifth calendar year following the date of the adoption of such provision or amendment.

"(B) A distribution to the employer from a plan shall not be treated as failing to satisfy the requirements of this paragraph if the plan has been in effect for fewer than 5 years and the plan has provided for such a distribution since the effective date of the plan.

"(C) Except as otherwise provided in regulations of the Secretary of the Treasury, in any case in which a transaction described in section 208 occurs, subparagraph (A) shall continue to apply separately with respect to the amount of any assets transferred in such transaction.

"(D) For purposes of this subsection, the term 'employer' includes any member of the controlled group of which the employer is a member. For purposes of the preceding sentence, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m) or (o) of section 414 of the Internal Revenue Code of 1986."

(2) Transitional rule.—The amendments made by paragraph (1) shall apply, in the case of plans which, as of December 17, 1987, have no provision relating to the distribution of plan assets to the employer for purposes of section 4044(d)(1)(C) of the Employee Retirement Income Security Act of 1974, only with respect to plan amendments providing for the distribution of plan assets to the employer which are adopted after 1 year after the effective date of such amendments made by paragraph (1). Such amendment shall not apply to any provision of the plan adopted on or before December 17, 1987, which provides for the distribution of plan assets to the employer.

(b) Distribution of Assets Attributable to Employee Contributions.—Section 4044(d) of ERISA (29 U.S.C. 1344(d)) is amended—

(1) in paragraph (1), by striking "Any" and inserting "Subject to paragraph (3), any"; and

(2) by striking paragraph (3) (as redesignated by subsection (c)(1)) and inserting the following new paragraph:

"(3)(A) Before any distribution from a plan pursuant to paragraph (1), if any assets of the plan attributable to employee contributions remain after satisfaction of all liabilities described in subsection (a), such remaining assets shall be equitably distributed to the participants who made such contributions or their beneficiaries (including alternate payees, within the meaning of section 206(d)(3)(K)).

"(B) For purposes of subparagraph (A), the portion of the remaining assets which are attributable to employee contributions shall be an amount equal to the product derived by multiplying—

"(i) the market value of the total remaining assets, by

"(ii) a fraction—

"(I) the numerator of which is the present value of all portions of the accrued benefits with respect to participants which are derived from participants' mandatory contributions (referred to in subsection (a)(2)), and

"(II) the denominator of which is the present value of all benefits with respect to which assets are allocated under paragraphs (2) through (6) of subsection (a).

"(C) For purposes of this paragraph, each person who is, as of the termination date—

"(i) a participant under the plan, or

"(ii) an individual who has received, during the 3-year period ending with the termination date, a distribution from the plan of such individual's entire nonforfeitable

benefit in the form of a single sum distribution in accordance with section 203(e) or in the form of irrevocable commitments purchased by the plan from an insurer to provide such nonforfeitable benefit,

shall be treated as a participant with respect to the termination, if all or part of the nonforfeitable benefit with respect to such person is or was attributable to participants' mandatory contributions (referred to in subsection (a)(2))."

(c) Technical Amendment.—Section 4044(b)(4) of ERISA (29 U.S.C. 1344(b)(4)) is amended by striking "section 401(a), 403(a), or 405(a)" and inserting "section 401(a) or 403(a)".

(d) Effective Date.—The amendments made by this section shall apply with respect to—

(1) plan terminations under section 4041(c) of ERISA with respect to which notices of intent to terminate are provided under section 4041(a)(2) of ERISA after December 17, 1987, and

(2) plan terminations with respect to which proceedings are instituted by the Pension Benefit Guaranty Corporation under section 4042 of ERISA after December 17, 1987.

SEC. 9312. ELIMINATION OF SECTION 4049 TRUST; INCREASE IN LIABILITY TO PENSION BENEFIT GUARANTY CORPORATION AND IN PAYMENTS BY CORPORATION TO PARTICIPANTS AND BENEFICIARIES.

(a) Repeal.—Section 4049 of ERISA (29 U.S.C. 1349) is repealed.

(b) Conforming Amendments.—

(1) Elimination of employer liability to section 4049 trust.—

(A) Repeal.—Subsection (c) of section 4062 of ERISA (29 U.S.C. 1362(c)) is repealed.

(B) Conforming amendments.—Section 4062 of ERISA is further amended by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(2) Increase in employer liability to the corporation.—

(A) In general.—Subparagraph (A) of section 4062(b)(1) of ERISA (29 U.S.C. 1362(b)(1)(A)) is amended to read as follows:

"(A) In general.—Except as provided in subparagraph (B), the liability to the corporation of a person described in subsection (a) shall be the total amount of the unfunded benefit liabilities (as of the termination date) to all participants and beneficiaries under the plan, together with interest (at a reasonable rate) calculated from the termination date in accordance with regulations prescribed by the corporation."

(B) Lien limited to 30 percent of net worth.—

(i) Subsection (a) of section 4068 of ERISA (29 U.S.C. 1368(a)) is amended by striking out "to the extent of an amount equal to the unpaid amount described in section 4062(b)(1)(A)(i)" each place it appears and inserting in lieu thereof "to the extent such amount does not exceed 30 percent of the collective net worth of all persons described in section 4062(a)".

(ii) Title IV of ERISA (29 U.S.C. 4001 et seq.) is amended by transferring subsection (e) of section 4062 of ERISA (29 U.S.C. 1362(e)) to the end of section 4068 of ERISA (29 U.S.C. 1368) and by redesignating such subsection as subsection (f).

(C) Treatment of multiple controlled groups.—

(i) In general.—So much of section 4064(b) of ERISA (29 U.S.C. 1364(b)) as precedes the second sentence is amended to read as follows:

"(b) The corporation shall determine the liability with respect to each contributing sponsor and each member of its controlled group in a manner consistent with section 4062, except that the amount of liability determined under section 4062(b)(1) with respect to the entire plan shall be allocated to each controlled group by multiplying such amount by a fraction—

"(1) the numerator of which is the amount required to be contributed to the plan for the last 5 plan years ending prior to the termination date by persons in such controlled group as contributing sponsors, and

"(2) the denominator of which is the total amount required to be contributed to the plan for such last 5 plan years by all persons as contributing sponsors,

and clauses (i)(II) and (ii) of section 4062(b)(1)(A) shall be applied separately with respect to each controlled group."

(ii) Conforming amendments.—Section 4068(a) of ERISA (29 U.S.C. 1368(a)) is amended by adding at the end thereof the following new sentence: "The preceding provisions of this subsection shall be applied in a manner consistent with the provisions of section 4064(d) relating to treatment of multiple controlled groups."

(3) Payment by corporation to participants and beneficiaries of recovery percentage of outstanding amount of benefit liabilities.—

(A) In general.—Section 4022 of ERISA (29 U.S.C. 1322) is amended—

(i) by redesignating subsections (c) and (d) as subsections (d) and (e); and

(ii) by inserting after subsection (b) the following new subsection:

"(c)(1) In addition to benefits paid under the preceding provisions of this section with respect to a terminated plan, the corporation shall pay the portion of the amount determined under paragraph (2) which is allocated with respect to each participant under section 4044(a), to such participant or (in the case of a deceased participant) to such participant's beneficiaries (including alternate payees, within the meaning of section 206(d)(3)(K)).

"(2) The amount determined under this paragraph is an amount equal to the product derived by multiplying—

"(A) the outstanding amount of benefit liabilities under the plan (including interest calculated from the termination date), by

"(B) the applicable recovery ratio.

"(3)(A) Except as provided in subparagraph (C), for purposes of this subsection, the term 'recovery ratio' means the average ratio, with respect to prior plan terminations described in subparagraph (B), of—

"(i) the value of the recovery of the corporation under section 4062, 4063, or 4064 in connection with such prior terminations, to

"(ii) the amount of unfunded benefit liabilities under such plans as of the termination date in connection with such prior terminations.

"(B) A plan termination described in this subparagraph is a termination with respect to which—

"(i) the corporation has determined the value of recoveries under section 4062, 4063, or 4064, and

"(ii) notices of intent to terminate were provided after December 17, 1987.

"(C) In the case of a terminated plan with respect to which the outstanding amount of benefit liabilities exceeds $20,000,000, for purposes of this section, the term 'recovery ratio' means, with respect to the termination of such plan, the ratio of—

"(i) the value of the recoveries of the corporation under section 4062, 4063, or 4064 in connection with such plan, to

"(ii) the amount of unfunded benefit liabilities under such plan as of the termination date.

"(4) Determinations under this subsection shall be made by the corporation. Such determinations shall be binding unless shown by clear and convincing evidence to be unreasonable."

(B) Transitional rule.—

(i) In general.—In the case of any plan termination to which the amendments made by this section apply and with respect to which notices of intent to terminate were provided on or before December 17, 1990—

(I) subparagraph (A) of section 4022(c)(1) of ERISA (as amended by this paragraph) shall not apply, and

(II) subparagraph (B) of section 4022(c)(1) of ERISA (as so amended) shall apply irrespective of the outstanding amount of benefit liabilities under the plan.

(ii) Limitation.—Clause (i) shall not apply in the case of any plan termination referred to in clause (i) with respect to which the recovery ratio is not finally determined under section 4022(c)(1)(B) of ERISA (as so amended) as of December 17, 1990.

(4) Benefit liabilities.—Paragraph (16) of section 4001(a) of ERISA (29 U.S.C. 1301(a)(16)) is amended to read as follows:

"(16) 'benefit liabilities' means the benefits of employees and their beneficiaries under the plan (within the meaning of section 401(a)(2) of the Internal Revenue Code of 1986);".

(5) Outstanding amount of benefit liabilities.—Paragraph (19) of section 4001(a) of ERISA (29 U.S.C. 1301(a)(19)) is amended to read as follows:

"(19) 'outstanding amount of benefit liabilities' means, with respect to any plan, the excess (if any) of—

"(A) the value of the benefit liabilities under the plan (determined as of the termination date on the basis of assumptions prescribed by the corporation for purposes of section 4044), over

"(B) the value of the benefit liabilities which would be so determined by only taking into account benefits which are guaranteed under section 4022 or to which assets of the plan are allocated under section 4044;".

(c) Additional Conforming Amendments.—

(1) Section 4041(c)(3)(B)(ii) of ERISA (29 U.S.C. 1341(c)(3)(B)(ii)) is amended—

(A) by striking subclause (II);

(B) by striking "plan, and" at the end of subclause (I) and inserting "plan."; and

(C) by striking "available to it—" and all that follows through "the plan administrator" and inserting "available to it, the plan administrator".

(2) Section 4041(c)(3)(B)(iii) of ERISA (29 U.S.C. 1341(c)(3)(B)(iii)) is amended—

(A) by striking subclause (II);

(B) by striking "section 4042, and" at the end of subclause (I) and inserting "section 4042."; and

(C) by striking "available to it—" and all that follows through "the corporation" in subclause (I) and inserting "available to it, the corporation".

(3) Subsection (i) of section 4042 of ERISA (29 U.S.C. 1342(i)) is repealed.

(4) Section 4005(g) of ERISA (29 U.S.C. 1305(g)) is amended by striking out "or fiduciaries with respect to trusts to which the requirements of section 4049 apply".

(d) Effective Date.—

(1) In general.—The amendments made by this section shall apply with respect to—

(A) plan terminations under section 4041(c) of ERISA with respect to which no-

tices of intent to terminate are provided under section 4041(a)(2) of ERISA after December 17, 1987, and

(B) plan terminations with respect to which proceedings are instituted by the Pension Benefit Guaranty Corporation under section 4042 of ERISA after December 17, 1987.

(2) SECTION 4049 ADMINISTRATIVE EXPENSES UNDER PRIOR TERMINATIONS.—Section 4049(a) of ERISA (as effective under paragraph (1)), is amended by adding at the end thereof the following new sentence: "Reasonable administrative expenses incurred in carrying out the responsibilities under this section prior to the receipt of any liability payments under section 4062(c) shall be paid by the persons described in section 4062(a) in accordance with procedures which shall be prescribed by the corporation by regulation, and the amount of the liability determined under section 4062(c) shall be reduced by the amount of such expenses so paid."

SEC. 9313. STANDARDS FOR TERMINATION.

(a) STANDARD TERMINATION PROCEDURES AVAILABLE ONLY WHEN ASSETS SUFFICIENT TO MEET BENEFIT LIABILITIES.—

(1) IN GENERAL.—Subparagraph (D) of section 4041(b)(1) of ERISA (29 U.S.C. 1341(b)(1)(D)) is amended to read as follows:

"(D) when the final distribution of assets occurs, the plan is sufficient for benefit liabilities (determined as of the termination date)."

(2) TECHNICAL AMENDMENTS.—

(A) Paragraphs (2)(A), (2)(C), (2)(D), and (3) of section 4041(b) of ERISA (29 U.S.C. 1341(b)(2)(A), (2)(C), (2)(D), (3)) are each amended by striking out "benefit commitments" each place it appears and inserting in lieu thereof "benefit liabilities".

(B) Subparagraph (B) of section 4041(b)(2) of ERISA (29 U.S.C. 1341(b)(2)(B)) is amended—

(i) by striking out "the amount of such person's benefit commitments (if any)" and inserting in lieu thereof "the amount of the benefit liabilities (if any) attributable to such person"; and

(ii) by striking out "such benefit commitments" and inserting in lieu thereof "such benefit liabilities".

(C)(i) Subparagraph (A) of section 4041(b)(3) of ERISA (29 U.S.C. 1341(b)(3)(A)) is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) purchase irrevocable commitments from an insurer to provide all benefit liabilities under the plan, or

"(ii) in accordance with the provisions of the plan and any applicable regulations, otherwise fully provide all benefit liabilities under the plan."

(ii) Subparagraph (B) of section 4041(b)(3) of ERISA (29 U.S.C. 1341(b)(3)) is amended by striking out "so as to pay" and all that follows and inserting in lieu thereof "so as to pay all benefit liabilities under the plan".

(D) Paragraphs (2) and (3) of section 4041(c) of ERISA (29 U.S.C. 1341(c)(2), (3)) are each amended by striking out "benefit commitments" each place it appears (including in any heading) and inserting in lieu thereof "benefit liabilities".

(E) Paragraph (1) of section 4041(d) of ERISA (29 U.S.C. 1341(d)) is amended—

(i) by striking out "no amount of unfunded benefit commitments" and inserting in lieu thereof "no amount of unfunded benefit liabilities", and

(ii) by striking out "BENEFIT COMMITMENTS" in the paragraph heading and inserting in lieu thereof "BENEFIT LIABILITIES".

(F) Paragraph (18) of section 4001(a) of ERISA (29 U.S.C. 1301(a)(18)) is amended to read as follows:

"(18) 'amount of unfunded benefit liabilities' means, as of any date, the excess (if any) of—

"(A) the value of the benefit liabilities under the plan (determined as of such date on the basis of assumptions prescribed by the corporation for purposes of section 4044), over

"(B) the current value (as of such date) of the assets of the plan;".

(b) CRITERIA FOR DISTRESS TERMINATION.—

(1) APPLICABILITY TO ALL MEMBERS OF CONTROLLED GROUP.—Section 4041(c)(2) of ERISA (29 U.S.C. 1341(c)(2)) is amended—

(A) in subparagraph (B), by striking "a substantial member" in the matter preceding clause (i) and inserting "a member"; and

(B) by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(2) REQUIREMENT OF ADDITIONAL FINDINGS TO QUALIFY FOR DISTRESS TERMINATION BASED ON REORGANIZATION IN BANKRUPTCY.—Section 4041(c)(2)(B)(ii)(III) of ERISA (29 U.S.C. 1341(c)(2)(B)(ii)(III)) is amended by striking "approves the termination" and inserting "determines that, unless the plan is terminated, such person will be unable to pay all its debts pursuant to a plan of reorganization and will be unable to continue in business outside the chapter 11 reorganization process and approves the termination".

(3) CLARIFICATION OF DATE AS OF WHICH EMPLOYER MUST BE IN A BANKRUPTCY PROCEEDING TO QUALIFY FOR DISTRESS TERMINATION.—Clauses (i) and (ii) of section 4041(c)(2)(B) of ERISA (29 U.S.C. 1341(c)(2)(B) (i) and (ii)) are each amended by inserting "proposed" before "termination date".

(4) TREATMENT UNDER DISTRESS TESTS OF CASES CONVERTED TO LIQUIDATION.—Section 4041(c)(2)(B)(i)(I) of ERISA (29 U.S.C. 1341(c)(2)(B)(i)(I)) is amended by inserting before the comma at the end the following: "(or a case described in clause (ii) filed by or against such person has been converted, as of such date, to a case in which liquidation is sought)".

(5) NOTICE TO CORPORATION UNDER REORGANIZATION DISTRESS TEST.—Section 4041(c)(2)(B)(ii) of ERISA (29 U.S.C. 1341(c)(2)(B)(ii)) is amended—

(A) in subclause (II), by striking "and" at the end;

(B) by redesignating subclause (III) as subclause (IV);

(C) by inserting after subclause (II) the following new subclause:

"(III) such person timely submits to the corporation any request for the approval of the bankruptcy court (or other appropriate court in a case under such similar law of a State or political subdivision) of the plan termination, and";
and

(D) in subclause (IV) (as redesignated), by striking "(or other" and all that follows through "subdivision)" and inserting "(or such other appropriate court)".

(6) ARRANGEMENTS FOR PAYMENT OF LIABILITY BY CONTROLLED GROUPS.—Section 4067 of ERISA (29 U.S.C. 1367) is amended by striking "controlled groups who are" and inserting "controlled groups who are or may become".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan terminations under section 4041 of ERISA with respect to which notices of intent to terminate are provided under section 4041(a)(2) of ERISA after December 17, 1987.

SEC. 9314. ADDITIONAL AMENDMENTS RELATING TO PLAN TERMINATION.

(a) CERTAIN INFORMATION NOT REQUIRED FROM CERTAIN INSURANCE CONTRACT PLANS.—

(1) STANDARD TERMINATION.—Section 4041(b)(2)(A) of ERISA (29 U.S.C. 1341(b)(2)(A)) is amended—

(A) by striking clause (iii) and inserting the following:

"(iii) certification by the plan administrator that—

"(I) the information on which the enrolled actuary based the certification under clause (i) is accurate and complete, and

"(II) the information provided to the corporation under clause (ii) is accurate and complete."; and

(B) by adding at the end thereof the following:

"Clause (i) and clause (iii)(I) shall not apply to a plan described in section 412(i) of the Internal Revenue Code of 1986.".

(2) DISTRESS TERMINATION.—Section 4041(c)(2)(A) of ERISA (29 U.S.C. 1341(c)(2)(A)) is amended—

(A) by striking clause (iv) and inserting the following:

"(iv) certification by the plan administrator that—

"(I) the information on which the enrolled actuary based the certifications under clause (ii) is accurate and complete, and

"(II) the information provided to the corporation under clauses (i) and (iii) is accurate and complete."; and

(B) by adding at the end the following:

"Clause (ii) and clause (iv)(I) shall not apply to a plan described in section 412(i) of the Internal Revenue Code of 1986.".

(b) CLARIFICATION OF EXISTING AUTHORITY TO POOL ASSETS OF TERMINATED PLANS.—Section 4042 of ERISA (29 U.S.C. 1342(a)) is amended by striking the third sentence and inserting the following: "Notwithstanding any other provision of this title, the corporation is authorized to pool assets of terminated plans for purposes of administration, investment, payment of liabilities of all such terminated plans, and such other purposes as it determines to be appropriate in the administration of this title.".

(b) SUBMISSION OF PLAN DATA IN INVOLUNTARY TERMINATION.—Section 4042(c) of ERISA (29 U.S.C. 1342(c)) is amended by adding at the end the following new paragraph:

"(3) In the case of a proceeding initiated under this section, the plan administrator shall provide the corporation, upon the request of the corporation, the information described in clauses (ii), (iii), and (iv) of section 4041(c)(2)(A).".

(c) CIVIL PENALTIES FOR FAILURE TO TIMELY PROVIDE REQUIRED INFORMATION RELATING TO SINGLE-EMPLOYER PLANS.—

(1) IN GENERAL.—Subtitle D of ERISA (29 U.S.C. 1361 et seq.) is amended by adding at the end the following new section:

"PENALTY FOR FAILURE TO TIMELY PROVIDE REQUIRED INFORMATION

"SEC. 4071. The corporation may assess a penalty, payable to the corporation, against any person who fails to provide any notice or other material information required under this subtitle or subtitle A, B, or C, or any regulations prescribed under any such subtitle, within the applicable time limit specified therein. Such penalty shall not exceed $1,000 for each day for which such failure continues.".

(2) CLERICAL AMENDMENTS.—The table of contents in section 1 of ERISA (29 U.S.C. 1001 note) is amended by adding after the item relating to section 4070 the following new item:

"Sec. 4071. Penalty for failure to timely provide required information.".

Subpart C—Increase in Premium Rates

SEC. 9331. INCREASE IN PREMIUM RATES.

(a) GENERAL RULE.—Clause (i) of section 4006(a)(3)(A) of ERISA (29 U.S.C. 1306(a)(3)(A)) is amended by striking out "for plan years beginning after December 31, 1985, an amount equal to $8.50" and inserting in lieu thereof "for plan years beginning after December 31, 1987, an amount equal to the sum of $16 plus the additional premium (if any) determined under subparagraph (E)".

(b) DETERMINATION OF ADDITIONAL PREMIUM.—Paragraph (3) of section 4006(a) of ERISA (29 U.S.C. 1306(a)(3)) is amended by adding at the end thereof the following new subparagraph:

"(E)(i) The additional premium determined under this subparagraph with respect to any plan for any plan year shall be an amount equal to the amount determined under clause (ii) divided by the number of participants in such plan as of the close of the preceding plan year.

"(ii) The amount determined under this clause for any plan year shall be an amount equal to $6.00 for each $1,000 (or fraction thereof) of unfunded vested benefits under the plan as of the close of the preceding plan year.

"(iii) For purposes of clause (ii)—

"(I) Except as provided in subclause (II), the term 'unfunded vested benefits' means the amount which would be the unfunded current liability (within the meaning of section 302(d)(8)(A)) if only vested benefits were taken into account.

"(II) The interest rate used in valuing vested benefits for purposes of subclause (I) shall be equal to 80 percent of the annual yield on 30-year Treasury securities for the month preceding the month in which the plan year begins.

"(iv)(I) Except as provided in this clause, the aggregate increase in the premium payable with respect to any participant by reason of this subparagraph shall not exceed $34.

"(II) If an employer made contributions to a plan during 1 or more of the 5 plan years preceding the 1st plan year to which this subparagraph applies in an amount not less than the maximum amount allowable as a deduction with respect to such contributions under section 404 of such Code, the dollar amount in effect under subclause (I) for the 1st 5 plan years to which this subparagraph applies shall be reduced by $3 for each plan year for which such contributions were made in such amount.

(c) LIABILITY FOR PREMIUM.—

(1) IN GENERAL.—Section 4007 of ERISA (29 U.S.C. 1307) is amended by striking out "plan administrator" each place it appears and inserting in lieu thereof "designated payor".

(2) DESIGNATED PAYOR.—Section 4007 of ERISA (29 U.S.C. 1307) is amended by adding at the end thereof the following new subsection:

"(e)(1) For purposes of this section, the term 'designated payor' means—

"(A) the contributing sponsor or plan administrator in the case of a single-employer plan, and

"(B) the plan administrator in the case of a multiemployer plan.

"(2) If the contributing sponsor of any single-employer plan is a member of a controlled group, each member of such group shall be jointly and severally liable for any premiums required to be paid by such contributing sponsor. For purposes of the preceding sentence, the term 'controlled group' means any group treated as a single employer under subsections (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986."

(d) DEPOSIT OF PREMIUMS INTO SEPARATE REVOLVING FUND.—Section 4005 of ERISA (relating to establishment of Pension Benefit Guaranty funds) (29 U.S.C. 1305) is amended by redesignating subsections (f) and (g) as subsections (g) and (h) and by inserting after subsection (e) the following new subsection:

"(f)(1) A seventh fund shall be established and credited with—

"(A) premiums, penalties, and interest charges collected under section 4006(a)(3)(A)(i) (not described in subparagraph (B)) to the extent attributable to the amount of the premium in excess of $8.50,

"(B) premiums, penalties, and interest charges collected under section 4006(a)(3)(E), and

"(C) earnings on investments of the fund or on assets credited to the fund.

"(2) Amounts in the fund shall be available for transfer to other funds established under this section with respect to a single-employer plan but shall not be available to pay—

"(A) administrative costs of the corporation, or

"(B) benefits under any plan which was terminated before October 1, 1988,

unless no other amounts are available for such payment.

"(3) The corporation may invest amounts of the fund in such obligations as the corporation considers appropriate."

(e) CONFORMING AMENDMENTS.—Section 4006(c)(1)(A) of ERISA (29 U.S.C. 1306(c)(1)(A)) is amended by striking out "and" at the end of clause (i), by inserting "and before January 1, 1986," after "after December 31, 1977,", and by adding at the end thereof the following new clause:

"(iii) with respect to each plan year beginning after December 31, 1985, and before January 1, 1988, an amount equal to $8.50 for each individual who was a participant in such plan during the plan year, and".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 1987.

(2) SEPARATE ACCOUNTING.—The amendments made by subsection (d) shall apply to fiscal years beginning after September 30, 1988.

Subpart D—Miscellaneous Provisions

SEC. 9341. SECURITY REQUIRED UPON ADOPTION OF PLAN AMENDMENT RESULTING IN SIGNIFICANT UNDERFUNDING.

(a) AMENDMENTS TO 1986 CODE—Subsection (a) of section 401 of the 1986 Code (relating to requirements for qualification) is amended by inserting after paragraph (28) the following new paragraph:—

"(29) SECURITY REQUIRED UPON ADOPTION OF PLAN AMENDMENT RESULTING IN SIGNIFICANT UNDERFUNDING.—

"(A) IN GENERAL.—If—

"(i) a defined benefit plan (other than a multiemployer plan) adopts an amendment an effect of which is to increase current liability under the plan for a plan year, and

"(ii) the funded current liability percentage of the plan for the plan year in which the amendment takes effect is less than 60 percent, including the amount of the unfunded current liability under the plan attributable to the plan amendment,

the trust of which such plan is a part shall not constitute a qualified trust under this subsection unless such amendment does not take effect until the contributing sponsor (or any member of the controlled group of the contributing sponsor) provides security to the plan.

"(B) FORM OF SECURITY.—The security required under subparagraph (A) shall consist of—

"(i) a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412 of the Employee Retirement Income Security Act of 1974,

"(ii) cash, or United States obligations which mature in 3 years or less, held in escrow by a bank or similar financial institution, or

"(iii) such other form of security as is satisfactory to the Secretary and the parties involved.

"(C) AMOUNT OF SECURITY.—The security shall be in an amount equal to the excess of—

"(i) the lesser of—

"(I) the amount of additional plan assets which would be necessary to increase the funded current liability percentage under the plan to 60 percent, including the amount of the unfunded current liability under the plan attributable to the plan amendment, or

"(II) the amount of the increase in current liability under the plan attributable to the plan amendment, over

"(ii) $10,000,000.

"(D) RELEASE OF SECURITY.—The security shall be released (and any amounts thereunder shall be refunded together with any interest accrued thereon) at the end of the first plan year which ends after the provision of the security and for which the funded current liability percentage under the plan is not less than 60 percent. The Secretary may prescribe regulations for partial releases of the security by reason of increases in the funded current liability percentage.

"(E) DEFINITIONS.—For purposes of this paragraph, the terms 'current liability', 'funded current liability percentage', and 'unfunded current liability' shall have the meanings given such terms by section 412(l), except that in computing unfunded current liability there shall not be taken into account any unamortized portion of the unfunded old liability amount as of the close of the plan year."

(b) AMENDMENTS TO ERISA.—Part 3 of subtitle B of title I of ERISA (29 U.S.C. 1081 et seq.) is amended—

(1) by redesignating section 307 as section 308; and

(2) by inserting after section 306 the following new section:

"SECURITY REQUIRED UPON ADOPTION OF PLAN AMENDMENT RESULTING IN SIGNIFICANT UNDERFUNDING

"SEC. 307. (a) IN GENERAL.—If—

"(1) a defined benefit plan (other than a multiemployer plan) adopts an amendment an effect of which is to increase current liability under the plan for a plan year, and

"(2) the funded current liability percentage of the plan for the plan year in which the amendment takes effect is less than 60 percent, including the amount of the unfunded current liability under the plan attributable to the plan amendment, *the contributing sponsor (or any member of the controlled group of the contributing sponsor) shall provide security to the plan.*

"(b) Form of Security.—The security required under subsection (a) shall consist of—

"(1) a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412,

"(2) cash, or United States obligations which mature in 3 years or less, held in escrow by a bank or similar financial institution, or

"(3) such other form of security as is satisfactory to the Secretary of the Treasury and the parties involved.

"(c) Amount of Security.—The security shall be in an amount equal to the excess of—

"(1) the lesser of—

"(A) the amount of additional plan assets which would be necessary to increase the funded current liability percentage under the plan to 60 percent, including the amount of the unfunded current liability under the plan attributable to the plan amendment, or

"(B) the amount of the increase in current liability under the plan attributable to the plan amendment, over

"(2) $10,000,000.

"(d) Release of Security.—The security shall be released (and any amounts thereunder shall be refunded together with any interest accrued thereon) at the end of the first plan year which ends after the provision of the security and for which the funded current liability percentage under the plan is not less than 60 percent. The Secretary may prescribe regulations for partial releases of the security by reason of increases in the funded current liability percentage.

"(e) Definitions.—For purposes of this section, the terms 'current liability', 'funded current liability percentage', and 'unfunded current liability' shall have the meanings given such terms by section 302(d), except that in computing unfunded current liability there shall not be taken into account any unamortized portion of the unfunded old liability amount as of the close of the plan year."

(b) Clerical Amendment.—The table of contents in section 1 of ERISA (29 U.S.C. 1001 note) is amended by striking out the item relating to section 307 and inserting in lieu thereof the following new items:

"Sec. 307. Security required upon adoption of plan amendment resulting in significant underfunding.
"Sec. 308. Effective dates."

(c) Effective Date.—

(1) In general.—Except as provided in this subsection, the amendments made by this section shall apply to plan amendments adopted after the date of the enactment of this Act.

(2) Collective bargaining agreements.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan amendments adopted pursuant to collective bargaining agreements ratified before the date of enactment.

SEC. 9342. REPORTING REQUIREMENTS.

(a) Funded Percentage Required To Be Shown in Annual Report.—

(1) Subsection (d) of section 103 of ERISA (29 U.S.C. 1023(d)) is amended by redesignating paragraphs (11) and (12) as paragraphs (12) and (13), respectively, and by inserting after paragraph (10) the following new paragraph:

"(11) If the current value of the assets of the plan is less than 60 percent of the current liability under the plan (within the meaning of section 302(d)(7)), such percentage."

(2) Paragraph (3) of section 104(b) of ERISA (29 U.S.C. 1024(b)(3)) is amended by striking out "such other material" and inserting in lieu thereof "such other material (including the percentage determined under section 103(d)(11))".

(b) Amendment of Statute of Limitations With Respect to Certain Reports.—Section 413(a)(2) of ERISA (29 U.S.C. 1113(a)(2)) is amended by striking "(A)" and by striking "or (B)" and all that follows through "title".

(c) Penalty for Failure To Provide Annual Report in Complete Form.—Section 502(c) of ERISA (29 U.S.C. 1132(c)) is amended—

(1) by inserting "(1)" after "(c)", and by striking "(1) who" and "(2) who" and inserting "(A) who" and "(B) who", respectively; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary may assess a civil penalty of up to $1,000 a day from the date of a plan administrator's failure or refusal to file the annual report required to be filed with the Secretary under section 101(b)(4). For purposes of this paragraph, an annual report that has been rejected under section 104(a)(4) for failure to provide material information shall not be treated as having been filed with the Secretary.".

(d) Effective Date.—

(1) In general.—The amendments made by this section shall apply with respect to reports required to be filed after December 31, 1987.

(2) Regulations.—The Secretary of Labor shall issue the regulations required to carry out the amendments made by subsection (c) not later than January 1, 1989.

SEC. 9343. COORDINATION OF PROVISIONS OF THE INTERNAL REVENUE CODE OF 1986 WITH PROVISIONS OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) Interpretation of Internal Revenue Code.—Except to the extent specifically provided in the Internal Revenue Code of 1986 or as determined by the Secretary of the Treasury, titles I and IV of the Employee Retirement Income Security Act of 1974 are not applicable in interpreting such Code.

(b) Clarification Regarding Effect of Determination Letter by the Internal Revenue Service on Enforcement by the Department of Labor of Fiduciary Standards under ERISA.—Section 3001(d) of ERISA (29 U.S.C. 1201(d)) is amended by adding after the second sentence the following: "The determination of the Secretary of the Treasury shall not be prima facie evidence on issues relating solely to part 4 of subtitle B of title I.".

(c) Clarification regarding returns of contributions upon receipt of adverse determination letters.—

(1) In general.—Subparagraph (B) of section 403(c)(2) of ERISA (29 U.S.C. 1103(c)(2)(B)) is amended to read as follows:

"(B) If a contribution is conditioned on initial qualification of the plan under section 401 or 403(a) of the Internal Revenue Code of 1986, and if the plan receives an adverse determination with respect to its initial qualification, then paragraph (1) shall not prohibit the return of such contribution to the employer within one year after such determination, but only if the application for the determination is made by the time prescribed by law for filing the employer's return for the taxable year in which such plan was adopted, or such later date as the Secretary of the Treasury may prescribe.".

(2) Conforming amendment.—Paragraph (3) of section 403(c) of ERISA (29 U.S.C. 1103(c)(3)) is amended by striking out "4972(b) of the Internal Revenue Code of 1954" and inserting in lieu thereof "4979(c) of the Internal Revenue Code of 1986".

SEC. 9344. CLARIFICATION REGARDING THE IMPOSITION OF AN ANNUAL SANCTION FOR PROHIBITED TRANSACTIONS WHICH ARE CONTINUING IN NATURE.

Section 502(i) of ERISA (29 U.S.C. 1132(i)) is amended by striking the second sentence and inserting the following: "The amount of such penalty may not exceed 5 percent of the amount involved in each such transaction (as defined in section 4975(f)(4) of the Internal Revenue Code of 1986) for each year or part thereof during which the prohibited transaction continues, except that, if the transaction is not corrected (in such manner as the Secretary shall prescribe in regulations which shall be consistent with section 4975(f)(5) of such Code) within 90 days after notice from the Secretary (or such longer period as the Secretary may permit), such penalty may be in an amount not more than 100 percent of the amount involved.".

SEC. 9345. ADDITIONAL LIMITATIONS ON INVESTMENT BY AN INDIVIDUAL ACCOUNT PLAN FORMING PART OF A FLOOR-OFFSET ARRANGEMENT AND ON INVESTMENT BY AN INDIVIDUAL ACCOUNT PLAN IN EMPLOYER STOCK.

(a) Treatment of Individual Account Portions of Floor-Offset Arrangements.—

(1) In general.—Section 407(d)(3) of ERISA (29 U.S.C. 1107(d)(3)) is amended by adding at the end the following new subparagraph:

"(C) The term 'eligible individual account plan' does not include any individual account plan the benefits of which are taken into account in determining the benefits payable to a participant under any defined benefit plan."

(2) Treatment of floor-offset arrangement as single plan.—Section 407(d) of ERISA (29 U.S.C. 1107(d)) is amended by adding at the end the following new paragraph:

"(9) For purposes of this section, an arrangement which consists of a defined benefit plan and an individual account plan shall be treated as 1 plan if the benefits of such arrangement are taken into account in determining the benefits payable under such defined benefit plan."

(3) Effective date.—The amendments made by this subsection shall apply with respect to arrangements established after December 17, 1987.

(b) Restrictions on Treatment of Stock as Qualifying Employer Security.—Section 407 of ERISA (29 U.S.C. 1107) is amended—

(1) in subsection (d)(5), by adding at the end the following new sentence: "After December 17, 1987, in the case of a plan other than an eligible individual account plan, stock shall be considered a qualifying employer security only if such stock satisfies the requirements of subsection (f)(1)."; and

(2) by adding at the end the following new subsection:

"(f)(1) Stock satisfies the requirements of this subsection if—

"(A) no more than 25 percent of the aggregate amount of stock of the same class issued and outstanding at the time of acquisition is held by the plan, and

"(B) at least 50 percent of the aggregate amount referred to in subparagraph (A) is held by persons independent of the issuer.

"(2) Until January 1, 1993, a plan shall not be treated as violating subsection (a) solely by holding stock which fails to satisfy the requirements of paragraph (1) if such stock—

"(A) has been so held since December 17, 1987, or

"(B) was acquired after December 17, 1987, pursuant to a legally binding contract in effect on December 17, 1987, and has been so held at all times after the acquisition.

"(3) After December 17, 1987, no plan may acquire stock which does not satisfy the requirements of paragraph (1) unless the acquisition is made pursuant to a legally binding contract in effect on such date.".

SEC. 9346. INTEREST RATE ON ACCUMULATED CONTRIBUTIONS.

(a) Amendments to ERISA.—Section 204(c)(2) of ERISA (29 U.S.C. 1054(c)(2)) is amended—

(1) in subparagraph (C)(iii), by striking "5 percent per annum" and inserting "120 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of a plan year)"; and

(2) in subparagraph (D)—

(A) in the first sentence, by striking ", the rate of interest described in clause (iii) of subparagraph (C), or both,"; and

(B) by striking the second sentence.

(b) Amendments to 1986 Code.—Section 411(c)(2) of the 1986 Code (relating to accrued benefit derived from employee contributions) is amended—

(1) in subparagraph (C)(iii), by striking "5 percent per annum" and inserting "120 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of a plan year)"; and

(2) in subparagraph (D)—

(A) in the first sentence, by striking ", the rate of interest described in clause (iii) of subparagraph (C), or both,"; and

(B) by striking the second sentence.

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to plan years beginning after December 31, 1987.

(2) Plan amendments not required until January 1, 1989.—If any amendment made by this section requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 1989, if—

(A) during the period after such amendments made by this section take effect and before such first plan year, the plan is operated in accordance with the requirements of such amendments or in accordance with an amendment prescribed by the Secretary of the Treasury and adopted by the plan, and

(B) such plan amendment applies retroactively to the period after such amendments take effect and such first plan year.

A plan shall not be treated as failing to provide definitely determinable benefits or contributions, or to be operated in accordance with the provisions of the plan, merely because it operates in accordance with this subsection.

Subtitle E—Miscellaneous Provisions

SEC. 9401. RESTORATION OF TRUST FUNDS FOR 1987.

(a) In General.—

(1) Obligations issued.—Except as provided in subsection (b), within 30 days after the expiration of any debt issuance suspension period to which this section applies, the Secretary of the Treasury shall issue to each Federal fund obligations under chapter 31 of title 31, United States Code, which bear such issue dates, interest rates, and maturity dates as are necessary to ensure that, after such obligations are issued, the holdings of such Federal fund will replicate to the maximum extent practicable the obligations that would have been held by such Federal fund if any—

(A) failure to invest amounts in such Federal fund (or any disinvestment) resulting from the limitation of section 3101(b) of title 31, United States Code, had not occurred, and

(B) issuance of such obligations had occurred immediately on the expiration of the debt issuance suspension period.

(2) Interest credited.—On the first normal interest payment date or within 30 days after the expiration of any debt issuance suspension period (whichever is later) to which this section applies, the Secretary of the Treasury shall credit to each Federal fund an amount determined by the Secretary, after taking into account the actions taken pursuant to paragraph (1), to be equal to the income lost by such Federal fund by reason of any failure to invest amounts in such Federal fund (or any disinvestment) resulting from the limitation of such section 3101(b), including any income lost between the expiration of the debt issuance suspension period and the date of the credit.

(b) Interest on Market-based Obligations.—With respect to any Federal fund which invests in market-based special obligations, on the expiration of a debt issuance suspension period to which this section applies, the Secretary of the Treasury shall immediately credit to such fund an amount equal to the interest that would have been earned by such fund during the debt issuance suspension period if the daily balance in such fund that the Secretary was unable to invest by reason of the limitation of such section 3101(b) had been invested each day during such period, overnight, in obligations under chapter 31 of title 31, United States Code, earning interest at a rate determined by the Secretary in accordance with the standard practice of the Department of the Treasury.

(c) Interest on State and Local Government Series.—On the expiration of any debt issuance suspension period to which this section applies, the Secretary of the Treasury shall (as of the close of such period) credit to each holder of any obligation which is part of the State and Local Government Series and which is in the nature of a demand deposit an amount equal to the income lost by such holder by reason of not being able to reinvest the principal of, and interest on, such obligation during such period.

(d) Debt Issuance Suspension Periods to Which Section Applies.—This section shall apply to debt issuance suspension periods beginning on or after July 18, 1987, and ending before January 1, 1988.

(e) Credited Amounts Treated as Interest.—All amounts credited under this section shall be treated as interest on obligations issued under chapter 31 of title 31, United States Code, for all purposes of Federal law.

(f) Definitions.—For purposes of this section—

(1) Debt issuance suspension period.—The term "debt issuance suspension period" means any period for which the Secretary of the Treasury determines that the issuance of obligations of the United States sufficient to conduct the orderly financial operations of the United States may not be made without exceeding the limitation imposed by section 3101(b) of title 31, United States Code.

(2) Federal fund.—The term "Federal fund" means any Federal trust fund or Government account established pursuant to Federal law to which the Secretary of the Treasury has issued or is expressly authorized by law directly to issue obligations under chapter 31 of title 31, United States Code, in respect of public money, money otherwise required to be deposited in the Treasury, or amounts appropriated; except that such term shall not include the Civil Service Retirement and Disability Fund or the Thrift Savings Fund of the Federal Employees' Retirement System.

(g) Special Rules.—In the case of any debt suspension period beginning on or after July 18, 1987, and ending before the date of the enactment of this Act—

(1) for purposes of determining the date on which the Secretary of the Treasury is required to take the actions described in subsections (a), (b), and (c), such period shall be treated as having ended on such date of enactment, and

(2) the amount required to be credited under subsection (c) shall include any income lost because the credit was not made upon the expiration of such period.

SEC. 9402. 6-MONTH EXTENSION OF PROVISIONS RELATING TO COLLECTION OF NON-TAX DEBTS OWED TO FEDERAL AGENCIES.

(a) General Rule.—Subsection (c) of section 2653 of the Deficit Reduction Act of 1984 is amended by striking out "January 1, 1988" and inserting in lieu thereof "July 1, 1988".

(b) Clarification of Congressional Intent as to Scope of Provision.—

(1) Nothing in the amendments made by section 2653 of the Deficit Reduction Act of 1984 shall be construed as exempting debts of corporations or any other category of persons from the application of such amendments.

(2) It is the intent of the Congress that, to the extent practicable, the amendments made by section 2653 of the Deficit Reduction Act of 1984 shall extend to all Federal agencies (as defined in the amendments made by such section).

(3) The Secretary of the Treasury shall issue regulations to carry out the purposes of this subsection.

(c) Study by the General Accounting Office.—The Comptroller General of the United States, in consultation with the Secretary of the Treasury or his delegate, shall conduct a study of the operation and effectiveness of the amendments made by section 2653 of the Deficit Reduction Act of 1984. The study shall compile and evaluate information on the effect of those amendments on voluntary compliance with the income tax laws. Not later than April 1, 1989, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report of the study conducted under this subsection, together with such recommendations as he may deem advisable.

SEC. 9403. INCREASE IN LIMIT ON LONG-TERM BONDS.

The last sentence of section 3102(a) of title 31, United States Code, is amended by striking out "$250,000,000,000" and inserting in lieu thereof "$270,000,000,000".

SUBTITLE F—CUSTOMS USER FEES; TRADE AND CUSTOMS AGENCY AUTHORIZATIONS

SEC. 9501. CUSTOMS USER FEES.

(a) AMENDMENTS TO CUSTOMS USER FEES PROGRAM.—Section 13031 of the Consolidated Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended as follows:

(1) MERCHANDISE PROCESSING FEE IMPOSED ON FOREIGN CONTENT OF CERTAIN SCHEDULE 8 ARTICLES.—

(A) Subsection (a)(9)(A) is amended to read as follows:

"(A) provided for under any item in schedule 8 of the Tariff Schedules of the United States except item 806.30 or 807.00,".

(B) Subsection (b)(8)(A) is amended—

(i) by striking out "and" at the end of clause (i);

(ii) by striking out the period at the end of clause (ii) and inserting a semicolon; and

(iii) by adding at the end thereof the following:

"(iii) in the case of merchandise classified under item 806.30 of the Tariff Schedules of the United States, be applied to the value of the foreign repairs or alterations to the merchandise; and

"(iv) in the case of merchandise classified under item 807.00 of such Schedules, be applied to the full value of the merchandise, less the cost or value of the component United States products.

With respect to merchandise that is classified under item 806.30 or 807.00 of such Schedules and is duty-free, the Secretary may collect the fee charged on the processing of the merchandise under subsection (a) (9) or (10) on the basis of aggregate data derived from financial and manufacturing reports used by the importer in the normal course of business, rather than on the basis of entry-by-entry accounting.".

(2) PROVISION OF CUSTOMS SERVICES.—Subsection (e) is amended—

(A) by redesignating paragraph (4) as paragraph (6);

(B) by inserting after paragraph (3) the following new paragraphs:

"(4) Notwithstanding any other provision of law, all customs services (including, but not limited to, normal and overtime clearance and preclearance services) shall be adequately provided, when requested, for—

"(A) the clearance of any commercial vessel, vehicle, or aircraft or its passengers, crew, stores, material, or cargo arriving, departing, or transiting the United States;

"(B) the preclearance at any customs facility outside the United States of any commercial vessel, vehicle or aircraft or its passengers, crew, stores, material, or cargo; and

"(C) the inspection or release of commercial cargo or other commercial shipments being entered into, or withdrawn from, the customs territory of the United States.

"(5) For purposes of this subsection, customs services shall be treated as being 'adequately provided' if such of those services that are necessary to meet the needs of parties subject to customs inspection are provided in a timely manner taking into account factors such as—

"(A) the unavoidability of weather, mechanical, and other delays;

"(B) the necessity for prompt and efficient passenger and baggage clearance;

"(C) the perishability of cargo;

"(D) the desirability or unavoidability of late night and early morning arrivals from various time zones;

"(E) the availability (in accordance with regulations prescribed under subsection (g)(2)) of customs personnel and resources; and

"(F) the need for specific enforcement checks."; and

(C) by amending paragraph (6) (as redesignated by subparagraph (A)) to read as follows:

"(6) Notwithstanding any other provision of law except paragraph (2), during any period when fees are authorized under subsection (a), no charges, other than such fees, may be collected—

"(A) for any—

"(i) cargo inspection, clearance, or other customs activity, expense, or service performed (regardless whether performed outside of normal business hours on an overtime basis), or

"(ii) customs personnel provided,

in connection with the arrival or departure of any commercial vessel, vehicle, or aircraft, or its passengers, crew, stores, material, or cargo, in the United States;

"(B) for any preclearance or other customs activity, expense, or service performed, and any customs personnel provided, outside the United States in connection with the departure of any commercial vessel, vehicle, or aircraft, or its passengers, crew, stores, material, or cargo, for the United States; or

"(C) in connection with—

"(i) the activation or operation (including Customs Service supervision) of any foreign trade zone or subzone established under the Act of June 18, 1934 (commonly know as the Foreign Trade Zones Act, 19 U.S.C. 81a et seq.), or

"(ii) the designation or operation (including Customs Service supervision) of any bonded warehouse under section 555 of the Tariff Act of 1930 (19 U.S.C. 1555).".

(3) DISPOSITION OF FEES.—Subsection (f) is amended by striking out paragraphs (1), (2), and (3) and inserting the following:

"(f) DISPOSITION OF FEES.—(1) There is established in the general fund of the Treasury a separate account which shall be known as the 'Customs User Fee Account'. Notwithstanding section 524 of the Tariff Act of 1930 (19 U.S.C. 1524), there shall be deposited as offsetting receipts into the Customs User Fee Account all fees collected under subsection (a) except that portion of such fees that is required under paragraph (3) for the direct reimbursement of appropriations.

"(2) All funds in the Customs User Fee Account shall be available, to the extent provided for in appropriations Acts, to pay the costs (other than costs for which direct reimbursement under paragraph (3) is required) incurred by the United States Customs Service in conducting commercial operations, including, but not limited to, all costs associated with commercial passenger, vessel, vehicle, aircraft, and cargo processing. So long as there is a surplus of funds in the Customs User Fee Account, the Secretary of the Treasury may not reduce personnel staffing levels for providing commercial clearance and preclearance services.

"(3) The Secretary of the Treasury, in accordance with such section 524 and without regard to apportionment or any other administrative practice or limitation, shall directly reimburse, from the fees collected under subsection (a), each appropriation for the amount paid out of that appropriation for the costs incurred by the Secretary in providing—

"(A) inspectional overtime services; and

"(B) all preclearance services;

for which the recipients of such services are not required to reimburse the Secretary of the Treasury. Reimbursement under this paragraph shall apply with respect to each fiscal year occurring after September 30, 1987, and shall be made at least quarterly. To the extent necessary, reimbursement of appropriations under this paragraph may be made on the basis of estimates made by the Secretary of the Treasury of the costs for inspectional overtime and preclearance services, and adjustments shall be made in subsequent reimbursements to the extent that the estimates were in excess of, or less than, the amounts required to be reimbursed.".

(4) REGULATIONS.—Subsection (g) is amended—

(A) by striking out "(g) REGULATIONS.—The" and inserting "(g) REGULATIONS.—(1) In addition to the regulations required under paragraph (2), the "; and

(B) by inserting at the end thereof the following new paragraph:

"(2) The Secretary of the Treasury shall prescribe regulations governing the work shifts of customs personnel at airports. Such regulations shall provide, among such other factors considered appropriate by the Secretary, that—

"(A) the work shifts will be adjusted, as necessary, to meet cyclical and seasonal demands and to minimize the use of overtime;

"(B) the work shifts will not be arbitrarily reduced or compressed; and

"(C) consultation with the Advisory Committee on Commercial Operations of the United States Customs Service (established under section 9501(c) of the Omnibus Budget Reconciliation Act of 1987) will be carried out before adjustments are made in the work shifts.".

(5) EXTENSION OF CUSTOMS USER FEES PROGRAM.—Subsection (j)(3) is amended by striking out "1989" and inserting "1990".

(b) ADDITIONAL PERIOD TO CLAIM CERTAIN REFUNDS.—Section 1893(g)(2) of the Tax Reform Act of 1986 is amended by striking out "90 days after the date of enactment of this Act" and inserting "90 days after the date of the enactment of the Omnibus Budget Reconciliation Act of 1987".

(c) ANALYSIS REGARDING THE CES PROGRAM; EFFECT ON IMPLEMENTATION OF PROGRAM.—

(1) The Comptroller General of the United States shall conduct a comprehensive analysis, including a cost-benefit study, of the centralized cargo examination station (CES) concept from the perspective of both the United States Customs Service and business community users. The analysis shall be submitted on the same day to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (hereinafter in this subsection referred to as the "Committees") not later than March 30, 1988, and shall include recommendations as to how best to implement cargo inspection procedures.

(2) The United States Customs Service—

(A) may not, after the date of the enactment of this Act, establish any new centralized cargo examination station at any ocean port, airport, or land border location unless the Customs Service provides to the Committees advance notice, in writing, of not less than 90 days regarding the proposed establishment; and

(B) shall, on such date of enactment, suspend operations at each centralized cargo examination station that was operating at an airport on the day before such date until the 90th day after a date—

(i) that is not earlier than the date on which the analysis required under paragraph (1) is submitted to the Committees, and

(ii) on which the Customs Service provides to the Committees notice, in writing, that it intends to resume such operations at the station.

During the period of suspension of operations under subparagraph (B) at any centralized cargo examination station at an airport, the Secretary of the Treasury shall maintain customs operations and staffing at that airport at a level not less than that which was in effect immediately before the suspension took effect.

(d) EFFECTIVE DATES.—

(1) Except as otherwise provided in this subsection, the provisions of this section take effect on the date of the enactment of this Act.

(2) The amendments made by subsection (a)(1) apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

(3) The amendment made by subsection (a)(3) shall take effect on October 1, 1987.

SEC. 9502. UNITED STATES INTERNATIONAL TRADE COMMISSION AUTHORIZATIONS.

Section 330(e)(2) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended—

(1) by striking out "1986" and inserting "1988"; and

(2) by striking out "$28,901,000;" and inserting "$35,386,000;".

SEC. 9503. UNITED STATES CUSTOMS SERVICE AUTHORIZATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) FOR NONCOMMERCIAL OPERATIONS.—There are authorized to be appropriated for fiscal year 1988 not to exceed $348,192,000 for the salaries and expenses of the United States Customs Service that are incurred in noncommercial operations, of which $171,857.06 shall be available only for concluding Contract TC-82-54 that was awarded for the development and testing of an automatic license plate reader.

"(2) FOR COMMERCIAL OPERATIONS.—There are authorized to be appropriated for fiscal year 1988 not to exceed $615,000,000 from the Customs User Fee Account for the salaries and expenses of the United States Customs Service that are incurred in commercial operations.

"(3) FOR AIR INTERDICTION.—There are authorized to be appropriated for fiscal year 1988 not to exceed $118,309,000 for the operation (including salaries and expenses) and maintenance of the air interdiction program of the United States Customs Service.".

(b) CONGRESSIONAL NOTICE OF CERTAIN ACTIONS.—Section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) is amended—

(1) by striking out "USE OF SAVINGS RESULTING FROM ADMINISTRATIVE CONSOLIDATIONS.—" in subsection (f);

(2) by striking out "ALLOCATION OF RESOURCES.—" in subsection (g) and inserting "(1)"; and

(3) by adding at the end of subsection (g) the following new paragraph:

"(2) The Commissioner of Customs shall notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives at least 180 days prior to taking any action which would—

"(A) result in any significant reduction in force of employees other than by means of attrition;

"(B) result in any significant reduction in hours of operation or services rendered at any office of the United States Customs Service or any port of entry;

"(C) eliminate or relocate any office of the United States Customs Service;

"(D) eliminate any port of entry; or

"(E) significantly reduce the number of employees assigned to any office of the United States Customs Service or any port of entry.".

(c) ADVISORY COMMITTEE ON COMMERCIAL OPERATIONS OF THE UNITED STATES CUSTOMS SERVICE.—

(1) The Secretary of the Treasury shall establish an advisory committee which shall be known as the "Advisory Committee on Commercial Operations of the United States Customs Service" (hereafter in this subsection referred to as the "Advisory Committee").

(2)(A) The Advisory Committee shall consist of 20 members appointed by the Secretary of the Treasury.

(B) In making appointments under subparagraph (A), the Secretary of the Treasury shall ensure that—

(i) the membership of the Advisory Committee is representative of the individuals and firms affected by the commercial operations of the United States Customs Service; and

(ii) a majority of the members of the Advisory Committee do not belong to the same political party.

(3) The Advisory Committee shall—

(A) provide advice to the Secretary of the Treasury on all matters involving the commercial operations of the United States Customs Service; and

(B) submit an annual report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives that shall—

(i) describe the operations of the Advisory Committee during the preceding year, and

(ii) set forth any recommendations of the Advisory Committee regarding the commercial operations of the United States Customs Service.

(4) The Assistant Secretary of the Treasury for Enforcement shall preside over meetings of the Advisory Committee.

(d) DISSOLUTION OF EXISTING ADVISORY COMMITTEE.—Section 13033 of the Consolidated Budget Reconciliation Act of 1985 is repealed.

SEC. 9504. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE AUTHORIZATIONS.

Section 141(f)(1) of the Trade Act of 1974 (19 U.S.C. 2171(f)(1)) is amended to read as follows:

"(f)(1)(A) There are authorized to be appropriated for fiscal year 1988 to the Office for the purposes of carrying out its functions not to exceed $15,172,000.

"(B) Of the amounts authorized to be appropriated under subparagraph (A) for fiscal year 1988—

"(i) not to exceed $69,000 may be used for entertainment and representation expenses of the Office; and

"(ii) not to exceed $1,000,000 shall remain available until expended.".

TITLE X—REVENUE PROVISIONS

SEC. 10000. SHORT TITLE; AMENDMENT OF THE 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the "Revenue Act of 1987".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) COORDINATION WITH SECTION 15.—No amendment made by this title shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

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SEC. 10101. EXPENSES OF OVERNIGHT CAMPS NOT ALLOWABLE FOR DEPENDENT CARE CREDIT.

(a) GENERAL RULE.—Subparagraph (A) of section 21(b)(2) (defining employment-related expenses) is amended by adding at the end thereof the following new sentence: "Such term shall not include any amount paid for services outside the taxpayer's household at a camp where the qualifying individual stays overnight."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenses paid in taxable years beginning after December 31, 1987.

SEC. 10102. CHANGES TO DEDUCTION FOR QUALIFIED RESIDENCE INTEREST.

(a) GENERAL RULE.—Paragraph (3) of section 163(h) (defining qualified residence interest) is amended to read as follows:

"(3) QUALIFIED RESIDENCE INTEREST.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified residence interest' means any interest which is paid or accrued during the taxable year on—

"(i) acquisition indebtedness with respect to any qualified residence of the taxpayer, or

"(ii) home equity indebtedness with respect to any qualified residence of the taxpayer.

For purposes of the preceding sentence, the determination of whether any property is a qualified residence of the taxpayer shall be made as of the time the interest is accrued.

"(B) ACQUISITION INDEBTEDNESS.—

"(i) IN GENERAL.—The term 'acquisition indebtedness' means any indebtedness which—

"(I) is incurred in acquiring, constructing, or substantially improving any qualified residence of the taxpayer, and

"(II) is secured by such residence.

Such term also includes any indebtedness secured by such residence resulting from the refinancing of indebtedness meeting the requirements of the preceding sentence (or this sentence); but only to the extent the amount of the indebtedness resulting from such refinancing does not exceed the amount of the refinanced indebtedness.

"(ii) $1,000,000 LIMITATION.—The aggregate amount treated as acquisition indebtedness for any period shall not exceed $1,000,000 ($500,000 in the case of a married individual filing a separate return).

"(C) HOME EQUITY INDEBTEDNESS.—

"(i) IN GENERAL.—The term 'home equity indebtedness' means any indebtedness (other than acquisition indebtedness) secured by a qualified residence to the extent the aggregate amount of such indebtedness does not exceed—

"(I) the fair market value of such qualified residence, reduced by

"(II) the amount of acquisition indebtedness with respect to such residence.

"(ii) LIMITATION.—The aggregate amount treated as home equity indebtedness for any period shall not exceed $100,000 ($50,000 in the case of a separate return by a married individual).

"(D) TREATMENT OF INDEBTEDNESS INCURRED ON OR BEFORE OCTOBER 13, 1987.—

"(i) IN GENERAL.—In the case of any pre-October 13, 1987, indebtedness—

"(I) such indebtedness shall be treated as acquisition indebtedness, and

"(II) the limitation of subparagraph (B)(ii) shall not apply.

"(ii) REDUCTION IN $1,000,000 LIMITATION.—The limitation of subparagraph (B)(ii) shall be reduced (but not below zero) by the aggregate amount of outstanding pre-October 13, 1987, indebtedness.

"(iii) PRE-OCTOBER 13, 1987, INDEBTEDNESS.—The term 'pre-October 13, 1987, indebtedness' means—

"(I) any indebtedness which was incurred on or before October 13, 1987, and which was secured by a qualified residence on October 13, 1987, and at all times thereafter before the interest is paid or accrued, or

"(II) any indebtedness which is secured by the qualified residence and was incurred after October 13, 1987, to refinance indebtedness described in subclause (I) (or refinanced indebtedness meeting the requirements of this subclause) to the extent (immediately after the refinancing) the principal amount of the indebtedness resulting from the refinancing does not exceed the principal amount of the refinanced indebtedness (immediately before the refinancing).

"(iv) LIMITATION ON PERIOD OF REFINANCING.—Subclause (II) of clause (iii) shall not apply to any indebtedness after—

"(I) the expiration of the term of the indebtedness described in clause (iii)(I), or

"(II) if the principal of the indebtedness described in clause (iii)(I) is not amortized over its term, the expiration of the term of the 1st refinancing of such indebtedness (or if earlier, the date which is 30 years after the date of such 1st refinancing)."

(b) CONFORMING AMENDMENTS.—Subsection (h) of section 163 is amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

SEC. 10103. CLARIFICATION OF TREATMENT OF FEDERAL JUDGES.

(a) GENERAL RULE.—A Federal judge—

(1) shall be treated as an active participant for purposes of section 219(g) of the Internal Revenue Code of 1986, and

(2) shall be treated as an employee for purposes of chapter 1 of such Code.

(b) EFFECTIVE -DATE.—The provisions of subsection (a) shall apply to taxable years beginning after December 31, 1987.

SEC. 10104. TREATMENT OF REGULATED INVESTMENT COMPANIES UNDER 2-PERCENT FLOOR.

(a) 1-YEAR DELAY IN TREATMENT OF PUBLICLY OFFERED REGULATED INVESTMENT COMPANIES UNDER 2-PERCENT FLOOR.—

(1) GENERAL RULE.—Section 67(c) of the Internal Revenue Code of 1986 to the extent it relates to indirect deductions through a publicly offered regulated investment company shall apply only to taxable years beginning after December 31, 1987.

(2) PUBLICLY OFFERED REGULATED INVESTMENT COMPANY DEFINED.—For purposes of this subsection—

(A) IN GENERAL.—The term "publicly offered regulated investment company" means a regulated investment company the shares of which are—

(i) continuously offered pursuant to a public offering (within the meaning of section 4 of the Securities Act of 1933, as amended (15 U.S.C. 77a to 77aa)),

(ii) regularly traded on an established securities market, or

(iii) held by or for no fewer than 500 persons at all times during the taxable year.

(B) SECRETARY MAY REDUCE 500 PERSON REQUIREMENT.—The Secretary of the Treasury or his delegate may by regulation decrease the minimum shareholder requirement of subparagraph (A)(iii) in the case of regulated investment companies which experience a loss of shareholders through net redemptions of their shares.

(b) CHANGES IN DISTRIBUTION REQUIREMENTS.—

(1) INCREASE IN REQUIRED DISTRIBUTION OF INCOME.—Paragraph (1) of section 4982(b) (defining required distribution) is amended by striking out "90 percent" in subparagraph (B) and inserting in lieu thereof "98 percent".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 651 of the Tax Reform Act of 1986.

SUBTITLE B—BUSINESS PROVISIONS

PART I—ACCOUNTING PROVISIONS

SEC. 10201. REPEAL OF RESERVE FOR ACCRUAL OF VACATION PAY.

(a) GENERAL RULE.—Section 463 (relating to accrual of vacation pay) is hereby repealed.

(b) TECHNICAL AMENDMENTS.—

(1) Section 81 is hereby repealed.

(2) Subparagraph (B) of section 404(b)(2) is amended to read as follows:

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any benefit provided through a welfare benefit fund (as defined in section 419(e))."

(3) Section 404(a)(5) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any vacation pay which is treated as deferred compensation shall be deductible for the taxable year of the employer in which paid to the employee."

(4) Paragraph (2) of section 419(e) is amended by inserting "or" at the end of subparagraph (B), by striking out ", or" at the end of subparagraph (C), and inserting in lieu thereof a period, and by striking out subparagraph (D).

(5) Paragraph (5) of section 461(h) is amended to read as follows:

"(5) SUBSECTION NOT TO APPLY TO CERTAIN ITEMS.—This subsection shall not apply to any item for which a deduction is allowable under a provision of this title which specifically provides for a deduction for a reserve for estimated expenses."

(6) The table of sections for part II of subchapter B of chapter 1 is amended by striking out the item relating to section 81.

(7) The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by striking out the item relating to section 463.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer who elected to have section 463 of the Internal Revenue Code of 1986 apply for such taxpayer's last taxable year beginning before January 1, 1988, and who is required to change his method of accounting by reason of the amendments made by this section—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary, and

(C) the net amount of adjustments required by section 481 of such Code to be taken into account by the taxpayer—

(i) shall be reduced by the balance in the suspense account under section 463(c) of such Code as of the close of such last taxable year, and

(ii) shall be taken into account over the 4-taxable year period beginning with the taxable year following such last taxable year as follows:

In the case of the:	The percentage taken into account is:
1st year	25
2nd year	5
3rd year	35
4th year	35.

Notwithstanding subparagraph (C)(ii), if the period the adjustments are required to be taken into account under section 481 of such Code is less than 4 years, such adjustments shall be taken into account ratably over such shorter period.

SEC. 10202. PROVISIONS RELATING TO INSTALLMENT SALES.

(a) REPEAL OF PROPORTIONATE DISALLOWANCE OF INSTALLMENT METHOD.—

(1) IN GENERAL.—Section 453C (relating to certain indebtedness treated as payment on installment obligations) is hereby repealed.

(2) CONFORMING AMENDMENT.—The table of sections for subpart B of part II of subchapter E of chapter 1 is amended by striking out the item relating to section 453C.

(b) REPEAL OF INSTALLMENT METHOD FOR DEALERS IN PROPERTY.—

(1) IN GENERAL.—Subparagraph (A) of section 453(b)(2) (defining installment sale) is amended to read as follows:

"(A) DEALER DISPOSITIONS.—Any dealer disposition (as defined in subsection (l))."

(2) DEALER DISPOSITION DEFINED.—Section 453 (relating to installment method) is amended by adding at the end thereof the following new subsection:

"(l) DEALER DISPOSITIONS.—For purposes of subsection (b)(2)(A)—

"(1) IN GENERAL.—The term 'dealer disposition' means any of the following dispositions:

"(A) PERSONAL PROPERTY.—Any disposition of personal property by a person who regularly sells or otherwise disposes of personal property on the installment plan.

"(B) REAL PROPERTY.—Any disposition of real property which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business.

"(2) EXCEPTIONS.—The term 'dealer disposition' does not include—

"(A) FARM PROPERTY.—The disposition on the installment plan of any property used or produced in the trade or business of farming (within the meaning of section 2032A(e) (4) or (5)).

"(B) TIMESHARES AND RESIDENTIAL LOTS.—

"(i) IN GENERAL.—Any dispositions described in clause (ii) on the installment plan if the taxpayer elects to have paragraph (3) apply to any installment obligations which arise from such dispositions. An election under this paragraph shall not apply with respect to an installment obligation which is guaranteed by any person other than an individual.

"(ii) DISPOSITIONS TO WHICH SUBPARAGRAPH APPLIES.—A disposition is described in this clause if it is a disposition in the ordinary course of the taxpayer's trade or business to an individual of—

"(I) a timeshare right to use or a timeshare ownership interest in residential real property for not more than 6 weeks per year, or a right to use specified campgrounds for recreational purposes, or

"(II) any residential lot, but only if the taxpayer (or any related person) is not to make any improvements with respect to such lot.

For purposes of subclause (I), a timeshare right to use (or timeshare ownership interest in) property held by the spouse, children, grandchildren, or parents of an individual shall be treated as held by such individual.

"(C) CARRYING CHARGES OR INTEREST.—Any carrying charges or interest with respect to a disposition described in subparagraph (A) or (B) which are added on the books of account of the seller to the established cash selling price of the property shall be included in the total contract price of the property and, if such charges or interest are not so included, any payments received shall be treated as applying first against such carrying charges or interest.

"(3) PAYMENT OF INTEREST ON TIMESHARES AND RESIDENTIAL LOTS.—

"(A) IN GENERAL.—In the case of any installment obligation to which paragraph (2)(B) applies, the tax imposed by this chapter for any taxable year for which payment is received on such obligation shall be increased by the amount of interest determined in the manner provided under subparagraph (B).

"(B) COMPUTATION OF INTEREST.—

"(i) IN GENERAL.—The amount of interest referred to in subparagraph (A) for any taxable year shall be determined—

"(I) on the amount of the tax for such taxable year which is attributable to the payments received during such taxable year on installment obligations to which this subsection applies,

"(II) for the period beginning on the date of sale, and ending on the date such payment is received, and

"(III) by using the applicable Federal rate under section 1274 (without regard to subsection (d)(2) thereof) in effect at the time of the sale compounded semiannually.

"(ii) INTEREST NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), the portion of any tax attributable to the receipt of any payment shall be determined without regard to any interest imposed under subparagraph (A).

"(iii) TAXABLE YEAR OF SALE.—No interest shall be determined for any payment received in the taxable year of the disposition from which the installment obligation arises.

"(C) TREATMENT AS INTEREST.—Any amount payable under this paragraph shall be taken into account in computing the amount of any deduction allowable to the taxpayer for interest paid or accrued during such taxable year."

(c) TREATMENT OF INSTALLMENT OBLIGATIONS OF NONDEALERS.—Section 453A (relating to installment method for dealers in personal property) is amended to read as follows:

"SEC. 453A. SPECIAL RULES FOR NONDEALERS OF REAL PROPERTY.

"(a) GENERAL RULE.—In the case of an installment obligation to which this section applies—

"(1) interest shall be paid on the deferred tax liability with respect to such obligation in the manner provided under subsection (c), and

"(2) the pledging rules under subsection (d) shall apply.

"(b) Installment Obligations to Which Section Applies.—

"(1) In general.—This section shall apply to any obligation which arises from the disposition of real property under the installment method which is property used in the taxpayer's trade or business or property held for the production of rental income, but only if the sales price of such property exceeds $150,000.

"(2) Special rule for interest payments.—For purposes of subsection (a)(1), this section shall apply to an obligation described in paragraph (1) arising during a taxable year only if—

"(A) such obligation is outstanding as of the close of such taxable year, and

"(B) the face amount of all obligations of the taxpayer described in paragraph (1) which arose during, and are outstanding as of the close of, such taxable year exceeds $5,000,000.

Except as provided in regulations, all persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as one person for purposes of this paragraph.

"(3) Exception for personal use and farm property.—An installment obligation shall not be treated as described in paragraph (1) if it arises from the disposition—

"(A) by an individual of personal use property (within the meaning of section 1275(b)(3)), or

"(B) of any property used or produced in the trade or business of farming (within the meaning of section 2032A(e) (4) or (5)).

"(4) Special rule for timeshares and residential lots.—An installment obligation shall not be treated as described in paragraph (1) if it arises from a disposition described in section 453(l)(2)(B), but the provisions of section 453(l)(3) (relating to interest payments on timeshares and residential lots) shall apply to such obligation.

"(5) Sales price.—For purposes of paragraph (1), all sales or exchanges which are part of the same transaction (or a series of related transactions) shall be treated as 1 sale or exchange.

"(c) Interest on Deferred Tax Liability.—

"(1) In general.—If an obligation to which this section applies is outstanding as of the close of any taxable year, the tax imposed by this chapter for such taxable year shall be increased by the amount of interest determined in the manner provided under paragraph (2).

"(2) Computation of interest.—For purposes of paragraph (1), the interest for any taxable year shall be an amount equal to the product of—

"(A) the applicable percentage of the deferred tax liability with respect to such obligation, multiplied by

"(B) the underpayment rate in effect under section 6621(a)(2) for the month with or within which the taxable year ends.

"(3) Deferred tax liability.—For purposes of this section, the term 'deferred tax liability' means, with respect to any taxable year, the product of—

"(A) the amount of gain with respect to an obligation which has not been recognized as of the close of such taxable year, multiplied by

"(B) the maximum rate of tax in effect under section 1 or 11, whichever is appropriate, for such taxable year.

"(4) Applicable percentage.—For purposes of this subsection, the term 'applicable percentage' means, with respect to obligations arising in any taxable year, the percentage determined by dividing—

"(A) the portion of the aggregate face amount of such obligations outstanding as of the close of such taxable year in excess of $5,000,000, by

"(B) the aggregate face amount of such obligations outstanding as of the close of such taxable year.

"(5) Regulations—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subsection including regulations providing for the application of this subsection in the case of contingent payments, short taxable years, and pass-thru entities.

"(d) Pledges, Etc., of Installment Obligations.—

"(1) In general.—For purposes of section 453, if any indebtedness (hereinafter in this subsection referred to as 'secured indebtedness') is secured by an installment obligation to which this section applies, the net proceeds of the secured indebtedness shall be treated as a payment received on such installment obligation as of the later of—

"(A) the time the indebtedness becomes secured indebtedness, or

"(B) the proceeds of such indebtedness are received by the taxpayer.

"(2) Limitation based on total contract price.—The amount treated as received under paragraph (1) by reason of any secured indebtedness shall not exceed the excess (if any) of—

"(A) the total contract price, over

"(B) any portion of the total contract price received under the contract before such secured indebtedness was incurred (including amounts previously treated as received under paragraph (1) but not including amounts not taken into account by reason of paragraph (3)).

"(3) Later payments treated as receipt of tax paid amounts.—If any amount is treated as received under paragraph (1) with respect to any installment obligation, subsequent payments received on such obligation shall not be taken into account for purposes of section 453 to the extent that the aggregate of such subsequent payments does not exceed the aggregate amount treated as received under paragraph (1).

"(4) Secured indebtedness.—For purposes of this subsection indebtedness is secured by an installment obligation to the extent that payment of principal or interest on such indebtedness is directly secured (under the terms of the indebtedness or any underlying arrangements) by any interest in such installment obligation."

(2) Clerical amendment.—The table of sections for subpart B of part II of subchapter E of chapter 1 is amended by striking out the item relating to section 453A and inserting in lieu thereof the following new item:

"Sec. 453A. Special rules for nondealers of real property."

(3) Conforming amendments.—Sections 381(c)(8) and 691(a) (4) and (5) are each amended by striking out "or 453A" each place it appears.

(d) Minimum Tax.—Paragraph (6) of section 56(a) (relating to installment sales of certain property) is amended to read as follows:

"(6) Installment sales of certain property.—In the case of any disposition after March 1, 1986, of any property described in section 1221(1), income from such disposition shall be determined without regard to the installment method under section 453. This paragraph shall not apply to any disposition with respect to which an election is in effect under section 453(l)(2)(B)."

(e) Effective Dates.—

(1) In general.—Except as provided in this subsection, the amendments made by this section shall apply to dispositions in taxable years beginning after December 31, 1987.

(2) Special rules for dealers.—

(A) In general.—In the case of dealer dispositions (within the meaning of section 453A of the Internal Revenue Code of 1986), the amendments made by subsections (a) and (b) shall apply to installment obligations arising from dispositions after December 31, 1987.

(B) Special rules for obligations arising from dealer dispositions after February 28, 1986, and before January 1, 1988.—

(i) In general.—In the case of an applicable installment obligation arising from a disposition described in subclause (I) or (II) of section 453C(e)(1)(A)(i) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this section) before January 1, 1988, the amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1987.

(ii) Change in method of accounting.—In the case of any taxpayer who is required by clause (i) to change its method of accounting for any taxable year with respect to obligations described in clause (i)—

(I) such change shall be treated as initiated by the taxpayer,

(II) such change shall be treated as made with the consent of the Secretary of the Treasury or his delegate, and

(III) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period not longer than 4 taxable years.

(3) Special rule for nondealers.—

(A) Election.—A taxpayer may elect, at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe, to have the amendments made by subsections (a) and (c) apply to taxable years ending after December 31, 1986, with respect to dispositions and pledges occurring after August 16, 1986.

(B) Pledging rules.—Except as provided in subparagraph (A)—

(i) In general.—Section 453A(d) of the Internal Revenue Code of 1986 shall apply to any installment obligation which is pledged to secure any secured indebtedness (within the meaning of section 453A(d)(4) of such Code) after December 17, 1987, in taxable years ending after such date.

(ii) Coordination with section 453C.—For purposes of section 453C of such Code (as in effect before its repeal), the face amount of any obligation to which section 453A(d) of such Code applies shall be reduced by the amount treated as payments on such obligation under section 453A(d) of such Code and the amount of any indebtedness secured by it shall not be taken into account.

(4) Minimum tax.—The amendment made by subsection (d) shall apply to dispositions in taxable years beginning after December 31, 1986.

(5) Coordination with Tax Reform Act of 1986.—The amendments made by this section shall not apply to any installment obligation or to any taxpayer during any period

to the extent the amendments made by section 811 of the Tax Reform Act of 1986 do not apply to such obligation or during such period.

SEC. 10203. REDUCTION IN PERCENTAGE OF ITEMS TAKEN INTO ACCOUNT UNDER COMPLETED CONTRACT METHOD.

(a) IN GENERAL.—Section 460(a) (relating to percentage of completion—capitalized cost method) is amended—

(1) by striking out "40 percent" each place it appears in the text and heading thereof and inserting in lieu thereof "70 percent", and

(2) by striking out "60 percent" and inserting in lieu thereof "30 percent".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contracts entered into after October 13, 1987.

(2) SPECIAL RULE FOR CERTAIN SHIP CONTRACTS.—

(A) IN GENERAL.—The amendments made by this section shall not apply in the case of a qualified ship contract.

(B) QUALIFIED SHIP CONTRACT.—For purposes of subparagraph (A), the term 'qualified ship contract' means any contract for the construction in the United States of not more than 5 ships if—

(i) such ships will not be constructed (directly or indirectly) for the Federal Government, and

(ii) the taxpayer reasonably expects to complete such contract within 5 years of the contract commencement date (as defined in section 460(g) of the Internal Revenue Code of 1986).

SEC. 10204. AMORTIZATION OF PAST SERVICE PENSION COSTS.

(a) IN GENERAL.—For purposes of sections 263A and 460 of the Internal Revenue Code of 1986, the allocable costs (within the meaning of section 263A(a)(2) or section 460(c) of such Code, whichever is applicable) with respect to any property shall include contributions paid to or under a pension or annuity plan whether or not such contributions represent past service costs.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsection (a) shall apply to costs incurred after December 31, 1987, in taxable years ending after such date.

(2) SPECIAL RULE FOR INVENTORY PROPERTY.—In the case of any property which is inventory in the hands of the taxpayer—

(A) IN GENERAL.—Subsection (a) shall apply to taxable years beginning after December 31, 1987.

(B) CHANGE IN METHOD OF ACCOUNTING.—If the taxpayer is required by this section to change its method of accounting for any taxable year—

(i) such change shall be treated as initiated by the taxpayer,

(ii) such change shall be treated as made with the consent of the Secretary of the Treasury or his delegate, and

(iii) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period not longer than 4 taxable years.

SEC. 10205. CERTAIN FARM CORPORATIONS REQUIRED TO USE ACCRUAL METHOD OF ACCOUNTING.

(a) GENERAL RULE.—Section 447 (relating to method of accounting for corporations engaged in farming) is amended by striking out subsections (c) and (e), by redesignating subsection (d) as subsection (e), and by inserting after subsection (b) the following new subsections:

"(c) EXCEPTION FOR CERTAIN CORPORATIONS.—For purposes of subsection (a), a corporation shall be treated as not being a corporation if it is—

"(1) an S corporation, or

"(2) a corporation the gross receipts of which meet the requirements of subsection (d).

"(d) GROSS RECEIPTS REQUIREMENTS.—

"(1) IN GENERAL.—A corporation meets the requirements of this subsection if, for each prior taxable year beginning after December 31, 1975, such corporation (and any predecessor corporation) did not have gross receipts exceeding $1,000,000. For purposes of the preceding sentence, all corporations which are members of the same controlled group of corporations (within the meaning of section 1563(a)) shall be treated as 1 corporation.

"(2) SPECIAL RULES FOR FAMILY CORPORATIONS.—

"(A) IN GENERAL.—In the case of a family corporation, paragraph (1) shall be applied—

"(i) by substituting 'December 31, 1985,' for 'December 31, 1975,'; and

"(ii) by substituting '$25,000,000' for '$1,000,000'.

"(B) GROSS RECEIPTS TEST.—

"(i) CONTROLLED GROUPS.—Notwithstanding the last sentence of paragraph (1), in the case of a family corporation—

"(I) except as provided by the Secretary, only the applicable percentage of gross receipts of any other member of any controlled group of corporations of which such corporation is a member shall be taken into account, and

"(II) under regulations, gross receipts of such corporation or of another member of such group shall not be taken into account by such corporation more than once.

"(ii) PASS-THRU ENTITIES.—For purposes of paragraph (1), if a family corporation holds directly or indirectly any interest in a partnership, estate, trust or other pass-thru entity, such corporation shall take into account its proportionate share of the gross receipts of such entity.

"(iii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the term 'applicable percentage' means the percentage equal to a fraction—

"(I) the numerator of which is the fair market value of the stock of another corporation held directly or indirectly as of the close of the taxable year by the family corporation, and

"(II) the denominator of which is the fair market value of all stock of such corporation as of such time.

For purposes of this clause, the term 'stock' does not include stock described in section 1563(c)(1)."

"(C) FAMILY CORPORATION.—For purposes of this section. the term 'family corporation' means—

"(i) any corporation if at least 50 percent of the total combined voting power of all classes of stock entitled to vote, and at least 50 percent of all other classes of stock of the corporation, are owned by members of the same family, and

"(ii) any corporation described in subsection (h)."

(b) SUSPENSE ACCOUNT IN LIEU OF 481 ADJUSTMENTS.—Section 447 is amended by adding at the end thereof the following new subsection:

"(i) SUSPENSE ACCOUNT FOR FAMILY CORPORATIONS.—

"(1) IN GENERAL.—If any family corporation is required by this section to change its method of accounting for any taxable year (hereinafter in this subsection referred to as the 'year of the change'), notwithstanding subsection (f), such corporation shall establish a suspense account under this subsection in lieu of taking into account adjustments under section 481(a) with respect to amounts included in the suspense account.

"(2) INITIAL OPENING BALANCE.—The initial opening balance of the account described in paragraph (1) shall be the lesser of—

"(A) the net adjustments which would have been required to be taken into account under section 481 but for this subsection, or

"(B) the amount of such net adjustments determined as of the beginning of the taxable year preceding the year of change.

If the amount referred to in subparagraph (A) exceeds the amount referred to in subparagraph (B), notwithstanding paragraph (1), such excess shall be included in gross income in the year of the change.

"(3) REDUCTION IN ACCOUNT IF FARMING BUSINESS CONTRACTS.—If—

"(A) the gross receipts of the corporation from the trade or business of farming for the year of the change or any subsequent taxable year, is less than

"(B) such gross receipts for the taxpayer's last taxable year beginning before the year of the change (or for the most recent taxable year for which a reduction in the suspense account was made under this paragraph),

the amount in the suspense account (after taking into account prior reductions) shall be reduced by the percentage by which the amount described in subparagraph (A) is less than the amount described in subparagraph (B).

"(4) INCOME INCLUSION.—Any reduction in the suspense account under paragraph (3) shall be included in gross income for the taxable year of the reduction.

"(5) INCLUSION WHERE CORPORATION CEASES TO BE A FAMILY CORPORATION.—

"(A) IN GENERAL.—If the corporation ceases to be a family corporation during any taxable year, the amount in the suspense account (after taking into account prior reductions) shall be included in gross income for such taxable year.

"(B) SPECIAL RULE FOR CERTAIN TRANSFERS.—For purposes of subparagraph (A), any transfer in a corporation after December 15, 1987, shall be treated as a transfer to a person whose ownership could not qualify such corporation as a family corporation unless it is a transfer—

"(i) to a member of the family of the transferor, or

"(ii) in the case of a corporation described in subsection (h), to a member of a family which on December 15, 1987, held stock in such corporation which qualified the corporation under subsection (h).

"(6) SUBCHAPTER C TRANSACTIONS.—The application of this subsection with respect to a taxpayer which is a party to any transaction with respect to which there is nonrecognition of gain or loss to any party by reason of subchapter C shall be determined under regulations prescribed by the Secretary."

(c) TECHNICAL AMENDMENTS.—

(1) Subsection (e) of section 447 (as redesignated by subsection (a)) is amended by striking out "subsection (c)(2)" and inserting in lieu thereof "subsection (d)".

(2) Paragraph (1) of section 447(h) is amended—

(A) by striking out "This section shall not apply to any corporation" and inserting in lieu thereof "A corporation is described in this subsection",

(B) by striking out "subsection (d)" each place it appears and inserting in lieu thereof "subsection (e)", and

(C) by striking out "subsection (d)(1)" each place it appears and inserting in lieu thereof "subsection (e)(1)".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

SEC. 10206. ENTITIES MAY ELECT TAXABLE YEARS OTHER THAN REQUIRED TAXABLE YEAR.

(a) Election of Different Year.—

(1) In general.—Part I of subchapter E of chapter 1 (relating to accounting periods) is amended by adding at the end thereof the following new section.

"SEC. 444. ELECTION OF TAXABLE YEAR OTHER THAN REQUIRED TAXABLE YEAR.

"(a) General Rule.—Except as provided in subsections (b) and (c), a partnership, S corporation, or personal service corporation may elect to have a taxable year other than the required taxable year.

"(b) Limitations on Taxable Years Which May Be Elected.—

"(1) In general.—Except as provided in paragraphs (2) and (3), an election may be made under subsection (a) only if the deferral period of the taxable year elected is not longer than 3 months.

"(2) Changes in taxable year.—Except as provided in paragraph (3), in the case of an entity changing a taxable year, an election may be made under subsection (a) only if the deferral period of the taxable year elected is not longer than the shorter of—

"(A) 3 months, or

"(B) the deferral period of the taxable year which is being changed.

"(3) Special rule for entities retaining 1986 taxable years.—In the case of an entity's 1st taxable year beginning after December 31, 1986, an entity may elect a taxable year under subsection (a) which is the same as the entity's last taxable year beginning in 1986.

"(4) Deferral period.—For purposes of this subsection, the term 'deferral period' means, with respect to any taxable year of the entity, the months between—

"(A) the beginning of such year, and

"(B) the close of the 1st required taxable year ending within such year.

"(c) Effect of Election.—If an entity makes an election under subsection (a), then—

"(1) in the case of a partnership or S corporation, such entity shall make the payments required by section 7519, and

"(2) in the case of a personal service corporation, such corporation shall be subject to the deduction limitations of section 280H.

"(d) Elections.—

"(1) Person making election.—An election under subsection (a) shall be made by the partnership, S corporation, or personal service corporation.

"(2) Period of election.—

"(A) In general.—Any election under subsection (a) shall remain in effect until the partnership, S corporation, or personal service corporation changes its taxable year. Any change to a required taxable year may be made without the consent of the Secretary.

"(B) No further election.—If an election is terminated under subparagraph (A), the partnership, S corporation, or personal service corporation may not make another election under subsection (a).

"(3) Tiered structures, etc.—No election may be made under subsection (a) with respect to an entity which is part of a tiered structure other than a tiered structure comprised of 1 or more partnerships or S corporations all of which have the same taxable year.

"(e) Required Taxable Year.—For purposes of this section, the term 'required taxable year' means the taxable year determined under section 706(b), 1378, or 441(i) without taking into account any taxable year which is allowabons.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations to prevent the avoidance of subsection (b)(2)(B) or (d)(2)(B) through the change in form of an entity."

(2) Conforming amendment.—The table of sections for part I of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 444. Election of taxable year other than required taxable year."

(b) Required Payments.—

(1) In general.—Chapter 77 is amended by adding at the end thereof the following new section:

"SEC. 7519. REQUIRED PAYMENTS FOR ENTITIES ELECTING NOT TO HAVE REQUIRED TAXABLE YEAR.

"(a) General Rule.—This section applies to a partnership or S corporation for any taxable year, if—

"(1) an election under section 444 is in effect for the taxable year, and

"(2) the required payment determined under subsection (b) for such taxable year (or any preceding taxable year) exceeds $500.

"(b) Required Payment.—For purposes of this section, the term 'required payment' means, with respect to any applicable election year of a partnership or S corporation, an amount equal to—

"(1) the excess of the product of—

"(A) the applicable percentage of the adjusted highest section 1 rate, multiplied by

"(B) the net base year income of the entity, over

"(2) the amount of the required payment for the preceding applicable election year.

For purposes of paragraph (1)(A), the term 'adjusted highest section 1 rate' means the highest rate of tax in effect under section 1 as of the end of the base year plus 1 percentage point (or, in the case of applicable election years beginning in 1987, 36 percent).

"(c) Refund of Payments.—If the amount determined under subsection (b)(2) exceeds the amount determined under subsection (b)(1), then the entity shall be entitled to a refund of such excess.

"(d) Net Base Year Income.—For purposes of this section—

"(1) In general.—An entity's net base year income shall be equal to the sum of—

"(A) the deferral ratio multiplied by the entity's net income for the base year, plus

"(B) the excess (if any) of—

"(i) the deferral ratio multiplied by the aggregate amount of applicable payments made by the entity during the base year, over

"(ii) the aggregate amount of such applicable payments made during the deferral period of the base year.

For purposes of this paragraph, the term 'deferral ratio' means the ratio which the number of months in the deferral period of the base year bears to the number of months in the partnership's or S corporation's taxable year.

"(2) Net income.—Net income is determined by taking into account the aggregate amount of the following items—

"(A) Partnerships.—In the case of a partnership, net income shall be the amount (not below zero) determined by taking into account the aggregate amount of the partnership's items described in section 702(a) (other than credits).

"(B) S corporations.—In the case of an S corporation, net income shall be the amount (not below zero) determined by taking into account the aggregate amount of the S corporation's items described in section 1366(a) (other than credits). If the S corporation was a C corporation for the base year, its taxable income for such year shall be treated as its net income for such year.

"(C) Certain limitations disregarded.—For purposes of subparagraph (A) or (B), any limitation on the amount of any item described in either such paragraph which may be taken into account for purposes of computing the taxable income of a partner or shareholder shall be disregarded.

"(3) Applicable payments.—

"(A) In general.—The term 'applicable payment' means amounts paid or incurred by a partnership or S corporation which are includible in gross income of a partner or shareholder.

"(B) Exceptions.—The term 'applicable payment' shall not include any—

"(i) gain from the sale or exchange of property between the partner or shareholder and the partnership or S corporation, and

"(ii) dividend paid by the S corporation.

"(4) Applicable percentage.—The applicable percentage is the percentage determined in accordance with the following table:

1987	25
1988	50
1989	75
1990 or thereafter	100

"(e) Other Definitions and Special Rules.—For purposes of this section—

"(1) Deferral period.—The term 'deferral period' has the meaning given to such term by section 444(b)(4).

"(2) Years.—

"(A) Base year.—The term 'base year' means, with respect to any applicable election year, the taxable year of the partnership or S corporation preceding such applicable election year.

"(B) Applicable election year.—The term 'applicable election year' means any taxable year of a partnership or S corporation with respect to which an election is in effect under section 444.

"(3) Requirement of reporting.—Each partnership or S corporation which makes an election under section 444 shall include on any required return or statement such information as the Secretary shall prescribe as is necessary to carry out the provisions of this section.

"(f) Administrative Provisions.—

"(1) In general.—Except as otherwise provided in this subsection or in regulations prescribed by the Secretary, any payment required by this section shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C.

"(2) Due date.—The amount of any payment required by this section shall be paid on or before April 15 of the calendar year following the calendar year in which the applicable election year begins (or such later date as may be prescribed by the Secretary).

"(3) Interest.—For purposes of determining interest, any payment required by this section shall be treated as a tax; except that no interest shall be allowed with respect to any refund of a payment made under this section.

"(4) Penalties.—

"(A) In general.—In the case of any failure by any person to pay on the date prescribed therefor any amount required by this section, there shall be imposed on such person a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term 'underpayment' means the excess of the amount of the payment required under this section over the amount (if any) of such payment paid on or before the date prescribed therefor.

"(B) Negligence and fraud penalties made applicable.—For purposes of section 6653, any payment required by this section shall be treated as a tax.

"(C) Willful failure.—If any partnership or S corporation willfully fails to comply with the requirements of this section, section 444 shall cease to apply with respect to such partnership or S corporation.

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this section and section 280H, including regulations for annualizing the income and applicable payments of an entity if the base year is a taxable year of less than 12 months."

(2) Conforming amendment.—The table of sections for chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7519. Required payments for entities electing not to have required taxable year."

(c) Deduction Limitations.—

(1) In general.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 280H. LIMITATION ON CERTAIN AMOUNTS PAID TO EMPLOYEE-OWNERS BY PERSONAL SERVICE CORPORATIONS ELECTING ALTERNATIVE TAXABLE YEARS.

"(a) General Rule.—If—

"(1) an election by a personal service corporation under section 444 is in effect for a taxable year, and

"(2) such corporation does not meet the minimum distribution requirements of subsection (c) for such taxable year,

then the deduction otherwise allowed under this chapter for applicable amounts paid or incurred by such corporation to employee-owners shall not exceed the maximum deductible amount. The preceding sentence shall not apply for purposes of subchapter G (relating to personal holding companies).

"(b) Carryover of Nondeductible Amounts.—If any amount is not allowed as a deduction for a taxable year under subsection (a), such amount shall be treated as paid or incurred in the succeeding taxable year.

"(c) Minimum Distribution Requirement.—For purposes of this section—

"(1) In general.—A personal service corporation meets the minimum distribution requirements of this subsection if the applicable amounts paid or incurred during the deferral period of the taxable year (determined without regard to subsection (b)) equal or exceed the lesser of—

"(A) the product of—

"(i) the applicable amounts paid or incurred during the preceding taxable year, divided by the number of months in such taxable year, multiplied by

"(ii) the number of months in the deferral period of the preceding taxable year, or

"(B) the applicable percentage of the adjusted taxable income for the deferral period of the taxable year.

"(2) Applicable Percentage.—The term 'applicable percentage' means the percentage (not in excess of 95 percent) determined by dividing—

"(A) the applicable amounts paid or incurred during the 3 taxable years immediately preceding the taxable year, by

"(B) the adjusted taxable income of such corporation for such 3 taxable years.

"(d) Maximum Deductible Amount.—For purposes of this section, the term 'maximum deductible amount' means the sum of—

"(1) the applicable amounts paid or incurred during the deferral period, plus

"(2) an amount equal to the product of—

"(A) the amount determined under paragraph (1), divided by the number of months in the deferral period, multiplied by

"(B) the number of months in the nondeferral period.

"(e) Disallowance of Net Operating Loss Carrybacks.—No net operating loss carryback shall be allowed to (or from) any taxable year of a personal service corporation to which an election under section 444 applies.

"(f) Other Definitions and Special Rules.—For purposes of this section—

"(1) Applicable amount.—The term 'applicable amount' means any amount paid to an employee-owner which is includible in the gross income of such employee, other than—

"(A) any gain from the sale or exchange of property between the owner-employee and the corporation, or

"(B) any dividend paid by the corporation.

"(2) Employee-owner.—The term 'employee-owner' has the meaning given such term by section 296A(b)(2).

"(3) Nondeferral and deferral periods.—

"(A) Deferral period.—The term 'deferral period' has the meaning given to such term by section 444(b)(4).

"(B) Nondeferral period.—The term 'nondeferral period' means the portion of the taxable year of the personal service corporation which occurs after the portion of such year constituting the deferral period."

"(4) Adjusted taxable income.—The term 'adjusted taxable income' means taxable income increased by any amount paid or incurred to an employee-owner which was includible in the gross income of such employee-owner."

(2) Clerical amendment.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end thereof the following item:

"Sec. 280H. Limitation on certain amounts paid to owner-employees by personal service corporations electing alternative taxable years."

(d) Effective Dates.—

(1) In general.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) Required payments.—The amendments made by subsection (b) shall apply to applicable election years beginning after December 31, 1986.

(3) Elections.—Any election under section 444 of the Internal Revenue Code of 1986 (as added by subsection (a)) for an entity's 1st taxable year beginning after December 31, 1986, shall not be required to be made before the 90th day after the date of the enactment of this Act.

(4) Special rule for existing entities electing S corporation status.—If a C corporation (within the meaning of section 1361(a)(2)) of the Internal Revenue Code of 1986) with a taxable year other than the calendar year—

(A) made an election after September 18, 1986, and before January 1, 1988, under section 1362 of such Code to be treated as an S corporation, and

(B) elected to have the calendar year as the taxable year of the S corporation,

then section 444(b)(2)(B) of such Code shall be applied by taking into account the deferral period of the last taxable year of the C corporation rather than the deferral period of the taxable year being changed.

PART II—PARTNERSHIP PROVISIONS

SEC. 10211. CERTAIN PUBLICLY TRADED PARTNERSHIPS TREATED AS CORPORATIONS.

(a) General Rule.—Chapter 79 (relating to definitions) is amended by adding at the end thereof the following new section:

"SEC. 7704. CERTAIN PUBLICLY TRADED PARTNERSHIPS TREATED AS CORPORATIONS.

"(a) General Rule.—For purposes of this title, except as provided in subsection (c), a publicly traded partnership shall be treated as a corporation.

"(b) Publicly Traded Partnership.—For purposes of this section, the term 'publicly traded partnership' means any partnership if—

"(1) interests in such partnership are traded on an established securities market, or

"(2) interests in such partnership are readily tradable on a secondary market (or the substantial equivalent thereof).

"(c) Exception for Partnerships With Passive-Type Income.—

"(1) In general.—Subsection (a) shall not apply to any publicly traded partnership for any taxable year if such partnership met the gross income requirements of paragraph (2) for such taxable year and each preceding taxable year beginning after December 31, 1987, during which the partnership (or any predecessor) was in existence.

"(2) Gross income requirements.—A partnership meets the gross income requirements of this paragraph for any taxable year if 90 percent or more of the gross income of such partnership for such taxable year consists of qualifying income.

"(3) Exception not to apply to certain partnerships which could qualify as regulated investment companies.—This subsection shall not apply to any partnership which would be described in section 851(a) if such partnership were a domestic corporation. To the extent provided in regulations, the preceding sentence shall not apply to any partnership a principal activity of which is the buying and selling of commodities (not described in section 1221(1)), or options, futures, or forwards with respect to commodities.

"(d) Qualifying Income.—For purposes of this section—

"(1) In general.—Except as otherwise provided in this subsection, the term 'qualifying income' means—

"(A) interest,

"(B) dividends,

"(C) real property rents,

"(D) gain from the sale or other disposition of real property (including property described in section 1221(1)),

"(E) income and gains derived from the exploration, development, mining or production, processing, refining, transportation (including pipelines transporting gas, oil, or products thereof), or the marketing of any mineral or natural resource (including fertilizer, geothermal energy, and timber),

"(F) any gain from the sale or disposition of a capital asset (or property described in section 1231(b)) held for the production of income described in any of the foregoing subparagraphs of this paragraph, and

"(G) in the case of a partnership described in the second sentence of subsection (c)(3), income and gains from commodities (not described in section 1221(1)) or futures, forwards, and options with respect to commodities.

"(2) CERTAIN INTEREST NOT QUALIFIED.—Interest shall not be treated as qualifying income if—

"(A) such interest is derived in the conduct of a financial or insurance business, or

"(B) such interest would be excluded from the term 'interest' under section 856(f).

"(3) REAL PROPERTY RENT.—The term 'real property rent' means amounts which would qualify as rent from real property under section 856(d) if such section were applied without regard to paragraph (2)(C) thereof (relating to independent contractor requirements).

"(4) CERTAIN INCOME QUALIFYING UNDER REGULATED INVESTMENT COMPANY OR REAL ESTATE TRUST PROVISIONS.—The term 'qualifying income' also includes any income which would qualify under section 851(b)(2) or 856(c)(2).

"(5) SPECIAL RULE FOR DETERMINING GROSS INCOME FROM CERTAIN REAL PROPERTY SALES.—In the case of the sale or other disposition of real property described in section 1221(1), gross income shall not be reduced by inventory costs.

"(e) INADVERTENT TERMINATIONS.—If—

"(1) a partnership fails to meet the gross income requirements of subsection (c)(2),

"(2) the Secretary determines that such failure was inadvertent,

"(3) no later than a reasonable time after the discovery of such failure, steps are taken so that such partnership once more meets such gross income requirements, and

"(4) such partnership agrees to make such adjustments (including adjustments with respect to the partners) as may be required by the Secretary with respect to such period,

then, notwithstanding such failure, such entity shall be treated as continuing to meet such gross income requirements for such period.

"(f) EFFECT OF BECOMING CORPORATION.—As of the 1st day that a partnership is treated as a corporation under this section, for purposes of this title, such partnership shall be treated as—

"(1) transferring all of its assets (subject to its liabilities) to a newly formed corporation in exchange for the stock of the corporation, and

"(2) distributing such stock to its partners in liquidation of their interests in the partnership."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by adding at the end thereof the following new item:

"Sec. 7704. Certain publicly traded partnerships treated as corporations."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply—

(A) except as provided in subparagraph (B), to taxable years beginning after December 31, 1987, or

(B) in the case of an existing partnership, to taxable years beginning after December 31, 1997.

(2) EXISTING PARTNERSHIP.—For purposes of this subsection—

(A) IN GENERAL.—The term "existing partnership" means any partnership if—

(i) such partnership was a publicly traded partnership on December 17, 1987,

(ii) a registration statement indicating that such partnership was to be a publicly traded partnership was filed with the Securities and Exchange Commission with respect to such partnership on or before such date, or

(iii) with respect to such partnership, an application was filed with a State regulatory commission on or before such date seeking permission to restructure a portion of a corporation as a publicly traded partnership.

(B) SPECIAL RULE WHERE SUBSTANTIAL NEW LINE OF BUSINESS ADDED AFTER DECEMBER 17, 1987.—A partnership which, but for this subparagraph, would be treated as an existing partnership shall cease to be treated as an existing partnership as of the 1st day after December 17, 1987, on which there has been an addition of a substantial new line of business with respect to such partnership.

SEC. 10212. TREATMENT OF PUBLICLY TRADED PARTNERSHIPS UNDER SECTION 469.

(a) GENERAL RULE.—Section 469 (relating to passive activity losses and credits limited) is amended by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (j) the following new subsection:

"(k) SEPARATE APPLICATION OF SECTION IN CASE OF PUBLICLY TRADED PARTNERSHIPS.—

"(1) IN GENERAL.—This section shall be applied separately with respect to items attributable to each publicly traded partnership (and subsection (i) shall not apply with respect to items attributable to any such partnership). The preceding sentence shall not apply to any credit determined under section 42, or any rehabilitation investment credit (within the meaning of section 48(o)), attributable to a publicly traded partnership to the extent the amount of any such credits exceeds the regular tax liability attributable to income from such partnership.

"(2) PUBLICLY TRADED PARTNERSHIP.—For purposes of this section, the term 'publicly traded partnership' means any partnership if—

"(A) interests in such partnership are traded on an established securities market, or

"(B) interests in such partnership are readily tradable on a secondary market (or the substantial equivalent thereof)."

(b) CONFORMING AMENDMENTS.—Paragraph (3) of section 58(b) and subparagraph (E) of section 163(d)(4) are each amended by striking out "469(l)" and inserting in lieu thereof "469(m)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 501 of the Tax Reform Act of 1986.

SEC. 10213. TREATMENT OF PUBLICLY TRADED PARTNERSHIPS FOR UNRELATED BUSINESS TAX.

(a) GENERAL RULE.—Subsection (c) of section 512 (relating to special rules for partnerships) is amended to read as follows:

"(c) SPECIAL RULES FOR PARTNERSHIPS.—

"(1) IN GENERAL.—If a trade or business regularly carried on by a partnership of which an organization is a member is an unrelated trade or business with respect to such organization, such organization in computing its unrelated business taxable income shall, subject to the exceptions, additions, and limitations contained in subsection (b), include its share (whether or not distributed) of the gross income of the partnership from such unrelated trade or business and its share of the partnership deductions directly connected with such gross income.

"(2) SPECIAL RULE FOR PUBLICLY TRADED PARTNERSHIPS.—Notwithstanding any other provision of this section—

"(A) any organization's share (whether or not distributed) of the gross income of a publicly traded partnership (as defined in section 469(k)(2)) shall be treated as gross income derived from an unrelated trade or business, and

"(B) such organization's share of the partnership deductions shall be allowed in computing unrelated business taxable income.

"(3) SPECIAL RULE WHERE PARTNERSHIP YEAR IS DIFFERENT FROM ORGANIZATION'S YEAR.—If the taxable year of the organization is different from that of the partnership, the amounts to be included or deducted in computing the unrelated business taxable income under paragraph (1) or (2) shall be based upon the income and deductions of the partnership for any taxable year of the partnership ending within or with the taxable year of the organization."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to partnership interests acquired after December 17, 1987.

SEC. 10214. TREATMENT OF CERTAIN PARTNERSHIP ALLOCATIONS.

(a) GENERAL RULE.—Clause (vi) of section 514(c)(9)(B) is amended to read as follows:

"(vi) the real property is held by a partnership unless the partnership meets the requirements of clauses (i) through (v) and unless—

"(I) all of the partners of the partnership are qualified organizations,

"(II) each allocation to a partner of the partnership which is a qualified organization is a qualified allocation (within the meaning of section 168(h)(6)), or

"(III) such partnership meets the requirements of subparagraph (E)."

(b) CERTAIN ALLOCATIONS PERMITTED.—Paragraph (9) of section 514(c) is amended by adding at the end thereof the following new subparagraph:

"(E) CERTAIN ALLOCATIONS PERMITTED.—

"(i) IN GENERAL.—A partnership meets the requirements of this subparagraph if—

"(I) the allocation of items to any partner other than a qualified organization cannot result in such partner having a share of the overall partnership loss for any taxable year greater than such partner's share of the overall partnership income for the taxable year for which such partner's income share will be the smallest,

"(II) the allocation of items to any partner which is a qualified organization cannot result in such partner having a share of the overall partnership income for any taxable year greater than such partner's share of the overall partnership loss for the taxable year for which such partner's loss share will be the smallest, and

"(III) each allocation with respect to the partnership has substantial economic effect within the meaning of section 704(b)(2).

For purposes of this clause, items allocated under section 704(c) shall not be taken into account.

"(ii) Special rules.—

"(I) Chargebacks.—Except as provided in regulations, a partnership may without violating the requirements of this subparagraph provide for chargebacks with respect to disproportionate losses previously allocated to qualified organizations and disproportionate income previously allocated to other partners. Any chargeback referred to in the preceding sentence shall not be at a ratio in excess of the ratio under which the loss or income (as the case may be) was allocated.

"(II) Preferred rates of return, etc.—To the extent provided in regulations, a partnership may without violating the requirements of this subparagraph provide for reasonable preferred returns or reasonable guaranteed payments."

(c) Effective Date.—The amendments made by this section shall apply to—

(1) property acquired by the partnership after October 13, 1987, and

(2) partnership interests acquired after October 13, 1987,

except that such amendments shall not apply in the case of any property (or partnership interest) acquired pursuant to a written binding contract in effect on October 13, 1987, and at all times thereafter before such property (or interest) is acquired.

SEC. 10215. STUDY.

The Secretary of the Treasury or his delegate shall conduct a study of—

(1) the issue of treating publicly traded limited partnerships (and other partnerships which significantly resemble corporations) as corporations for Federal income tax purposes, including the issues of disincorporation and opportunities for avoidance of the corporate tax, and

(2) the administrative and compliance issues related to the tax treatment of publicly traded partnerships and other large partnerships.

Not later than January 1, 1989, the Secretary of the Treasury or his delegate shall submit a report on such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, together with such recommendations as he may deem appropriate. Not later than May 1, 1988, an interim report with respect to the issues referred to in paragraph (2) shall be submitted to such Committees.

PART III—CORPORATE PROVISIONS

SEC. 10221. REDUCTION IN DIVIDENDS RECEIVED DEDUCTION FOR DIVIDENDS FROM CORPORATIONS NOT 20-PERCENT OWNED.

(a) General Rule.—The following provisions are each amended by striking out "80 percent" and inserting in lieu thereof "70 percent":

(1) Section 243(a)(1) (relating to dividends received by corporations).

(2) Subsections (a)(3) and (b)(2) of section 244 (relating to dividends received on certain preferred stock).

(b) Retention of 80-Percent Dividends Received Deduction for Dividends From 20-Percent Owned Corporations.—Section 243 is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) Retention of 80-Percent Dividends Received Deduction for Dividends From 20-Percent Owned Corporations.—

"(1) In general.—In the case of any dividend received from a 20-percent owned corporation—

"(A) subsection (a)(1) of this section, and

"(B) subsections (a)(3) and (b)(2) of section 244,

shall be applied by substituting '80 percent' for '70 percent'.

"(2) 20-Percent Owned Corporation.—For purposes of this section, the term '20-percent owned corporation' means any corporation if 20 percent or more of the stock of such corporation (by vote and value) is owned by the taxpayer. For purposes of the preceding sentence, stock described in section 1504(a)(4) shall not be taken into account."

(c) Modifications to Taxable Year Limitations.—

(1) Subsection (b) of section 246 (relating to limitation on aggregate amount of deductions) is amended—

(A) by striking out "80 percent" in paragraph (1) and inserting in lieu thereof "the percentage determined under paragraph (3)", and

(B) by adding at the end thereof the following new paragraph:

"(3) Special rules.—The provisions of paragraph (1) shall be applied—

"(A) first separately with respect to dividends from 20-percent owned corporations (as defined in section 243(c)(2)) and the percentage determined under this paragraph shall be 80 percent, and

"(B) then separately with respect to dividends not from 20-percent owned corporations and the percentage determined under this paragraph shall be 70 percent and the taxable income shall be reduced by the aggregate amount of dividends from 20-percent owned corporations (as so defined)."

(2) Subparagraph (B) of section 805(a)(4) is amended by striking out "shall be 80 percent of the life insurance company taxable income" and inserting in lieu thereof "shall be the percentage determined under section 246(b)(3) of the life insurance company taxable income (and such limitation shall be applied as provided in section 246(b)(3))".

(d) Conforming Amendments.—

(1) Subparagraph (B) of section 245(c)(1) is amended by striking out "85 percent" and inserting in lieu thereof "70 percent (80 percent in the case of dividends from a 20-percent owned corporation as defined in section 243(c)(2))".

(2) Paragraph (1) of section 246A(a) is amended by striking out "80 percent" and inserting in lieu thereof "70 percent (80 percent in the case of any dividend from a 20-percent owned corporation as defined in section 243(c)(2))".

(3) Subparagraph (A) of section 854(b)(1) is amended by inserting before the period at the end thereof the following: "and such dividend shall be treated as received from a corporation which is not a 20-percent owned corporation".

(4) Paragraph (2) of section 861(a) is amended—

(A) by striking out "100/85th" and inserting in lieu thereof "100/70th", and

(B) by adding at the end thereof the following new sentence: "In the case of any dividend from a 20-percent owned corporation (as defined in section 243(c)(2)), subparagraph (B) shall be applied by substituting '100/80th' for '100/70th'."

(e) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to dividends received or accrued after December 31, 1987, in taxable years ending after such date.

(2) Amendments relating to limitations.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1987.

SEC. 10222. CERTAIN EARNINGS AND PROFITS ADJUSTMENTS NOT TO APPLY FOR CERTAIN PURPOSES.

(a) Special Rule for Determining Adjusted Basis of Stock of Members of Affiliated Group.—

(1) In general.—Section 1503 (relating to computation and payment of tax by affiliated group) is amended by adding at the end thereof the following new subsection:

"(e) Special Rule for Determining Adjustments to Basis.—

"(1) In general.—Solely for purposes of determining gain or loss on the disposition of intragroup stock, in determining the adjustments to the basis of such intragroup stock on account of the earnings and profits of any member of an affiliated group for any consolidated year—

"(A) such earnings and profits shall be determined as if section 312 were applied for such taxable year (and all preceding consolidated years of the member with respect to such group) without regard to subsections (k) and (n) thereof, and

"(B) earnings and profits shall not include any amount excluded from gross income under section 108 to the extent the amount so excluded was not applied to reduce tax attributes (other than basis in property).

"(2) Definitions.—For purposes of this subsection—

"(A) Intragroup stock.—The term 'intragroup stock' means any stock which—

"(i) is in a corporation which is or was a member of an affiliated group of corporations, and

"(ii) is held by another member of such group.

Such term includes any other property the basis of which is determined (in whole or in part) by reference to the basis of stock described in the preceding sentence.

"(B) Consolidated year.—The term 'consolidated year' means any taxable year for which the affiliated group makes a consolidated return."

(2) Effective date.—

(A) In general.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall apply to any intragroup stock disposed of after December 15, 1987. For purposes of determining the adjustments to the basis of such stock, such amendment shall be deemed to have been effective for all periods whether before, on, or after December 15, 1987.

(B) Exception.—The amendment made by paragraph (1) shall not apply to any intragroup stock disposed of after December 15, 1987, and before January 1, 1989, if such disposition is pursuant to a written binding contract, governmental order, letter of intent or preliminary agreement, or stock acquisition agreement, in effect on or before December 15, 1987.

(b) Distributions Received by 20-Percent Corporate Shareholders.—

(1) In general.—Paragraph (1) of section 301(f) (relating to special rule for certain distributions received by 20-percent corporate shareholders) is amended by striking out "subsection (n) thereof" and inserting in lieu thereof "subsections (k) and (n) thereof".

(2) Effective dates.—

(A) In general.—The amendment made by paragraph (1) shall apply to distributions after December 15, 1987. For purposes of applying such amendment to any such distribution—

(i) for purposes of determining earnings and profits, such amendment shall be deemed to be in effect for all periods whether before, on, or after December 15, 1987, but

(ii) such amendment shall not affect the determination of whether any distribution on or before December 15, 1987, is a dividend and the amount of any reduction in accumulated earnings and profits on account of any such distribution.

(B) Exception.—The amendment made by paragraph (1) shall not apply for purposes of determining gain or loss on any disposition described in subsection (a)(2)(B) of this section.

SEC. 10223. TREATMENT OF MIRROR SUBSIDIARY TRANSACTIONS.

(a) Consolidated Return Regulations Not to Apply For Purposes of Nonrecognition Under Section 337.—Subsection (c) of section 337 (defining 80-percent distributee) is amended by adding at the end thereof the following new sentence:

"For purposes of this section, the determination of whether any corporation is an 80-percent distributee shall be made without regard to any consolidated return regulation."

(b) Amendment to Section 355.—Subparagraph (D) of section 355(b)(2) (relating to requirements as to active business) is amended—

(1) by amending clause (i) to read as follows:

"(i) was not acquired by any distributee corporation directly (or through 1 or more corporations, whether through the distributing corporation or otherwise) within the period described in subparagraph (B), or",

(2) by striking out "by another corporation" in clause (ii) and inserting in lieu thereof "such distributee corporation", and

(3) by adding at the end thereof the following new sentence:

"For purposes of subparagraph (D), all distributee corporations which are members of the same affiliated group (as defined in section 1504(a) without regard to section 1504(b)) shall be treated as 1 distributee corporation."

(c) Amendment to Section 304.—Subsection (b) of section 304 (relating to redemption through use of related corporations) is amended by adding at the end thereof the following new paragraph:

"(4) Treatment of certain intragroup transactions.—

"(A) In general.—In the case of any transfer described in subsection (a) of stock of 1 member of an affiliated group to another member of such group, proper adjustments shall be made to—

"(i) the adjusted basis of any intragroup stock, and

"(ii) the earnings and profits of any member of such group,

to the extent necessary to carry out the purposes of this section.

"(B) Definitions.—For purposes of this paragraph—

"(i) Affiliated group.—The term 'affiliated group' has the meaning given such term by section 1504(a).

"(ii) Intragroup stock.—The term 'intragroup stock' means any stock which—

"(I) is in a corporation which is a member of an affiliated group, and

"(II) is held by another member of such group."

(d) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to distributions or transfers after December 15, 1987.

(2) Exceptions.—

(A) Distributions.—The amendments made by this section shall not apply to any distribution after December 15, 1987, and before January 1, 1993, if—

(i) 80 percent or more of the stock of the distributing corporation was acquired by the distributee before December 15, 1987, or

(ii) 80 percent or more of the stock of the distributing corporation was acquired by the distributee before January 1, 1989, pursuant to a binding written contract or tender offer in effect on December 15, 1987.

For purposes of the preceding sentence, stock described in section 1504(a)(4) of the Internal Revenue Code of 1986 shall not be taken into account.

(B) Section 304 transfers.—The amendment made by subsection (c) shall not apply to any transfer after December 15, 1987, and before January 1, 1993, if such transfer is—

(i) between corporations which are members of the same affiliated group on December 15, 1987, or

(ii) between corporations which become members of the same affiliated group before January 1, 1989, pursuant to a binding written contract or tender offer in effect on December 15, 1987.

(C) Distributions covered by prior transition rule.—The amendments made by this section shall not apply to any distribution to which the amendments made by subtitle D of title VI of the Tax Reform Act of 1986 do not apply.

SEC. 10224. BENEFITS OF GRADUATED CORPORATE RATES NOT ALLOWED TO PERSONAL SERVICE CORPORATIONS.

(a) General Rule.—Subsection (b) of section 11 (relating to corporate tax rates) is amended to read as follows:

"(b) Amount of Tax.—

"(1) In general.—The amount of the tax imposed by subsection (a) shall be the sum of—

"(A) 15 percent of so much of the taxable income as does not exceed $50,000,

"(B) 25 percent of so much of the taxable income as exceeds $50,000 but does not exceed $75,000, and

"(C) 34 percent of so much of the taxable income as exceeds $75,000.

In the case of a corporation which has taxable income in excess of $100,000 for any taxable year, the amount of tax determined under the preceding sentence for such taxable year shall be increased by the lesser of (i) 5 percent of such excess, or (ii) $11,750.

"(2) Certain personal service corporations not eligible for graduated rates.—Notwithstanding paragraph (1), the amount of the tax imposed by subsection (a) on the taxable income of a qualified personal service corporation (as defined in section 448(d)(2)) shall be equal to 34 percent of the taxable income."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1987.

SEC. 10225. AMENDMENTS TO SECTION 382.

(a) Treatment of Worthless Stock.—Paragraph (4) of section 382(g) (defining ownership change) is amended by adding at the end thereof the following new subparagraph:

"(D) Treatment of worthless stock.—If any stock held by a 50-percent shareholder is treated by such shareholder as becoming worthless during any taxable year of such shareholder and such stock is held by such shareholder as of the close of such taxable year, for purposes of determining whether an ownership change occurs after the close of such taxable year, such shareholder—

"(i) shall be treated as having acquired such stock on the 1st day of his 1st succeeding taxable year, and

"(ii) shall not be treated as having owned such stock during any prior period.

For purposes of the preceding sentence, the term '50-percent shareholder' means any person owning 50 percent or more of the stock of the corporation at any time during the 3-year period ending on the last day of the taxable year with respect to which the stock was so treated."

(b) Treatment of Depreciation Under Built-In Loss Rules.—Subparagraph (B) of section 382(h)(2) (defining recognized built-in loss) is amended by adding at the end thereof the following new sentence:

"Such term includes any amount allowable as depreciation, amortization, or depletion for any period within the recognition period except to the extent the new loss corporation establishes that the amount so allowable is not attributable to the excess described in clause (ii)."

(c) Effective Dates.—

(1) Subsection (a).—The amendment made by subsection (a) shall apply in the case of stock treated as becoming worthless in taxable years beginning after December 31, 1987.

(2) Subsection (b).—The amendment made by subsection (b) shall apply in the case of ownership changes (as defined in section 382 of the Internal Revenue Code of 1986 as amended by subsection (a)) after December 15, 1987; except that such amendment shall not apply in the case of any ownership change pursuant to a binding written contract which was in effect on December 15, 1987, and at all times thereafter before such ownership change.

SEC. 10226. LIMITATION ON USE OF PREACQUISITION LOSSES TO OFFSET BUILT-IN GAINS.

(a) General Rule.—Part V of subchapter C of chapter 1 (relating to carryovers) is amended by adding at the end thereof the following new section:

"SEC. 384. LIMITATION ON USE OF PREACQUISITION LOSSES TO OFFSET BUILT-IN GAINS.

"(a) General Rule.—

"(1) Stock acquisitions, etc.—If—

"(A) a corporation (hereinafter in this section referred to as the 'gain corporation') becomes a member of an affiliated group, and

"(B) such corporation has a net unrealized built-in gain,

the income of such corporation for any recognition period taxable year (to the extent attributable to recognized built-in gains) shall not be offset by any preacquisition loss of any other member of such group.

"(2) Asset acquisitions.—If—

"(A) the assets of a corporation (hereinafter in this section referred to as the 'gain corporation') are acquired by another corporation—

"(i) in a liquidation to which section 332 applies, or

"(ii) in a reorganization described in subparagraph (A), (C), or (D) of section 368(a)(1), and

"(B) the gain corporation has a net unrealized built-in gain,

the income of the acquiring corporation for any recognition period taxable year (to the extent attributable to recognized built-in gains of the gain corporation) shall not be offset by any preacquisition loss of any corporation (other than the gain corporation).

"(b) Exception Where 50 Percent of Gain Corporation Held.—Subsection (a) shall not apply if more than 50 percent of the stock (by vote and value) of the gain corporation was held throughout the 5-year period ending on the acquisition date—

"(1) in any case described in subsection (a)(1), by members of the affiliated group referred to in subsection (a)(1), or

"(2) in any case described in subsection (a)(2), by the acquiring corporation or members of such acquiring corporation's affiliated group.

For purposes of the preceding sentence, stock described in section 1504(a)(4) shall not be taken into account.

"(c) DEFINITIONS.—For purposes of this section—

"(1) RECOGNIZED BUILT-IN GAIN.—

"(A) IN GENERAL.—The term 'recognized built-in gain' means any gain recognized during the recognition period on the disposition of any asset except to the extent the gain corporation (or, in any case described in subsection (a)(2), the acquiring corporation) establishes that—

"(i) such asset was not held by the gain corporation on the acquisition date, or

"(ii) such gain exceeds the excess (if any) of—

"(I) the fair market value of such asset on the acquisition date, over

"(II) the adjusted basis of such asset on such date.

"(B) TREATMENT OF CERTAIN INCOME ITEMS.—Any item of income which is properly taken into account for any recognition period taxable year but which is attributable to periods before the acquisition date shall be treated as a recognized built-in gain for the taxable year in which it is properly taken into account and shall be taken into account in determining the amount of the net unrealized built-in gain.

"(C) LIMITATION.—The amount of the recognized built-in gains for any recognition period taxable year shall not exceed—

"(i) the net unrealized built-in gain, reduced by

"(ii) the recognized built-in gains for prior years ending in the recognition period which (but for this section) would have been offset by preacquisition losses.

"(2) ACQUISITION DATE.—The term 'acquisition date' means the date on which the gain corporation becomes a member of the affiliated group or, in any case described in subsection (a)(2), the date of the distribution or transfer in the liquidation or reorganization.

"(3) PREACQUISITION LOSS.—

"(A) IN GENERAL.—The term 'preacquisition loss' means—

"(i) any net operating loss carryforward to the taxable year in which the acquisition date occurs, and

"(ii) any net operating loss for the taxable year in which the acquisition date occurs to the extent such loss is allocable to the period in such year on or before the acquisition date.

Except as provided in regulations, the net operating loss shall, for purposes of clause (ii), be allocated ratably to each day in the year.

"(B) TREATMENT OF RECOGNIZED BUILT-IN LOSS.—In the case of a corporation with a net unrealized built-in loss, the term 'preacquisition loss' includes any recognized built-in loss.

"(4) OTHER DEFINITIONS.—Except as provided in regulations, the terms 'net unrealized built-in gain', 'net unrealized built-in loss', 'recognized built-in loss', 'recognition period', and 'recognition period taxable year', have the same respective meanings as when used in section 382(h), except that the acquisition date shall be taken into account in lieu of the change date.

"(d) LIMITATION ALSO TO APPLY TO EXCESS CREDITS OR NET CAPITAL LOSSES.—Rules similar to the rules of subsection (a) shall also apply in the case of any excess credit (as defined in section 383(a)(2)) or net capital loss.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations to ensure that the purposes of this section may not be circumvented through—

"(1) the use of any provision of law or regulations (including subchapter K of this chapter), or

"(2) contributions of property to the gain corporation."

(b) CLERICAL AMENDMENT.—The table of sections for part V of subchapter C of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 384. Limitation on use of preacquisition losses to offset built-in gains."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in cases where the acquisition date (as defined in section 384(c)(2) of the Internal Revenue Code of 1986 as added by this section) is after December 15, 1987; except that such amendments shall not apply in the case of any transaction pursuant to—

(1) a binding written contract in effect on or before December 15, 1987, or

(2) a letter of intent or agreement of merger signed on or before December 15, 1987.

SEC. 10227. RECAPTURE OF LIFO AMOUNT IN THE CASE OF ELECTIONS BY S CORPORATIONS.

(a) GENERAL RULE.—Section 1363 (relating to effect of election on corporations) is amended by adding at the end thereof the following new subsection:

"(d) RECAPTURE OF LIFO BENEFITS.—

"(1) IN GENERAL.—If—

"(A) an S corporation was a C corporation for the last taxable year before the first taxable year for which the election under section 1362(a) was effective, and

"(B) the corporation inventoried goods under the LIFO method for such last taxable year,

the LIFO recapture amount shall be included in the gross income of the corporation for such last taxable year (and appropriate adjustments to the basis of inventory shall be made to take into account the amount included in gross income under this paragraph).

"(2) ADDITIONAL TAX PAYABLE IN INSTALLMENTS.—

"(A) IN GENERAL.—Any increase in the tax imposed by this chapter by reason of this subsection shall be payable in 4 equal installments.

"(B) DATE FOR PAYMENT OF INSTALLMENTS.—The first installment under subparagraph (A) shall be paid on or before the due date (determined without regard to extensions) for the return of the tax imposed by this chapter for the last taxable year for which the corporation was a C corporation and the 3 succeeding installments shall be paid on or before the due date (as so determined) for the corporation's return for the 3 succeeding taxable years.

"(C) NO INTEREST FOR PERIOD OF EXTENSION.—Notwithstanding section 6601(b), for purposes of section 6601, the date prescribed for the payment of each installment under this paragraph shall be determined under this paragraph.

"(3) LIFO RECAPTURE AMOUNT.—For purposes of this subsection, the term 'LIFO recapture amount' means the amount (if any) by which—

"(A) the inventory amount of the inventory asset under the first-in, first-out method authorized by section 471, exceeds

"(B) the inventory amount of such assets under the LIFO method.

For purposes of the preceding sentence, inventory amounts shall be determined as of the close of the last taxable year referred to in paragraph (1).

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) LIFO METHOD.—The term 'LIFO method' means the method authorized by section 472.

"(B) INVENTORY ASSETS.—The term 'inventory assets' means stock in trade of the corporation, or other property of a kind which would properly be included in the inventory of the corporation if on hand at the close of the taxable year.

"(C) METHOD OF DETERMINING INVENTORY AMOUNT.—The inventory amount of assets under a method authorized by section 471 shall be determined—

"(i) if the corporation uses the retail method of valuing inventories under section 472, by using such method, or

"(ii) if clause (i) does not apply, by using cost or market, whichever is lower."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2) the amendment made by subsection (a) shall apply in the case of elections made after December 17, 1987.

(2) EXCEPTION.—The amendment made by subsection (a) shall not apply in the case of any election made by a corporation after December 17, 1987, and before January 1, 1989, if, on or before December 17, 1987—

(A) there was a resolution adopted by the board of directors of such corporation to make an election under subchapter S of chapter 1 of the Internal Revenue Code of 1986, or

(B) there was a ruling request with respect to the business filed with the Internal Revenue Service expressing an intent to make such an election.

SEC. 10228. EXCISE TAX ON RECEIPT OF GREENMAIL.

(a) IN GENERAL.—Subtitle E is amended by adding at the end thereof the following new chapter:

"CHAPTER 54—GREENMAIL

"Sec. 5881. Greenmail.

"SEC. 5881. GREENMAIL.

"(a) IMPOSITION OF TAX.—There is hereby imposed on any person who receives greenmail a tax equal to 50 percent of gain realized by such person on such receipt.

"(b) GREENMAIL.—For purposes of this section, the term 'greenmail' means any consideration transferred by a corporation to directly or indirectly acquire its stock from any shareholder if—

"(1) such shareholder held such stock (as determined under section 1223) for less than 2 years before entering into the agreement to make the transfer,

"(2) at some time during the 2-year period ending on the date of such acquisition—

"(A) such shareholder,

"(B) any person acting in concert with such shareholder, or

"(C) any person who is related to such shareholder or person described in subparagraph (B),

made or threatened to make a public tender offer for stock of such corporation, and

"(3) such acquisition is pursuant to an offer which was not made on the same terms to all shareholders.

For purposes of the preceding sentence, payments made in connection with, or in transactions related to, an acquisition shall be treated as paid in such acquisition.

"(c) Other Definitions.—For purposes of this section—

"(1) Public tender offer.—The term 'public tender offer' means any offer to purchase or otherwise acquire stock or assets in a corporation if such offer was or would be required to be filed or registered with any Federal or State agency regulating securities.

"(2) Related person.—A person is related to another person if the relationship between such persons would result in the disallowance of losses under section 267 or 707(b).

"(d) Tax Applies Whether or Not Gain Recognized.—The tax imposed by this section shall apply whether or not the gain referred to in subsection (a) is recognized."

(b) Denial of Income Tax Deduction for Greenmail Tax.—Paragraph (6) of section 275(a) is amended by striking out "and 46" and inserting in lieu thereof "46, and 54".

(c) Clerical Amendment.—The table of chapters for subtitle E is amended by adding at the end thereof the following new item:

"Chapter 54. Greenmail."

(d) Effective Date.—The amendments made by this section shall apply to consideration received after the date of the enactment of this Act in taxable years ending after such date; except that such amendments shall not apply in the case of any acquisition pursuant to a written binding contract in effect on December 15, 1987, and at all times thereafter before the acquisition.

PART IV—FOREIGN TAX PROVISIONS

SEC. 10231. DENIAL OF FOREIGN TAX CREDIT FOR TAXES PAID OR ACCRUED TO SOUTH AFRICA.

(a) General Rule.—Paragraph (2) of section 901(j) (relating to denial of foreign tax credit, etc., with respect to certain foreign countries) is amended by adding at the end thereof the following new subparagraph:

"(C) Special rule for south africa.—

"(i) In general.—In addition to any period during which this subsection would otherwise apply to South Africa, this subsection shall apply to South Africa during the period—

"(I) beginning on January 1, 1988, and

"(II) ending on the date the Secretary of State certifies to the Secretary of the Treasury that South Africa meets the requirements of section 311(a) of the Comprehensive Anti-Apartheid Act of 1986 (as in effect on the date of the enactment of this subparagraph).

"(ii) South africa defined.—For purposes of clause (i), the term 'South Africa' has the meaning given to such term by paragraph (6) of section 3 of the Comprehensive Anti-Apartheid Act of 1986 (as so in effect)."

(b) Technical Amendments.—Paragraph (1) of section 901(j) is amended—

(1) by striking out "to which" in subparagraph (A) and inserting in lieu thereof "during which", and

(2) by striking out "any country so identified" and inserting in lieu thereof "such country".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

PART V—INSURANCE PROVISIONS

SEC. 10241. INTEREST RATE USED IN COMPUTING TAX RESERVES FOR LIFE INSURANCE COMPANIES MAY NOT BE LESS THAN APPLICABLE FEDERAL RATE.

(a) In General.—Subparagraph (B) of section 807(d)(2) (relating to method of computing reserves for purposes of determining income) is amended to read as follows:

"(B) the greater of—

"(i) the applicable Federal interest rate, or

"(ii) the prevailing State assumed interest rate, and".

(b) Applicable Federal Interest Rate.—

(1) In general.—Paragraph (4) of section 807(d) (defining State assumed interest rate) is amended to read as follows:

"(4) Applicable federal interest rate; prevailing state assumed interest rate.—For purposes of this subsection—

"(A) Applicable federal interest rate.—

"(i) In general.—Except as provided in clause (ii), the term 'applicable Federal interest rate' means the annual rate determined by the Secretary under section 846(c)(2) for the calendar year in which the contract was issued.

"(ii) Election to recompute federal interest rate every 5 years.—

"(I) In general.—In computing the amount of the reserve with respect to any contract to which an election under this clause applies for periods during any recomputation period, the applicable Federal interest rate shall be the annual rate determined by the Secretary under section 846(c)(2) for the 1st year of such period. No change in the applicable Federal interest rate shall be made under the preceding sentence unless such change would equal or exceed 1/2 of 1 percentage point.

"(II) Recomputation period.—For purposes of subclause (I), the term 'recomputation period' means, with respect to any contract, the 5 calendar year period beginning with the 5th calendar year beginning after the calendar year in which the contract was issued (and each subsequent 5 calendar year period).

"(III) Election.—An election under this clause shall apply to all contracts issued during the calendar year for which the election was made or during any subsequent calendar year unless such election is revoked with the consent of the Secretary.

"(IV) Spread not available.—Subsection (f) shall not apply to any adjustment required under this clause.

"(B) Prevailing state assumed interest rate.—

"(i) In general.—The term 'prevailing State assumed interest rate' means, with respect to any contract, the highest assumed interest rate permitted to be used in computing life insurance reserves for insurance contracts or annuity contracts (as the case may be) under the insurance laws of at least 26 States. For purposes of the preceding sentence, the effect of nonforfeiture laws of a State on interest rates for reserves shall not be taken into account.

"(ii) When rate determined.—The prevailing State assumed interest rate with respect to any contract shall be determined as of the beginning of the calendar year in which the contract was issued."

(2) Technical amendments.—

(A) The third to the last sentence of section 807(c) is amended by striking out "the higher of" and all that follows and inserting in lieu thereof "whichever of the following rates is the highest as of the time such obligation first did not involve life, accident, or health contingencies: the applicable Federal interest rate under subsection (d)(2)(B)(i), the prevailing State assumed interest rate under subsection (d)(2)(B)(ii), or the rate of interest assumed by the company in determining the guaranteed benefit."

(B) Paragraph (2) of section 812(b) is amended—

(i) by striking out "at the prevailing State assumed rate or, where such rate is not used, another appropriate rate" and inserting in lieu thereof "at the greater of the prevailing State assumed rate or the applicable Federal interest rate", and

(ii) by adding at the end thereof the following new sentence:

"In any case where the prevailing State assumed rate is not used, another appropriate rate shall be treated as the prevailing State assumed rate for purposes of subparagraph (A)."

(c) Effective Date.—The amendments made by this section shall apply to contracts issued in taxable years beginning after December 31, 1987.

SEC. 10242. TREATMENT OF FOREIGN INSURANCE COMPANIES.

(a) In General.—Section 842 (relating to foreign corporations carrying on insurance business) is amended to read as follows:

"SEC. 842. FOREIGN COMPANIES CARRYING ON INSURANCE BUSINESS.

"(a) Taxation Under This Subchapter.—If a foreign company carrying on an insurance business within the United States would qualify under part I or II of this subchapter for the taxable year if (without regard to income not effectively connected with the conduct of any trade or business within the United States) it were a domestic corporation, such company shall be taxable under such part on its income effectively connected with its conduct of any trade or business within the United States. With respect to the remainder of its income which is from sources within the United States, such a foreign company shall be taxable as provided in section 881.

"(b) Minimum Effectively Connected Net Investment Income.—

"(1) In general.—In the case of a foreign company taxable under part I or II of this subchapter for the taxable year, its net investment income for such year which is effectively connected with the conduct of an insurance business within the United States shall be not less than the product of—

"(A) the required U.S. assets of such company, and

"(B) the domestic investment yield applicable to such company for such year.

"(2) Required u.s. assets.—

"(A) In general.—For purposes of paragraph (1), the required U.S. assets of any foreign company for any taxable year is an amount equal to the product of—

"(i) the mean of such foreign company's total insurance liabilities on United States business, and

"(ii) the domestic asset/liability percentage applicable to such foreign company for such year.

"(B) Total insurance liabilities.—For purposes of this paragraph—

"(i) Companies taxable under part I.—In the case of a company taxable under part I, the term 'total insurance liabilities' means the sum of the total reserves (as defined in section 816(c)) plus (to the extent not included in total reserves) the items referred to in paragraphs (3), (4), (5), and (6) of section 807(c).

"(ii) Companies taxable under part II.—In the case of a company taxable under part II,

the term 'total insurance liabilities' means the sum of unearned premiums and unpaid losses.

"(C) Domestic asset/liability percentage.—The domestic asset/liability percentage applicable for purposes of subparagraph (A)(ii) to any foreign company for any taxable year is a percentage determined by the Secretary on the basis of a ratio—

"(i) the numerator of which is the mean of the assets of domestic insurance companies taxable under the same part of this subchapter as such foreign company, and

"(ii) the denominator of which is the mean of the total insurance liabilities of the same companies.

"(3) Domestic investment yield.—The domestic investment yield applicable for purposes of paragraph (1)(B) to any foreign company for any taxable year is the percentage determined by the Secretary on the basis of a ratio—

"(A) the numerator of which is the net investment income of domestic insurance companies taxable under the same part of this subchapter as such foreign company, and

"(B) the denominator of which is the mean of the assets of the same companies held for the production of such income.

"(4) Election to use worldwide yield.—

"(A) In general.—If the foreign company makes an election under this paragraph, such company's worldwide current investment yield shall be taken into account in lieu of the domestic investment yield for purposes of paragraph (1)(B).

"(B) Worldwide current investment yield.—For purposes of subparagraph (A), the term 'worldwide current investment yield' means the percentage obtained by dividing—

"(i) the net investment income of the company from all sources, by

"(ii) the mean of all assets of the company (whether or not held in the United States) held for the production of investment income.

"(C) Election.—An election under this paragraph shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(5) Net investment income.—For purposes of this subsection, the term 'net investment income' means—

"(A) gross investment income (within the meaning of section 834(b)), reduced by

"(B) expenses allocable to such income.

"(c) Special Rules for Purposes of Subsection (b).—

"(1) Coordination with small life insurance company deduction.—In the case of a foreign company taxable under part I, subsection (b) shall be applied before computing the small life insurance company deduction.

"(2) Reduction in section 881 taxes.—

"(A) In general.—The tax under section 881 (determined without regard to this paragraph) shall be reduced (but not below zero) by an amount which bears the same ratio to such tax as—

"(i) the amount of the increase in effectively connected income of the company resulting from subsection (b), bears to

"(ii) the amount which would be subject to tax under section 881 if the amount taxable under such section were determined without regard to sections 103 and 894.

"(B) Limitation on reduction.—The reduction under subparagraph (A) shall not exceed the increase in taxes under part I or II (as the case may be) by reason of the increase in effectively connected income of the company resulting from subsection (b).

"(3) Adjustment to limitation on deduction for policyholder dividends in the case of foreign mutual life insurance companies.—For purposes of section 809, the equity base of any foreign mutual life insurance company as of the close of any taxable year shall be increased by the excess of—

"(A) the required U.S. assets of the company (determined under subsection (b)(2)), over

"(B) the mean of the assets held in the United States during the taxable year.

"(4) Data used in determining domestic asset/liability percentages and domestic investment yields.—Each domestic asset/liability percentage, and each domestic investment yield, for any taxable year shall be based on such representative data with respect to domestic insurance companies for the second preceding taxable year as the Secretary considers appropriate.

"(d) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(1) providing for the proper treatment of segregated asset accounts,

"(2) providing for proper adjustments in succeeding taxable years where the company's actual net investment income for any taxable year which is effectively connected with the conduct of an insurance business within the United States exceeds the amount required under subsection (b)(1), and

"(3) providing for the proper treatment of investments in domestic subsidiaries."

(b) Part II Companies Subject to Same Effectively Connected Income Rule as Part I Companies.—Subparagraph (C) of section 864(c)(4) (relating to income from sources without the United States) is amended by inserting "or part II" after "part I".

(c) Repeal of Section 813—

(1) Section 813 (relating to foreign life insurance companies) is hereby repealed.

(2) Subsection (h) of section 816 is amended by striking out "section 813(a)(4)(B)" and inserting in lieu thereof "section 842(c)(1)(A)".

(3) Paragraph (2) of section 4371 is amended by striking out "section 813" and inserting in lieu thereof "section 842(b)".

(4) The table of sections for part I of subchapter L of chapter 1 is amended by striking out the item relating to section 813.

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

SEC. 10243. TREATMENT OF MUTUAL LIFE INSURANCE COMPANY POLICYHOLDER DIVIDENDS FOR PURPOSES OF BOOK PREFERENCE.

(a) General Rule.—Paragraph (2) of section 56(f) (defining adjusted net book income) is amended by redesignating subparagraph (H) as subparagraph (I) and by inserting after subparagraph (G) the following new subparagraph:

"(H) Special rules for life insurance companies.—

"(i) Policyholder dividends of mutual companies.—In determining the adjusted net book income of any mutual life insurance company, a reduction shall be allowed for policyholder dividends with respect to any taxable year only to the extent such dividends exceed the differential earnings amount determined for such taxable year under section 809.

"(ii) Other adjustments.—To the extent provided by the Secretary, such additional adjustments shall be made as may be necessary to make the calculation of adjusted net book income in the case of any life insurance company consistent with the calculation of adjusted net book income generally."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1987.

SEC. 10244. CERTAIN INSURANCE SYNDICATES.

(a) Study.—The Secretary of the Treasury (or his delegate) shall conduct a study of the proper Federal income tax treatment of income earned by members of insurance or reinsurance syndicates. Not later than April 1, 1988, the Secretary shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the results of the study conducted under this subsection, together with such recommendations as he may deem advisable.

(b) Renegotiation of Closing Agreement.—Not later than January 1, 1990, the Secretary of the Treasury (or his delegate) shall renegotiate the closing agreement with the underwriters participating in certain insurance or reinsurance syndicates which was signed by the Internal Revenue Service on April 1, 1980, to implement the conclusions reached in the study conducted under subsection (a).

Subtitle C—Estimated Tax Provisions

SEC. 10301. REVISION OF CORPORATE ESTIMATED TAX PROVISIONS.

(a) General Rule.—Section 6655 (relating to failure by corporation to pay estimated income tax) is amended to read as follows:

"SEC. 6655. FAILURE BY CORPORATION TO PAY ESTIMATED INCOME TAX.

"(a) Addition to Tax.—Except as otherwise provided in this section, in the case of any underpayment of estimated tax by a corporation, there shall be added to the tax under chapter 1 for the taxable year an amount determined by applying—

"(1) the underpayment rate established under section 6621,

"(2) to the amount of the underpayment,

"(3) for the period of the underpayment.

"(b) Amount of Underpayment; Period of Underpayment.—For purposes of subsection (a)—

"(1) Amount.—The amount of the underpayment shall be the excess of—

"(A) the required installment, over

"(B) the amount (if any) of the installment paid on or before the due date for the installment.

"(2) Period of underpayment.—The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier—

"(A) the 15th day of the 3rd month following the close of the taxable year, or

"(B) with respect to any portion of the underpayment, the date on which such portion is paid.

"(3) Order of crediting payments.—For purposes of paragraph (2)(B), a payment of estimated tax shall be credited against unpaid required installments in the order in which such installments are required to be paid.

"(c) Number of Required Installments; Due Dates.—For purposes of this section—

"(1) Payable in 4 installments.—There shall be 4 required installments for each taxable year.

"(2) Time for payment of installments.—

"In the case of the following required installments:	The due date is:
1st	April 15
2nd	June 15
3rd	September 15
4th	December 15.

duction facilities. The amendment further provides that it is the sense of Congress that the Administrator of the Environmental Protection Agency should use the authority provided under the Clean Air Act to require greater use of ethanol as a motor fuel.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 1508)

(42) Demonstration of Family Independence Program

The *Senate* amendment authorizes the State of Washington to conduct a food stamp demonstration project aimed at increasing the employability and self-sufficiency of recipients.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. The Conferees expect that the project will be carried out at no additional cost to the Federal government.

(43) Frozen Food Labelling

The *House* bill amends section 1 of the Federal Meat Inspection Act to provide that a product shall be considered to be misbranded under that Act if—

(a) it is a product that contains meat or a meat food product and includes an ingredient that resembles any variety of cheese for which a standard of identity exists in an amount which is greater than ⅓ the amount of standardized cheese used in the product; and

(b) there does not appear on the label of such product in a prominent manner contiguous to the product name on the principal display panel the term "contains imitation cheese" or, when authorized by the Secretary, the term "contains cheese alternate". The Secretary shall approve other common or usual names to describe the ingredient that resembles any variety of cheese for which a standard of identity exists. In determining the appropriate name, the Secretary should give due consideration to all relevant federal regulations and policies such as 21 C.F.R. 101.3(e).

The House bill is to be implemented by September 1, 1988. The Secretary is required to grant individual requests for temporary exemptions from compliance with requirements under the amendments on a showing of need. Any temporary exemption granted by the Secretary could not extend beyond September 1, 1989.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(44) Sale of Rural Development Notes

The *Senate* amendment provides for the sale of assets of the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act.

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

House Bill

The *House* bill had no such provision.

Senate amendment

The *Senate* amendment establishes a National Economic Commission to conduct a comprehensive study and review of the elements of Federal policy that have resulted in the national debt and budget deficit. The commission consists of twelve members appointed by the President and majority and minority of the House and Senate, augmented after the November election by two members to be appointed by the President-elect. The amendment requires the Commission to issue a report in March 1989 that contains recommendations on achieving deficit reduction and economic growth, also ensuring that the burden of achieving deficit reduction goals is equitably distributed.

Conference agreement

The *Conference* agreement modifies the *Senate* amendment to establish a National Economic Commission to issue a final report on March 1, 1989 recommending methods to reduce the Federal budget deficit while promoting economic growth and encouraging saving and capital formation, also ensuring that the burden of achieving budget deficit reduction goals is equitably distributed. The Commission consists of twelve members appointed by the President and majority and minority leaders of the House and Senate, augmented after the November election by two members, one Democrat and one Republican, to be appointed by the President-Elect. The initial 12 members shall be appointed no later than March 1, 1988. The President, on February 1, 1989, may extend the date for submission of the final report to September 1, 1989. Any expenses of the Commission, which shall not exceed $1,000,000, shall be paid from such funds as may be available to the Secretary of the Treasury. It is the intent of the conferees that the provision of the Federal Advisory Committee Act concerning "balance" be scrupulously adhered to in the composition of the Commission.

GUARANTEED STUDENT LOAN PROGRAM

REPORT LANGUAGE ON APPEALS PROCESS

In adopting this provision, it is the goal of the Managers that the Secretary recover the excess cash reserves based on the guidelines established by the General Accounting Office (GAO). However, the bill also provides a process whereby a guaranty agency may appeal a determination by the Secretary for a waiver of such a requirement. The agency's appeal may be based on a deterioration of financial position or significant changes in economic circumstances or its loan program which render the reserves, as limited by the bill, inadequate for continued functioning of the agency. The Managers expect that the Secretary will broadly exercise the authority to waive the requirement in order to prevent damage to the functioning of the guaranty agency.

For example, the Managers do not intend that the Secretary shall only grant relief if the agency would be forced to cease operations; such a narrow interpretation would not be in keeping with the intent of the Managers. The Secretary must assess whether reduction of cash reserves would materially affect the agencies; current and future ability to perform their vital role as the guarantors of student loans. The Secretary should consider such factors as existing contractural obligations, composition of current and probable future student populations served by the guarantor, changes in sources of funds which diminish the guaranty agency's ability to have sufficient resources to meet lender's claims including, but not limited to, the subrogation of loans to the Department of Education under 428(c)(8), delayed payment of reimbursement under 428(c)(1) or payments under 428(f), and the reduction in reserves caused by the return of federal advance funds required by previous statutes. The Managers expect that in assessing appeals by guaranty agencies the Secretary will take into account their most recent available certified financial statements. The Managers wish to stress it is not the intention of the Congress to either materially harm an agency's ability to fulfill its function in the guaranteed student loan program or to so financially weaken an agency so as to impair its function.

I. PROVISIONS RELATING TO MEDICARE

A. MEDICARE PROVISIONS (PART A)

1. Hospital Prospective Payment Rates (Section 9201 of House bill; Sections 4001 (a), (e), (f), and (h), 4002(a), and 4004(d) of the Senate amendment).

Present law

(a) Basic Update Factor for PPS Hospitals.—The Social Security Amendments of 1983 (P.L. 98-21) authorized the Secretary to determine the rate of increase in the payment rates, known as the update factor, for hospitals included in the prospective payment system (PPS) for FY 1986 and thereafter, taking into account the recommendations of the Prospective Payment Assessment Commission (ProPAC).

The Emergency Extension Act of 1985 (P.L. 99-107, as amended) froze FY 1986 rates at FY 1985 levels until April 30, 1986, The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA, P.L. 99-272) established the update factor for the final five months of FY 1986. It also authorized the Secretary to determine the update factors for FY 1987 and FY 1988, subject to an upper limit equal to the projected increase in the hospital market basket (the Secretary's estimate of the annual increase in the cost of goods and services used by hospitals in providing care).

The Omnibus Budget Reconciliation Act of 1986 (OBRA, P.L. 99-509) delayed until FY 1989 the Secretary's authority to establish the update factor and set the update factor for FY 1987 at 1.15 percent. The update factor for FY 1988 was set at 2 percentage points below the market basket increase.

The debt limit extension act, P.L. 100-119, provides that, for the period October 1 through November 20, 1987, payment rates for PPS hospitals are frozen at FY 1987 levels. On November 20, 1987, the extension period expired. For discharges occurring on or after November 21, 1987, the federal portion of the payment rate is based entirely on the national rate (rather than a blend of national and regional rates) and the national rate is increased by 2.7 percent. For the first 51 days of a cost reporting period beginning on or after October 1, 1987, the blend factors for the federal and hospital specific portions of the rate are frozen at 75 and 25 percent, respectively, and the update factor for the hospital specific rate is zero percent. For discharges occurring on or after the 52nd day of such periods, the federal and hospital specific blend factors change to 100 and 0 percent, respectively (the hospital's payment is based entirely on the national rate). Under P.L. 100-119, all payments to hospitals made on or after November 21, 1987, are reduced by 2.324 percent.

(b) Adjustment for Hospitals in Large Urban Areas or in Rural Areas.—(1) Separate standardized amounts, the basic Federal payment rates for PPS hospitals, are calculated for urban and rural hospitals. The same annual update factor is used for both the urban and the rural rates.

(2) For each diagnosis-related group (DRG), the Secretary computes national and regional urban and rural DRG-specific prospective payment rates by multiplying the applicable standardized amount by a weighting factor for the DRG.

(3) For short-stay hospitals in Puerto Rico, the basic payment rate for discharges after October 1, 1987, is equal to 75 percent of a separately calculated Puerto Rico DRG-specific rate plus 25 percent of the discharge-weighted average of the national urban and national rural DRG-specific rates.

(c) Adjustment for Non-Labor Costs.—The Secretary divides each DRG prospective payment rate into a portion attributable to wages and wage-related costs and a portion attributable to non-wage operating costs. The portion attributable to wages is adjusted by an Area Wage Index. This index, computed for each urban area and for all rural areas combined in each State, measures the level of hospital wages in the area relative to the national average hospital wage level. The portion of the rate attributable to non-wage operating costs is not adjusted by area (except for hospitals in Alaska and Hawaii). The final DRG rate for an area is the sum of the adjusted wage portion and the unadjusted non-wage portion.

(d) Disproportionate Share Adjustment and Indirect Medical Education Payments.—(1) The portion of PPS payments to hospitals based on Federal rates is adjusted to provide additional payment for the indirect costs of medical education. For FY 1988 and 1989, this adjustment is equal to:

$$2.0 \times ((1 + r)^{.405} - 1)$$

where "r" equals the ratio of the hospital's full-time equivalent interns and residents to beds. Under this formula, a hospital with approved medical education programs receives an increase of approximately 8.1 percent in the Federal portion of its PPS payments for each 0.1 in the ratio of interns and residents to beds. For FY 1990 and later years, the adjustment is:

$$.5 \times ((1 + r)^{.5795} - 1)$$

or approximately 8.7 percent for each 0.1 in the ratio of interns and residents to beds.

(2) For discharges between May 1, 1986 and October 1, 1989, the portion of PPS payments to hospitals based on Federal rates is adjusted to provide additional payments to those hospitals serving a disproportionate share of low-income patients.

For hospitals in urban areas with 100 or more beds which receive at least 30 percent of their net inpatient revenues from State and local payments for indigent care, the adjustment is 15 percent. For other hospitals, a disproportionate patient percentage is computed, reflecting relative volumes of inpatient care to Medicare patients eligible for Supplemental Security Income payments and to patients eligible for Medicaid. Hospitals whose percentage exceeds specified thresholds receive an adjustment according to a formula based on the percentage. For urban hospitals with 100 or more beds, the adjustment cannot exceed 15 percent. (Different rules apply for smaller urban and for rural hospitals.)

(3) The authority for the disproportionate share adjustment expires October 1, 1989.

(e) Update for PPS-Exempt Hospitals.—Certain hospitals are exempt from PPS and continue to be reimbursed on a reasonable cost basis. Reimbursement is limited to a target amount which is increased annually. The percentage increase in the target amount for hospital cost reporting periods beginning in a fiscal year conforms to the update factor for PPS rates in the same fiscal year. For cost reporting periods beginning during FY 1988, OBRA provided for an increase of 2 percentage points below the market basket increase. For FY 1989 and subsequent years, the percentage increase was to be established by the Secretary. OBRA also authorized the Secretary to establish different update factors for PPS and PPS-exempt hospitals and to vary the factors among types of exempt hospitals or units. P.L. 100-119 provides that, for a hospital cost reporting period beginning in FY 1988, the target amount for the first 51 days of the period is limited to the amount in effect during the previous reporting period.

(f) Wage Index Survey.—The Secretary is required to re-estimate "from time to time" the wage indices used in computing PPS payments. No particular methodology for developing the indices is specified.

(g) ProPAC Report on Study of Separate DRG Rates for Urban and Rural Hospitals.—The Secretary is required, through FY 1989, to submit an annual report on the impact of PPS. The report for 1985 was required to include the results of a study of the feasibility and impact of eliminating or phasing out the separate urban and rural DRG payment rates.

(h) Clinic Hospital Wage Indices.—Certain hospitals which, prior to FY 1983, furnished some services ordinarily included in the DRG payment through related organizations and permitted those organizations to bill separately for those services under part B, have been permitted to continue this practice at the discretion of the Secretary.

House bill

(a) Basic Update Factor for PPS Hospitals.—Sets the FY 1988 update factor for PPS hospitals at 1.0 percent. For FY 1989, sets the update factor equal to the market basket percentage increase minus 4.2 percentage points. For FY 1990, sets the factor equal to the market basket percentage increase minus 1.7 percentage points. Provides that update factors for FY 1991 and subsequent years are to be determined by the Secretary.

(b) Adjustment for Hospitals in Large Urban Areas or in Rural Areas.—(1) Requires the Secretary to establish separate standardized amounts for large urban areas, other urban areas, and rural areas. Large urban areas are defined as urban areas with a population of more than 1,000,000, as determined by the Secretary on the basis of the most recent available Bureau of the Census population data.

Provides that for discharges occurring in fiscal years 1988, 1989, and 1990, the annual increase in the standardized amounts for hospitals in large urban areas and rural areas is equal to the update factor for that fiscal year plus one percentage point. For hospitals in other urban areas, the annual increase is equal to the update factor for the fiscal year.

Specifies that the separate FY 1988 annual increase percentages for hospitals in large urban and other urban areas are both applied to the single urban standardized amount for FY 1987. For FY 1989 and 1990 the percentages are applied to the separate FY 1988 and FY 1989 standardized amounts, respectively.

Specifies that, for FY 1991 and later years, the annual increase in the standardized amounts for hospitals in large urban, other urban, and rural areas is equal to the update factor determined by the Secretary.

(2) Provides that, for each DRG, the Secretary is to compute for each fiscal year national and regional large urban, other urban, and rural DRG-specific prospective payment rates by multiplying the large urban, other urban, or rural standardized amounts by a weighting factor for the DRG.

(3) Provides that the 25 percent national component of the Puerto Rico DRG-specific rates shall be the discharge-weighted average of the large urban, other urban, and rural DRG-specific rates.

(c) Adjustment for Non-Labor Costs.—Provides that the Secretary shall compute a non-wage price index for each area and shall adjust the non-wage portion of each DRG rate by this index.

Provides that, for FY 1988, 1989, and 1990, the non-wage index for each State is the ratio of the average (weighted by discharges) of the area wage indexes for that State to the national discharge-weighted average wage index. For FY 1991 and after, the Secretary is required to use an area-specific non-wage index reflecting the price level in each area for non-personnel goods and services relative to the national average price level.

Provides that, for any hospital, the increase or decrease in the payment rate per discharge resulting from this adjustment is limited to 1 percent of what would have been paid for the same discharge (excluding any extra payments under provisions for "outliers," cases with unusually high costs or long stays) without the adjustment. The Secretary is required to adjust the standardized amounts in order to ensure that the use of a non-wage index does not result in the aggregate, in higher or lower payments than would otherwise have been made.

Requires the Secretary to report to Congress on the development of the non-wage price factors no later than October 1, 1989.

(d) Disproportionate Share Adjustment and Indirect Medical Education Payments.—(1) Changes the formula for the FY 1988 and 1989 indirect medical education adjustment to:

$$2.0 \times ((1 + r)^{.3975} - 1)$$

The change reduces the adjustment to approximately 7.95 percent for each 0.1 in the ratio of interns and residents to beds.

(2) Increases the disproportionate share adjustment to 20 percent for large urban hospitals meeting the State and local indigent care revenue test. For other urban hospitals with over 100 beds qualifying for an adjustment, provides that the adjustment is no longer limited to a maximum of 15 percent.

(3) No provision.

(e) Update for PPS-Exempt Hospitals—Provides for annual increases in target amounts separate from the rate increases provided for PPS hospitals. Sets the increase for cost reporting periods beginning in FY 1988, excluding the first 51 days of such periods, at 2.0 percentage points below the market basket percentage increase. For FY 1989 and subsequent years, sets the increase equal to the projected increase in the market basket. The Secretary's authority to set the increase for PPS-exempt hospitals and to vary the rate of increase among types of exempt hospitals and units is eliminated.

(f) Wage Index Survey.—No provision.

(g) ProPAC Report on Study of Separate DRG Rates for Urban and Rural Hospitals.—No provision.

(h) Clinic Hospital Wage Indices.—No provision.

Effective dates.—The increase in the target amounts for PPS-exempt hospitals applies 51 days after the start of a cost reporting period beginning on or after October 1, 1987. All other changes are effective for discharges occurring on or after November 20, 1987.

Senate amendment

(a) Basic Update Factor for PPC Hospitals and Adjustment for Hospitals in Rural Areas.—Sets the FY 1988 update factor at 0.5 percent for hospitals paid at the urban rate and 3.7 percent for hospitals paid at the rural rate, for discharges occurring on or after January 1, 1988. Amends section 107 of P.L. 100-119 to clarify that the blend factors for the Federal and hospital specific portions of the rate are frozen at 75 percent and 25 percent, respectively, and that the update factor applicable for the hospital specific rate is zero percent during the first 51 days of the hospital's first cost reporting period beginning on or after October 1, 1987. For FY 1989, sets the update factor (for both urban and rural hospitals) at the market basket percentage increase minus two percentage points; for FY 1990, sets the factor at the market basket increase minus 1.6 percentage points. For FY 1991 and subsequent years, the update factors are to be determined by the Secretary. The Secretary is authorized to set different update factors for urban and rural PPS hospitals.

(b) Adjustment for Hospitals in Large Urban Areas or in Rural Areas.—See item (a), above.

(c) Adjustment for Non-Labor Costs.—No provision.

(d) Disproportionate Share Adjustment and Indirect Medical Education Payments.—(1) Changes the formula for the FY 1988 and 1989 indirect medical education adjustment to:

$$1.56 \times ((1 + r)^{.405} - 1)$$

effective for discharges on or after January 1, 1988, and provides that this formula shall remain in effect through FY 1990. The change reduces the adjustment to appropriately 6.3 percent for each 0.1 in the ratio of interns and residents to beds.

For FY 1991 and later years, changes the formula to:

$$1.7 \times ((1 + r)^{.405} - 1)$$

The change reduces the adjustment to approximately 6.9 percent for each 0.1 in the ratio of interns and residents to beds. Conforming amendments clarify that the formula changes are to be taken into account in determining payments.

(2) No provision.

(3) Extends the disproportionate share adjustment to October 1, 1990.

(e) Update for PPS-Exempt Hospitals.—Provides for annual increases in target amounts separate from the rate increases provided for PPS hospitals. Sets the increase for cost reporting periods beginning in FY 1988, excluding the first 51 days of such periods, at 2.7 percent. For FY 1989 and FY 1990, sets the increase equal to the projected increase in the market basket. For FY 1991 and subsequent years, the Secretary is authorized to establish the increase. The Secretary retains the authority to vary the rates of increase among types of exempt hospitals and units.

(f) Wage Index Survey.—Requires the Secretary to re-compute the wage indices not later than October 1, 1989, and at least every 36 months thereafter. The indices are to be based on a survey, updated as appropriate of wages and wage-related costs for PPS hospital. To the extent the Secretary deems feasible, the survey is to measure earnings and paid hours of employment by occupational category and exclude data on wages and wage-related costs incurred in furnishing skilled nursing facility services. See also item 2(e).

(g) ProPAC report on Study of Separate DRG Rates for Urban and Rural Hospitals.—Requires that ProPAC evaluate the study conducted by the Secretary and report its conclusions and recommendations to Congress no later than March 1, 1988.

(h) Clinic Hospital Wage Indices.—Revises the method of calculating the wage index for the purpose of adjusting payments after December, 1986, to a hospital which has been allowed to continue permitting billing by related organizations. The Secretary would be required to include wage costs for employees of the related organizations who are directly involved in the delivery or administration of the care furnished by the related organization to the hospital's inpatients. Wage costs do not include costs of overhead or home office administrative salaries or costs incurred outside the hospital's Standard Metropolitan Statistical Area.

Effective dates.—(a-b) Applies to discharges on or after January 1, 1988. (d) The provision relating to the indirect medical education adjustment applies to discharges on or after January 1, 1988. The provision on disproportionate share adjustments is effective on enactment. (e) Applies to cost reporting periods beginning in FY 1988, excluding the first 51 days of such periods. (f), (g), and (h) Enactment.

Conference agreement:

(a)-(b) Basic Update Factor for PPS Hospitals; Adjustment for Hospitals in Large Urban Areas or in Rural Areas.—The conference agreement includes the House provisions, with amendments. The update factor for FY 1988 is set at 1.5 percent for hospitals in large urban areas, at 1.0 percent for hospitals in other urban areas, and at 3.0 percent for hospitals in rural areas. For FY 1989, the update is the market basket percentage increase less 2.0 percentage points for large urban areas, less 2.5 percentage points for other urban areas, and less 1.5 percentage points for rural areas. For FY 1990 and subsequent years, the update factor for all areas is set equal to the market basket percentage increase.

The agreement establishes regional floors for the standardized amounts, effective for discharges occurring on or after April 1, 1988, and before September 30, 1990. The regional floor for a region is set equal to the higher of the national standardized amount, or the sum of 85 percent of the national standardized amount and 15 percent of the regional standardized amount.

(c) Adjustment for Non-Labor Costs.—The conference agreement substitutes the following for the House provision. The Prospective Payment Assessment Commission is required to conduct a study of hospital nonlabor costs and input prices; the study is to be completed by October 1, 1989. The agreement does not include provisions relating to the use of a non-wage index in the computation of DRG payment rates or requiring a report by the Secretary on non-wage price factors.

(d) Disproportionate Share Adjustment and Indirect Medical Education Payments.—The conference agreement includes the House provision, with amendments. The provision is effective for discharges occurring on or after October 1, 1988. The indirect medical education adjustment is reduced to approximately 7.7 percent for each 0.1 in the ratio of interns and residents to beds. The disproportionate share adjustment is increased to 25 percent for hospitals meeting the State and local indigent care revenue test.

The conferees are concerned that the Secretary has not proceeded expeditiously to implement the disproportionate share adjustment for hospitals which receive more than thirty percent of net patient revenues from State and local governmental sources. The conferees wish to reaffirm their expectation that the Secretary will proceed to implement this adjustment without delay.

The conference agreement also provides the Secretary with the authority to make disproportionate share payments, under certain circumstances, on behalf of an inpatient facility of a multi-facility provider where the individual facility qualifies for disproportionate share payments but the provider as a whole does not qualify for such payments. In order to qualify, the provider's inpatient facilities must be physically separate, the facility in question must provide the Secretary with information documenting its Medicare discharges and the provider's Medicare allowable inpatient costs must exceed its Medicare payments for inpatient care.

The conferees intend that the Secretary will make a determination of the facility's disproportionate share payment percentage, separate from the provider as a whole, when the provider submits the necessary data, and that the Secretary will make disproportionate share payments on behalf of inpatient facilities which meet the disproportionate share criteria and the other criteria specified in this provision.

(e) Update for PPS-Exempt Hospitals.—The conference agreement includes the Senate amendment.

(f) Wage Index Survey.—The conference agreement includes the Senate amendment. The conferees intend that the Secretary implement any update of the wage index in a budget neutral manner.

(g) ProPAC Report on Study of Separate DRG Rates for Urban and Rural Hospitals.—The conference agreement includes the Senate amendment with a modification to provide that ProPAC also study the desirability of maintaining separate rates for large urban and other urban hospitals.

(h) Clinic Hospital Wage Indices.—The conference agreement includes the Senate amendment, with a modification to provide that the changes in wage index methodology will take effect October 1, 1988.

2. Rural Hospitals (Section 9202 of House bill; Sections 4081 (b), (g), (o), (p), 4082 and 4083 of Senate amendment.

Present law

(a) Revision of Standards for Including a Rural County in an Urban Area.—Hospitals located in a county which is outside the boundaries of a Metropolitan Statistical Area (MSA) as defined by the Office of Management and Budget (OMB) are deemed to be in a rural area. (One standard used by OMB in establishing whether a county is within an urban area is the proportion of the county's workers commuting to the central county of the area.) The Secretary has used a general exception authority to reclassify some rural counties as urban by regulation.

(b) Expansion of Swing-Bed Program.—Under certain conditions, rural hospitals with fewer than 50 beds may enter into an agreement with the Secretary under which beds are used both for inpatient care and,

with reduced compensation, for extended care equivalent to that furnished by skilled nursing facilities (SNFs).

(c) Clarification of Sole Community Provider Status.—Hospitals meeting certain criteria may apply for "sole community hospital" status. The Secretary is required to provide a payment adjustment to cover the fixed costs of a sole community hospital with a decrease during a year of 5 percent or more in total inpatient case load due to circumstances beyond its control. This provision applies to cost reporting periods beginning before October 1, 1988. PPS payments to sole community hospitals are based on a blend of 25 percent of a hospital-specific rate and 75 percent of the Federal regional rate.

(d) Medicare Classification of Rural Referral Centers.—Rural hospitals which have 500 or more beds, or which meet certain criteria regarding referral patterns and distance travelled by Medicare patients that receive inpatient care, are classified as rural referral centers. Other rural hospitals qualify for designation as rural referral centers if they: (1) have a case mix index at least equal to the lesser of the median case mix index value for all PPS hospitals located in urban areas (the national median) or the median index for all nonteaching hospitals located in urban areas in the same region (the regional median); (2) have total annual inpatient discharges equal to or greater than the lower of 5,000 or the median number of discharges for all urban hospitals located in the same region; and (3) meet at least one of three additional criteria regarding the specialty status of the medical staff, travel distances of Medicare patients or volume of referrals. Rural osteopathic hospitals must meet the same criteria except that the minimum number of annual discharges must be at least 3,000. By regulation, rural referral centers are reimbursed according to the Federal urban payment amount adjusted by the applicable rural wage index. OBRA provided that certain hospitals classified as rural referral centers on October 21, 1986, would retain this status through cost reporting periods beginning before October 1, 1989.

(e) Improving the Definition of Hospital Labor Market Areas.—Hospitals located in a county which is outside the boundaries of a Metropolitan Statistical Area as defined by the Office of Management and Budget (OBM) are deemed to be in a rural area. The Secretary has used a general exception authority to reclassify some rural counties as urban by regulation.

(f) Demonstration Projects to Maintain Access to Isolated and Financially Distressed Rural Sole Community Hospitals.—No provision.

(g) Grant Program for Rural Health Care Transition.—No provision.

(h) Office of Rural Health Policy.—No provision.

(i) Set Aside for Experiments and Demonstration Projects Relating to Rural Health Care Issues.—Various provisions of the Social Security Act, including section 1875, section 402 of the Social Security Amendments of 1967 and section 222 of the Social Security Amendments of 1972, authorize the Secretary to conduct experiments and demonstrations regarding the operation or administration of the Medicare and Medicaid programs, or related issues such as coverage or reimbursement policy.

House bill

(a) Revision of Standards for Including a Rural County in an Urban Area.—(1) Provides that a hospital in a rural county adjacent to one or more urban areas shall be treated as being in the urban area to which the greatest number of workers in the county commute, if the county meets the following conditions: (a) it would be considered an urban county except for failure to meet current standards relating to commuting; (b) at least 15 percent of the employed persons in the county commute to the central county of any adjacent urban area, or the total number of persons commuting in either direction between the rural county and any adjacent urban area (the sum of the number of county resident commuting to any central county plus the number of persons commuting into the rural county from any uraban area) is at least equal to 20 percent of the employed persons in the rural county; and (c) the average hospital wage level in the county is at least equal to the average wage level for rural hospitals in the State and at least equal to 85 percent of the average hospital wage level in the urban area to which the greatest number of the county's workers commute.

(2) Requires the Secretary to recompute the basic PPS payment rates for discharges occurring during FY 1988 to ensure that the reclassification of counties is budget neutral.

(3) Provides that Watertown Memorial Hospital in Watertown, Wisconsin is deemed to be located in Jefferson County, Wisconsin for PPS purposes.

(b) Expansion of Swing-Bed Program.—Provides that rural hospitals with fewer than 100 beds may participate in the swing-bed program. Payment for extended care services furnished by hospitals with 50-99 beds is subject to additional conditions. First, if there is an available SNF bed in the geographic area, the extended care patient must be transferred within 5 week-days, unless the patient's physician certifies that transfer is not medically appropriate; the Secretary is to provide by regulation for notice by SNFs to hospitals of the availability of beds. Second, payment is prohibited for days of Medicare-covered extended care at the hospital during a cost reporting period which exceed 15 percent of the product of the number of days in the period and the average number of licensed beds at the hospital.

Requires the Secretary to report, no later than February 1, 1989, on the proportion of swing-bed admissions approved or denied by peer review organizations (PROs) and on ways of encouraging participation in the swing-bed program by hospitals with low occupancy rates in areas with a nursing home bed shortage.

(c) Clarification of Sole Community Provider Status.—Provides that hospitals meeting the criteria for sole community hospital status may receive a payment adjustment without assuming the status of a sole community hospital. Extends the volume adjustment provision through cost reporting periods beginning before October 1, 1990. Requires the Secretary to issue clarifying instructions relating to implementation of the volume adjustment no later than October 1, 1987. Requires ProPAC to report to Congress by March 1, 1988, on the appropriateness of the criteria used in designating hospitals as sole community hospitals.

(d) Medicare Classification of Rural Referral Centers.—Classifies rural hospitals which have 275 or more beds as rural referral centers. Requires the Secretary to adjust the PPS payment rates for rural hospitals for discharges occurring on or after November 20, 1987 and before October 1, 1988 to ensure that this provision is budget neutral. Requires the Secretary to study and report to the Congress no later than March 1, 1989, on the extent of rural referral centers Medicare inpatient profits and losses and the appropriateness of paying the centers at a rate other than the rate paid to urban hospitals outside large urban areas. Also requires the Secretary to recommend criteria to be used in designating rural referral centers for cost reporting periods beginning on or after October 1, 1989.

(e) Improving the Definition of Hospital Labor Market Areas.—Provides that a hospital in a rural county immediately adjacent to an urban area may apply to have its payment rates determined using the wage index adjustment for that urban area if it can show that its labor-related costs, adjusted for occupational mix, are at least equal to the 25th percentile of such costs in the urban area, or the median of such costs in the case of an urban area with fewer than four hospitals. Applies for discharges occurring on or after November 20, 1987 and before October 1, 1990. Requires the Secretary to adjust the payment rates under PPS in the following year to insure that the provision is budget-neutral.

Requires the Secretary to report to Congress, no later than September 30, 1989, on an analysis of variation in wage levels within and among the areas used as the basis for the area wage level adjustment, including the effects of variation in occupational mix and fringe benefits.

For discharges occurring on after October 1, 1989, requires the Secretary to replace the current system of urban and Statewide rural labor market areas with new area definitions based on the findings of the required analysis and taking into account similarities in labor costs for similar skill mixes. (See also item 1(f) above.)

(f) Demonstration Projects to Maintain Access to Isolated and Financially Distressed Rural Sole Community Hospitals.—Requires the Secretary to conduct, in geographically diverse areas, 3-year demonstration projects to determine appropriate methods of strengthening the financial and managerial ability of isolated and financially distressed rural hospitals to provide high quality care. Methods could include cooperative arrangements with other providers, diversification, physician recruitment, and improved management systems. Hospitals eligible to participate would be Medicare-participating rural hospitals which are certified as sole community hospitals, which have an average occupancy rate of less than 50 percent, and the closure of which would result in a significant loss of beneficiary access to necessary services. The Secretary is authorized to waive Medicare requirements as necessary and to spend up to $5 million from the Hospital Insurance trust fund in each of fiscal years 1988, 1989, and 1990 to conduct the projects.

Requires the Secretary to evaluate the demonstration projects and to report to the House Ways and Means and Senate Finance Committees. A preliminary report on the providers selected is due 18 months after enactment. A final report, with recommendations for legislation, is due upon completion of the demonstrations.

(g) Grant Program for Rural Health Care Transition.—No provision.

(h) Office of Rural Health Policy.—No provision.

(i) Set Aside for Experiments and Demonstration Projects Relating to Rural Health Care Issues.—No provision.

Effective date.—(a) Applies for discharges occurring on or after November 20, 1987. (b) Applies to swing-bed agreements entered into after September 30, 1987. The volume adjustment provision of (c) is effective for reporting periods beginning on or after the date of enactment. (d) Applies for discharges occurring on or after November 20, 1987.

Senate amendment

(a) Revision of Standards for Including a Rural County in an Urban Area.—(1) Similar provision, except that certain residents of adjacent urban areas who commute to the rural county are not counted in the total number of persons commuting in either direction between the rural county and any adjacent urban area. Also the wage-related criteria in the House bill are not included. The total number of persons commuting is determined as the sum of the number of county residents who commute for employment to the central county or counties of any adjacent urban area, plus the number of persons who commute into the rural county from the central county or counties of any adjacent urban area. Thus, in determining if the total number of persons commuting in either direction is at least equal to 20 percent of the employed population of the rural county, persons who commute into the rural county from any adjacent urban area but not from the central county or counties of the area are excluded.

(2) Similar provision, except that the Secretary is required to adjust the payment rates for urban hospitals only to ensure that any reclassification of counties is budget neutral. Also, for purposes of calculating the area hospital wage index, counties which qualify as urban counties under this provision are treated as rural counties.

(3) Identical provision.

(b) Expansion of Swing-bed Program.—No provision.

(c) Clarification of Sole Community Provider Status.—Similar provision, except that the Secretary is required to issue instructions to fiscal intermediaries clarifying criteria and application procedures for hospitals seeking a volume adjustment, within 120 days after the date of enactment. Also does not require ProPac to report to Congress regarding the criteria used to designate sole community hospitals. Additional payments to hospitals that qualify for volume adjustments under this provision, but are not sole community hospitals, are capped at $10 million in FY 1988 and $12 million in FY 1989.

(d) Medicare Classification of Rural Referral Centers.—Classifies rural hospitals which have 275 or more beds as rural referral centers. Also creates a new class of rural referral centers, any hospital which: (1) has a case mix index equal to or greater than both the median case mix index for all urban nonteaching hospitals in the nation and the median case mix index for all urban nonteaching hospitals located in the same region; (2) has 3,000 or more discharges annually; and (3) meet other criteria specified by the Secretary. Requires the Secretary to implement these amendments in a budget neutral manner. These amendments are effective for discharges occurring on or after January 1, 1988, in the case of any hospital whose application for referral center status is approved, if the application was submitted before April 1, 1988.

(e) Improving the Definition of Hospital Labor Market Areas.—No provision.

(f) Demonstration Projects to Maintain Access to Isolated and Financially Distressed Rural Sole Community Hospitals.—No provision.

(g) Grant Program for Rural Health Care Transition.—Requires the Secretary to establish a program of grants to small rural hospitals to modify the type or extent of the service they provide in order to respond to various changes in their circumstances (such as changes in clinical practice patterns or service populations or changes in the demand for inpatient or ambulatory care, etc.).

Non-Federal government-owned and private not-for-profit hospitals which are located in rural areas, have less than 100 beds and provide patient services for a variety of medical conditions, are eligible to submit a grant application to the Governor of their state. Within 30 days of receipt, the Governor, or his agent, must forward the application to the Secretary with any comments deemed appropriate.

Requires the Secretary to make awards based on: the Governor's comments; impact on expenditures under Part A of Medicare and access to care for Medicare beneficiaries; the applicant's understanding of its local market and current unmet needs of the elderly or disabled; and coordination with other providers and community leaders.

Limits grant awards to a maximum of $50,000 per year over a two-year period. Permits grant funds to be used for any expenses of the project applied for, except that not more than one-third of any grant may be spent for capital-related costs, and no grant funds may be used to retire debt from capital expenditures which precede the grant project. Exempts capital expenditures undertaken to implement an approved project from the provisions of section 1122.

Requires the grantee to furnish such information as the Secretary may require to evaluate the project. Requires the Secretary to report to the Congress at least every six months regarding the status and performance of the program, including comments and recommendations of private and public entities with an interest in rural health care. Also requires the Secretary to submit a final report within 180 days after all projects are completed.

Authorizes appropriations from the Federal Hospital Insurance Trust Fund of $15 million per year in FY 1989 and FY 1990.

(h) Office of Rural Health Policy.—Require the Secretary of Health and Human Services to establish in HHS an Office of Rural Health Policy to advise the Secretary regarding the effects of current and proposed policies under Medicare and Medicaid on the financial viability of small rural hospitals to attract and retain physicians and other health professionals, and on access to, and quality of health care in rural areas. Requires the Director of this office to oversee compliance with section 1102(b) (relating to rulemaking and publication of rules) and with requirements elsewhere in this bill (see item 9(j)), regarding publication of an impact analysis of any proposed or final regulation which is expected to have a significant impact on small rural hospitals. Also requires the Director to: (1) establish and maintain a clearinghouse for collection and dissemination of information regarding issues, research findings and innovations in the delivery of care in rural areas; (2) coordinate Department activities related to rural health care, and (3) provide information to the Secretary and others regarding the related activities of other federal agencies.

(i) Set Aside for Experiments and Demonstration Projects Relating to Rural Health Care Issues.—Requires the Secretary, beginning with fiscal year 1989, to allocate not less than ten percent of the total spending on experiments and demonstrations authorized by section 402 of the Social Security Amendments of 1967 or by the Social Security Amendments of 1972, to experiments and demonstration projects relating substantially to rural health care issues. Such projects may address issues such as the impact of the PPS on the financial viability of small rural hospitals, the effect of Medicare payment policies on the ability of rural areas and rural hospitals to attract and retain physicians and other professionals, the appropriateness of Medicare conditions of participation for small rural hospitals and the impact of Medicare policies on access to and quality of, health care in rural areas.

Requires the Secretary to develop and report annually to the Congress (as part of the Secretary's annual report on the operation of the Medicare program) an agenda of experiments and demonstration projects relating to rural health care issues that are in progress or proposed, and the amounts obligated and actually spent on such projects in the current and most recent fiscal years.

Effective date.—The amendment made by the first part of (a) applies for discharges occurring on or after January 1, 1988; the other provisions of (a) are effective on enactment. The volume adjustment provision of (c) is effective for reporting periods beginning on or after October 1, 1987. (d) Applies for discharges occurring on or after January 1, 1988. The provisions of (g), (h), and (i) are effective on enactment.

Conference agreement

Part A, Item 2

(a) Revision of Standards for Including a Rural County in an Urban Area.—The conference agreement includes the Senate amendment with modifications. The community criteria in the House provision are included. A hospital located in a rural county which meets the commuting criteria in this provision is treated as being in the appropriate adjacent urban area for discharges occurring on or after October 1, 1988. The Secretary is required to adjust the payment rates, for urban hospitals only, to assure that any reclassification of hospitals from rural to urban is budget neutral.

The conferees intend that the effect of this provision shall be limited to the treatment, for payment purposes, of the hospitals located in qualifying rural counties; the boundaries and population size of the adjacent urban area shall not be altered.

(b) Expansion of Swing-Bed Program.—The conference agreement includes the House provision.

(c) Clarification of Sole Community Provider Status.—The conference agreement includes the Senate amendment with modifications. Additional payments to hospitals that qualify for a volume adjustment under this provision, but are not designated sole community hospitals, are capped at $5 million in FY 1988 and $10 million in FY 1989. The explicit requirement that the Secretary issue instructions to the fiscal intermediaries clarifying the criteria and application procedures for hospitals seeking a volume adjustment, is not included.

(d) Medicare Classification of Rural Referral Centers.—The conference agreement includes the House provision, effective for discharges occurring on or after April 1, 1988.

(e) Improving the Definition of Hospital Labor Market Areas.—The conference agreement does not include the House provision.

(f) Demonstration Projects to Maintain Access to Isolated and Financially Distressed Rural Sole Community Hospitals.—The conference agreement does not include the House provision.

(g) Grant Program for Rural Health Care Transition.—The conference agreement includes the Senate amendment with modifications. The statement of the purpose of the program is amended. Grants are intended to support projects designed to demonstrate appropriate methods of strengthening the financial and managerial ability of isolated and financially distressed rural hospitals to provide high quality care. Such methods could include cooperative arrangements with other providers, diversification, physician recruitment, and improved management systems. Eligibility for grants is restricted to private not-for-profit hospitals which meet the other criteria included in the Senate amendment. The exemption, from the provisions of section 1122, of capital expenditures undertaken to implement an approved project, is not included.

(h) Office of Rural Health Policy.—The conference agreement includes the Senate amendment.

(i) Set Aside for Experiments and Demonstration Projects Relating to Rural Health Care Issues.—The conference agreement includes the Senate amendment with modifications. The Secretary is required to set aside specified portions of total spending for experiments and demonstrations during the three-year period beginning with FY 1988. The Secretary is required to allocate at least an additional ten percent of the total spending on experiments and demonstrations to projects relating substantially to health care issues of inner-city areas. The list of issues such projects may address is modified to reference both inner-city hospitals and inner-city areas as well as rural hospitals and rural areas. The requirement that the Secretary report to the Congress annually regarding the agenda of projects and spending related to rural health issues is extended to include projects and spending related to health issues in inner-city areas.

3. Payments for Capital-Related Costs (Section 9203 of House bill; Section 4003 of Senate amendment).

Present law

(a) Reductions in Payments for Capital.—Inpatient hospital capital-related costs, such as depreciation and interest, are excluded from PPS payments and are reimbursed on a reasonable cost basis. OBRA required the Secretary to reduce capital payments from amounts otherwise allowable by 3.5 percent in FY 1987, 7 percent in FY 1988, and 10 percent in FY 1989. P.L. 100-119 maintained the payment reduction at the 3.5 percent level through November 20, 1987.

(b) Prospective Payment for Capital-Related Costs.—(1) The Social Security Amendments of 1983 (P.L. 98-21) required the Secretary, beginning in FY 1987, to include inpatient capital-related costs in PPS payments. The Urgent Supplemental Appropriations Act of 1986 (P.L. 99-349) postponed the inclusion of capital until FY 1988. OBRA gave the Secretary the discretion to postpone inclusion until a subsequent fiscal year of his choosing, and prohibited him from issuing a final rule relating to capital prior to September 1, 1987. On September 1, the Secretary published a final rule providing for phased implementation of prospective payment of capital-related costs. P.L. 100-119 extended the prohibition against rulemaking through November 20, 1987.

(2) P.L. 98-21 also provided that, unless Congress enacted legislation relating to capital payment prior to October 1, 1986, the Secretary could make no payment to a hospital for capital costs related to expenditures obligated by the hospital after September 30, 1986, unless the expenditures had been approved by a State planning agency with which the Secretary had entered into an agreement for the review of proposed capital expenditures pursuant to section 1122(b) of the Act. P.L. 99-349 postponed the date on which the State review requirement would go into effect to October 1, 1987. The Secretary has contended that the inclusion in OBRA of amendments related to capital costs constituted the legislation needed to nullify the requirement for 1122(b) State review agreements.

(c) ProPAC Report on Adjustment for Hospital Occupancy.—No provision.

House bill

(a) Reductions in Payments for Capital.—Provides that the payment reduction percentage for portions of cost reporting periods beginning after November 20, 1987, is 8.5 percent. Extends the 10 percent FY 1989 reduction through FY 1990.

(b) Prospective Payment for Capital-Related Costs.—(1) Requires the Secretary to establish a prospective payment system for capital-related costs of PPS hospitals for cost reporting periods beginning in FY 1992, and removes his authority in FY 1992, and removes his authority to establish a system at any earlier date.

Requires the system to provide for payment on a per discharge basis with appropriate weighting for the type of discharge. Permits adjustments for hospital occupancy rate and for variations in construction or capital costs by area or type of facility. Permits the Secretary to grant exceptions to reflect capital obligations or for other reasons.

The term "capital-related costs" has the meaning given to it by the Secretary as of September 30, 1987.

(2) Deletes the requirement for 1122(b) agreements with State agencies. Conforming amendments delete other requirements which would have applied only to a prospective payment system for capital costs implemented prior to FY 1991.

(c) ProPAC Report on Adjustment for Hospital Occupancy.—Requires ProPAC to study and report to the House Ways and Means and Senate Finance Committees, no later than May 1, 1988, on the suitability and feasibility of linking Medicare capital payment to hospital occupancy rates.

Effective Date.—(a) Applies to portions of cost reporting periods occurring after November 20, 1987. The requirement in section (b) for establishment of a prospective payment system for capital is effective October 1, 1987. The conforming amendments removing provisions applicable to such a system prior to FY 1991 are effective for cost reporting periods beginning on or after October 1, 1987, as is the removal of the Secretary's discretion to establish prospective payment for capital prior to FY 1992. All other provisions are effective on enactment.

Senate amendment

(a) Reduction in Payments for Capital.—Sets the payment reduction percentage for FY 1988 at 12 percent and establishes a 12 percent reduction for FY 1989 and a 10 percent reduction for FY 1990. For FY 1988, the reduction applies for portions of cost reporting periods or discharges occurring during FY 1988 after January 1, 1988. The reductions for FY 1989 and 1990 apply to portions of cost reporting periods or discharges occurring during those years.

(b) Prospective Payment for Capital-Related Costs.—(1) Postpones until FY 1992 the Secretary's authority to include capital-related costs in PPS payments.

The Secretary is prohibited from changing the definition of capital-related costs or the methodology for computing payment for capital-related costs for any inpatient hospital services. Any regulation violating this rule and published between August 1, 1987, and enactment is void, and such a regulation would not be recognized for the purposes of Gramm-Rudman. The rule does not apply to any regulation implementing the payment reduction percentages for capital-related costs.

(2) No provision.

(c) ProPAC Report on Adjustment for Hospital Occupancy.—No provision.

Effective Date.—The change in payment reduction percentages is effective for portions of cost reporting periods or discharges occurring after January 1, 1988.

Conference agreement

(a) Reduction in Payments for Capital.—The conference agreement includes the Senate amendment, with modifications. The payment reduction is increased to 12 percent for FY 1988, effective for discharges or portions of cost reporting periods occurring on or after January 1, 1988. For discharges or portions of cost reporting periods occurring in FY 1989, the reduction is 15 percent. The payment reduction for FY 1990 is eliminated.

(b) Prospective Payment for Capital-Related Costs.—The conference agreement includes the House provision.

Under the agreement, capital-related costs will be added to the Prospective Payment System as of October 1, 1991.

At that point, hospitals will have had more than eight years since the Congress originally indicated its intent in 1983 to reimburse for capital-related costs on a prospective basis.

(c) ProPAC Report on Adjustment for Hospital Occupancy.—The conference agreement includes the House provision.

4. Extension of Reductions under Sequester Order (Section 4014 of Senate Amendment).

Present law

On November 20, 1987, the President issued a final sequester order pursuant to the requirements of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (P.L. 100-119). Under the terms of the sequester order, Medicare benefit payments for services rendered on or after November 21 and before the end of the fiscal year are reduced by 2.324 percent, to yield an aggregate reduction in benefit payments of 2 percent over the entire fiscal year.

House bill

No provision.

Senate amendment

Provides that the reductions in Medicare payment amounts required by the final sequester order shall continue to be effective for all services through December 31, 1987.

Effective date.—Enactment.

Conference agreement

The conference agreement includes the Senate amendment, with a modification to provide that the reductions in Medicare payment amounts required by the sequester order shall continue to be effective for hospital inpatient services through March 31, 1988.

5. Reporting Hospital Information (Section 9204 of House bill; and Section 4001(d) of Senate amendment)

Present law

(a) In General.—The Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977 (P.L. 95-142) required the Secretary to establish within one year of enactment uniform reporting requirements for inpatient hospitals and other providers. The Social Security Amendments of 1983 required the Secretary to maintain, at least until September 30, 1988, a system for the reporting of cost information by PPS hospitals.

(b) Conformity of Hospital Cost Reporting Periods.—Under current practice, the cost reporting periods used for hospitals conform to the fiscal years used in hospitals' internal accounting systems.

(c) Hospital Cost Data Base.—No provision.

House bill

(a) In General.—Specifies that the existing reporting system is applicable only for cost reporting periods beginning prior to October 1, 1988, and establishes new specific reporting requirements for fiscal intermediaries and hospitals. Specifies minimum service, cost, revenue, and other information to be included in reports. Defines the term "class" of payer and allows the Secretary to define the terms "bad debt" and "charity care."

(1) Quarterly reporting by fiscal intermediaries.—Requires each fiscal intermediary to compile and submit a quarterly summary and hospital-specific report within 45 days after the end of each quarter. Reports are to be based on information received from hospitals during the previous 4 calendar quarters. Reports are to be provided to the House of Ways and Means and Senate Finance Committee, the Administrator of the Health Care Financing Administration, the Congressional Budget Office, and the Congressional Research Service.

(2) Annual reporting by each hospital.—Requires each hospital to submit its annual report to the fiscal intermediary within 90 days after the end of the hospital's cost reporting period. Reports are to include a financial statement and other information necessary to complete the report to be filed by the fiscal intermediary. In the event of late filing, payments to the hospital for the second succeeding quarter are to be reduced by 5 percent. Allows multiple hospitals under the joint ownership or control of a health maintenance organization or similar entity to file consolidated reports.

Requires the Secretary to develop a system for annual reporting which is compatible with the needs of PPS and which facilitates the electronic transmission of the information in the reports. See item 5(c), below.

Requires the Secretary to publish a notice of proposed rulemaking relating to annual reports no later than June 30, 1988, and a final rule no later than September 30, 1988. Requires hospitals which receive more than $10 million in Medicare payments during a cost reporting period beginning in FY 1991 or a subsequent year (or any other hospital, at the Secretary's discretion) to file the annual reports electronically.

(b) Conformity of Hospital Cost Reporting Periods.—Requires each hospital, other than one owned by State or local government, to establish a cost reporting year ending on March 31, June 30, September 30, or December 31. Permits the Secretary to make grants of up to $100,000 from the Hospital Insurance Trust Fund to assist hospitals in changing to an accounting year ending on September 30.

(c) Hospital Cost Data Base.—No provision.

Effective date.—(a) Applies to hospital cost reporting periods beginning on or after October 1, 1988; (b) applies to cost reporting periods beginning on or after January 1, 1989.

Senate amendment

(a) In General.—No provision.

(b) Conformity of Hospital Cost Reporting Periods.—No provision.

(c) Hospital Cost Data Base.—Requires the Secretary to develop two data bases on operating costs of inpatient hospitals, one for a representative sample of hospitals, the other for all hospitals participating in Medicare.

Provides that the data base on the sample of hospitals would be for use by Congress and the Secretary in determining annual increases in PPS rates and target amounts for PPS-exempt hospitals, and for evaluating other payment adjustments and legislative, regulatory, or budgetary changes. In selecting the sample, the Secretary is to choose PPS hospitals with cost reporting periods beginning in the first 4 months of the Federal fiscal year and, to the extent practicable, provide adequate representation of small rural hospitals, sole community hospitals, and rural referral centers. The Secretary is required to report to Congress on this data base no later than October 1, 1988.

Provides that the Secretary is to develop and place into effect the data base for all hospitals no later than June 1, 1989. The data base would be updated at least once every quarter and include data for the 12-month period preceding each update. Data could be drawn from preliminary cost reports, so long as the Secretary made available an update analysis of the differences between preliminary and settled cost reports.

Provides that, for cost reporting periods beginning on or after October 1, 1989, the Secretary is required to place into effect a standardized electronic cost reporting format, developed in consultation with hospital industry representatives. The Secretary could delay or waive implementation of the format for small or rural hospitals, hospitals with a small percentage of Medicare volume, or others for whom implementation would result in financial hardship.

Effective date.—Enactment.

Conference agreement

The conference agreement includes the Senate amendment with modifications. The provision regarding the development of a data base from the sample of all PPS hospitals with cost reporting periods beginning in the first four months of the Federal fiscal year, is not included. The Secretary is required to conduct a demonstration project on hospital reporting in two states for a three year period. Within one year of enactment, the Secretary must develop a reporting format to collect information on hospital costs, revenues and charges, similar to the formats used in the statewide reporting systems in California and New York. The Secretary is required to implement the reporting format to collect data in two states for the remaining two years.

In selecting the two demonstration states, the Secretary must include one state which presently has a uniform reporting system. The conferees intend that the Secretary will select the State of California to meet this requirement. The Secretary is also required to select the second demonstration State from among those States which do not presently operate such a system. The conferees intend that compliance with the requirements of the new reporting system will be mandatory for all hospitals located in a demonstration State.

The Secretary is required to set aside at least $1 million per year from existing funds for research and demonstrations for development of the reporting format and at least $2 million per year from existing funds for program operations for data collection and analysis. Total funds expended for these projects may not exceed $15 million over the three year period.

The General Accounting Office (GAO) is required to evaluate the adequacy of the existing reporting system and the costs and benefits of the reporting system developed in the demonstration project. GAO is also required to make recommendations to the Congress regarding improvements in hospital reporting systems and in methods of data analysis and display to provide better support for policy making on hospital payment issues.

The conferees commend the Secretary for recent improvements in the transmittal of data from the hospital cost reporting system. However, further improvements can be attained. The conferees wish to make clear that we (they) expect the Secretary to proceed expeditiously to analyze the data processing systems under his control in order the expedite the flow of data from hospital to intermediaries to decision-makers within the Department and the Congress.

6. Delay in Effective Date for Standards for Organ Procurement (Section 4080 of House bill; Section 4001(q) of Senate amendment).

Present law

The Omnibus Budget Reconciliation Act of 1986 provided that Medicare payments for organ procurement would not be made unless the organ procurement agency involved met specified requirements and was designated by the Secretary as the sole procurement agency for its service area.

The law also required Medicare-participating hospitals to establish protocols for making a routine inquiry for organ donation by potential donors. In addition, it required all hospitals performing transplants, as a prerequisite to participation in Medicare, to be members of the National Organ Procurement and Transplantation Network.

Under the Omnibus Budget Reconciliation Act of 1986, these provisions were originally to be effective as of October 1, 1987. The Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, however, changed this effective date to November 21, 1987.

House bill

Extends the effective date by which the Secretary must complete the organ procurement agency designation process to April 1, 1988.

Effective date.—Enactment.

Senate amendment

Extends to December 31, 1988, the effective date by which the Secretary must complete the organ procurement agency designation process, the effective date for the requirements for hospital protocols for organ procurement, and the effective date for requiring hospitals to be members of the Network.

Effective date.—Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

Conference agreement

The conference agreement includes the Senate amendment with modifications. The delay would only apply to the designation of organ procurement organizations, effective March 31, 1988. Payments for organ procurement would be assured as if this provision had been included in OBRA.

7. Raising Threshold for Prospective Payment for Skilled Nursing Facilities to 2,500 Patient Days (Section 9205 of House bill)

Present law

Skilled nursing facilities (SNFs) which provided fewer than 1,500 days of care per year to Medicare patients during the preceding cost reporting period are offered the option of being paid a prospective rate rather than being reimbursed retrospectively on the basis of reasonable costs actually incurred. By accepting the prospective payment method, these SNFs have fewer paperwork requirements.

The prospective payment rates are set at 105 percent of the average per diem reasonable routine service and capital-related costs of routine SNF services for all urban and rural skilled nursing facilities in the region. The rates are separately calculated for SNFs located in urban areas and for SNFs located in rural areas. The prospective rates exclude the reasonable costs of ancillary services; these costs are reimbursed separately. The rates also are adjusted to reflect differences in wage levels among urban areas and rural areas within each region. The prospective urban or rural regional per diem rate for a SNF may not exceed the per diem routine service cost limit otherwise applicable to that facility after taking into account differences in average per diem capital costs by type and location of facility.

Prospective payment on this basis took effect for facilities that elected such payment for cost reporting periods beginning on or after October 1, 1986.

House bill

Raises the maximum number of days of care from 1,500 to 2,500 a SNF may provide to Medicare beneficiaries before losing the option of prospective payment.

Effective date.—Applies to cost reporting periods beginning on or after October 1, 1989.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House provision.

8. Nursing Home Reforms (Sections 9211-9214 and 4111-4117 of House bill; Section 4051 of Senate amendment)

See: "E. Medicare and Medicaid Nursing Home Standards Reform Provisions".

9. Miscellaneous and Technical Provisions Relating to Part A (Section 9206 of House bill; Sections 4001 (c), (k) (l), (m), (n), and 4086 of Senate amendment)

Present law

(a) Responsibilities of Medicare Hospitals in Emergency Cases.—A hospital participating in the Medicare program which has an emergency department is generally required to provide emergency treatment sufficient to stabilize the patient's condition to any person who comes to the hospital with an emergency medical condition or in active labor. If the hospital determines that such a condition exists, it must (1) provide, within its capabilities, examination and treatment to stabilize the medical condition or to administer to the labor; or (2) provide for an appropriate transfer to another medical facility if a physician certifies that the benefits of the transfer outweigh the increased risks (or if the patient requests the transfer).

A hospital which violates these requirements is subject to suspension or termination of its Medicare provider agreement. The hospital and the responsible physician are each subject to a civil monetary penalty of not more than $25,000 for each violation.

(b) Clarification of Section 1886(c) State Waiver Authority.—State hospital cost control systems which received their waivers before the enactment of the Social Security Amendments of 1983 (the law which established Medicare's prospective payment system for inpatient hospitals) may have their effectiveness judged in one of two ways. The Secretary normally judges the system's effectiveness on the basis of the State's rate of increase in total Medicare payments for hospital inpatient services as compared to the national rate of increase in such payments. At the request of the State, however, the Secretary is required to judge the system's effectiveness on the basis of the rate of increase in aggregate payments per admission or per discharge in the State as compared to the rate of increase in the nation.

The Secretary may deny such a request for cost reporting periods beginning on or after October 1, 1986.

(c) Clarification of Section 1814(b) State Waiver Authority.—Under certain conditions, the Secretary may continue payment to hospitals under an alternative State hospital reimbursement system, which was initially established as a demonstration under Section 402 of the Social Security Amendments of 1967 or Section 222 of the Social Security Amendments of 1972, until the Secretary determines that: (1) a third party payer reimburses a hospital in the State on a basis other than the alternative system; or (2) the rate of increase in Part A costs per inpatient hospital admission for the previous 3-year period is greater than the national rate of increase in such costs.

(d) Continuation of Bad Debt Recognition for Hospital Services.—By regulation, Medicare reimburses hospitals for Medicare bad debt, defined as the unrecovered costs associated with unpaid Medicare deductible and coinsurance amounts. In order for the unpaid deductible and coinsurance amounts to be considered bad debt, the amounts must be related to covered services furnished to a beneficiary and the hospital must meet certain collection criteria.

(e) Hospital Outlier Payments and Policy.—Under the prospective payment system (PPS), additional amounts are paid to hospitals for cases, known as outliers, which have extremely long lengths of stay or extraordinary high costs compared to most patients classified in the same diagnosis related group (DRG). Cases which have a length of stay which exceeds the applicable length of stay threshold for the DRG are paid 60 percent of a per diem amount for each covered day beyond the threshold. Cases which do not qualify as "day" outliers but have estimated costs in excess of the applicable cost threshold for the DRG ("cost outliers") are paid 60 percent of costs above the threshold. The 60 percent factor, applied in determining extra payments for day and cost outliers, is determined by the Secretary in regulations.

The law requires that total outlier payments to all hospitals represent no less than 5 percent nor more than 6 percent of the total PPS payments based on the DRGs projected for the fiscal year. Outlier payments are financed by an offsetting reduction in the Federal portion of the DRG rates, with separate set-aside factors for urban and rural hospitals.

In a notice published on June 10, 1987, the Secretary proposed to make substantial changes in the payment policy for outlier cases, effective for discharges occurring during fiscal year 1988. In the final notice published on September 1, 1987, however, the Secretary decided not to adopt any change in the current policy.

(f) Miscellaneous Accounting Provision.—The Omnibus Budget Reconciliation Act of 1986 requires the Secretary to treat certain hospitals with accounting years ending on September 27, 28, or 29 as if the accounting years ended on September 30.

(g) Designation of Pediatric Hospitals as Meeting Certification as Heart Transplant Facility.—Under current law, the Secretary certifies cardiac transplant centers for Medicare participation and for Medicare reimbursement for transplant services. Under current regulations, no pediatric centers are certified.

(h) Waiver of Inpatient Limitations for Connecticut Hospice, Inc.—Medicare-certified hospices are required to maintain no more than 20 percent of total days as inpatient days. The remaining percentage of days would be home care days. The Omnibus Budget Reconciliation Act of 1986 provided a 2-year waiver (until October 1, 1988) for Connecticut Hospice, Inc. from the 20 percent/80 percent inpatient/home care day requirement, provided that the percentage of inpatient days does not exceed 50 percent.

(i) Revision of Appointment Process for Prospective Payment Assessment Commission.—When appointing members to the Prospective Payment Assessment Commission (ProPAC), the Director of the Office of Technology Assessment (OTA) is required to consult with a variety of national organizations in seeking nominations.

(j) Rural Impact Regulatory Analysis.—There is currently no requirement that the Secretary include, in a proposed final rule, an analysis of the regulation's impact on rural areas.

(k) Psychologists Services Furnished to Hospital Inpatients.—Inpatient hospital services covered under Medicare include the category of "other diagnostic or therapeutic items or services, furnished by the hospital or others under arrangements with them made by the hospital, as are ordinarily furnished to inpatients either by such hospital or others under such arrangements." Under this category Part A covers the inpatient hospital services of psychologists employed by or providing services under arrangements with hospitals.

(l) Hospital Condition of Participation Related to Individual Responsible for Care of Patient.—Medicare's conditions of partici-

pation for hospitals require that every patient at the hospital be under the care of a physician. Medicare does not generally include psychologists under the definition of a physician.

Under some State laws, a psychologist may admit a patient to a hospital and treat the patient. The Civilian Health and Medical Program of the Uniform Services (CHAMPUS) and the Federal Employees Health Benefits Act (FEHBA) currently allow coverage of services of psychologist in accordance with State law.

Because Medicare's conditions of participation apply to all patients in the hospital, not only to Medicare patients, the Medicare conditions may negate State law and the CHAMPUS and FEHBA policies for any Medicare-participating hospital.

(m) Technical Part A Amendments.—(1) Technical Changes.—Current law contains a number of technical errors.

(2) Disproportionate Share Hospitals.—Additional payments are made to PPS hospitals that serve a disproportionate share of low-income patients. Under one criterion, a hospital located in an urban area, which has 100 or more beds, may receive such payments if it can demonstrate that more than 30 percent of its inpatient care revenues (excluding any Medicare or Medicaid revenues) are provided by State and local government payments for indigent care.

There has been controversy over the interpretation of current statutory language which refers to inpatient care revenues as "net inpatient care revenues" in one location, but refers to "such revenues" has been interpreted to mean either gross inpatient revenues (revenues the hospital would receive if all patients paid the hospital's full charges) or net inpatient revenues (gross revenues minus bad debts, contractual allowances, and charity care).

House bill

(a) Responsibilities of Medicare Hospitals in Emergency Cases.—Increases the maximum civil monetary penalty to $50,000 and authorizes the Secretary to bar physicians who violate the requirements from participating in the Medicare program for up to five years.

Effective date.—Applies to actions occurring on or after the date of enactment of this Act.

(b) Clarification of Section 1886(c) State Waiver Authority.—Clarifies that either the State or the entity responsible for the operation of the State hospital cost control system, may exercise the option regarding the basis on which the Secretary judges the system's effectiveness.

Effective date.—Applies to cost reporting periods beginning on or after October 1, 1983.

(c) Clarification of Section 1814(b) State Waiver Authority.—Requires the Secretary, in comparing the rate of increase in Medicare costs per admission for the alternative reimbursement system with the rate of increase for all hospitals, to make the comparison over the period from October 1, 1983 to the end of the most recent date for which annual data are available.

Effective date.—Enactment.

(d) Continuation of Bad Debt Recognition for Hospital Services.—Prohibits the Secretary from making any change in policy in effect on August 1, 1987 on payments for Medicare bad debt.

Effective date.—Enactment.

(e) Hospital Outlier Payments and Policy.—(1) Increase in Outlier Payment for Burn Center DRGs.—Increases payments for outlier cases classified in DRGs relating to burns by changing the percentage factor applied in determining outlier payments from 60 percent to 90 percent. Thus burn cases which stay beyond the appropiate day outlier threshold would receive 90 percent of the applicable per diem for each outlier day. Cost outliers in burn DRGs would receive 90 percent of the cost of care above the cost outlier threshold. This reimbursement level would apply to discharges occurring during fiscal years 1988 and 1989.

(2) Burn Study.—Requires the Secretary to study the PPS payment amounts for burn cases. The Secretary is required to recommend to Congress appropriate adjustments to these amounts to assure that the costs of treating burn patients are being adequately reimbursed.

(3) Limitation on Changes in Outlier Regulations.—Prohibits the Secretary from issuing any final regulation which changes the method of payment for outlier cases, after the date of enactment of this Act and before October 1, 1988.

(4) Study on Outlier Payments.—Requires the Chairman of the Prospective Payment Assessment Commission to report to Congress and the Secretary, by not later than June 1, 1988, on the method of payment for outlier cases.

Effective date.—Enactment.

(f) Miscellaneous Accounting Provision.—Amends prior law for hospitals with accounting years ending on September 27, 28, or 29 in 1985 and are located in a State in which inpatient hospital services were paid in fiscal year 1985 pursuant to a statewide demonstration project under Section 402 of the Social Security Amendments of 1967 and Section 222 of the Social Security Amendments of 1972. If such a hospital elects, by notice to the Secretary by January 1, 1988, the hospital would receive payments for: (1) the first 7 months of the cost reporting period, which began during September 1985, at a 75 percent hospital-specific rate and a 25 percent DRG rate; and (2) the remaining 5 months at a 50 percent hospital-specific rate and a 50 percent DRG rate.

Effective date.—Applies as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

(g) Designation of Pediatric Hospitals as Meeting Certification as Heart Transplant Facility.—Requires the Secretary to determine that a pediatric hospital meets the criteria of a Medicare heart transplant facility if: (1) the hospital's pediatric heart transplant program is operated jointly by the hospital and another facility that meets such criteria, (2) the unified program shares the same transplant surgeons and quality assurance program (including oversight committee, patient protocol, and patient selection criteria), and (3) the hospital demonstrates to the satisfaction of the Secretary that it is able to provide the specialized facilities services, and personnel that are required by pediatric heart transplant patients. (See also Item 9, Part II.B.)

Effective date.—Enactment.

(h) Waiver of Inpatient Limitations for Connecticut Hospice, Inc.—Provides that the existing 2-year waiver from the 20 percent/80 percent inpatient/home care day requirement is permanently waived.

Effective date.—Enactment.

(i) Revision of Appointment Process for Prospective Payment Assessment Commission.—Section 9206.—Repeals the requirement that the OTA Director seek nominations from various organizations. The OTA Director is required to appoint individuals with national recognition for their expertise in health economics, hospital reimbursement, hospital financial management, and other related fields.

Section 4075 and 4076.—No provision.

Effective date—

Section 9206.—Applies to appointments made after the date of enactment of this Act.

(j) Rural Impact Regulatory Analysis.—

Section 9206.—Requires the Secretary—in publishing notices of proposed and final regulations relating to Part A of Medicare—to include an analysis of the impact of such regulations on health care in rural hospitals.

Effective date.—

Section 9206.—Applies to regulations (and proposed regulations) issued on or after January 1, 1988.

Section 4073.—Applies to regulations published more than 120 days after the date of enactment of this Act.

(k) Psychologists Services Furnished to Hospital Inpatients.—No provision.

(l) Hospital Condition of Participation Related to Individual Responsible for Care of Patient.—No provision.

(m) Technical Part A Amendments.—(1) Technical Changes.—Corrects a number of technical errors.

(2) Disproportionate Share Hospitals.—Clarifies that a hospital would qualify if more than 30 percent of its net inpatient care revenues (excluding any Medicare or medicaid revenues) are provided by State and local government payments for indigent care.

Effective date.—Enactment.

Senate amendment

(a) Responsibilities of Medicare Hospitals in Emergency Cases.—No provision.

(b) Clarification of Section 1886(c) State Waiver Authority.—No provision.

(c) Clarification of Section 1814(b) State Waiver Authority.—Similar provision.

Effective date.—Enactment.

(d) Continuation of Bad Debt Recognition for Hospital Service.—Similar provision, except that it specifies that the Secretary is prohibited from issuing regulations to alter the method in effect on March 31, 1987 for making payments for Medicare bad debt (including criteria for what constitutes a reasonable collection effort).

Effective date.—Enactment.

(e) Hospital Outlier Payments and Policy.—(1) Increase in Outlier Payments for Burn Center DRGs.—Similar provision, except that it includes a budget neutrality provision and clarifies that, it shall apply to discharges occurring on or after January 1, 1988, and before October 1, 1989.

(2) Burn Study.—Requires ProPAC to conduct a study of possible modifications to PPS that will provide more adequate and appropriate payments with respect to burn outlier cases, including a recommendation with respect to whether separate payment rates should be established for burn center hospitals. ProPAC is required to report the results of the study to the Congress by April 1, 1988.

(3) Limitation on Changes in Outlier Regulations.—No provision.

(4) Study on Outlier Payments.—Requires the Secretary to include in the annual report to Congress regarding the operation and administration of the Medicare program a comparison of hospitals located in an urban area and hospitals located in a

rural area regarding the amount of reductions and additional payments for outliers.

Effective date.—(1) Applies to discharges occurring on or after January 1, 1988, and before October 1, 1989, (2) and (4) Enactment.

(f) Miscellaneous Accounting Provision.—No provision.

(g) Designation of Pediatric Hospitals as Meeting Certification as Heart Transplant Facility.—No provision.

(h) Waiver of Inpatient Limitation for Connecticut Hospice, Inc.—Identical provision.

Effective date.—Enactment.

(i) Revision of Appointment Process for Prospective Payment Assessment Commission.—No provision.

(j) Rural Impact Regulatory Analysis.—Requires the Secretary—whenever he or she publishes a general notice of proposed rulemaking for any rule or regulation proposed under Medicare, Medicaid, or the peer review organization program, that may have a significant impact on a substantial number of small rural hospitals—to prepare and make available for public comment an initial regulatory impact analysis.

Requires that analysis to describe the impact of the proposed rule or regulation on such hospitals and is required to set forth, with respect to small rural hospitals, the matters required under Section 603 of Title V, United States Code—to be set forth with respect to small entities.

Requires the initial regulatory impact analysis (or a summary) to be published in the Federal Register at the time of the publication of general notice of proposed rulemaking for the rule or regulation.

Requires the Secretary—whenever he or she promulgates a *final* version of a rule or regulation for which an initial regulatory impact analysis is required by the above—to prepare a final regulatory impact analysis with respect to the final version of the rule or regulation.

Requires that analysis to describe the impact of the proposed rule or regulation on such hospitals and is required to set forth, with respect to small rural hospitals, the matters required under Section 603 of Title V, United States Code—to be set forth with respect to small entities.

Requires the Secretary to make copies of the final regulatory impact analysis available to the public and to publish, in the Federal Register at the time of publication of the final version of the rule or regulation, a statement describing how a member of the public may obtain a copy of such analysis.

Requires—if a regulatory flexibility analysis is required by Chapter 6 of Title V, United States Code, for a rule or regulation to which this subsection applies, such analysis shall specifically address the impact of the rule or regulation on small rural hospitals.

Effective date.—Applies to regulations proposed more than 30 days after the date of the enactment of this Act.

(k) Psychologists Services Furnished to Hospital Inpatients.—Specifies that Medicare coverage for "other diagnostic or therapeutic items or services" furnished to hospital inpatients by "others under arrangements with them made by the hospital" includes the services of clinical psychologists (as defined by the Secretary). This provision clarifies that Part A covers the inpatient hospital services of clinical psychologists.

Effective date.—Enactment.

(l) Hospital Condition of Participation Related to Individual Responsible for Care of Patient.—Modifies Medicare's conditions of participation so that the requirement that every patient at the hospital be under the care of a physician applies only to Medicare patients at the hospital, thereby allowing State law to apply to other patients.

Effective date.—Enactment.

(m) Technical Part A Amendments.—No provision.

Conference agreement

(a) Responsibilities of Medicare Hospitals in Emergency Cases.—The conference agreement includes the House provision.

(b) Clarification of Section 1886(c) State Waiver Authority.—The conference agreement includes the House provision with a modification. The conference agreement does not include the clarification contained in the House provision. The conference agreement prohibits the Secretary from recouping, or otherwise reducing payments to Massachusetts hospitals for any alleged overpayments which may have occurred during the period of the Waiver agreement, through January 1, 1989.

(c) Clarification of Section 1814(b) State Waiver Authority.—The conference agreement includes the House provision.

The conferees note that there is confusion regarding the application of the sequester to Medicare payments to providers paid under a waiver held by the State of New Jersey. The State of New Jersey is free to provide an update to hospitals, subject to the terms of its waiver. No reduction in payments under the sequester is intended beyond the reduction experienced by other hospitals.

(d) Continuation of Bad Debt Recognition for Hospital Services.—The conference agreement includes the House provision, with an amendment to prohibit the Secretary from modifying the criteria for what constitutes a reasonable collection effort) in effect on March 31, 1987.

(e) Hospital Outlier Payments and Policy.—The conference agreement includes the House provision with modifications. The budget neutrality provision required by the Senate amendment is included. The conference agreement also requires the Secretary to include in the annual report to Congress (regarding the operation and administration of the Medicare program) a comparison of the amount of reductions and additional payments for outliers for hospitals located in an urban area and hospitals located in a rural area. The conference agreement does not include the ProPAC study of the method of payment for outliers required by the House provision.

(f) Miscellaneous Accounting Provision.—The conference agreement includes the House provision.

(g) Designation of Pediatric Hospitals as Meeting Certification as Heart Transplant Facility.—The conference agreement includes the House provision.

The conferees note that the conference agreement should not be construed as an endorsement of the provision of cardiac transplant services by consortia of hospitals.

(h) Waiver of Inpatient Limitations for Connecticut Hospice, Inc.—The conference agreement includes the House provision.

(i) Revision of Appointment Process for Prospective Payment Assessment Commission.—The conference agreement includes the House provision, with a modification to require the Commission to include a mix of professionals, broad geographic representation, and balance between urban and rural representatives.

(j) Rural Impact Regulatory Analysis.—The conference agreement includes the Senate amendment.

(k) Psychologists Services Furnished to Hospital Inpatients.—The conference agreement includes the Senate amendment.

(l) Hospital Condition of Participation Related to Individual Responsible for Care of Patients.—The conference agreement includes ths Senate amendment.

(m) Technical Part A Amendments.—The conference agreement includes the House provisions.

10. Elimination of Periodic Interim Payment System (PIP) for Certain Hospitals (Section 4004(a)-(c) of Senate Amendment).

Present law

OBRA requires the Secretary, under certain circumstances, to continue making payments to PPS hospitals for inpatient services furnished to Medicare beneficiaries on a periodic interim payment (PIP) basis, rather than on the basis of bills actually submitted.

One such circumstance involves certain disproportionate share hospitals (DSH), hospitals which receive additional payments under PPS because they serve a disproportionate share of low income patients. A DSH which has a disproportionate share adjustment percentage of at least 5.1 percent, continues to receive periodic interim payments if it meets certain conditions: (1) it requests such payments; (2) it was being paid on that basis as of June 30, 1987, and (3) it continues to meet the other eligibility requirements that were in effect on October 1, 1986. P.L. 100-119 provides that a law or regulation that has the effect of transferring outlays or revenues from one fiscal year to an adjacent fiscal year cannot be treated as altering the budget deficit, unless it meets certain conditions such as, including a stipulation that the transfer "is a necessary (but secondary) result of a significant policy change".

House bill

No provision.

Senate amendment

Prohibits payment on the basis of periodic interim payments for disproportionate share hospitals on or after July 1, 1990.

Authorizes the Secretary to continue payments to a DSH on a PIP basis after that date (for such period as the Secretary deems appropriate) if the hospital demonstrates to the Secretary that discontinuing PIP payments would pose an immediate threat to the hospital's ability to operate.

Requires the Secretary to defer the PIP payments that would otherwise be made to any DSH hospitals during at least the last 21 days of fiscal year 1989, until fiscal year 1990.

Stipulates that the transfer of outlays due to this provision "is a necessary (but secondary) result of a significant policy change".

Effective date.—Effective on enactment.

Conference agreement

The conference agreement does not include the Senate amendment.

B. MEDICARE PROVISIONS (PARTS A AND B)

1. Prompt Pay Standard (Sections 9231 and 4074. of House bill; Sections 4011 (a) and (c) of Senate amendment).

Present law

At least 95 percent of "clean" claims for Part A services (for Medicare claims not paid on periodic interim payment basis) are required to be paid within 30 calendar days after the day on which a clean claim is recieved in FY 1987, 26 days in FY 1988, 25 days in FY 1989, and 24 days in FY 1990 and thereafter. A clean claim is one which has no defect or impropriety (including lack of any required substantiating documentation) or particular circumstance requiring special treatment that prevent timely payment from being made

If payment is not made for these part A claims by the applicable number of days after the date on which a clean claim is received, interest is required to be paid beginning on the day after the date on which payment was due, and ending on the date payment is made.

The requirements for part B claims are similar, except that for participating physicians the applicable number of days for 95 percent of clean claims to be paid is 19 days in FY 1988, 18 for FY 1989, 17 for FY 1990 and thereafter. Interest accrues for payment not paid within the specified time period.

Current law does not contain any standard regarding the average time over which clean claims shall be paid.

Under P.L. 100-119, the Sercretary is prohibited from taking any action primarily intended, to delay the processing of claims until November 21, 1987.

House bill

(a) Average Time Period.—

Section 9331.—Requires the Secretary to manage a claims payment policy resulting in a specified average time period between receipt of a clean claim and payment by fiscal intermediaries and carriers. In FY 1988, this policy is to apply only to Part A; the average time period will be 20 days. In fiscal years 1989 and 1990, this policy will apply to both Part A and Part B. The average time period will be 23 days in FY 1989 and 25 days in FY 1990.

Requires the Secretary to publish in the Federal Register notice of the particular average payment period required of each fiscal intermediary and carrier for the fiscal year. The notice shall be published (within 30 days after the enactment for FY 1988 and before September 1, 1988 and September 1, 1989 for fiscal years 1989 and 1990, respectively).

Requires the Secretary to provide, to the maximum extent feasible, consistent with the time periods established, that the difference between the average payment period required of each intermediary or carrier for a fiscal year and the actual average payment period of the intermediary or carrier for the previous fiscal year shall be approximately equal.

Section 4074.—Prohibits the Secretary from delaying payments to achieve an increase in the average period of payments under Part B.

(b) Payment Floor Standards.—No provision.

(c) General Accounting Office Report.—

Section 9231.—Requires the Comptroller General to review and report, by March 31, 1988, to the House Committee on Ways and Means and the Senate Committee on Finance on the implementation of the amendments made by this section.

Section 4074.—No provision.

(d) Prohibition of Other Policies Intended to Slow Down Medicare Payments.—

Section 9231.—Prohibits the Secretary from issuing, after the date of enactment of this Act and before October 1, 1990, any other final regulation, instruction, or other policy change (other than those needed to implement this provision) which is primarily intended to have the effect of slowing down claims processing, or delaying payment of claims.

Section 4074.—No provision. [See (a) above.]

(e) Conforming Amendments to Prompt Payment Provisions.—

Section 9231.—Increases the applicable number of days by which at least 95 percent of "clean" claims for Part A services (for Medicare claims not paid on a periodic interim payment basis) are required to be paid for each of the next three fiscal years. For Part A and for Part B, (other than for participating physicians), the ceiling is 28 calendar days for fiscal years 1988, 1989, and 1990 (and 24 days thereafter). For participating physicians the ceiling is 21 calendar days for fiscal years 1988, 1989, and 1990 (and 17 days thereafter).

Section 4074.—No provision.

(f) Budget Considerations.—No provision.

Effective date.—

Section 9231.—Applies on or after October 1, 1987.

Section 4074.—Applies on or after the date of enactment of this Act.

Senate amendment

(a) Average Time Period.—No provision.

(b) Payment Floor Standards.—Establishes a payment floor for Part A and Part B claims, requiring that no Medicare claim shall be issued, mailed, or otherwise transmitted within the applicable number of calendar days after the date on which the claim is received. The applicable number of days shall be 10 days for claims received in the 3-month period beginning July 1, 1988, 11 days for the 12-month period beginning October 1, 1988, and 12 days for the 12-month period beginning October 1, 1989.

Requires the Secretary to provide for such timely amendments to agreements with fiscal intermediaries, contracts with carriers, and regulations, to the extent necessary to implement these provisions on a timely basis.

(c) General Accounting Office Report.—No provision.

(d) Prohibition of Other Policies Intended to Slow Down Medicare Payments.—No provision.

(e) Conforming Amendments to Prompt Payment Provisions.—No provision.

(f) Budget Considerations.—Provides that for purposes of Section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this section [(b) above] is a necessary (but secondary) result of a significant policy change.

Effective date.—(b) Applies to claims received on or after July 1, 1988. (f) Enactment.

Conference agreement

(a) Average Time Period.—The conference agreement does not include the House provision.

(b) Payment Floor Standards.—The conference agreement includes the Senate amendment, with modifications. The applicable number of days shall be 10 days for the 3-month period beginning July 1, 1988, and 14 days for the 12-month period beginning October 1, 1988.

(c) General Accounting Office Report.—The conference agreement does not include the House provision.

(d) Prohibition of Other Policies Intended to Slow Down Medicare Payments.—The conference agreement includes the House provision.

(e) Conforming Amendments to Prompt Payment Provisions.—The conference agreement does not include the House provision.

(f) Budget Consideration.—The conference agreement includes the Senate amendment.

2. Health Maintenance Organization (HMOs) and Competitive Medical Plans (CMPs) (Sections 9232, 4023, and 4079 of the House bill; Section 4092 of the Senate amendment

Present law

(a) Broadening Use of Civil Monetary Penalties and Intermediate Sanctions Against HMOs/CMPs.—HMOs/CMPs must provide assurances to the Secretary that they will not expel or refuse to re-enroll any individual on the basis of health status or need for health services.

For each instance in which an HMO/CMP fails substantially to provide medically necessary items and services to a beneficiary, the Secretary may impose a $10,000 civil monetary penalty. No other sanctions short of contract termination are available for most other kinds of possible HMO/CMP contract or legal violations.

(b) Capitation Demonstration Projects.—The Secretary is authorized to waive provisions of the Act in order to conduct demonstration projects.

(c) Treatment of Michigan Blue Care HMO Network under 50 Percent Rule.—In order to qualify for a Medicare risk contract, an HMO or CMP must have an enrolled population of which not more than 50 percent are Medicare or Medicaid beneficiaries. Blue Care, a Michigan Blue Cross/Blue Shield subsidiary, enrolls individuals and then assigns them to individual HMOs also owned by Michigan Blue Cross/Blue Shield. If Blue Care is the corporate entity contracting directly with Medicare, the 50 percent test would be applied to Blue Care, rather than the individual HMOs contracting with Blue Care.

(d) Assignment of HMO Members for Certain Organizations.—If an HMO or CMP establishes an affiliate or subsidiary as an independent wholly-owned corporation and the affiliate seeks a Medicare risk contract, it must meet the 50 percent test on its own, regardless of the population of the parent organization.

(e) Coverage of Social Worker Services Furnished by an HMO to Its Members.—HMOs, CMPs must make available to Medicare enrollees the full range of Medicare-covered services. In addition, they are responsible for services not ordinarily covered by Medicare; services of a nurse practitioner or clinical psychologist are covered if the same services would be covered by Medicare if it had been provided by a physician.

(f) Delay in Effective Date of Physician Incentive Rules for Health Maintenance Organizations.—OBRA provided for civil money penalties if a hospital or an HMO contracting with Medicare or Medicaid made a direct or indirect payment to a physician as an inducement to reduce or limit services to beneficiaries under his or her care; the physician receiving the payment could also be penalized. For HMOs and CMPs, the provision applies to such payments made on or after April 1, 1989.

(g) Temporary Waiver for Watts Health Foundation.—An HMO/CMP with a Medicare risk contract must have an enrolled population of which not more than 50 percent are Medicare or Medicaid beneficiaries. Waivers are permitted under certain conditions. OBRA narrowed the conditions for waivers but provided that an HMO/CMP which had a waiver in effect on the date of enactment could be permitted to retain the

waiver if the Secretary determined that it was making reasonable efforts to comply with the 50 percent limit or to adhere to a schedule of compliance. The Secretary is authorized to impose sanctions if the organization fails to adhere to an agreed schedule.

(h) Extension of Waivers for Social Heath Maintenance Organizations.—The Deficit Reduction Act of 1987 (DEFRA, P.L. 98-369) required the Secretary to grant 3-year waivers for demonstrations of social health maintenance organizations, which provide integrated health and social services on a prepaid capitated basis. The Secretary was required to submit a final report on the demonstrations to Congress no later than 42 months after enactment (that is, by January 1988).

(i) HMO Payments for Hospital Services.—An HMO/CMP with a Medicare risk contract may elect to have the Medicare program pay directly for hospital inpatient and skilled nursing facility services which are furnished to beneficiaries and for which the HMO/CMP is liable. The amounts expended are deducted from future payment to the HMO/CMP.

(j) Discount and Advance Determination of Payments.—Payment rates for an HMO/CMP are established annually.

(k) Post-Contract Protection for CMP Enrollees.—Priority under the Bankruptcy Code.—No provision.

(l) Task Force on Medicare Capitation.—No provision.

(m) Disabled Individual Classification.—In computing the adjusted average per capita cost (AAPCC) for HMO/CMP rate setting, the Secretary may establish classes of beneficiaries according to age, disability status, and other factors. The Secretary has established classes of disabled beneficiaries under age 65 and classes of beneficiaries aged 65 and over, but no distinct class of persons who are both disabled and aged 65 and over.

(n) Two-Year Extension on Period for Benefit Stabilization.—Each HMO/CMP must develop an adjusted community rate (ACR), an estimate of what it would charge a private member comparable to a Medicare beneficiary for the scope of services covered under its Medicare contract. If an HMO/CMP's ACR is lower than its average project Medicare capitation payment, the HMO/CMP must use the difference to fund supplemental benefits or accept a reduced capitation rate. Alternatively, it may request that a portion of the difference be deposited in a benefit stabilization fund (within the Part A and Part B Trust Funds). The fund may be drawn upon in a future year if the difference between the ACR and the Medicare capitation rate is insufficient to continue financing the HMO/CMP's package of supplemental benefits. A stabilization fund may not be established for any contract period beginning more than 4 years after the enactment of the Deficit Reduction Act of 1984, or July 18, 1988.

(o) Notice to enrollees.—No provision.

House bill

(a) Broadening Use of Civil Monetary Penalties and Intermediate Sanctions Against HMOs/CMPs.—

Section 9232.—Provides that HMOs/CMPs may not engage in any practice which can reasonably be expected to deny or discourage (on the basis of health status) enrollment or reenrollment.

Provides that the Secretary may impose civil monetary penalties or sanctions when he determines that an HMO/CMP denies medically necessary services, imposes charges on enrollees in excess of those permitted by law, violates provisions relating to expulsion of or refusal to reenroll enrollees, enrolls beneficiaries without their knowledge or consent, or misrepresents or falsifies information provided to the Secretary or an enrollee regarding costs, benefits or services provided.

Provides for civil monetary penalties of not more than $25,000 for each violation; penalties may be not more than $100,000 for cases of denial of enrollment on the basis of health status or falsification of information provided to the Secretary. The Secretary may also suspend new enrollments or suspend payments to the HMO/CMP until he is satisfied that violations will not recur. Incorporates existing provisions on administration of civil monetary penalties.

Sections 4023 and 4079.—No provision.

(b) Capitation Demonstration Projects.—

Section 9232.—Prohibits the Secretary from conducting any demonstration projects which involves capitation payments to an organization not eligible for an HMO/CMP contract and which (1) will result in Medicare expenditures of more than $15,000,000 in any year without the specific authorization and direction of Congress; or (2) provides for a capitated payment rate in excess of the rates payable to risk-contracting HMOs under current law. The Comptroller General is required to report annually to Congress on any such demonstration conducted with an organization which is eligible for an HMO/CMP contract.

Sections 4023 and 4079.—No provision.

(c) Treatment of Michigan Blue Care HMO Network under 50 Percent Rule.—

Section 9232.—Provides that Blue Care may be deemed to meet the 50 percent Medicare and Medicaid enrollment limit if each of the participating HMOs separately meets the limit for its enrollees or assignees and no more than 20 percent of the enrollees or assignees of each HMO are Medicare beneficiaries.

Sections 4023 and 4079.—No provisions.

(d) Assignment of HMO Members for Certain Organizations.—

Section 9232.—Permits the enrollees of a subdivision, subsidiary, or affiliate HMO to have its members considered as members of the parent organization for the purposes of the 50 percent test during the period before October 1, 1992. The parent organization must have contracted with a State Medicaid agency to provide prepaid services prior to 1970, and must have members with a collectively bargained right to obtain services through the organization. The affiliate must meet all eligibility standards except the 50 percent test and must be wholly owned or controlled by the parent organization. The parent organization must guarantee the quality and solvency of the affiliate.

Sections 4023 and 4079.—No provision.

(e) Coverage of Social Worker Services Furnished by an HMO to Its Members.—

Section 4023.—Adds to the list of additional services covered for HMO or CMP enrollees services of a clinical social worker, along with services and supplies incident to such services, when the services would have been covered by Medicare if provided by a physician. Educational and experience criteria for clinical social workers are defined, with separate criteria for States which do and do not provide for licensure or certification of social workers.

Section 9232.—No provision.

(f) Delay in Effective Date of Physician Incentive Rules for Health Maintenance Organizations.—

Section 4079.—Delays the effective date of the rule for HMOs/CMPs to April 1, 1990.

Section 9232.—No provision.

(g) Temporary Waiver for Watts Health Foundation.—No provision.

(h) Extension of Waivers for Social Health Maintenance Organizations.—No provision.

(i) HMO Payments for Hospital Services.—No provision.

(j) Discount and Advance Determination of Payments.—No provision.

(k) Post-Contract Protection for CMP Enrollees.—Priority under the Bankruptcy Code.—No provision.

(l) Task Force on Medicare Capitation.—No provision.

(m) Disabled Individual Classification.—No provision.

(n) Two-Year Extension on Period for Benefit Stabilization.—No provision.

(o) Notice to enrollees.—No provision.

Effective date.—

Section 9232.—Enactment.

Section 4023.—Applies to services performed on or after January 1, 1988.

Section 4079.—Enactment.

(a) Broadening Use of Civil Monetary Penalties and Intermediate Sanctions Against HMOs/CMPs.—Increases the civil monetary penalty for failure to furnish medically necessary services to $25,000 for each failure. The Secretary may also impose civil monetary penalties or sanctions when he determines that an HMO/CMP imposes premiums on enrollees in excess of those permitted by law, violates provisions relating to expulsion of or refusal to re-enroll enrollees, engages in any practice which can reasonably be expected to deny or discourage (on the basis of health status) enrollment or reenrollment, or misrepresents or falsifies information provided to the Secretary, an enrollee, or any other entity. Civil monetary penalties for these kinds of violations may be not more than $10,000 for each violation. The Secretary may also suspend new enrollments or suspend payments to the HMO/CMP until he is satisfied that violations will not recur. Incorporates existing provisions on administration of civil monetary penalties.

(b) Capitation Demonstration Projects.—Requires the Secretary to conduct demonstrations to test alternative capitation payment methodologies. Demonstrations would be conducted in each of three areas:

(1) Computing a health status adjustment in the adjusted average per capita cost (AAPCC).

(2) Contracting with employer-related groups for voluntary enrollment of employees in a managed care program, with rates set on an experience basis.

(3) Accounting for geographic variations in cost in computing the AAPCC, considerating geographic bases which may provide more equitable payment than is provided by setting the AAPCC on a county-by-county basis. Demonstrations on this subject would be conducted primarily in geographic areas where HMO/CMP payment rates are below 80 percent of the median AAPCC for all counties within metropolitan statistical areas and could include HMOs/CMPs in urban areas which primarily serve populations from counties in which payment rates were below that percentage.

Requires the Secretary in carrying out the demonstrations to appoint, in consultation with the Congress, a panel of specialists to review the project and make recommendations on rate setting and measures to ensure quality of care. Authorizes $5 million in each of fiscal years 1989 and 1990 for the demonstrations relating to geographic adjustments in rate setting.

(c) Treatment of Michigan Blue Care HMO Network under 50 Percent Rule.—Similar provision.

(d) Assignment of HMO Members for Certain Organizations.—Similar provision.

(e) Coverage of Social Worker Services Furnished by an HMO to Its Members.—No provision.

(f) Delay in Effective Date of Physician Incentive Rules for Health Maintenance Organizations.—No provision.

(g) Temporary Waiver for Watts Health Foundation.—Provides that an organization which had a pre-OBRA waiver of the 50 percent limit and which received at least $3 million in Public Health Service community or migrant health center grant funds in FY 1987 is exempt from the 50 percent limit until January 1, 1990. After that date, the organization would be eligible for a waiver on the same terms and subject to the same conditions as other HMO/CMPs.

(h) Extension of Waivers for Social Health Maintenance Organizations.—Required the Secretary to extend the waivers through September 30, 1992, under the same terms and conditions as under DEFRA. The Secretary is required to submit an interim report by January 1988, and a final report no later than March 31, 1993.

(i) HMO Payments for Hospital Services.—Reappeals the provision allowing direct Medicare payment of HMO/CMP hospital and skilled nursing facility charges. In the case of an HMO/CMP which had elected the direct payment option prior to October 1, 1987, hospitals or skilled nursing home facilities furnishing services to the HMO/CMP's Medicare enrollees are required to accept as payment in full from the HMP/CMP the amounts that would have been paid for the same services furnished to nonenrollees under Medicare reimbursement principles. The Secretary is required to furnish such an HMO/CMP with information (in machine readable form) on Medicare payment rates and cost passthroughs for inpatient services.

(j) Discount and Advance Determination of Payments.—Provides that the Secretary may, at the request of an HMO/CMP, enter into a multi-year contract and establish the annual rates for each year of the contract when the contract is entered into. The Secretary is permitted to discount the rates as he deems appropriate before entering into the contract.

(k) Post-Contract Protection for CMP Enrollees.—Priority under the Bankruptcy Code.—Requires an eligible organization which is not a federally qualified HMO to make assurances (satisfactory to the Secretary) that, if it should cease to provide services under the contract, it will provide or arrange supplemental coverage to enrolled beneficiaries. Supplemental coverage would continue for the duration of any exclusion period related to a preexisting condition.

Amends chapter 11 of the Bankruptcy Code to provide that, in the event a CMP enters a chapter 11 proceeding, the CMP (or its trustee) must make timely payments for the required supplemental coverage. Payments made prior to approval of a reorganization plan would be treated as an administrative expense. The reorganization plan would have to provide for continuation of the payments to the extent necessary to comply with the assurances made to the Secretary.

(l) Task Force on Medicare Capitation.—Establishes a 15-member Task Force on Medicare Capitation, to be appointed by the Prospective Payment Assessment Commission (ProPAC), in consultation with the Physician Payment Review Commission (PPRC), after consultation with private and prepaid health plans. Membership would consist of 5 members drawn from each of the following groups:

(i) Representatives of private and prepaid health plans; these could include physicians or other health professionals serving Medicare beneficiaries;

(ii) Researchers in health care delivery and financing and experts in prepaid health care financing and underwriting;

(iii) Medicare beneficiaries and representatives of employers and labor.

Members are to serve for the life of the Task Force. A vacancy is to be filled by a member of the appropriate group, appointed in the same manner as the original appointee. Replacement of a member would not affect the powers or duties of the Task Force.

Provides that a majority of the Task Force members shall constitute a quorum and that decisions may be made by a simple majority of members present and voting at a properly called meeting. The first meeting is to be called by ProPAC no later than January 1, 1988. Task Force members are to select a Chairman. Subsequent meetings are to occur at the call of the Chairman or a majority of members, but no less than once every 3 months.

Provides that members are to serve without pay but receive travel expenses and per diem allowances according to the rules for persons serving intermittently in Government service.

Provides that the Task Force shall:

(i) Periodically review the calculations and methodology employed by the Secretary in establishing the capitation rate for an HMO/CMP with a risk contract;

(iii) Document and report on discrepancies between the actual and projected U.S. per capita incurred cost (USPCC) used in ratesetting, with particular attention to calendar years 1985, 1986, and 1987; and

(iii) Assess alternative rate-setting methodologies.

Requires the Task Force to submit a final report to Congress no later than January 1, 1989. The Secretary is required to provide interim reports, no later than January 1, 1989 and 1990, describing the Task Force's activities and giving any preliminary findings on the subjects to be addressed in the final report.

Provides that the Task Force's final report shall include:

(i) An assessment of the long-term potential for Medicare savings through prepared health plans;

(ii) A comparative analysis of use, cost, and quality of services under fee-for-service systems and prepaid plans;

(iii) An evaluation of the geographic areas used in developing capitation rates, the use of fee-for-service reimbursement and utilization rates in calculating rates, and the effect on the rate calculation of substantial market penetration by prepaid plans;

(iv) Recommendations for changes in the Medicare rate-setting methodology for risk contractors, specifically addressing:

Rate adjustments for case mix (including age, disability, and functional status), geographical differences in the cost of furnishing services, and the effect of outlier cases;

Alternative rate methodologies to control and reimburse for catastrophic illness;

Methods for ensuring that individuals in rural or medically underserved areas have access to quality prepaid services; and

Setting a more equitable rate for organizations which serve rural or medically underserved areas, or areas where medical practice is more conservative.

Requires the report to be prepared in consultation with HCFA and to be based in part on findings of research projects conducted by the Task Force or HCFA. The Task Force is required to allow representatives of private and prepaid health plans to comment on the report before its submission; comments are to accompany the final report submitted to Congress.

Provides that the Task Force may award research grants or contracts for assistance in its duties, provided that it demonstrates to the satisfaction of ProPAC and PPRC that the assistance is needed to provide otherwise unavailable information. The Task Force is authorized to appoint staff and establish pay rates without regard to civil service rules. Travel expenses and per diem allowances are subject to the rules for persons serving intermittently in the Government service. The Task Force is authorized to use ProPAC and PPRC staff on a reimbursable basis and with the prior consent of the commission concerned. The Task Force is permitted to use the United States mails on the same terms as other government agencies, to accept donations and volunteer services, to procure supplies, services, and property, and to make contracts. The Task Force is authorized to adopt rules and procedures, including procedures to allow interested parties to submit information.

Provides that the Task Force will terminate on January 2, 1991. Any funds held by the Task Force on that date would be returned to the Treasury and credited as miscellaneous receipts; other property would be disposed of as surplus property.

Authorizes appropriations for FY 1988 through 1991 of such sums as may be necessary to carry out the Task Force provisions.

(m) Disabled Individual Classification.—Requires the Secretary to establish a class of beneficiaries who reach age 65 during calendar 1988, 1989, 1990, or 1991, and who received Social Security disability benefits prior to reaching age 65.

(n) Two-Year Extension on Period for Benefit Stabilization.—Allows a stabilization fund to be established for a contract period beginning up to 6 years after the enactment of the Deficit Reduction Act of 1984, or July 18, 1990.

(o) Notice to enrollees.—Health maintenance organizations would be required to inform beneficiaries of the possibility that the HMO's participation in Medicare will not continue indefinitely.

Effective dates.—(a), (b), (c), (d), (g), (h), (j), (l), and (m) are effective on enactment. (i) Effective April 1, 1988, or earlier if the Secretary can provide the required data in machine readable form prior to that date. (k) Effective on enactment. Applies to a case under chapter 11 of the Bankruptcy Code for which a plan of reorganization has not been confirmed by the court as of the date of enactment. (n) Effective as if included in the Deficit Reduction Act of 1984.

Conference agreement

(a) Broadening Use of Civil Monetary Penalties and Intermediate Sanctions against HMOs/CMPs.—The conference agreement includes the Senate amendment with a modification to provide for the

higher penalty amounts included in the House provision.

(b) Capitation Demonstration Projects.—The conference agreement includes the Senate amendment, with modifications relating to demonstrations of contracts with employer related groups. The Secretary is permitted to conduct no more than three such projects, with combined expenditures to equal no more than $600 million per year, to be distributed among the projects at the Secretary's discretion. The Secretary is authorized to compute payment rates for the projects on the basis of individual average projected cost (APC) for the beneficiaries belonging to the group; rates may not exceed 95 percent of the APC. Rates may not exceed 115 percent of the AAPCC (as would be computed for a comparable arrangement with an HMO or CMP) after the third year of the project, or 95 percent of the AAPCC after the fifth year. The sponsor of the project may retain not more than 5 percent of the APC to the extent that the APC exceeds the costs of the project. At the discretion of the Secretary, additional savings would be returned to beneficiaries in the form of additional benefits or returned; no portion of the excess savings could be used to fund additional benefits for participants who are not Medicare beneficiaries.

Enrollment in the demonstration must be voluntary. Enrollees must have the right to disenroll on 30 days notice and to return to the basic Medicare and supplemental health plan coverage they had prior to enrolling. The projects would be subject to the same requirements as HMOs and CMPs with risk-sharing contracts, relating to payment of claims from outside providers, prior review of brochure and other promotional materials, review of the quality of care by a peer review organization (PRO) or other quality review organization selected by the Secretary, and civil monetary penalties for specified contractual or regulatory violations. Projects would also be required to comply with all applicable State laws.

Benefits under a project must be equal to or greater than the benefits available to enrollees under Medicare and under the employer-sponsored plan currently in effect (or equal to the actuarial equivalent of the Medicare and employer plan combined). The project must guarantee all benefits for the period of the demonstration. The project must demonstrate to the satisfaction of the Secretary that it has adequate financial reserves.

The conference agreement provides that no capitation demonstration, except one involving an eligible organization under the terms of section 1876 of the Act, may be conducted other than under the terms specified above.

The Comptroller General is required to monitor projects conducted under this section and report at least once a year to the Committee on Finance of the Senate and the Committees on Energy and Commerce and on Ways and Means of the House on the status of the projects and the effect on the projects of the requirements of this section, and to file a final report at the conclusion of the projects.

(c) Treatment of Michigan Blue Care HMO Network under 50 Percent Rule.—The conference agreement includes the Senate amendment.

(d) Assignment of HMO Members for Certain Organizations.—The conference agreement includes the Senate amendment, with an amendment to clarify that only members with a collectively bargained right to obtain services through the organization shall be considered members of the parent organization.

(e) Coverage of Social Worker Services Furnished by an HMO to Its Members.—The conference agreement includes the House provision.

(f) Delay in Effective Date of Physician Incentive Rules for Health Maintenance Organizations.—The conference agreement includes the House provision.

(g) Temporary Waiver for Watts Health Foundation.—The conference agreement includes the Senate amendment. The conferees would continue the current exemption of the Watts Health Foundation's federally qualified HMO (United Health Plan) from the 50-50 rule for Medicare risk contracts until January 1, 1990. The plan has suffered financial problems that resulted in it filing for bankruptcy under Chapter 11 of the United States Code. This further delay in the application of the 50-50 rule will provide the plan with a period in which it can reorganize and renew its efforts to enroll members who are not eligible for Medicare or Medicaid. Beginning on January 1, 1990, the plan will be required to have Secretarial approval of an enrollment schedule that will bring the plan into compliance with 50-50 rule.

(h) Extension of Waivers for Social Health Maintenance Organization.—The conference agreement includes the Senate amendment.

(i) HMO Payments for Hospital Services.—The conference agreement includes the Senate amendment, with modifications. The requirement that hospitals and skilled nursing facilities accept payment at Medicare levels as payment in full for services to risk contract enrollees applies to enrollees of all eligible organizations, rather than just those in organizations which had elected the direct payment option prior to October 1, 1987. The provision is effective for discharges on or after April 1, 1988, or, if later, on the earliest date on which the Secretary can provide the required data in machine readable form.

(j) Discount and Advance Determination of Payments.—The conference agreement does not include the Senate amendment.

(k) Post-Contract Protection for HMO and CMP Enrollees.—The conference agreement includes the Senate amendment, with modifications. The requirement applies to Federally qualified HMOs, as well as to CMPs. The organization is responsible for continued coverage for not more than 6 months after contract termination. The agreement does not include amendments to the Bankrupt Code.

(l) Task Force on Medicare Capitation.—The conference agreement includes the Senate amendment, with modifications. The study of Medicare capitation is to be performed by the General Accounting Office, rather than by an independent task force. The study is to address, at a minimum: validation of the current AAPCC computation, methods for refining the AAPCC, alternatives to the use of the AAPCC in rate setting, and other issues, including problems of enrollee self-selection, catastrophic cases, and rates for rural and medically underserved areas.

(m) Disabled Individual Classification.—The conference agreement does not include the Senate amendment.

(n) Two-Year Extension on Period for Benefit Stabilization.—The conference agreement includes the Senate amendment.

(o) Notice to Enrollees.—The conference agreement includes the Senate amendment.

3. Exclusion of Direct Medical Education Costs Attributable to Training of Foreign Medical Graduates (Section 4002(b) of Senate Amendment)

Present law

COBRA requires the Secretary to pay hospitals for direct costs of graduate medical education programs (training of resident physicians) on the basis of a hospital specific, prospectively determined amount per full-time equivalent (FTE) resident. The per FTE resident amount is based on the actual allowable cost per FTE resident the hospital incurred in a base year, updated to the year of payment by the rate of increase in the consumer price index. The aggregate payment the hospital receives for a cost reporting period is based on Medicare's share of the product of the hospital's per resident amount for the period multiplied by the weighted number of FTE residents the hospital had in approved medical residency training programs during the period. Medicare's share is equal to the fraction of the hospital's inpatient bed days attributable to Medicare patients.

The weighted number of FTE residents is based on certain weighting factors: residents who are in their initial residency period (years needed to qualify for board certification) are fully counted; residents not in the initial period are counted as one-half an FTE; and, after July 1, 1987, residents who are foreign medical graduates (FMGs) who have not passed a national exam are not counted at all. A foreign medical graduate is defined as a resident who is not a graduate of an accredited U.S. or Canadian school of medicine, osteopathy, dentistry, or podiatry.

House bill

No provision.

Senate amendment

Provides that, except for transition periods, foreign medical graduates (FMGs) shall not be counted in the hospital's number of FTE residents for any cost reporting period beginning on or after July 1, 1988. Under the transition rule for the first cost reporting period beginning on or after July 1, 1988, the number of FMG residents counted is equal to the lesser of: (1) two-thirds of the number of FMG residents in approved programs during the year who began their initial period of residency training prior to July 1, 1988; or (2) two-thirds of the number of FMG residents for whom the hospital received direct medical education payments in the last cost reporting period beginning prior to July 1, 1988. For the second cost reporting period after July 1, 1988, the count is the lesser of: (1) one-third of the number of FMGs in approved programs during the year who began their initial residency period before July 1, 1988; or (2) one-third of the number of FMGs for whom the hospital received payments for direct medical education costs during the last cost reporting period beginning before July 1, 1987.

Also provides a special five year transition period for hospitals in which more than 50 percent of the residents for whom the hospital receives direct medical education payments, as of September 1, 1987, are FMGs. In this case, the first transition rule applies for the first two cost reporting periods beginning on or after July 1, 1988, and the second transition rule applies for the next three cost reporting periods.

Effective date.—Enactment.

Conference agreement

The conference ageement does not include the Senate amendment.

4. Publication of Policies (Sections 9206(j) and 9233 (b) and (d), and Section 4073 of House bill; Sections 4001(c), 4012(a), and 4081(b) of Senate amendment)

Present law

(a) Requiring Publication of Intermediary and Carrier Budget Methodology.—The Secretary is required to publish in the Federal Register the standards and criteria used to evaluate Medicare fiscal intermediaries and carriers. In paying fiscal intermediaries and carriers for their services, the Secretary is required to take into account the amount that is reasonable and adequate to meet the costs which must be incurred by an efficiently and economically operated agency or organization.

Current law does not require the Secretary to publish the methodology by which he or she determines this amount.

(b) Notification of Providers of Services of Changes in Medicare Rules.—The Secretary is authorized to enter into agreements with fiscal intermediaries. These agreements require, among other requirements, that the intermediaries serve as a center for, and communicate to providers, any information or instructions furnished to the intermediary by the Secretary.

(c) Publication as Regulations of Significant Policies.—Current law requires that, except in specified circumstances, Medicare regulations must go through proposed rulemaking with a 60-day period for public comment. The law does not define a regulation for that purpose.

(d) Publication of List of Other Policies.—A number of policy matters which are issued by the Department of Health and Human Services of the Health Care Financing Administration are not required to go through public rulemaking.

(e) Advance Notice of Certain Other Policy Changes.—In addition to policies promulgated by the Department of Health and Human Services and the Health Care Financing Administration, policies are sometimes adopted by the fiscal intermediaries, carriers, or peer review organizations.

(f) Rural Impact Regulatory Analysis.—There is currently no requirement that the Secretary include, in a proposed final rule, an analysis of the regulation's impact on rural areas.

(g) No provision.

(h) No provision.

(i) No provision.

House bill

(a) Requiring Publication of Intermediary and Carrier Budget Methodology.—

Section 9233(b).—Requires the Secretary to publish in the Federal Register, by September 1 before each fiscal year, the data, standards, and methodology to be used to establish budgets for fiscal intermediaries and carriers for that fiscal year.

The Secretary is first required to publish in the Federal Register for public comment, at least 90 days before, the data, standards, and methodology proposed to be used.

Section 4073.—No provision.

(b) Notification of Changes in Medicare Policy.—

Section 9233(d).—Requires each agreement between the Secretary and a fiscal intermediary to include the requirement that the intermediary transmit to each home health agency and skilled nursing facility, within 5 business days after receipt, a copy of any related coverage or program instructions and memoranda, clarifications, interpretive rules, statements of policy, and guidelines of general applicability which the Secretary has sent the intermediary. For other providers, the intermediary is required to transmit this information by the 7th day of the following month (except that the information must be sent within 5 business days if the statement is effective before the 7th day of the following month).

Section 4073.—No provision.

(c) Publication as Regulations of Significant policies.—

Section 9233.—No provision.

Section 4073.—Provides that no rule, requirement, or other statement of policy (other than a national coverage determination) that has (or may have) a significant effect on the scope of benefits, the payment for services, or the eligibility of individuals, entities, or organizations to furnish or receive Medicare services or benefits shall take effect unless it is promulgated by the Secretary by regulation.

(d) Publication of List of Other Policies.—

Section 9233.—No provision.

Section 4073.—Requires the Secretary to publish in the Federal Register, at least every 3 months, a list of all manual instructions, interpretative rules, statements of policy, and guidelines of general applicability which: (1) are promulgated by the Secretary to carry out the Medicare programs, and (2) are not published as required by (c) above or have not been previously listed as under this subsection.

(e) Advance Notice of Certain Other Policy Changes.—

Section 9233.—No provision.

Section 4073.—Provides that a carrier, fiscal intermediary, or peer review organization may not change a policy which changes (or established a standard for) Medicare payment (including the establishment of payment screens and utilization and quality control standards), unless it: (1) has a process reasonably designed to provide notice of the change to providers, practitioners likely to be affected by the change; and (2) provides notice under such a process not later than 30 days before the effective date of the change.

(f) Rural Impact Regulatory Analysis.—

Section 9206(j).—Requires the Secretary—in publishing notices of proposed and final regulations relating to Part A of Medicare—to include an analysis of the impact of such regulations on health care in rural hospitals.

Section 4073.—Requires the Secretary—in each proposed or final regulation meeting certain requirements to include an analysis of the impact of the regulation on the access of individuals to health care services in rural areas. The regulations for which this requirement applies are those that: (1) related to a Federal health care program under the jurisdiction of the Secretary; and (2) can reasonably be expected to affect a substantial number of providers of health care services in rural areas. The impact analysis is required to include an evaluation of the ability of rural health care providers to comply with any reporting requirements imposed by the regulation.

(g) Consistent and Clearly Understood Practices.—No provision.

(h) Easily Accessible Data Base.—No provision.

(i) Report.—No provision.

Effective date.—

Section 9233 (b) and (d).—(a) Applies on or after the date of enactment of this Act and applies to budgets for fiscal years beginning with fiscal year 1989. (b) Applies to any fiscal intermediary agreements as of January 1, 1988, but shall not apply to any instruction, memorandum, clarification, rule, statement, or guidelines issued before that date.

Section 9206(j).—(f) Applies to regulations (and proposed regulations) issued on or after January 1, 1988.

Section 4073.—(c) Applies on or after the date of enactment of this Act, but does not apply to rules, requirements, and policies issued on or before the date of enactment of this Act. (d) Applies on or after the date of enactment of this Act, but does not apply to instructions, rules, statements, and guidelines issued before January 1, 1988. The Secretary is required to first publish the required list in the Federal Register by April 1, 1988. (e) Applies to policy changes issued on or after January 1, 1988. (f)—Applies to regulations published more than 120 days after the date of enactment of this Act.

Senate amendment

(a) Requiring Publication of Intermediary and Carrier Budget Methodology.—Similar provision except that it does not contain the requirement that the Secretary, 90 days in advance, publish the data, standards, and methodologies proposed to be used.

(b) Notification of Changes in Medicare Policy.—Requires each fiscal intermediary and carrier which administers Medicare claims for extended care, post-hospital extended care, home health care, and durable medical equipment benefits to make available to the public all interpretive materials, guidelines, and clarifications of policies which relate to payments for such benefits.

(c) Publications as Regulations of Significant Policies.—No provision. [See (d) below.]

(d) Publication of List or Other Policies.—Requires the Secretary to publish in the Federal Register, not less than every three months, a list indicating the subject matter of all new home health care, extended care, post-hospital extended care, and durable medical equipment coverage instructions and clarifications that have been furnished in the preceding 3 months to fiscal intermediaries, carriers, or service providers, as well as interpretive rules, and statements of policy or policy changes, issued or used by the Secretary, and by fiscal intermediaries or carriers.

(e) Advance Notice of Certain Other Policy Changes.—Requires the Secretary to only change policies or establish standards for Medicare payment, and requires the Secretary or his or her fiscal intermediaries or carriers to only issue additional instructions, clarifications, rules, statements, and guidelines for extended care, post-hospital extended care, home health care, or durable medical equipment by written statement, made available to all affected fiscal intermediaries, carriers, and service providers (and to the Secretary when such additional statement is made by a fiscal intermediary or carrier).

Provides that any such statement shall only have effect with respect to claims submitted 30 days after its full text has been made available pursuant to (d) above.

(f) Rural Impact Regulatory Analysis.—Requires the Secretary—whenever he or she publishes a general notice of *proposed* rulemaking for any rule or regulation proposed under Medicare, Medicaid, or the peer review organization program, that may have a significant impact on a substantial number of small rural hospitals—to prepare and make available for public comment an initial regulatory impact analysis.

Requires that analysis to describe the impact of the proposed rule or regulation on such hospitals and is required to set forth, with respect to small rural hospitals, the matters required under Section 603 of Title V, United States Code—to be set forth with respect to small entities.

Requires the initial regulatory impact analysis (or a summary) to be published in the Federal Register at the time of the publication of general notice of proposed rulemaking for the rule or regulation.

Requires the Secretary—whenever he or she promulgates a *final* version of a rule or regulation for which an initial regulatory impact analysis is required by the above—to prepare a final regulatory impact analysis with respect to the final version of the rule or regulation.

Requires that analysis to describe the impact of the proposed rule or regulation on such hospitals and is required to set forth, with respect to small rural hospitals, the matters required under Section 603 of Title V, United States Code—to be set forth with respect to small entities.

Requires the Secretary to make copies of the final regulatory impact analysis available to the public and to publish, in the Federal Register at the time of publication of the final version of the rule or regulation, a statement describing how a member of the public may obtain a copy of such analysis.

Requires—if a regulatory flexibility analysis is required by Chapter 6 or Title V, United States Code, for a rule or regulation to which this subsection applies, such analysis shall specifically address the impact of the rule or regulation on small rural hospitals.

(g) Consistent and Clearly Understood Practices.—Requires the Secretary to ensure that the practices of fiscal intermediaries and carriers regarding Medicare payments are consistent with each other and, to the maximum extent possible, are clearly understood by service providers and beneficiaries.

Requires the Secretary to consult periodically with representatives of beneficiaries, service providers, fiscal intermediaries and carriers, [and] to update, and clarify, as necessary, existing policies regarding skilled nursing and home health care to meet such goals.

(h) Easily Accessible Data Base.—Requires the Secretary, to the extent feasible, to make such changes in automated data collection and retrieval by the Secretary and his or her fiscal intermediaries as are necessary to make easily accessible for the Secretary and other appropriate parties a data base which fairly and accurately reflects the provision of extended care, post-hospital extended care, and home health care Medicare benefits, including such categories as benefit denials, results of appeals, and other relevant factors, and selectable by such categories and by fiscal intermediary, service provider, and region.

(i) Report.—Requires the Secretary, not later than six months after enactment, to report to Congress on the feasibility of including in the data base required by (h) above, diagnoses (or groups of them), length of coverage, and reimbursements.

Effective date.—(a) Applies on or after the date of enactment of this Act and applies to budget for fiscal years beginning with fiscal year 1989. (b) and (d) Applies June 1, 1988. (e), (g), (h), and (i) Enactment. (f) Applies to regulations proposed more than 30 days after the date of the enactment of this Act.

Conference agreement

(a) Requiring Publication of Intermediary and Carrier Budget Methodology.—The conference agreement includes the House provision.

(b) Notification of Providers of Services of Changes in Medicare Policy.—The conference agreement includes the Senate amendment, with a modification. The intermediaries and carriers are to transmit information to providers within 30 days.

(c) Publication as Regulations of Significant Policies.—The conference agreement includes the House Provision, with an amendment to clarify that only policies establishing or changing a substantive legal standard governing benefits, payment, or eligibility must be promulgated as regulations. The conferees note that this language reflects recent court rulings.

(d) Publication of List of Other Policies.—The conference agreement includes the House provision.

(e) Advance Notice of Certain Other Policy Changes.—The conference agreement does not include either the House provision or the Senate amendment.

(f) Rural Impact Regulatory Analysis.—The conference agreement includes the Senate amendment.

(g) Consistent and Clearly Understood Practices.—The conference agreement does not include the Senate amendment.

(h) Easily Accessible Data Base.—The conference agreement includes the Senate amendment.

(i) Report.—The conference agreement includes the Senate amendment.

5. Permitting Continuation of Medicare Coverage by Payment by Individuals With Physical or Mental Impairments and Permitting Disabled To Renew Entitlement Without Waiting Period (Section 4024 of the House bill; Section 4091 of Senate amendment)

Present law

(a) Continual Hospital Insurance Benefits for Uninsured Individuals with Certain Physical or Mental Impairments.—An individual whose monthly Disability Insurance (DI) benefits cease because he or she is engaging in substantial gainful activity is entitled to HI benefits for three additional years (including 12 months worth of extended "trial work" during which DI entitlement technically continues while monthly benefits are suspended), provided the individual has not medically recovered from the impairment that established the initial entitlement to benefits.

OBRA provides that Medicare is the secondary payer for disabled Medicare beneficiaries who elect to be covered under employmentbased health insurance as a current employee (or family member of such employee) of a large employer (at least 100 employees). The provision is effective 1987-1992.

(b) None.

(c) None.

(d) Buy-in to Part B Coverage.—An individual whose Disability Insurance (DI) benefits cease because he or she is engaging in substantial gainful activity is entitled to SMI benefits for three additional years, including 12 months' worth of extended "trial work" during which DI entitlement technically continues while benefits are suspended, provided the individual has not medically recovered from the impairment that established the initial entitlement to benefits.

(e) Permitting Disabled Individuals to Renew Entitlement to Medicare After Gainful Employment Without a 2-Year Waiting Period.—Individuals whose DI entitlement has been terminated must meet a two-year waiting period requirement before Medicare coverage can commence if they return to the DI rolls after 5 years (7 years in the case disabled widows and widowers and people disabled since childhood.)

House bill

(a) Continued Hospital Insurance Benefits for Uninsured Individuals With Certain Physical or Mental Impairments.—Permits a former DI recipient, not yet age 65, who has been continuously entitled to or enrolled in HI or in a group health plan provided by the individual's employer or spouse's employer but whose entitlement to HI is about to end because of his or her engagement in substantial gainful activity, to enroll in HI if the individual's impairment continues (as re-determined annually).

Specifies that individual has no initial 7-month enrollment period beginning three months before his or her HI coverage ends.

Specifies that if the individual's enrollment or non-enrollment is unintentional, inadvertent, or erroneous and is the result of error, misrepresentation, or inaction by the Government or its instrumentalities, the Secretary may take the necessary steps to correct the situation.

Specifies that if an individual is in a group health plan (as required to be offered by an employer under conditions prescribed in Title 18 of the Act) at the time he or she is first eligible to elect enrollment for continued HI coverage, a subsequent special enrollment period can be established encompassing the 7-month period beginning with the month after the group health insurance ends. This special enrollment provision also applies to people who elect and subsequently cancel the continuation of their HI coverage provided they maintain coverage under such an employer group health plan (in effect, allowing an individual potentially to have more than one special enrollment period).

(b) Periods of New HI Coverage.—(1) Specifies periods of new HI coverage for individuals who elect continued HI coverage during their initial enrollment period, as follows—

(1) if the date of enrollment occurs before their existing HI coverage runs out, the new coverage begins in the month after the existing coverage begins in the month after the existing coverage ends;

(2) if the date of enrollment is delayed until the first month after their existing HI coverage runs out, the new coverage begins 2 months later; or

(3) if the date of enrollment is delayed until the second or later month after their existing HI coverage runs out, the new coverage begins 3 months later.

(2) Specifies periods of new HI coverage for individuals who elect continued HI coverage during a subsequent special enrollment period (as a result of having been in an employer group health plan), as follows—

(1) if the date of enrollment occurs in the month after the employer's coverage runs out, the new HI coverage would begin in that month; or

(2) if the date of enrollment occurs in a later month, the new HI coverage would begin in the month following the month of enrollment.

The new coverage would end:

(1) in the month that the individual files notice that he no longer wishes HI coverage;

(2) at the end of the grace period for nonpayment of premiums; or

(3) in the last month that the individual meets the eligibility criteria for HI coverage.

No payment would be made for expresses that were incurred outside of the coverage period.

(c) Premium.—Requires individuals to pay a monthly premium for the new HI coverage at the actuarial rate paid by aged recipients. When combined with a new SMI premium (described in (d) below), the two monthly premiums together may not exceed 8 percent of 1/12th of the individual's annual gross income. However, in no case could either premium fall below 25 percent of the full premium that would otherwise be required.

Specifies that the premiums may be paid on behalf of an individual by any public or private entity under contract or other arrangement with the Secretary.

Specifies that the HI premium is to be deposited in the Treasury and credited to the HI Trust Fund.

(d) Buy-in to Part B Coverage.—Permits an individual whose SMI coverage is about to run out to enroll for continuation of such coverage in the same manner and under the same enrollment period requirements as are created for HI in the previous subsection.

Specifies that the individual is required to pay a monthly premium for the new SMI coverage at twice the actuarial rate for the aged (i.e. about four times the regular SMI premium), subject to the minimum and maximum limitations for the combined HI and SMI premiums described in (c) above.

(e) Permitting Disabled Individuals to Renew Entitlement to Medicare After Gainful Employment Without a 2-Year Waiting Period.—Permits individuals who reestablish entitlement to DI benefits after being off the rolls for 5 years (7 years in the case of disabled widows and widowers and people disabled since childhood) to be covered by the Medicare program without again having to meet the 2-year waiting period requirement. Persons may count months of a previous period of disability toward satisfying the 2-year waiting period, provided their current impairment is the same as (or directly related to) that in the previous period of disability.

Effective dates.—In general, the section would become effective for months beginning after the 60-day period beginning on the date of enactment. (a) and (b), (c) and (d) apply to individuals whose entitlement under HI would otherwise terminate after the 60-day period (e) applies when the previous period of disability ends later than 60 days after enactment.

Senate amendment

(a) Continued Hospital Insurance Benefits for Uninsured Individuals with Certain Physical or Mental Impairments.—No provision.

(b) Periods of New HI Coverage.—No provision.

(c) Premium.—No provision

(d) Buy-in to Part B Coverage.—No provision.

(e) Permitting Disabled Individuals to Renew Entitlement to Medicare After Gainful Employment Without a 2-year Waiting Period.—Same as House bill.

Effective dates.—(e) applies when the previous period of disability ends later than 60 days after enactment.

Conference agreement

(a) Continued Hospital Insurance benefits for uninsured individuals with certain physical or mental impairments.—The conference agreement does not include the House provision.

(b) Periods of new HI coverage.—The conference agreement does not include the House provision.

(c) Premium.—The conference agreement does not include the House provision.

(d) Buy-in to Part B coverage.—The conference agreement does not include the House provision.

(e) Permitting disabled individuals to renew entitlement to Medicare without a 2-year waiting period.—The conference agreement includes the Senate amendment.

6. Direct Payment for Services of Registered Nurses as Assistants at Surgery (Section 4013 of House bill)

Present law

OBRA provided for direct payment for the services of physician assistants, subject to various terms, conditions and limitations on payment amounts. Among the services for which physician assistants may be reimbursed are those performed as assistants at surgery.

House bill

Provides that registered nurses may be directly reimbursed for their services as assistants at surgery under the same terms, conditions and limitations on payment amounts that apply for physician assistants. The Secretary is required to adjust payments made to hospitals to eliminate any duplicate payments that would otherwise be made as a result of this provision. The Secretary is required to report to Congress no later than April 1, 1989 concerning adjustments to payments made to physician assistants and registered nurses to assure that such payments reflect the cost of furnishing the services.

Effective date.—Applies to services rendered on or after January 1, 1988.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House provision.

7. Home Health Care Quality Improvements (Section 4031-4040 of House bill; Section 4081 (a), (c)-(j) of Senate amendment)

Present law

(a) Requirement That Individual Be Confined to Home.—To qualify for home health services, a Medicare beneficiary must be confined to his or her home under the care of a physician. In addition, the person must be in need of intermittent skilled nursing care, or physical or speech therapy. Medicare statute does not specify the criteria for meeting the "homebound" requirement. These criteria are contained in Health Care Financing Administration program guidelines.

(b) Appeals Procedures.—(1) Fiscal intermediaries review providers claims for payments for care provided to Medicare beneficiaries and make decisions as to whether the care provided is covered care and should be paid for by Medicare. Medicare law does not require that fiscal intermediaries describe, demonstrate, or otherwise explain the reasons for denying payment for care. Nor does Medicare law require that intermediates take action on a beneficiary's appeal of a denial decision within a specified period of time.

(2) Medicare law requires the Secretary to develop standards, criteria, and procedures to evaluate a fiscal intermediary's performance of claims processing and other related functions.

Effective date.—(1) For provisions requiring the intermediary to provide a thorough explanation of a denial and to respond promptly to a reconsideration of a determination, applies to claims filed on or after Oct. 1, 1987.

(2) For provisions requiring the Secretary to use standards and criteria indicating promptness and accuracy of fiscal intermediary determinations, applies to performance of intermediaries with respect to claims filed on or after Oct. 1, 1987.

(3) Requires the Secretary to provide for such timely amendments to agreements with fiscal intermediaries and regulations to such extent as may be necessary to implement the amendments of these provisions on a timely basis.

(c) Conditions of Participation for Home Health Agencies —Establishes in Medicare statute conditions of participation for home health agencies as follows:

(1) The agency must protect and promote the rights of each individual under its care, including each of the following rights:

(a) The right to be fully informed in advance about the care and treatment to be provided by the agency; about any changes in the care or treatment to be provided; and except for an individual judged incompetent, to participate in planning care and treatment or changes in care or treatment.

(b) The right to voice grievances without discrimination or reprisal with respect to treatment or care that is or fails to be furnished.

(c) The right to confidentiality of clinical records.

(d) The right to have one's property treated with respect.

(e) The right to be fully informed orally and in writing in advance of coming under the care of the agency of items and services for which payment may be made by Medicare; coverage of items and services under Medicare, Medicaid, and any other Federal programs; any charges not covered under Medicare and any charges the individual may have to pay; and any changes in charges or items and services furnished.

(f) The right to be fully informed in writing in advance of coming under the care of the agency of the individual's rights and obligations under Medicare.

(g) The right to be informed of the availability of the State home health agency hot-line established under the bill.

(2) The agency must notify the State entity responsible for the licensing or certification of the home health agency of a change in (a) the persons with an ownership or control interest in the agency, and (b) the corporation, association, or other company responsible for the management of the agency. This notice must be given at the time of the change and must include the identity of each new person or company.

(3) The agency must not use on a fulltime, temporary, per diem, or other basis any individual who is not a licensed health care professional to provide covered home health services or items on or after Oct. 1, 1989, unless the individual (1) is competent to provide services as a result of completing a training program that meets minimum standards established by the Secretary, or (2) is enrolled in, and making timely Progress in completing a training program, and with respect to providing specific services, is competent to provide those services. The agency must also provide regular performance review and regular in-service education that assures individuals are competent to provide services. An individual would

not be considered to have completed a training program if, since the individual's most recent completion of a program, there has been a continuous period of 24 consecutive months during none of which the individual was used to provide services for compensation.

The Secretary would be required to establish minimum standards for training programs by not later than July 1, 1988. These standards would be required to include the content of the curriculum, minimum hours of training, qualification of instructors, and procedures for determining competency. These standards could permit recognition of programs offered by or in home health agencies, as well as other organizations (including employee organizations), and of programs in effect on the date of enactment of the bill. However, the standards could not provide for the recognition and approval of a program offered by or in a home health agency which has been determined to be out of compliance with the requirements and conditions of participation for home health agencies within the previous 2 years. Standards would be required to permit that an individual who has completed a training program before Jan. 1, 1989, be deemed to have completed a program approved by the Secretary, if the Secretary determines that at the time the program was offered, the program met the standards established as a result of this legislation.

(4) The agency must include an individual's plan of care in the person's clinical records.

(5) The agency must operate and provide services in compliance with all applicable Federal, State, and local laws and regulations (including requirements of the Social Security Act pertaining to disclosure of ownership information) and with all accepted professional standards and principles which apply to professionals providing home health services.

Provides that it is the duty and responsibility of the Secretary to assure that the conditions of participation and requirements for home health agencies and their enforcement are adequate to protect the health and safety of individuals under the care of a home health agency and to promote the effective and efficient operation of the program.

Effective date.—Except as otherwise provided above, applies to home health agencies as of the first day of the 18th calendar month that begins after the date of enactment.

(d) Standard and Extended Survey.—(1) General Requirements for Standard Surveys.—Requires that the agreement the Secretary enters into with State or local agencies for surveying home health agencies provides that the agency conduct an annual standard survey of each home health agency. Provides that any individual who notifies, or causes to be notified, a home health agency of the time or date of this survey be subject to a civil money penalty of an amount not to exceed $2,000. Requires the Secretary to provide for imposition of the civil money penalties in a manner similar to that under current Social Security law. Requires the Secretary to review each State's procedures for scheduling and conduct of annual standard surveys to assure that the State has taken all reasonable steps to avoid giving notice of a standard survey.

(2) Frequency of Standard Surveys.—Requires that standard surveys of home health agencies be conducted without prior notice not later than 15 months after the date of the previous standard survey. Requires that the Statewide average interval between standard surveys of home health agencies not exceed 12 months. Provides that a standard survey (or an abbreviated standard survey) may be conducted within 2 months of any change of ownership, administration, or management of the agency. Requires that a standard survey be conducted within 2 months of when a significant number of complaints have been reported about a home health agency to the Secretary, the State, the licensing agency in the State, the State or local agency responsible for maintaining a toll-free hotline and investigative unit, or any other appropriate Federal, State, or local agency.

(3) Contents of Standard Survey.—Requires that the standard survey include, for a case-mix stratified sample of individuals provided services by the home health agency, visits to the homes of persons provided care, but only with the consent of such persons. Specifies that visits to the homes be for the purpose of evaluating the extent to which the quality and scope of services furnished by the agency attained and maintained the highest possible functional capacity of the individual, as reflected in the individual's written plan of care and clinical records (in accordance with a standardized reproducible assessment instrument approved by the Secretary). Also requires that the standard survey be based on a protocol that is developed, tested, and validated by the Secretary not later than Oct. 1, 1989.

(4) Conduct of Standard Survey.—Requires that the survey be conducted by an individual who meets minimum qualifications established by the Secretary not later than July 1, 1989 and who is not serving (or has not served within the previous 2 years) as a member of the staff or as a consultant to the home health agency surveyed.

(5) Extended Survey.—Requires that each home health agency found under a standard survey to have provided substandard care be subject to an extended survey to identify policies and procedures which produced such care and to determine whether the agency has complied with the conditions of participation. Requires that the extended survey be conducted immediately after the standard survey, or, if not practical, not later than 2 weeks after the date of completion of the standard survey. Also provides that any other agency may, at the discretion of the Secretary or State, be subject to an extended or partial extended survey. Further specifies that this provision does not require an extended or partial extended survey as a prerequisite to imposing a sanction against an agency as the result of a finding of a standard survey.

(6) Assessment Instruments for Surveys.—Requires the Secretary to designate an assessment instrument or instruments not later than April 1, 1989, for use in conducting surveys. Requires the Secretary, not later than Jan. 1, 1991, to evaluate the assessment process, report to Congress on the results of the evaluation, and to make, based on the evaluation, modifications in the assessment process as appropriate. Requires the Secretary to periodically update this evaluation, report to Congress on the update, and to make additional modifications as appropriate. Further requires the Secretary to provide training of State and Federal surveyors in the use of the assessment "instrument" or instruments.

Effective date.—Except as otherwise provided, effective on the first day of the 18th calendar month to begin after the date of enactment.

(e) Enforcement.—(1) General Procedures.—Provides that if the Secretary finds that a home health agency is no longer in compliance with certification requirements and determines that the deficiencies involved immediately jeopardize the health and safety of individuals receiving care from the agency, then the Secretary must take immediate action to remove the jeopardy and correct the deficiencies by providing for temporary management or by terminating certification of the agency, and may also provide for other intermediate sanctions described below. Provides that if the deficiencies do not immediately jeopardize health and safety, the Secretary may impose for a period of not to exceed 6 months intermediate sanctions described below, in lieu of termination. Requires the Secretary to terminate certification of such an agency if, after this period of intermediate sanctions, the agency is still no longer in compliance. Also provides that if the Secretary finds that a home health agency is in compliance with the conditions of participation but, as of a previous period, did not meet the requirements, the Secretary may provide for a civil money penalty for the days the agency was not in compliance.

Provides that the Secretary may continue to make payments to home health agencies not in compliance for a period not longer than 6 months, if (1) the State or local survey agency finds that it is more appropriate to take alternative action to assure compliance than to terminate certification; (2) the agency has submitted a plan and timetable for corrective action to the Secretary and the Secretary approves the plan; and (3) the agency agrees to repay Federal payments if the corrective action is not taken in accordance with the approved plan and timetable. Requires the Secretary to establish guidelines for approval of corrective actions.

(2) Intermediate Sanctions.—Requires the Secretary to develop and implement, by not later than April 1, 1989, a range of intermediate sanctions to apply to home health agencies and appropriate procedures for appealing determinations to impose such sanction. Requires that intermediate sanctions developed by the Secretary include: (1) civil money penalties (with interest) for each day of noncompliance; (2) suspension of all or part of the payments that a home health agency would otherwise be entitled to on or after the date the Secretary determines that intermediate sanctions should be imposed; and (3) the appointment of temporary management to oversee the operation of the home health agency to protect and assure the health and safety of individuals under the care of the agency while improvements are made to bring the agency into compliance. Prohibits the termination of temporary management until the Secretary has determined that the agency has the management capability to ensure continued compliance with requirements and conditions of participation.

Specifies that these intermediate sanctions are in addition to sanctions otherwise available under State of Federal law and should not be construed as limiting other remedies, including any remedy available to an individual under common law. Further provides that a finding to suspend payment shall terminate when the Secretary finds that the home health agency is in substantial compliance with all the requirements and conditions of participation.

Requires the Secretary to develop and implement, by not later than April 1, 1989, specific procedures under which each of the intermediate sanctions is to be applied, including the amount of any fines and the severity of each of the sanctions. Requires that the procedures be designed to minimize the time between identification of deficiencies and imposition of sanctions and provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies.

Effective date.—Except as otherwise provided, effective on the first day of the 18th calendar month after the date of enactment.

(f) Publication of Directory of Home Health Agencies.—Requires the Secretary to publish annually a directory containing the name, address, and telephone number of each home health agency certified to participate in Medicare. Requires the directory to provide information regarding all surveys and certifications of agencies, including information on patient care and the imposition of sanctions, if any. Requires the director to be organized by geographic area and in such a manner as to be most useful to Medicare beneficiaries. Further requires the Secretary to make the directory available to the public without charge at each district and branch office of the Social Security Administration and through area agencies on aging designated under the Older Americans Act. Requires the Secretary to promptly notify beneficiaries of the availability of any directory newly published as a result of this provision.

Effective date.—Enactment.

(g) Maintenance of Toll-Free Hotline and Investigative Unit.—Provides that the Secretary's agreement with a State or local survey agency require that agency to maintain a toll-free hotline to receive complaints and to answer questions about home health agencies in the State or locality.

Also requires the survey agency to maintain a unit for investigating complaints. Requires this unit to possess enforcement authority and to have access to survey reports.

Effective date.—Applies to agreements entered into or renewed on or after the date of enactment.

(h) Study of Adjustments to Home Health Agency Cost Limits.—Requires the Secretary to study and report to Congress, not later than Dec. 31, 1988, on (1) whether the separate schedules of cost limits currently applied to home health agencies located in urban and rural areas accurately reflect differences in costs of urban and rural home health agencies, and (2) the appropriateness of modifying such limits to take into account the proportion of agency patients who are from urban and rural areas.

Effective date.—Enactment.

(i) Data Used to Determine Home Health Agency Cost Limits.—Requires the Secretary to utilize for home health care agency cost limits a wage index that is based on data obtained from home health agencies. Also requires the Secretary to base limits on the most recent data available, which may be for cost reporting periods beginning no earlier than July 1, 1985.

Effective date.—Applies to cost reporting period beginning on or after July 1, 1988.

(j) Home Health Prospective Payment Demonstration Project.—Requires the Secretary to provide for a demonstration project to develop and test alternative methods of paying home health agencies on a prospective basis for services furnished under the Medicare and Medicaid programs. Requires the project to be designed in a manner to enable the Secretary to evaluate the effects of various methods of prospective payment (including payments on a per-visit, per-case, and per-episode basis) on program expenditures, access to and quality of home health care, and home health agency operations. Requires that the Secretary assure that services are first furnished under the project not later than July 1, 1988, and, for this purpose, authorizes the Secretary to reinstate a previously awarded contract, or to award a sole source contract to carry out the project. Requires the Secretary to submit to Congress, not later than one year after the date of enactment, an interim report on the demonstration project and, not later than 4 years after enactment, a final report on the results of the project.

Effective date.—Enactment.

(k) Moratorium on Prior Authorization for Home Health and Post-Hospital Extended Care Services.—No provision.

(l) Fiscal Intermediary Consultation Requirement.—No provision.

(m) Delay in Publishing Regulations with Respect to Deeming the Status of Home Health Agencies.—No provision.

(n) Beneficiary Notification.—No provision.

Senate amendment

(a) Requirement that Individual Be Confined to Home.—No provision. Related provision in S. 1127, the Medicare Catastrophic Loss Prevention Act of 1987.

(b) Appeals Procedures.—(1) Provides that the Secretary's agreement with a fiscal intermediary require the intermediary, for denied claims for home health services, extended care services, or post-hospital extended care services, to (a) furnish the provider and the beneficiary with a written explanation of the denial and of the statutory or regulatory basis for the denial; (b) for claims denied on the ground that the service is not medically necessary, ensure that if the beneficiary (or the provider on behalf of the beneficiary) seeks reconsideration of the denial, that the denial is reviewed by a physician (a physician with expertise in geriatrics, if available); and (c) promptly notify the beneficiary and the provider of the disposition of the reconsideration.

(2) Requires the Secretary, in evaluating the performance of fiscal intermediaries and carriers, to include in standards and criteria for home health, extended care, post-hospital extended care, and durable medical equipment claims processing, whether the intermediary is able to process 75 percent of reconsiderations within 60 days (except in the case of FY 1989, 66 percent of reconsiderations), and 90 percent of reconsiderations within 90 days, and the extent to which its determinations are reversed on appeal.

Effective date.—(1) For provisions requiring intermediary to explain denials, to use a physician to review a reconsideration, and to notify promptly, beneficiaries and providers of the disposition of a reconsideration, applies to claims received on or after Jan. 1, 1988.

(3) Similar provision, but also applies to contracts with carriers.

(c) Conditions of Participation for Home Health Agencies.—Establishes in Medicare statute similar conditions of participation for home health agencies.

(1) The agency must protect and promote the rights or each individual under its care, including each of the following rights:

(a) The right to be fully informed about care and treatment, to participate (where appropriate) in planning care and treatment, and to be fully informed in advance of any changes in care or treatment that may affect the individual's well-being.

(b) The right to voice grievances without suffering discrimination or reprisal with respect to treatment or care that is or fails to be furnished.

(c) No provision.

(d) Identical provision.

(e) Similar provision.

(f) No provision.

(g) No provision.

(2) The agency must promptly inform the State entity responsible for the licensing of the home health agency of a change in the persons with an ownership or control interest in the agency. The agency must also promptly provide the State licensing agency the name and social security account number of any individual hired by the agency to provide care and disclose whether such individual has ever been convicted of a felony.

(3) The agency must provide covered home health services (except for medical supplies and durable medical equipment) on or after Oct. 1, 1989, only through persons who are licensed health professionals or who have successfuly completed or are enrolled in and making timely progress in completing a training program that meets minimum standards established by the Secretary. Requires that the Secretary ensure that durable medical equipment suppliers are properly trained in the demonstration and use of the equipment that they supply to home health agencies.

The Secretary would be required to establish minimum standards for training programs by not later than July 1, 1988.

(4) The clinical records of an individual must include the person's plan of care.

(5) The agency must operate and provide services in compliance with all applicable Federal, State, and local laws and regulations and with all accepted professional standards and principles.

Similar provision, but without specification of (1) "duty" of Secretary and (2) "enforcement" of conditions of participation and requirements.

Effective date.—Except as otherwise provided above, applies to home health agencies as of the first day of the 18th calendar month that begins after the date of enactment.

(d) Standard and Extended Survey.—General Requirements for Standard Surveys.—Requires that the agreement the Secretary enters into with State or local agencies for surveying home health agencies provides that the agency conduct a standard survey of each home health agency. Provides that a standard survey may be made with or without advance notice.

(2) Frequency of Standard Surveys.—Provides that standard surveys may be conducted with or without advance notice. Requires that such surveys be conducted not earlier than 9 months and not later than 15 months after the date of the most recently completed survey. Requires that a standard survey be conducted promptly upon a change of ownership of the agency or a significant number of complaints.

(3) Contents of Standard Survey.—Requires that the standard survey, not later than Jan. 1, 1990, include visits to a sample of the homes of persons provided care, but only with the consent of such persons. Specifies that visits to the home be for the purpose of evaluating the extent to which the quality and scope of services furnished by the agency improved or maintained the

functional capacity of the individual (in accordance with a standardized reproducible assessment approved by the Secretary). Requires that the standard survey evaluate the quality of care and services provided and the agency's observance of the individual's rights. Also requires that the standard survey be based on a protocol that is developed, tested, and, validated by the Secretary not later than July 1, 1989.

(4) Conduct of Standard Survey.—Similar provision, except specifies that survey be conducted by an individual who has not, during the two-year period prior to the survey, served as a consultant to the home health agency surveyed with respect to their compliance with conditions of participation.

(5) Extended Survey.—Requires that each home health agency found under a standard survey to have performed poorly with regard to compliance with any condition of participation be subject to an extended survey. Also provides that any other agency may, at the discretion of the Secretary of State, be subject to an extended survey.

(6) Assessment Instruments for Surveys.—Requires the Secretary to designate an assessment instrument or instruments not later than April 1, 1990. Identical provisions for Secretary's evaluation of assessment process, but with deadline of Jan. 1, 1992. Similar provisions for requiring Secretary to provide training of State and Federal surveyors, but without specification of training in assessment "instruments."

Effective date.—Except as otherwise provided, effective on the first day of the 18th calendar month to begin after the date of enactment.

(e) Enforcement.—(1) General Procedures.—No provisions regarding procedures to be followed when deficiencies immediately jeopardize the health and safety of individuals receiving care from an agency found to be out of compliance with certification requirements. Provides that if the Secretary finds that a home health agency no longer substantially meets the certification requirements, or, has failed to correct a deficiency according to a timetable approved by the Secretary, and furthermore determines that the deficiencies involved do not immediately jeopardize the health and safety of individuals receiving care from the agency, then the Secretary may impose for a period not to exceed one year intermediate sanctions described below, in lieu of termination.

Also requires the Secretary to develop and implement criteria and procedures for the evaluation of plans of correction submitted by home health agencies that do not meet conditions of participation and requirements. Requires that criteria and procedures be designed to maximize specificity in these plans and assure that corrections are made according to a timetable approved by the Secretary.

(2) Intermediate Sanctions.—Similar requirements for the development and implementation of intermediate sanctions, but without specification of deadline. Requires that intermediate sanctions developed by the Secretary include: (1) civil fines and penalties, and (2) suspension of all or part of the payments that a home health agency would otherwise be entitled to on or after the date the Secretary determines that intermediate sanctions should be imposed.

Specifies that these intermediate sanctions are in addition to sanctions otherwise available under State or Federal law.

Similar provision, but without specification of deadline.

Effective date.—Identical provision.

(f) Publication of Directory of Home Health Agencies.—No provision.

(g) Maintenance of Toll-Free Hotline and Investigative Unit.—Similar provision, but specifies that hotline would (1) collect, maintain, and continually update information on home health agencies in the State or localities certified to participate in Medicare (with such information required to include any significant deficiencies found with respect to patient care in the most recent certification survey conducted, when that survey was completed, whether corrective actions have been taken or are planned, and the sanctions, if any, imposed); and (2) receive complaints and answer questions about home health agencies in the State or locality.

Similar provisions also for investigative unit, but specifies that this unit possess enforcement authority and have access to consumer medical records and survey reports.

Effective date.—Applies to agreements entered into or renewed on or after the date of enactment.

(h) Study of Adjustments to Home Health Agency Cost Limits.—Similar provision, except requires Secretary to report not later than June 1, 1988.

Effective date.—Enactment.

(i) Data Used to Determine Home Health Agency Cost Limits.—No provision.

(j) Home Health Prospective Payment Demonstration Project.—Similar provision, but requires the Secretary to conduct a study of and demonstration to test alternative methods of paying home health agencies on a prospective basis for services furnished under Medicare. Also, requires that the study and demonstration provide all necessary data for determining a prospective rate or rates for any such method and for determining whether application of a particular method allows for payment under Medicare on a budget-neutral basis.

Requires that the study account for (1) the special needs of sole community home health agencies and new home health agencies; (2) extraordinary circumstances beyond the control of home health agencies (such as significant fluctuations in population and unusual labor costs); (3) the need to minimize administrative and financial reporting requirements to reduce program costs; (4) variations in severity of illness and case complexity that cannot be adequately accounted for by the various prospective payment methods; and (5) increases in wages and the cost of goods and services included in the cost of providing home health services.

Requires that the amount paid for home health services under the demonstration be no greater than the amount that would have been paid for such services under Medicare, in the absence of the demonstration.

Requires the Secretary to submit to Congress an interim report on the progress of the demonstration not later than 12 months after the date of enactment. Also requires the Secretary, not later than July 1, 1990, to submit to Congress specific legislative proposals based on the results of the study.

Effective date.—Enactment.

(k) Moratorium on Prior Authorization for Home Health and Post-Hospital Extended Care Services.—Prohibits the Secretary from implementing any voluntary or mandatory program of prior authorization for home health services, extended care services, or post-hospital extended care services under Medicare at any time prior to 6 months after the date the Congress receives the Secretary's report and evaluation of the demonstration required under P.L. 99-509.

Effective date.—Enactment.

(l) Fiscal Intermediary Consultation Requirement.—Provides that the Secretary's agreement with a fiscal intermediary require that the intermediary implement a mechanism for consulting (at least once annually) with representatives of home health and post-hospital extended care and extended care service providers in the region, beneficiaries of services, and appropriate personnel of the Health Care Financing Administration on problems of claims review, coverage guidelines, reconsiderations, payments, and other activities of the intermediary.

Effective date.—Effective Jan. 1, 1988. Further requires that the Secretary provide for such timely amendments to agreements with intermediaries and regulations to such extent as may be necessary to implement the amendments of this provision on a timely basis.

(m) Delay in Publishing Regulations With Respect to Deeming the Status of Home Health Agencies.—Prohibits the Secretary from publishing, earlier than 6 months after publication of proposed regulations, final regulations providing that an entity may be deemed a home health care agency for purposes of Medicare on the ground that is has been certified by a private accreditation entity.

Effective date.—Enactment.

(n) Beneficiary Notification.—Requires the Secretary, not later than 90 days after enactment of the bill, to develop and distribute to each participating provider and to each fiscal intermediary a standard form that is periodically updated (as appropriate) and contains a description of (1) rights and conditions of coverage of home health, post-hospital extended care, and extended care services furnished under Medicare; (2) rights to appeal a coverage determination where the provider of services decides not to submit a claim on behalf of the beneficiary; (3) the right to appeal (directly or through the provider) the denial of a claim; and (4) the practical steps required for initiating appeals (including sources of legal assistance). Also requires the Secretary to take appropriate steps to ensure that (1) each provider makes the standard document (as updated) available to any individual covered under Part A of Medicare at any time the individual requests home health, post-hospital extended care, or extended care services through the provider; and (2) each intermediary makes the document available to any individual receiving services at any time the intermediary makes a determination regarding home health, post-hospital extended care, or extended care services that the individual may appeal.

Effective date.—Enactment.

Conference agreement

(a) Requirement That Individual Be Confined to Home.—The conference agreement includes the House provision, with an amendment to provide that the limitations on individual's absences from home do not apply to absences for the purpose of medical treatment.

(b) Appeals Procedures.—The conference agreement includes the Senate amendment to apply the same appeals procedures to all claims for home health services under Part B and to all claims for services under Part A, except inpatient hospital services. The conference agreement does not include the requirement for physician reviews of medi-

cal reconsiderations. The conferees understand that administrative law judges may or may not base their decisions on criteria beyond those used by fiscal intermediaries. Thus, in setting the standards under this subsection, the Secretary shall take this understanding into account.

(c) Conditions of Participation for Home Health Agencies.—The conference agreement includes the House provision, with an amendment to provide that DME suppliers must not use on a full-time, temporary, per diem, or other basis any individual who does not meet minimum training standards for the demonstration and use of the equipment that they supply to individuals entitled to Medicare benefits. The Secretary is required to establish the minimum training standards by October 1, 1988. The resident assessment requirement is deferred one year.

(d) Standard and Extended Survey.—The conference agreement includes the House provision, with two amendments. The sample of persons provided care to be visited at home is required to be a case-mix stratified sample to the extent practicable. The deadline for the Secretary's evaluation of the assessment instrument is changed to January 1, 1992.

(e) Enforcement.—The conference agreement includes the House provision.

(f) Publication of Directory of Home Health Agencies.—The conference agreement does not include the House provision.

(g) Maintenance of Toll-Free Hotline and Investigative Unit.—The conference agreement includes the Senate amendment, with a modification to clarify that the investigative unit shall have access to survey and certification records and to consumer medical records but only with the consent of the consumer or his/her legal representatives.

(h) Study of Adjustments to Home and Health Agency Cost Limits.—The conference agreements includes the Senate amendment.

(i) Data Used to Determine Home Health Agency Cost Limits.—The conference agreement includes the House provision, with an amendment to require that only audited wage date obtained from home health agencies be used in the development of the wage index.

(j) Home Health Prospective Payment Demonstration Projects.—The conference agreement includes the House provision.

(k) Moratorium on Prior Authorization for Home Health and Post-Hospital Extended Care Services.—The conference agreement includes the Senate amendment.

(l) Fiscal Intermediary Consultation Requirement.—The conference agreement does not include the Senate amendment.

(m) Delay in Publishing Regulations with Respect to Deeming the Status of Home Health Agencies.—The conference agreement includes the Senate amendment with an amendment to include the deeming of all providers.

(n) Beneficiary Notification.—The conference agreement does not include the Senate amendment.

ESRD Amendments (Sections 4077, 4078, and 4081 of House bill; Section 4013(b) of Senate amendment).

Present law

(a) Implementation of Primary Payer Requirements for ESRD Program.—Medicare law sets forth certain circumstances under which Medicare payments become secondary to payments from other sources; such as other insurance coverage or workmen's compensation. Medicare benefits are secondary for a limited period of time (up to 12 consecutive months) in the case of individuals who are entitled to Medicare solely on the basis of end-stage renal disease and who are entitled to coverage under an employer group health plan. During the period in which Medicare is secondary, Medicare pays primary benefits for Medicare-covered services not covered under the employer plan and makes secondary payments to supplement the amount paid by the employer plan if that plan pays only a portion of the charge.

In general, the secondary payer provisions specify that Medicare payment may not be made if payment has been made or can reasonably be expected to be made by the other payer. However, in the case of end-stage renal disease beneficiaries, the standard is whether payment has been made or will be made as promptly as would be made by Medicare.

(b) Limitation of Minimum Utilization Rate Requirement for ESRD Transplantations.—In order to qualify for Medicare payments for covered services to end-stage renal disease patients, providers must meet requirements for a minimum utilization rate for covered procedures and for self-dialysis training programs. Covered services currently include dialysis, dialysis training, and transplantation.

(c) Studies of ESRD Program.—The Secretary is currently required to submit an annual report on the end-stage renal disease program to Congress by July 1 of each year.

House bill

(a) Implementation of Primary Payer Requirements for ESRD Program.—Conforms the payment standard for ESRD payments to that applicable under other secondary payer provisions.

(b) Limitation of Minimum Utilization Rate Requirement for ESRD Transplantations.—Provides that the minimum utilization requirements will only apply to transplantation.

(c) Studies of ESRD Program.—(1) *In General.*—Requires the Secretary to arrange for a study of the end-stage renal disease program.

(2) Items Included in Study.—Requires the study to address, among other items: (A) access to treatment by both Medicare beneficiaries and other patients; (B) the quality of care provided to end-stage renal disease beneficiaries, as measured by clinical indicators, functional status of patients, and patient satisfaction; (C) the effect of reimbursement on qualify of treatment; (D) major epidemiological and demographic changes in the end-stage renal disease population that may affect access to treatment, the quality of care, or the resource requirements of the program; and (E) the adequacy of existing of data systems to monitor these matters on a continuing basis.

(3) Report.—Requires the Secretary to submit to Congress, by 3 years after the date of enactment of this Act, a report on the study.

(4) Arrangements for the Study.—Requires the Secretary to request the National Academy of Sciences, acting through the Institute of Medicine, to submit an application to conduct the required study. If the Academy submits an acceptable application, the Secretary shall enter into an appropriate arrangement with the Academy for the conduct of the study. If the Academy does not submit an acceptable application, the Secretary may request one or more appropriate nonprofit private entities to submit an application to conduct the study and may enter into an appropriate arrangement for the conduct of the study by the entity which submits the best acceptable application.

(5) Elimination of Unneeded Reporting Requirements.—Eliminates the current requirement that the Secretary may submit an annual report on the end-stage renal disease program to Congress by July 1 of each year.

Effective date.—(a) Applies with respect to items and services furnished on or after 30 days after the date of enactment. (b) and (c) Enactment.

Senate amendment

(a) Implementation of Primary Payer Requirements for ESRD Program.—Similar provision.

(b) Limitation of Minimum Utilization Rate Requirement for ESRD Transplantations.—No provision.

(c) Studies of ESRD Program.—No provision.

Effective date.—(a) Enactment.

Conference agreement

(a) Implementation of Primary Payer Requirements for ESRD Program.—The conference agreement includes the House provision.

(b) Limitation of Minimum Utilization Rate Requirement for ESRD Transplantations.—The conference agreement includes the House provision with a modification to extend to July 1, 1988 the date by which guidelines concerning the reuse of bloodlines would be required (Current law requires the guidelines by January 1, 1988).

(c) Studies of ESRD Program.—The conference agreement includes the House provision. The conferees note that this provision should not be interpreted as implying that the Congress will not make modifications to the program prior to receiving the required report.

9. Certification of Pediatric Heart Transplant Program (Section 4085 and Section 9206(g) of House bill)

Present law

Under current law, the Secretary certifies cardiac transplant centers for Medicare participation and for Medicare reimbursement for transplant services. Under current regulations, no pediatric centers are certified.

House bill

Section 4085.—Requires the Secretary to review, upon the request of a pediatric heart transplant center, whether or not the center meets the standards and criteria for qualification as a Medicare heart tranplant center, other than the standards and criteria regarding the minimum number of heart transplants per year. If the Secretary determines that the center meets the standards and criteria (other than for the number of heart transplants performed), the Secretary is required to issue a certification of its qualifications.

Section 9206(g).—Requires the Secretary to determine that a pediatric hospital meets the criteria of a Medicare heart transplant facility if: (1) the hospital's pediatric heart transplant program is operated jointly by the hospital and another facility that meets such criteria; (2) the unified program shares the same transplant surgeons and quality assurance program (including oversight committee, patient protocol, and patient selection criteria); and (3) the hospital demonstrates to the satisfaction of the Secretary that it is able to provide the specialized facilities, services, and personnel that are required by pediatric heart transplant patients.

Effective date.—

Section 4085.—Applies on or after the date of enactment of this Act.

Section 9206(g).—Applies on or after the date of enactment of this Act.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House provision in section 4085. (The House provision included a section 9206(g) is included in the agreement—see discussion of Part A).

10. Medicare Contractors (Sections 4012 (b) and (c) of Senate Amendment)

Present law

(a) Payment Safeguards.—The Secretary contracts with fiscal intermediaries and carriers to determine and make payments for Medicare benefits and to perform audits and other related functions.

The Consolidated Omnibus Budget Reconciliation Act of 1985 earmarked $105 million for FY 1986, FR 1987, and FY 1988, for the exclusive purposes of conducting provider cost audits, medical necessity reviews, and the recovery of third-party liability payments.

(b) Prohibition Against Denial Quotas.—The Secretary develops standards and criteria for evaluating the performance of Medicare fiscal intermediaries and carriers. There are currently no statutory requirements specifically relating to criteria related to denial quotas.

(c) Authority of the Secretary.—The Secretary currently has authority to (1) ascertain the accuracy of decisions (including Medical review decisions) made by a fiscal intermediary or a carrier, and (2) prescribe standards for measuring the performance of any such fiscal intermediary or carrier.

House bill

(a) Payment Safeguards.—No provision.

(b) Prohibition Against Denial Quotas.—No provision.

(c) Authority of the Secretary.—No provision.

Senate amendment

(a) Payment Safeguards.—Increases the amount for these activities by $100 million for FY 1988, FY 1989, and FY 1990.

(b) Prohibition Against Denial Quotas.—Prohibits the Secretary, when establishing standards and criteria for fiscal intermediaries and carriers, from evaluating them solely on the basis of any specified numerical ratio of (1) amounts that must be saved through denial of claims under utilization review to (2) amounts expended with respect to such review.

(c) Authority of the Secretary.—Provides that nothing in (a) or (b) above shall be construed to limit the authority of the Secretary, under the law in effect on the date of the enactment of this Act, to (1) ascertain the accuracy of decisions (including Medical review decisions) made by a fiscal intermediary or a carrier. (2) prescribe standards for measuring the performance of any such fiscal intermediary or carrier, and (3) refuse renewal of (or renew conditionally) any such fiscal intermediary agreement or carrier contract for failing to meet such standards.

Effective date.—(a) Applies with respect to fiscal years beginning with FY 1988. (b) and (c) Enactment.

Conference agreement

The conference agreement does not include the Senate amendments.

11. Secondary Payer Provisions (Section 4013(a) of Senate Amendment)

Present law

The Omnibus Budget Reconciliation Act of 1986 provides that Medicare is the secondary payer in the case of disabled Medicare beneficiaries who also had group health insurance through their employer or their spouse's employer. This provision applies to employers who have 100 or more employees.

House bill

No provision.

Senate amendment

Clarifies that this provision applies to government entities, but specifies that the tax penalty does not apply to government entities.

Effective date.—Applies on or after January 1, 1987.

Conference agreement

The conference agreement includes the Senate amendment.

12. Hearings and Appeals (Section 4089 of Senate amendment)

Present law

The Omnibus Budget Reconciliation Act of 1986 established administrative and judicial review procedures for Medicare's Part B. These procedures are comparable to those previously in effect for Part A.

Administrative review has been handled by administrative law judges within the Social Security Administration of the Department of Health and Human Services.

House bill

(a) Maintaining Current System for Hearings and Appeals.—No provision.

(b) Study and Report on Use of Telephone Hearings.—No provision.

Senate amendment

(a) Maintaining Current System for Hearings and Appeals.—Requires any Part A or Part B administrative review hearing before the date on which the Secretary submits the report required in (b) below to be conducted by administrative law judges of the Office of Hearings and Appeals of the Social Security Administration in the same manner as hearings are conducted under Section 205(b)(1) of the Social Security Act.

(b) Study and Report on Use of Telephone Hearings.—Requires the Secretary, together with the Comptroller General to conduct a study on holding Part A and Part B administrative review hearings by telephone and to report the results of the study by 6 months after enactment.

Requires that study to focus on whether telephone hearings allow for a full and fair evidentiary hearing, in general, or with respect to any particular category of claims and to examine the possible improvements to the hearing process (such as cost-effectiveness, convenience to the claimant, and reduction in time under the process) resulting from the use of such hearings as compared to the adoption of other changes to the process (such as expansions in staff and resources).

Effective date.—Enactment.

Conference agreement

(a) Maintaining Current System for Hearings and Appeals.—The conference agreement includes the Senate amendment, with a modification. The requirement that hearings be conducted by administrative law judges of the Social Security Administration continues in effect until the earlier of September 1, 1988, or the date the Secretary files the report required by (b), below.

(b) Study and Report on the Use of Telephone Hearings.—The conference agreement includes the Senate amendment.

13. Rural Health Medical Education Demonstration Projects (Section 4002(c) of Senate amendment)

Present law

No provision.

House bill

No provision.

Senate amendment

Requires the Secretary to enter into agreements, within six months after enactment, with four sponsoring teaching hospitals to conduct three year demonstration projects to assist resident physicians to obtain field clinical experience in rural areas. Each sponsoring hospital is required to enter into an arrangement to provide a small rural hospital with physicians, who have completed one year of residency training, for periods of one to three months.

In selecting applications from potential sponsoring hospitals, the Secretary is required to ensure that four small rural hospitals located in different counties participate. Two of these must be located in rural counties of more than 2,700 square miles, and two must be located in rural counties that have a severe shortage of physicians; one of each type of hospital must be located east and one west of the Mississippi River.

For purposes of determining the amount of additional payments under PPS for indirect costs of graduate medical education activity (the teaching adjustment), residents who participate during any part of a year, are counted as if they worked at the sponsoring hospital on September 1 of that year, and not counted as if working at the small rural hospital.

For purposes of determining the amount of payment for the direct costs of graduate medical education activities in a sponsoring hospital, the amount otherwise permitted under current law is increased by an amount equal to the amount of direct costs the hospital incurs in supervising the training activities of the demonstration project.

Effective date: Enactment.

Conference agreement

The conference agreement includes the Senate amendment.

14. Nurse Services (Section 4131 and 4132 of Senate Amendment)

Present law

(a) Certification and Recertification of the Need for Certain Services.—Under the current Medicare law, specific conditions and limitations are placed on Medicare reimbursement for services. For post-hospital extended care services, the law provides that a physician certify and recertify that such services are required as a condition for Medicare reimbursement.

(b) Coverage of Certain Items and Services Furnished by a Nurse Practitioner or Clinical Nurse Specialist.—No provision.

House bill

No provision.

Senate amendment

(a) Certification and Recertification of the Need for Certain Services.—Amends the provision of the Medicare law relating to certification and recertification by a physician (as a condition of and limitation for

on a timely basis, repayment would not be due until 15 days after receiving notice of an adverse appeal decision. However, physicians may not charge beneficiaries for services determined by a PRO to be of substandard quality.

(b) Hospital Deductible.—Hospitals may charge beneficiaries for the inpatient hospital deductible even if Medicare payment for inpatient care has been denied by the PRO.

(c) Patient Liability for Hospital Charges During Appeal of Discharge Notice.—The Omnibus Budget Reconciliation Act of 1986 provided that a hospital may provide a patient with a coverage denial notice if the hospital determines the patient no longer requires inpatient care and if the attending physician agrees with the hospital's determination.

If the attending physician disagrees with a hospital's determination, the hospital may request the PRO to review their determination. In this situation, under current law, the patient is not provided with a denial notice.

In cases where a patient does receive a denial notice, and requests PRO review, the PRO must review the determination and provide notice to the patient, attending physician and hospital, regardless of the patient's financial liability for continued stay. If a patient requests PRO review of the hospital's determination no later than noon on the first working day after receipt of the denial notice, the hospital must furnish the PRO, by close of business that day, with the records necessary to make a determination; and the PRO must provide notice by 1 full working day after it has received the request and the records.

If a patient has made a timely request and did not know or could not reasonably be expected to know that continued stay was unnecessary, the hospital may not charge the patient for hospital services before noon of the day after the receipt of the PRO's decision.

House bill

(a) Physician Services.—Prohibits physicians, in the case of assigned claims, from billing Medicare beneficiaries for services for which payment has been denied by a PRO on substandard quality grounds.

Specifies that physicians, in the case of assigned claims which were denied on the basis of medical necessity or substandard quality, must agree to refund amounts already collected.

Specifies that physicians, in the case of non-assigned claims which were denied on the basis of substandard quality, must refund amounts already collected (unless prior to delivery of the services the patient is informed that Medicare payment will not be made and he or she agrees to pay).

Makes conforming changes to statutory language relating to settlement of claims for benefits on behalf of deceased individuals.

(b) Hospital Deductible.—Indemnifies the individual in the case of any deductible and coinsurance paid if a PRO has denied Medicare payment for services.

Provides that no item or service for which an individual is indemnified under this subsection shall be taken into account in applying any limitation on the amount of items and services for which Medicare payment may be made to or on behalf of the individual.

Effective date.—Applies to services furnished on or after January 1, 1988.

(c) Patient Liability for Hospital Charges During Appeal of Discharge Notice.—No provision.

Senate amendment

(a) Physician Services.—Similar provision, except that it requires the Secretary to provide for such timely amendments to carrier contracts and regulations, to such extent as may be necessary to implement the specified provisions, and except that it does not contain the conforming language relating to settlement of claims for benefits on behalf of deceased individuals.

Effective date.—Applies to items and services furnished on or after the date of enactment.

Hospital Deductible.—Prohibits hospitals from billing beneficiaries for any Part A deductible or copayments where the PRO has denied payments on the basis of substandards quality of service.

Effective date.—Applies to provider agreements as of the date of enactment of this Act.

(c) Patient Liability for Hospital Charges During Appeal of Discharge Notice.—Requires the PRO to notify the patient when the hospital requests review, in the case where the hospital has determined but the physician does not agree that the patient no longer requires inpatient care.

Provides that this notice shall be sufficient to require the PRO to review the validity of the hospital's determination and to require the hospital to provide the PRO with the required records.

Effective date.—Enactment.

Conference agreement

(a) Physician Services.—The conference agreement includes the House provision.

(b) Hospital Deductible.—The conference agreement includes the House provision.

(c) Patient Liability for Hospital Charges During Appeal of Discharge Notice.—The conference agreement includes the Senate amendment.

3. Norms and Education (Section 9281(c), Section 4051, and Section 4052 of the House bill; Sections 4041 (f) and (g) of the Senate Amendment).

Present Law

(a) Standards Applied by PROs.—PROs are required to apply professionally developed norms of care when reviewing the medical necessity or quality of services. Each PRO is required to develop its own norms of care.

(b) Off-Site Review.—PRO review in some instances, particularly in rural areas, is conducted off-site using written records, rather than in-person.

(c) Reports to Providers.—No provision.

(d) Education Activities.—PROs are evaluated by the HCFA regional offices, the HCFA central office and an independent contractor (known as "SuperPRO"). The Office of the Inspector General has performed audits and inspections of various aspects of the PRO program.

(e) Review of HMOs and CMPs.—The Consolidated Omnibus Budget Reconciliation Act of 1985 mandated review of services rendered by HMOs and CMPs. The Omnibus Budget Reconciliation Act of 1986 allowed the Secretary to contract for review of HMO and CMP services with entities other than PROs on a competitive basis, but such contracts are limited to no more than half of the States, covering no more than half of the total population of Medicare beneficiaries enrolled in risk-contracting plans.

HMOs and CMPs are currently reviewed for the purpose of determining whether the quality of their services meet professionally recognized standards of health care, including whether appropriate health care services have not been provided or have been provided in inappropriate settings.

(f) Psychiatric and Physical Rehabilitation Services.—The PRO, to the extend necessary and appropriate to the performance of the contract, is required to use practitioners of, or specialists in, the areas of medicine (including dentistry), or other types of medical care, who, to the maximum extent practicable, are engaged in the practices of their profession within the areas served by the PRO.

(g) Telecommunications Demonstration Projects.—PROs, after identifying a shortcoming in the provision of care, may take corrective actions including education, intensified review, alternate timing of review, and sanctions.

House bill

(a) Standards Applied by PROs.—

Section 9281(c).—Requires the norms of outpatient treatment used by PROs to consider social factors (such as the distance from a patient's residence to the site of care, family support, availability of proximate alternative sites of care, and the patient's ability to carry out necessary or prescribed self-care regimens) that could adversely affect the safety or effectiveness of treatment provided on an outpatient basis.

Section 4051.—No provision.

Section 4052.—No provision.

(b) Off-Site Review.—

Section 9281(c).—No provision.

Section 4051.—Requires the PRO to publish for a visit, at least quarterly, to each rural hospital reviewed by the PRO, by the physician or physicians responsible for the review of that hospital's services. The physicians are to meet with the medical and administrative staff of the hospital regarding the PRO's review of the hospital's Medicare services.

(c) Reports to Providers.—

Section 9281(c).—Requires the PRO to publish and distribute a report, at least twice each year, to providers and practitioners subject to review, on the types of cases or clinical circumstances in which the organization has frequently determined that: (1) inappropriate or unnecessary care has been provided, (2) services were rendered in an inappropriate setting, or (3) services did not meet professionally recognized standards of health care.

Sections 4051 and 4052.—No provision.

(d) Educational Activities.—

Section 9281(c).—Requires PROs to offer to meet, at least quarterly, with medical and administrative staff of each hospital (at the hospital or at a regional meeting) about the PRO's review of the hospital's Medicare services.

Section 4052.—Requires the Secretary, when evaluating the performance of PROs to place emphasis on the performance of PROs in educating providers and practitioners (particularly in rural areas) concerning the review process and criteria being applied by the PRO.

(e) Review of HMOs and CMPs.—No provision.

(f) Psychiatric and Physical Rehabilitation Services.—No provision.

(g) Telecommunications Demonstration Projects.—No provision.

Effective date.—

Section 9281(c).—Applies to PRO contracts entered into or renewed more than 6 months after the date of the enactment of this Act.

Section 4051.—Applies to PRO contracts as of January 1, 1988.

$10,000 for each day of noncompliance and the Secretary must impose and collect such a penalty in the same manner as they are imposed and collected under the relevant Social Security law; (C) in consultation with the State, the Secretary may appoint temporary management to oversee the operation of the facility to assure the health and safety of its residents, where there is a need for temporary management while there is an orderly closure of the facility, or improvements are made in order to bring the facility into compliance. Prohibits termination of the temporary management until the Secretary has determined that the facility has the management capability to ensure continued compliance.

(3) Provides that the Secretary may continue Medicaid matching payments to a State for care provided by a facility not in compliance, for no more than 6 months, if: (A) the State survey agency finds that it is more appropriate to take alternative action to assure compliance than termination of certification; (B) the State has submitted a plan and timetable for corrective action to the Secretary for approval which the Secretary approves; and (C) the State agrees to repay the Federal payments if the corrective action is not taken in accordance with the approved plan and timetable. Requires the Secretary to establish guidelines for approval of corrective actions requested by the States.

(e) Effective Period of Denial of Payment.—Similar provision but applies to nursing facilities under Medicaid.

(f) Remedies Where State or Secretary Finds Noncompliance and Immediate Jeopardy.—Similar provision except applies to requirements for nursing facilities under Medicaid. Requires the State and the Secretary to notify the other of such finding, and the State or the Secretary to take immediate action to remove the jeopardy and correct the deficiencies through appointment of temporary management or termination of participation. Requires that in the case of termination, the State must provide for the safe and orderly transfer of the Medicaid residents.

(g) Special Rules where the Secretary and State Disagree on Finding of Noncompliance.—Similar provision, except applies to facilities under Medicaid. Provides that in the latter case, the Secretary may impose certain remedies and is required (pending any termination by the secretary) to permit Federal matching payments.

(h) Special Rules for Enforcement Actions Where the Secretary and the State find Noncompliance But Disagree on Corrective Actions.—

(1) General Rules.—Similar provision except applies to nursing facilities under Medicaid. Provides that if both the Secretary and the State find a facility out of compliance, that both find that the failure does not immediately jeopardize the health and safety of the residents, but only the Secretary finds that the facility's participation should be terminated, then the Secretary must (pending any termination by the Secretary) permit continuation of Federal matching payments. Provides that if the State but not the Secretary finds that the facility's participation should be terminated, the State's decision to terminate and the timing of the termination applies. If either the Secretary or the State establish remedies in addition or as an alternative to termination, then such other remedies apply. If both the Secretary and the State establish other remedies than termination, only those of the Secretary apply.

(2) Construction.—Similar provision except specifies that these remedies do not limit other remedies, including any remedy available to an individual under common law.

(i) Sharing of Information.—Similar provision except also applies to investigations by State Medicaid fraud control units.

Senate amendment

(a) General Requirements.—Amends the current Medicare law relating to the Secretary's enforcement of compliance with the requirements for participation in Medicare and Medicaid by SNFs. Amends also the Medicaid law relating to State enforcement of compliance with requirements for ICF participation in Medicaid.

(b) Requirements for State Enforcement Process.—Similar provision except requires that if a State determines that a SNF or ICF (other than an intermediate care facility for the mentally retarded) that is certified for participation under Medicaid no longer meets the applicable requirements and further determines that the facility's deficiencies do not immediately jeopardize the health and safety of its residents, the State may, instead of terminating the facility's participation, impose one or more of the sanctions specified below.

(c) Specific State Remedies.—

(1) Required Remedies.—Requires the State to develop and implement a range of intermediate sanctions to apply to facilities for which the deficiencies have been determined not to immediately jeopardize the health and safety of their patients. Requires these sanctions to include: (A) directed plans of correction; (B) the appointment of receivers (in accord with provisions specified below); and (C) one or more of the following sanctions: civil fines; on-site monitoring by an agency responsible for conducting certification surveys (with the costs of such monitoring to be paid by the facility without reimbursement); withholding or reducing amounts otherwise payable to the facility; and any other sanction designated or approved by the Secretary.

Requires the State to develop and implement specific criteria as to when and how each of these intermediate sanctions is to be applied; the amounts of any fines, and the severity of each of the penalties.

Requires the criteria to be designed to minimize the time between identification of violations and final imposition of the sanctions. Also requires that the criteria provide for the imposition of incrementally more severe penalties for repeated or uncorrected deficiencies. Provides that in accord with such criteria, the State may impose any sanction in lieu of, or in addition to, termination of participation.

Requires that where a State determines that a SNF or an ICF (other than an ICF/MR) that is certified for participation under its plan is chronically failing to meet substantially Medicare or Medicaid requirements, or determines that the facility's deficiencies immediately jeopardize the health and safety of its patients, the State shall give public notice of such determination, and the State may appoint a receiver to (A) oversee the operation of the facility; (B) establish and oversee the implementation of a correction plan to bring the facility into compliance by a date specified in the correction plan, and (C) assure the health and safety of the facility's patients during the facility's receivership period.

Requires that subject to current law relating to Medicaid facilities that are found to be out of compliance, that State Medicaid payment be made with respect to any services furnished by any such facility during any period of receivership ordered by the Secretary or the State.

Requires that public notice be given in any case in which such deficiencies are determined to be rectified.

(2) Deadline and Guidance.—No provision.

(3) Assuring Compliance.—No provision.

(4) Funding.—No provision.

(5) Repeated Noncompliance.—No provision, but see (c)(1) above relating to specific state remedies.

(6) Incentives for High Quality Care.—No provision.

(d) Secretarial Authority.—

(1) Requires the Secretary to develop and implement a range of intermediate sanctions to apply to facilities with deficiencies that have been determined not to immediately jeopardize the health and safety of their patients. Requires that such sanctions include: (A) directed plans of correction; (B) the appointment of receivers (as provided below); and (C) one or more of the following sanctions: civil fines; on-site monitoring by an agency responsible for conducting certification surveys (with the costs of such monitoring to be paid by the facility without reimbursement); withholding or reducing amounts otherwise payable to the facility under Medicare or Medicaid; and any other sanction designated or approved by the Secretary.

Requires the Secretary to implement specific criteria as to when and how each of these intermediate sanctions is to be applied; the amounts of any fines, and the severity of each of the penalties.

Requires the criteria to be designed to minimize the time between identification of violations and final imposition of the sanctions. Also requires that the criteria provide for the imposition of incrementally more severe penalties for repeated or uncorrected deficiencies. Provides that in accord with such criteria, the Secretary may impose any sanction in lieu of, or in addition to, termination of participation.

Requires that in any case where intermediate sanctions imposed by a State pursuant to this bill are in effect with respect to a facility, the Secretary shall review periodically (not less than once every 3 months) the effectiveness of such sanctions in promoting the correction of the deficiencies involved and shall withhold action unless the Secretary determines that such sanctions are ineffective or immediately jeopardize the health and safety of its patients.

(2) Requires that in any case where the Secretary determines that a SNF is chronically failing to meet substantially Medicare requirements or of the provider agreement, or determines that the facility's deficiencies immediately jeopardize the health and safety of its patients, the Secretary shall give public notice of such determination, and in the case of a SNF that is not in a period of State-ordered receivership, the Secretary may appoint a receiver to oversee the operation of the facility, establish and oversee the implementation of a correction plan to bring the facility into compliance with the applicable requirements of the State plan, Medicare, Medicaid and State licensing requirements by a date set forth in the correction plan; and assure the health and safety of the facility's patients during the receivership period.

(3) Requires that Medicare payment be made with respect to any services furnished by any such facility to patients who remain

The Senate amendment waives the section 102(2)(C) requirements of NEPA for the development of program regulations or holding particular lease sales.

The Senate recedes to the House. Enactment of this provision does not per se make lease sales subject to an environmental impact statement.

19. Prohibition on lease issuance due to non-reclamation

The House bill prohibits lease issuance to any person failing to reclaim a lease until such time as reclamation requirements are complied with.

The Senate amendment prohibits lease issuance or lease assignment to any entity that fails to reclaim a lease, or is controlled by or under common control with an entity failing to reclaim a lease.

The conference amendment blends the House and Senate provisions to prohibit lease issuance or lease assignment to any entity that fails to reclaim a lease, or is controlled by or under common control with an entity failing to reclaim a lease, until such time as reclamation requirements are complied with.

20. Anti-fraud provisions

The House bill provides for remedies, penalties, fines and imprisonment to combat fraudulent practices.

The Senate amendment includes language similar to the House provisions.

The conference amendment provides technical and clarifying changes to the Senate amendment.

Subtitle C—Land and Water Conservation Fund and Tongass Timber Supply Fund

SEC. 5201. LAND AND WATER CONSERVATION FUND ACT AMENDMENTS

The conference agreement on recreation fees resolves numerous minor language and technical differences between the House and Senate versions. The major differences resolved by the conferees are discussed briefly below.

1. Entrance Fee Levels

With some exceptions, both the House and Senate bills establish caps for park entrance fees at $3 per person or $5 per vehicle. The House bill permitted fees up to $10 per vehicle and $5 per person at Grand Canyon, Yellowstone, and Grand Teton National Parks. The Senate bill authorized these higher fees at Yellowstone, Grand Teton and Glacier National Parks. The conference agreement established a maximum fee of $10 at Yellowstone and Grand Teton; $5 at Glacier, and effective at the beginning of Fiscal Year 1991, $10 at Grand Canyon.

2. Urban Fee Exclusion

The House bill prohibited an entrance fee at any park unit located in an urbanized area of 50,000 or more, where a fee was not charged as of September 30, 1986.

The Senate version prohibited an entrance fee at any park unit providing significant outdoor recreation opportunities in an urban environment where there are multiple access points.

The conference agreement adopts the Senate generic language but specifically prohibits the imposition of fees at the following units which would not otherwise be covered by the Senate provision: U.S.S. Arizona Memorial, Independence National Historical Park, any unit of the national park system within the District of Columbia, Arlington House-Robert E. Lee National Memorial, San Juan National Historic Site, and Canaveral National Seashore.

3. Special Allocation of Certain BLM Recreation Fees

The Senate bill contains a provision directing that BLM fee revenue from the issuance of special recreation permits for private and commercial water based recreational activities (including but not limited to white water rafting, kayaking, and canoeing) be expended by the BLM for on the ground resource protection, visitor services, recreational facilities and other purposes directly related to these river based activities.

The House bill includes no such provision.

The conference agreement deletes the specific Senate provision but makes it clear that, to the extent feasible, recreation user fee money be used for authorized purposes directly related to the activities which generated the funds, such as camping and water-based recreational activities (e.g. various river running activities) on BLM lands. The need for the infusion of such funds is especially critical as recreation-related use of these rivers, especially on BLM lands, has risen dramatically while the BLM's recreation budgets have steadily declined.

4. Allocation of Park Fee Receipts

Both versions included essentially the same method for distributing park fee receipts among the various park units. The Senate bill, however, provided that 15 percent of the funds were to be allocated to the Director of the National Park Service to be distributed to park units on the basis of need.

The conference agreement provides a 10 percent discretionary fund to the Director. This money is to be spent at specific park units, not allocated in the Washington, DC or regional offices.

5. Repeal of Statutory Exemptions

The House bill repeals portions of various laws providing for specific fee exclusions at various parks.

The Senate bill included no such provision.

The conference agreement adopts the Senate position except that an entrance fee is authorized for Denali National Park and Preserve, Alaska. However, it is anticipated that, as provided in the conference agreement, a transportation fee will be imposed at Denali in lieu of an entrance fee.

6. Permanent Appropriation

In the House version, the allocation of the fee revenue was made subject to appropriation acts. The Senate bill made this allocation subject to appropriation only until FY 1991. Thereafter, such allocation would be made as part of a permanent appropriation.

The conference agreement adopts the House position. However, it is important to note that the conference agreement is predicated on these fee revenues being allocated to the park units as an addition to the unit's base funding level in accordance with the allocation formula set forth in fee legislation and not as an offset against existing funding.

SEC. 5202. TONGASS TIMBER SUPPLY FUND

The Senate bill included a provision that amended Section 705(a) of ANILCA to make the Tongass Timber Supply Fund subject to appropriations for FY 1988 and FY 1989. Under the Senate language, the permanent appropriation for the Tongass Timber Fund would be reinstated at the beginning of FY 1990. The House measure included no such provision.

The conference agreement adopted the Senate position.

Subtitle D—Reclamation

SEC. 5301. BUREAU OF RECLAMATION LOAN SALE PROGRAM

Senate Bill

The Senate bill authorizes the Secretary of the Interior to sell various Bureau of Reclamation loans. The loans authorized for sale include the distribution system loans, small reclamation loans, and rehabilitation and betterment loans. The net proceeds from these sales for fiscal year 1988 must be not less than $130,000,000. The Secretary is directed to protect the rights of the United States and borrowers in the conduct of such sale program.

House Bill

The House bill has no such provision.

Conference Agreement

The conference agreement modifies the language in the Senate bill. Subsection (a) is nearly identical to the Senate language. It authorizes the sale of loans in order to realize net proceeds of not less than $130 million in fiscal year 1988. The Secretary shall protect the rights of the United States and borrowers in the conduct of such sale program.

Subsection (b) provides that nothing in this section, including the prepayment or other disposition of any loan, shall alter the situation of a borrower with respect to the application of Federal Reclamation law if this section had not been enacted. For example, a borrower who previously had the ability to prepay will gain whatever relief he would otherwise have had from the Federal government obtaining a prepayment and a borrower who could not prepay will be in exactly the same situation, with respect to the application of Federal law, as if there had not been a prepayment.

Subsection (b) also provides that nothing in this section shall authorize the transfer of title to any Federally-owned facilities funded by the loans specified in subsection (a) without a specific Act of Congress.

The conference agreement does not authorize the transfer of title to any projects or facilities to which title is vested in the United States, but does not preclude the transfer of any security interest which the United States may hold solely as collateral for a loan, if it does not hold title.

Subsection (c) directs that receipts from the sale or other disposition of the loans shall be deposited in the Treasury. The conference language also authorizes the Secretary to pay reasonable fees and expenses of operating the program out of the receipts from loan sales.

Subsection (d) provides that the authority for the Secretary to sell loans shall terminate on December 31, 1988. The conferees agree that the Secretary's authority should be temporary to enable proper Congressional oversight and review. If permanent authority is required, the Congress can provide it at a later date.

Subtitle D—Reclamation

SEC. 5302. RECLAMATION REFORM ACT AMENDMENTS

The Conferees on the part of the House and Senate are aware of concerns that have been expressed regarding compliance with the Reclamation Reform Act of 1982 (RRA). Simply stated, the main concern is that individuals or other legal entities may be improperly receiving the benefits of less than full cost water on landholdings which are greater than their entitlement under Reclamation law (e.g., 960 acres or the equivalent thereof for a qualified recipient, or 160 acres for a prior law recipient).

Allegations were made at hearings before the Senate Committee on Energy and Natural Resources that a small number of individuals are using trusts, farm management agreements, or other legal devices to effectively shift the economic benefit of the low cost irrigation water from the owner of an eligible landholding, to a legal entity which allegedly is not entitled to that water. The Conferees understand that these types of arrangements are not allowed or contemplated under the RRA. The Secretary has been requested to investigate these particular allegations and is currently doing so.

It is important to state that the RRA did not limit the size of a farming operation, but rather limited the benefits of less than full cost irrigation water (e.g., 960 acres for a qualified recipient, 320 acres to certain limited recipients, and 160 acres for a prior law recipient).

The Department of the Interior has established a special task force to audit individuals and entities for compliance with the Reclamation law and has committed to a program of rigorous enforcement. To obtain the necessary information to identify any abuses and to vigorously pursue a systematic schedule of audits of individuals and entities subject to the law, the bill contains a statutory directive to the Secretary to complete a program of audits of individuals and entities subject to Reclamation law. The Secretary is directed to complete the audits within three years of legal entities and individuals whose landholdings are more than 960 acres. The Secretary is required to submit a report at least annually which summarizes the results of the audits conducted. In the course of these audits, the conferees expect the Secretary to use his existing authority under section 224(c) of the RRA to obtain such information as may be required to determine compliance with the law. The conferees expect the Secretary to review all relevant documents related to a farming operation, including but not limited to trust instruments, farm operation agreements, partnership agreements, and incorporation documents, to determine whether the terms of these instruments alone or when read together with other agreements, have the effect of shifting the economic benefits and risks associated with land from the landowner to another individual or entity. If the benefits and risks have been so shifted, the Secretary is expected to determine whether the individual or entity is receiving the benefit of low-cost irrigation water associated with a landholding in excess of that authorized by Reclamation law. If these limits are exceeded, the Secretary is expected to determine whether or not the full cost provisions of the RRA apply to the excess acreage. If the full cost provisions are applicable and proper payments have not been made, the Conferees expect, and the law requires, the amount of the underpayment to be collected. The Conference agreement amends the RRA by adding a new section 224(i), which makes it clear that the Secretary is required to collect any underpayment, plus interest, accruing from the date the payment was due.

The Conference agreement also makes an amendment to the RRA with respect to trusts. The amendment would require certain lands placed in trust to be attributable to the grantor if specific conditions are met. The Secretary shall provide a reasonable period of time, not to exceed 120 days from the date of enactment, in which existing trusts may wish to restructure to avoid payment of full cost as a result of this section.

The Conference agreement also amends the RRA with respect to the treatment of recordable contracts entered into prior to October 12, 1982, the date of enactment of the RRA. The amendment requires the imposition of full cost pricing to irrigation water delivered to lands subject to a recordable contract executed prior to October 12, 1982, and such lands have already received irrigation water at less than full cost for a period of ten years regardless of any extension or suspension of the contract for purposes of disposal of excess lands.

Subtitle E—Allocation of Abandoned Mine Reclamation Funds in Wyoming

The House bill included a provision that the State of Wyoming may, subject to a plan approved by the Governor, expend not more than $2,000,000 from its allocation of fiscal year 1987 appropriated funds under section 402(g) of Public Law 95-87 for direct assistance to citizens evacuated from their homes in Campbell County, Wyoming, due to hazards from methane and hydrogen sulfide gases.

The Senate amendment contained no such provision.

The Senate recedes to the House.

Section 7601 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272) requires the Nuclear Regulatory Commission to collect annual charges from its licensees. The amount of the charges:

(A) when added to other amounts collected by the Commission, may not exceed 33 percent of the Commission's costs; and

(B) must be reasonably related to the regulatory service provided by the Commission and fairly reflect the cost to the Commission of providing the service.

Section 3010 of the Senate bill repeals section 7601 of Public Law 99-272 and authorizes the Commission to collect annual charges from its licensees only for fiscal years 1988, 1989, and 1990. The amount of the charges is increased for those years in an amount necessary to collect, when added to other receipts, 45 percent of the Commission's costs. The charges must also be reasonably related to the regulatory service provided and fairly reflect the Commission's cost of providing the service.

Sections 4301 and 5001 also repeal section 7601. Both section 4301 and section 5001 direct the Commission to collect annual charges from its nuclear power plant licensees, but neither section limits the amount of the charge to the Commission's cost of providing regulatory services to the licensee. Sections 4301 and 5001 require the Commission to collect charges in an amount necessary to collect, when added to other receipts, 100 percent and 75 percent, respectively, of the Commission's costs.

The conferees agreed to a substitute that amends section 7601 to increase the amount of the annual charge be an amount that, is equal to an additional six percent of the Commission's costs for fiscal years 1988 and 1989 beyond the 33 percent that the Commission is authorized to collect pursuant to this section and any amount that the Commission is authorized to collect pursuant to House Joint Resolution 395, but no less than a total of 45 percent of such costs. Beginning in fiscal year 1990, the amount of the annual charge will return to 33 percent of the Commission's costs. The conference substitute preserves the requirement of existing law that the amount of the annual charge be reasonably related to the regulatory service provided by the Commission and fairly reflect the cost to the Commission of providing the service.

FEES OF THE ENVIRONMENTAL PROTECTION AGENCY

Senate Bill

Section 3001 of the Senate bill authorizes the Administrator of the Environmental Protection Agency to assess and collect fees for services and activities it provides in the amount of $40 million annually in fiscal years 1988, 1989 and 1990. Fees collected pursuant to this provision would be deposited in a special fund at the Department of Treasury for appropriation to the Agency to support programs and activities for which the fee was charged.

House Bill

The House bill contains no comparable provision.

Conference agreement

The managers agree to delete the Senate provision.

Statement of Managers on Oil Spill

The Managers agree to delete the House language contained in Title VI, Subtitle A regarding oil spill liability and compensation. The Managers also agree to extend the authorization for one year of the potential commencement date of an Oil Spill Liability Trust Fund and tax on petroleum pending enactment of authorizing legislation. This authorization is contained in section 4611(f)(2)(B) of the Internal Revenue Code. The Managers also agree to actively pursue separate oil spill legislation through the normal authorization process during the second session of the 100th Congress, attempting to complete action before expiration of the tax authorization.

TENNESSEE VALLEY AUTHORITY SALARIES

Senate bill

Section 3003 of the Senate bill authorizes the Tennessee Valley Authority to waive current salary caps in the case of twenty-five designated management employees involved in the Authority's nuclear power operations, provided the amount paid above the salary caps does not collectively exceed $900,000 per year.

House bill

The House bill contains no comparable provision.

Conference agreement

House and Senate conferees were unable to come to an agreement on this provision and agree that the provision will not appear.

NAVIGATION ENHANCEMENT USER FEES

Title VI, Subtitle B, of the House bill directs the Secretary of the department in which the Coast Guard is operating to establish fees to cover the costs of the United States to enhance the ability of a vessel to more safely transit the Persian Gulf.

Senate amendment

No provision.

Conference substitute

The House recedes.

TITLE VI—CIVIL SERVICE AND POSTAL SERVICE PROGRAMS

FEDERAL EMPLOYEE PAY ADJUSTMENTS

House bill

Section 7001 of the House bill provides for pay adjustments for blue-collar and white-collar Federal employees in fiscal years 1988, 1989, and 1990. The adjustments provided are 3 percent in fiscal year 1988, 4.8 percent in fiscal year 1989, and 5.2 percent in fiscal year 1990. Section 7001 further provides that the pay adjustments shall be delayed from October 1 until the following January 1 of each fiscal year in the case of white-collar employees, and shall be delayed by 90 days in the case of blue-collar employees. Finally, section 7001 provides that employing agencies shall absorb 65 percent of the cost of the pay raise in fiscal year 1988, and 50 percent in each of fiscal years 1989 and 1990.

Senate amendment

Section 5001 of the Senate amendment provides that the pay adjustment for Federal white-collar and blue-collar employees shall be 2 percent. It further provides that the pay adjustments in fiscal years 1988, 1989, and 1990 shall be delayed in the same manner as provided under the House bill. The Senate amendment also repeals section 601 of the National Defense Authorization Act for fiscal years 1988 and 1989. The effect of the repeal is to reduce the military pay raise for fiscal year 1988 from 3 percent to 2 percent. Finally the Senate amendment precludes any fiscal year 1988 pay adjustment for Members of Congress, judges, and top officials in the Executive Branch.

Conference agreement

The conference agreement contains no provisions on pay adjustments for Federal civilian and military employees. The conferees on the fiscal year 1988 continuing resolution have agreed to include in that legislation limits on civilian and military pay adjustments and their application in fiscal year 1988.

CONTINUATION OF 6-DAY MAIL DELIVERY

House bill

Section 7002 of the House bill reimposes the bar on the elimination of 6-day mail delivery. The bar applies through fiscal year 1990. This bar originated in the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35). It was extended through fiscal year 1987 by the Deficit Reduction Act of 1984 (P.L. 98-369). It expired on October 1, 1987.

Senate amendment

The Senate amendment has no comparable provision.

Conference agreement

The House recedes to the Senate.

ELIMINATION OF AUTHORITY FOR MEMBERS OF THE POSTAL SERVICE'S BOARD OF GOVERNORS TO SERVE BEYOND THE EXPIRATION OF THEIR TERMS

House bill

Section 7003 of the House bill repeals the provision of law (39 U.S.C. 202(b)) which allows a member of the Postal Service Board of Governors to continue to serve for up to one year beyond the statutory expiration of his or her term if a successor has not been nominated and confirmed. This provision was enacted in 1983 (P.L. 98-81) and was intended to prevent short-term vacancies which routinely occurred while the confirmation process was underway. In practice, however, the provision has deterred the prompt filling of vacancies. In two instances where a Governor's term has expired, it took eleven months for a successor nominee's name to be submitted to the Senate.

Senate amendment

The Senate amendment contains no comparable provision.

Conference agreement

The House recedes to the Senate.

REDUCTION OF POSTAL SERVICE CAPITAL EXPENDITURES

House bill

The House bill has no provision.

Senate amendment

Section 5003 of the Senate amendment reduces the Postal Service's capital investment program by $402 million in fiscal year 1988 and $536 million in fiscal year 1989. The savings resulting from these capital investment reductions are required to be paid to the Civil Service Retirement and Disability Fund (Fund). In addition, beginning in fiscal year 1990, the Senate amendment requires the Postal Service to pay into the Fund on a cash basis in each fiscal year, an amount equal to the actual cost of civil service retirement cost-of-living adjustments paid to individuals who retire from the Postal Service on or after October 1, 1989.

Conference agreement

The conference agreement includes provisions capping Postal Service capital commitments and obligations at $625 million in fiscal year 1988 and $1.995 billion in fiscal year 1989. This will cause the Postal Service to defer three-fifths of its capital investment program in fiscal year 1988. The deferral of capital investments is for fiscal year 1988 only. The capital investment deferral reduces Postal Service capital outlays by $350 million in fiscal year 1988 and $465 million in fiscal year 1989.

The conferees note that there is a disagreement between the Postal Service and the Congressional Budget Office and the Office of Management and Budget over whether the above figures accurately reflect the Service's capital investment program. The figures quoted are CBO/OMB numbers.

In fiscal year 1988, the Postal Service is required to pay $350 million to the Civil Service Retirement and Disability Fund. In fiscal year 1989, the Postal Service is required to pay $465 million into a "Postal Service Escrow Fund" created and maintained by the Department of the Treasury. Funds deposited in the escrow account will not be available to the Postal Service in fiscal year 1989.

It is the view of a majority of the conferees of the authorizing committees that consideration should be given to restoring the Postal Service to the off-budget status it enjoyed prior to 1985. Toward that end, the authorizing committees intend to request that the General Accounting Office and the Congressional Budget Office study the implications of taking the Postal Service off-budget and report to the respective authorizing committees. The Postal Service is a self-financing entity with a mandate to meet operating and capital expenses through income and effective financial management. The Postal Service in no way contributes to the deficit problems faced by the Federal Government. Subjecting the Service to the constraints of a congressional and executive budget process threatens its ability to maintain the service necessary to sustain the nation's commerce and lines of communication. In order to best serve the public interest, the Postal Service must remain a free and independent entity.

It is the intent of the conferees of the authorizing committees that there should be no erosion of the Private Express Statutes. The Postal Service has proven itself capable of providing efficient and economical service since the time of the Postal Reorganization Act of 1970, particularly under the current Postmaster General and a management team and work force dedicated to public service.

REDUCTION OF POSTAL SERVICE OPERATING EXPENSES

House bill

The House bill has no provision.

Senate amendment

Section 5004 requires the Postal Service to reduce its operating expenses in fiscal years 1988 and 1989 by a sufficient amount to pay to the Federal Employees Health Benefits Fund an amount equal to the cost of the employer portion of the health insurance premiums for retirees of the Postal Service. The estimated amount of the payments required (and corresponding reductions in operating expenses) are $375 million in fiscal year 1988 and $465 million in fiscal year 1989. The Senate amendment specifies that these payments must be made without (i) increasing borrowing, (ii) increasing the operating budget of the Postal Service, or (iii) increasing postal rates for the purposes of financing such payments. The Senate amendment further requires the Postal Service to develop a productivity improvement plan designed to achieve the required operating cost savings and report periodically to the President and the Congress on progress in achieving the required savings. The Senate amendment requires the General Accounting Office to audit the Postal Service to determine if it has complied with the requirements of the Senate amendment. Any required fiscal year 1988 or 1989 savings which are not achieved are offset by cuts in the Postal Service capital investment program in fiscal year 1990.

Conference agreement

The conference agreement includes provisions requiring the Postal Service to pay $160 million in fiscal year 1988 and $270 million in fiscal year 1989 into the Federal Employees Health Benefits Fund.

The conference agreement specifies that the Postal Service must not (i) increase postal rates, (ii) increase borrowing, or (iii) use any budgetary resources other than those derived from the operating budget of the Postal Service in order to make these payments.

The conference agreement requires the Postal Service to formulate an implementation plan specifically enumerating the methods by which the Postal Service shall fulfill the requirements of the agreement and report periodically to Congress on its progress in achieving the required savings. The General Accounting Office is directed to audit the Postal Service to determine if it has complied with the requirements of the agreement and report those findings to Congress. The conference agreement further provides that, based upon GAO's determination of compliance, Congress shall consider the appropriate remedy necessary to enforce compliance with the conference agreement.

It is the intent of the conferees that the Postal Service, in satisfying the mandates of the conference agreement in reducing costs, give high priority to maintaining service standards presently enjoyed by the users of the Service. In addition, the Postal Service is expected to consult with employee organizations concerning actions affecting service.

DEFERRED PAYMENT OF RETIREMENT LUMP-SUM CREDIT

Conference agreement

The conference agreement provides for deferred payments of the lump-sum credit that certain employees elect to receive upon retirement. Under the terms of the conference agreement, an employee whose eligibility for an annuity commences after January 3, 1988, and before October 1, 1989, would receive 60 percent of the amount of the lump-sum credit which such employee elects at the time of retirement, and 40 percent of the amount of the lump-sum credit on the date 12 months after the date on which the lump-sum credit would otherwise have been paid. The conference agreement further provides that the Office of Personnel Management shall prescribe regulations under which the deferred payment provisions shall not apply in the case of an employee who is involuntarily separated for reasons other than cause and in the case of an individual to whom the application of the provisions would be against equity and good conscience, due to a life-threatening affliction or other critical medical condition affecting such individual.

The conferees intend that the lump-sum benefit presently available to retirees shall remain secure and intend that the provisions of the conference agreement should in no way be interpreted as detracting from Congress' commitment to sustaining this important benefit as a matter of public policy.

The conferees do not believe that the change in the treatment of the lump-sum credit in fiscal years 1988 and 1989 should be a precedent for any such modifications in the future.

TECHNICAL CLARIFICATION

Conference agreement

Although the conferees do not believe that section 6004 is necessary, it has been included to ensure proper scorekeeping of the savings provisions in this title.

TITLE VII—VETERANS' PROGRAMS

SALES OF VENDEE LOANS WITH OR WITHOUT RECOURSE

House bill

The House bill (section 8001) would state certain findings regarding adverse effects resulting from the recent change of the Office of Management and Budget (OMB) and the Congressional Budget Office (CBO) in accounting for vendee-loan notes sold with recourse by the Veterans' Administration (VA). It would also express the sense of the Congress that the CBO should reverse its decision and that any change in the assets sales policy of the VA should not be considered in future budget resolutions as a means of achieving deficit reduction. (Vendee-loan notes are promissory notes evidencing loans made by the VA to finance the sale of homes it has acquired as the result of foreclosures on VA-guaranteed loans or direct VA loans.)

Senate amendment

The Senate amendment (section 7001) would repeal paragraph (3) of section 1816(d) of title 38, United States Code, which prohibits the VA from selling vendee-loan notes without recourse unless the amount received is not less than the unpaid balance of the loan.

Conference agreement

The conference agreement (section 7001) would, effective with respect to sales made from the date of enactment through September 30, 1989, amend section 1816(d)(3) to eliminate the restriction on without-recourse sales and to permit the VA to sell vendee-loan notes either with or without recourse depending on the Administrator of Veterans' Affairs' determination, with respect to a proposed sale of such notes, as to which basis would be in the best interest of the effective functioning of the loan guaranty program, taking into account the comparative cost-effectiveness of selling the notes on each of the two bases. The Administrator would be required, in making that comparison, to determine and consider, based on estimates of market conditions and other pertinent factors at the time of sale, (a) the average amount by which the selling price for the notes if sold with recourse would exceed the selling price of the notes if sold without recourse; and (b) the total cost of selling the notes with recourse, including various cost factors specified in the legislation.

The Administrator also would be required, within 60 days after making any sale of such notes prior to October 1, 1989, to submit to the House and Senate Veterans' Affairs Committees a report (a) describing the application of the provisions of this section and the determination made thereunder with respect to each of the specified factors, (b) comparing the actual results of the sale with the anticipated results, and (c) describing any steps taken to facilitate the marketing of such notes.

Beginning on October 1, 1989, the current-law restriction on the sale of notes without recourse would be reinstated.

The conferees from the House and Senate Veterans' Affairs Committees note that those Committees are distressed that their ability to consider and recommend legislation with regard to the policy of selling vendee-loan notes with or without recourse has been diminished by scorekeeping policies recently adopted by the CBO and the OMB, especially since those policies were adopted without any consultation with those Committees.

LOAN FEE EXTENSION

Senate amendment

The Senate amendment (section 7002) would amend section 1829(c) of title 38, relating to the 1-percent fee generally imposed on veterans who obtain a loan guaranteed, insured, or made by the VA, to extend the loan fee through September 30, 1989.

House bill

No provision.

Conference agreement

The conference agreement (section 7002) contains the Senate provision.

The conferees note that an identical provision is contained in section 2(a) of the House and Senate Committees on Veterans' Affairs compromise agreement on H.R. 2672/S. 1801, passed by the House on November 17, 1987, and by the Senate on December 4, 1987, and now awaiting the President's signature.

CASH SALES OF PROPERTIES ACQUIRED THROUGH FORECLOSURES

House bill

The House bill (section 8003) would amend section 1816(d) of title 38, relating to the proportions of properties acquired as the result of defaults on VA-guaranteed loans which can be sold for cash and by means of loans made by the VA (so-called "vendee loans"), to increase, for fiscal years 1988, 1989, and 1990, the proportion of acquired properties which the VA is required to sell on a cash rather than vendee-loan basis from a minimum of 25 percent and a maximum of 40 percent to a minimum of 35 percent and a maximum of 50 percent.

Senate amendment

Same provision (section 7003).

Conference agreement

The conference agreement (section 7003) contains this provision.

The conferees note that an identical provision is contained in section 6(a) of the above-noted compromise agreement on H.R. 2672, which is awaiting Presidential signature.

STATUTORY CONSTRUCTION

Senate amendment

The Senate amendment (section 7004(a)), in a freestanding provision, would clarify that the provisions in section 7003 of the bill (described above) satisfy section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), subsection (a) of which generally prohibits treating a law that transfers a receipt from one fiscal year to an adjacent fiscal year as altering the deficit or producing a net deficit reduction. Subsection (b) of section 202 provides that the subsection (a) prohibition "shall not apply if the law making that transfer stipulates that such transfer . . . achieves savings made possible by changes in program requirements . . . ." Section 7004 states that, for the purposes of those provisions, title VII achieves savings made possible by changes in program requirements, namely, by requiring a greater proportion of cash sales and a reduced proportion of Government loans.

The Senate amendment (section 7004(b)), in light of the possibility that certain provisions identical to those in sections 7002 and 7003 may be enacted in H.R. 2672, would also provide in a freestanding provision that identical provisions not be incorporated in title 38 of the United States Code twice.

House bill

No provision.

Conference agreement

The conference agreement (section 7004) contains the Senate provisions.

GUARANTY AMOUNT

House bill

The House bill (section 8002) would amend section 1803(a)(1) of title 38, relating to the maximum VA loan guaranty amount for conventional homes, to change the current-law maximum of 60 percent of the amount of the loan or $27,500, whichever is less, to 40 percent of the amount of the loan or $40,000, whichever is less.

The House bill also would amend section 1819(c) of title 38, relating to the maximum VA loan guaranty amount for manufactured homes, manufactured-home lots, or manufactured homes and lots, to change the current-law maximum of 50 percent of the amount of the loan or $20,000, whichever is less, by reducing the 50-percent figure to 30 percent and making no change in the $20,000 figure.

Senate amendment

The Senate amendment contains no comparable provision. However, section 2(a) of S. 1801, as incorporated in H.R. 2672 as passed by the Senate on October 30, would have increased the dollar maximum of the guaranty for loans for conventional homes to $36,000 and would have made no change in the 60-percent figure or in the maximum guaranty for manufactured housing.

Conference agreement

No provision.

The conferees note that section 3 of H.R. 2672 would, effective generally with respect to loans for which settlement occurs after January 31, 1987, change the maximum VA loan guaranty amount (a) for conventional homes to (1) 50 percent of the amount of the loan for loans of $45,000 or less and (2) to 40 percent of the amount of the loan or $36,000, whichever is less, with a minimum guaranty of $22,500 for loans greater than $45,000, and (b) for manufactured housing to 40 percent of the loan amount, with no change in the $20,000 figure.

TITLE VIII—BUDGET POLICY AND FISCAL PROCEDURES

I. DEFENSE AND DOMESTIC DISCRETIONARY SPENDING LIMITS

House bill

The House bill had no such provision.

Senate amendment

Sections 9001(a) and 9001(b) of the Senate amendment set forth the levels of budget authority and budget outlays for fiscal years 1988 and 1989 for major functional category 050 (National Defense) and for all discretionary spending in categories other than major functional category 050 (National Defense). These levels, which are shown in the table below (in billions of dollars), are consistent with the summit agreement on deficit reduction.

	1988	1989
Defense (050):		
Budget authority	292.0	299.5
Outlays	285.4	294.0
Non-defense:		
Budget authority	162.9	166.2
Outlays	176.8	185.3

The levels of budget authority and outlays contained in sections 9001(a) and 9001(b) are below the Congressional Budget Office's estimate of the baseline specified by section 251(b)(6) of Gramm-Rudman-Hollings by the following amounts (in billions of dollars):

	1988	1989
Defense (050):		
Budget authority	10.9	15.7
Outlays	5.0	8.2
Non-defense:		
Budget authority	5.0	8.1
Outlays	2.6	3.4

In the Senate, a three-fifths point of order will lie against any fiscal year 1989 budget resolution that is not consistent with these levels. In addition, the House and Senate Appropriations Committees must make their 302(b) subdivisions for 1989 consistent with the defense and domestic spending ceilings specified in this amendment.

Conference agreement

The conference agreement adds language providing for compliance with the ceilings by the House Committee on the Budget. It also requires that the joint statement of managers on the fiscal year 1989 budget resolution shall make allocations under section 302(a) of the Congressional Budget Act, and that the Appropriations Committees shall make their allocations under section 302(b)(1) of that Act, consistent with the defense and nondefense levels set forth in this section.

II. LANGUAGE RESCINDING THE SEQUESTER ORDER

House bill

The House bill had no such provision.

Senate amendment

The Senate amendment contains language that rescinds the sequester order issued by the President on November 20, 1987. In addition, this language restores any sequestrable resource that has been reduced or sequestered by the final order except for reductions in payments to medicare providers.

The Finance Committee's recommendations specify that the reductions for physician services and durable medical equipment would continue through January 15, 1988 while all other reductions in provider payments would expire December 31, 1987.

The language of the Senate amendment specifically notes this exception. The language of the Senate amendment makes the rescinding of the sequester order and the restoration of sequestered resources dependent upon the enactment of a fiscal year 1988 continuing resolution and a reconciliation bill that achieve the deficit reduction contemplated in the summit agreement.

Conference agreement

The conference agreement perfects the language of the Senate amendment by rescinding both the initial and final sequester orders. The conferees intend that funding will be available and that benefits will be paid as though no sequester for fiscal year 1988 had ever been required.

The conferees intend that upon the enactment of the reconciliation bill and the full-year continuing appropriations bill for fiscal year 1988, the President shall take whatever steps are necessary to undo the effects of the sequester. The conferees intend that the language of this section will empower and instruct the President to take those steps.

Among other things, this provision is intended to authorize, for example, the Secretary of Agriculture to make payments to persons whose receipt of government payments was reduced during the period that the sequester order was in effect. These payments would be in the amount necessary to compensate these persons for the reductions. For this purpose, persons who sold commodities (or manufactured commodities that were subsequently sold to the Commodity Credit Corporation) or entered into loan agreements with respect to commodities or otherwise participated in programs conducted by the Department of Agriculture during the period of the sequester order should be treated as if the sequester did not go into effect.

The conference agreement makes the restoration of sequestered funds contingent upon the enactment of both the reconciliation bill and the full-year continuing appropriations bill for fiscal year 1988.

III. SUBMISSION OF PRESIDENT'S BUDGET

House bill

The House bill had no such provision.

Senate amendment

The amendment contains language changing the date for the submission of the President's budget to January 25 in 1988 and making other, conforming changes.

Conference agreement

The Senate recedes to the House.

IV. TECHNICAL AMENDMENTS TO THE CONGRESSIONAL BUDGET ACT

House bill

The House bill had no such provision.

Senate amendment

The Senate amendment makes technical corrections to the Congressional Budget Act. The amendment revises the table of contents of the Act by striking "Disapproval of proposed deferrals" and inserting "Proposed deferrals" so that the table of contents will conform with the section headings as they were amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987. The amendment renumbers subparagraph headings in section 3(a)(7) of the Congressional Budget Act and strikes a redundant paragraph to implement the changes made there by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987. The Senate amendment inserts a comma to make the structure of a sentence clearer after amendment by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987. Finally, the amendment substitutes "proposed" for "made" with regard to amendments in committee to conform with the reality that Senate committees merely propose amendments rather than make them.

Conference agreement

The conference amendment includes the Senate technical amendments as well as an additional technical correction to the Balanced Budget and Emergency Deficit Control Act of 1985 specifying that, in constructing its budget baseline for the purposes of that Act, the Congressional Budget Office and the Office of Management and Budget shall assume that the Federal Housing Administration mortgage insurance program is a permanent, ongoing program. This clarifies the law to conform with existing Congressional Budget Office and Office of Management and Budget practice.

TITLE IX—INCOME SECURITY AND RELATED PROGRAMS

A.—OASDI PROVISIONS

EXTEND FICA TAX TO INACTIVE DUTY RESERVISTS

(Section 9001 of the House Bill Section 4588 of the Senate Amendment)

Present law

Wages paid for certain military training for the reserves are not subject to FICA tax.

House bill

FICA taxes would be extended to inactive duty training (generally weekend training).

Effective date.—The provision would apply with respect to services performed after December 31, 1987.

Senate amendment

Similar provision, except that the Senate amendment does not extend to inactive duty training the additional, general-revenue-financed social security wage credits which are provided for wages earned in active duty.

Conference agreement

The conference agreement follows the House bill, with the addition of the Senate amendment concerning additional military wage credits.

The provision would be effective with respect to * * * after December 31, 1987.

2. EXTEND FICA TAX TO WAGES OF CERTAIN AGRICULTURAL EMPLOYEES

(Section 9002 of the House Bill; Section 4587 of the Senate Amendment)

Present law

Cash wages paid by an employer to an employee for agricultural labor in any calendar year are subject to FICA tax only if (1) the employee received cash remuneration of at least $150, or (2) the employee performed 20 or more days of agricultural labor for that employer.

House bill

Provides that the 20-day test would be eliminated and that any remuneration for agricultural labor paid by an employer to an employee would constitute wages if the employer pays more than $2500 to all employees for such labor during the taxable year. However, the $150 annual cash pay test would continue to be applied if the $2500 annual payroll test is not met.

Effective date.—This provision would apply to remuneration paid for agricultural labor after December 31, 1987.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill.

3. FICA TAX APPLICATION TO EMPLOYER COST OF GROUP TERM LIFE INSURANCE

(Section 9003 of the House Bill; Section 4590 of the Senate Amendment)

Present law

The cost of group term insurance provided by an employer to an employee is excluded from wages for FICA purposes. For income tax purposes, the cost of employer-provided group term life insurance is includible in an employee's gross income to the extent that the coverage exceeds $50,000. Additionally the total amount of employer-provided group term life insurance is included in an employee's gross income if the coverage is provided on a discriminatory basis.

House bill

The cost of employer-provided group term life insurance is included in wages for FICA tax purposes if such insurance was includible for gross income tax purposes.

Effective date.—This provision applies to group term life insurance coverage in effect after December 31, 1987.

Senate amendment

Similar provision.

Conference agreement

The conference agreement follows the House bill.

4. COVERAGE OF SERVICES PERFORMED BY ONE SPOUSE IN THE EMPLOY OF ANOTHER

(Section 9004 of the House Bill; Section 4591 of the Senate Amendment)

Present law

Covered employment for FICA tax purposes does not currently include wages paid to a spouse in the employ of his or her spouse.

House bill

FICA tax is extended to wages paid for services performed by an individual in the employ of his or her spouse's trade or business.

Effective date.—The provision applies with respect to services performed after December 31, 1987.

Senate amendment

Similar provision.

Conference agreement

The conference follows the House bill, except the provision would be effective with respect to remuneration paid after December 31, 1987.

5. COVERAGE OF SERVICES PERFORMED BY AN INDIVIDUAL IN THE EMPLOY OF A PARENT

(Section 9005 of the House Bill; Section 4592 of the Senate Amendment)

Present law

Wages paid for service performed by a child under the age of 21 in the employ of his or her father or mother are not subject to FICA tax.

House bill

FICA tax is extended to services performed by individuals between the ages of 18 and 21 who are employed in their parent's trade or business.

Effective date.—The provision applies with respect to services performed after December 31, 1987.

Senate amendment

Similar provision.

Conference agreement

The conference agreement follows the House bill, except the provision would be effective with respect to remuneration paid after December 31, 1987.

6. EXPAND EMPLOYER SHARE OF FICA TAX TO INCLUDE ALL CASH TIPS

(Section 9012 of the House Bill) (Section 4587 of the Senate Amendment)

Present Law

Special rules apply for purposes of calculating FICA taxes payable by employees and employers with respect to tips. For purposes of the employee FICA tax, tips received by employees are considered remuneration for services and are subject to the tax. The full amount of tips received by an employee is not, however, usually subject to the FICA tax imposed on the employer. Instead the employee is deemed to receive wages for purposes of the employer's share of FICA taxes only to the extent the Federal minimum wage exceeds the actual wage rate paid by the employer. Any tips received in excess of the difference between the minimum wage and the wages paid are not subject to the employer's portion of the tax.

House bill

For purposes of the employer's share of FICA taxes, all cash tips would be included within the definition of wages. Thus employers must pay FICA taxes on the total amount of wages and cash tips up to the Social Security wage base.

Effective date.—The provision would apply to tips received and wages paid on or after January 1, 1988.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill.

7. APPLICABILITY OF GOVERNMENT PENSION OFFSET TO CERTAIN FEDERAL EMPLOYEES

(Section 9006 of the House bill)

Present Law

Social security benefits payable to spouses of retired, disabled, or deceased workers are generally reduced to take account of any public pension the spouse receives as a result of work in a government job not covered by social security. The amount of the reduction is equal to two-thirds of the government pension. The offset does not apply to workers whose government job is covered by social security on the last day of the person's employment.

Generally, Federal workers hired before 1984 are part of the Civil Service Retirement System (CSRS) and are not covered by social security. Federal workers hired after 1983 are covered by the Federal Employees' Retirement System Act of 1986 (FERS), which includes coverage by social security. The FERS law provides that employees covered by the CSRS will be given the opportunity from July 1, 1987 to December 31, 1987 to make a one-time election to join FERS (and thereby obtain social security coverage). Thus, a CSRS employee who switches to FERS during this period immediately becomes exempt from the government pension offset.

House bill

Federal employees who switch from CSRS to FERS during the July 1-December 31, 1987 election period are exempt from the government pension offset only if they have 5 or more years of Federal employment covered by social security after June 30, 1987. Certain legislative branch employees mandatorily covered by social security by the 1983 Social Security Amendments are exempt only if they have 5 or more years of Federal employment covered by social security after December 31, 1983.

A transition rule is provided for those nearing retirement.

Effective date.—Applies with respect to benefits for months after June 1987, except for benefits to certain legislative employees mandatorily covered by social security by the 1983 Social Security Amendments who applied for spousal benefits before July 1, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with a modification making the 5 year requirement effective prospectively; that is, it would be effective with respect to employees who elect to become covered under FERS during any election period which may occur on or after January 1, 1988. The provision also applies to certain legislative branch employees who first become covered under FERS on or after January 1, 1988. The provision would be effective with respect to social security benefits for months after December 1987 except for benefits to certain legislative employees who applied for special benefits before January 1, 1988.

8. EXEMPTION FROM REDUCTION IN "WINDFALL" BENEFIT

(Section 9007 of the House Bill)

Present Law

Under the so-called "windfall" benefit provision of the Social Security Amendments of 1983, social security benefits are generally reduced for workers who also have pensions from work that was not covered by social security (e.g., work under the Federal Civil Service Retirement System). Under the regular, weighted benefit formula, benefits are determined by applying a percentage to average indexed monthly earnings. In 1987, benefits equal 90 percent of the first $310 of average indexed monthly earnings, 32 percent of earnings from $310 to $1866, and 15 percent of earnings above $1866. The formula applicable to those with pensions from noncovered employment substitutes 40 percent for the 90 percent factor in the first bracket. (The second and third factors remain the same.) The resulting reduction in the worker's social security benefit is limited to one-half the amount of the noncovered pension. The new law is being phased in over a 5-year period beginning with those first eligible for social security benefits and noncovered pensions in 1986.

Workers who have 30 years or more of social security coverage are fully exempt from this treatment. For workers who have 26–29 years of coverage, the percentage in the first bracket in the formula increases by

10 percentage points for each year over 25, as illustrated below:

Years of social security coverage: First factor in formula	Percent
25 or less	40
26	50
27	60
28	70
29	80
30 or more	90

House bill

The years of social security coverage required in order for an individual to be exempt from the alternate benefit formula is lowered from 30 to 25 years. Similarly, the years of coverage at which the formula gradually takes effect are scaled back, as illustrated below:

Years of social security coverage: First factor in formula	Percent
20 or less	40
21	50
22	60
23	70
24	80
25 or more	90

Effective date.—This provision is effective for benefits payable for months after December 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House provision.

9. MODIFICATION OF AGREEMENT WITH IOWA TO PROVIDE COVERAGE FOR CERTAIN POLICEMEN AND FIREMEN

(Section 9008 of the House bill)

Present Law

Social security coverage for employees of State and local governments is optional. States elect coverage for themselves and their political subdivisions through agreements with the Secretary of Health and Human Services.

In 1986, the Iowa State Supreme Court held that the agreement between Iowa and the Secretary did not include certain police and firefighter positions. This decision effectively took away their coverage though they had paid FICA tax on their wages for many years.

House Bill

Allows the State of Iowa until 1989 to modify retroactively its agreement with the Secretary of Health and Human Services to provide coverage for certain police and firefighter positions.

Effective date.—Upon enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

10. INTERIM DISABILITY BENEFITS IN CASES OF DELAYED FINAL DECISIONS

(Section 9009 of House Bill)

Present law

If, upon appeal, an individual receives an unfavorable determination from an Administrative Law Judge (ALJ) at the hearing stage, he or she may appeal to ALJ's decision to the Social Security Administration's Appeals Council. If the individual receives a favorable determination from an ALJ, the Appeals Council may review the determination on its "own motion." Interim disability benefits are not paid while a case is under review by the Appeals Council.

House bill

In any disability case under Title II or Title XVI of the Social Security Act in which an ALJ has made a decision favorable to the individual and the Appeals Council has not rendered a final decision within 110 days, interim benefits must be provided to the individual. (Delays in excess of 20 days caused by or on behalf of the claimant do not count in determining the 110 day period.) These benefits will commence with the month before the month in which the 110 day period expired and may not be considered overpayments if eligibility is subsequently denied, unless the benefits were fraudulently obtained.

Effective date.—The provision is effective with respect to favorable ALJ determinations made 180 days or more after enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House provision.

11. CONTINUATION OF DISABILITY BENEFITS DURING APPEAL

(Section 9010 of the House bill)

Present law

A disability insurance beneficiary who is determined to be no longer disabled can appeal the determination sequentially through three appellate levels within the Social Security Administration: a reconsideration usually conducted by the State Disability Determination Service that rendered the initial unfavorable determination; a hearing before an SSA administrative law judge; and a review by a member of SSA's Appeals Council.

The beneficiary has the option to have his or her benefits continued through the hearing stage of appeal. If the earlier unfavorable determinations are upheld by the ALJ, the benefits paid during the period of appeal are considered overpayments and are subject to recovery by the agency. (If an appeal is made in good faith, benefit repayment may be waived.) Medicare eligibility is also continued, but Medicare benefits are not subject to recovery.

This option was originally enacted in 1983 and has been extended twice. The latest extension, provided in Public Law 98-460, the Social Security Disability Reform Act of 1984, authorizes the payment of interim benefits to persons in the process of appealing termination decisions made before January 1, 1988. Such payments may continue through June 30, 1988 (i.e., through the July 1988 check).

House bill

The period in which benefits can be paid and Medicare eligibility continued while an appeal is in progress is extended for 1 year. Benefits may be paid while an appeal is in progress with respect to unfavorable determinations made on or before December 31, 1988 and may be continued through June 1989 (i.e., through the July 1989 check).

Effective date.—Upon enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

12. EXTENSION OF DISABILITY REENTITLEMENT PERIOD

(Section 9011 of the House bill)

Present Law

A disability insurance beneficiary can attempt to return to work under a so-called trial work period that can be up to 9 months long, provided his or her medical condition has not improved to the extent that he or she would no longer meet the definition of disability. Benefits are continued during this period. If in the 10th month, earnings constitute "substantial gainful activity" (currently earnings of $300 or more per month), cash benefits will be terminated two months later. In addition, a beneficiary who completes 9 months of trial work and continues to have a disabling impairment can have his or her benefits reinstated any time during the next 15 months (the reentitlement period) if the attempt at work fails (i.e., his or her earnings fall below $300) without the need for a new application and disability determination. Medicare eligibility continues for two years beyond the 15-month reentitlement period.

House bill

The period in which DI benefits can be reinstated is lengthened by 45 months, i.e., from 15 months to 60 months. As under current law, Medicare eligibility continues for two years beyond the 60-month reentitlement period.

Effective date.—The provision is effective January 1, 1988, and applies to individuals who are entitled to disability benefits after December 1987 and individuals who are within the 15-month reentitlement period.

Senate amendment

No provision.

Conference agreement

The Senate recedes to the House, with an amendment increasing the reentitlement period to 36, rather than 60, months. Medicare eligibility would continue for the 39 month period provided by current law (that is, two years past the previous 15 month reentitlement period).

13. FEES FOR REPRESENTATION OF CLAIMANTS IN ADMINISTRATIVE PROCEEDINGS

(Section 9021 of the House bill)

Present law

Attorneys often represent claimants who appeal decisions by SSA. Appealed decisions usually concern disability benefits. There are several layers of administrative appeal available before judicial review. At the Administrative Law Judge (ALJ) level, about 65 percent of the claimants are represented by attorneys.

The amount of the fee that an attorney or other person may charge a claimant for services performed as a representative in dealings with SSA must be approved by SSA. Section 206(a) of the Social Security Act requires that SSA set a "reasonable" fee as compensation for the attorney's services. If the claimant receives a favorable decision and become entitled to retroactive benefits, the Act also requires that SSA withhold part of the beneficiary's past-due benefits for payment directly to the attorney. The amount withheld must be the smaller of 25 percent of past-due benefits, the amount set by SSA, or the amount agreed upon by the attorney and the claimant.

Under administrative policy existing before April 1, 1987, ALJ's had the authority to approve an attorney's fee request of $3,000 or less. Above that amount, fee requests had to be approved by SSA's regional office (i.e., by a regional ALJ). Beginning on April 1, 1987, and continuing to December 16, 1987, SSA lowered this authority limit to $1,500. (The $3,000 limit was reinstated in a memorandum dated December 16, 1987, from the Associate Commissioner of SSA to all ALJ's and supervisory personnel).

An individual's retroactive social security award may be reduced to take account of certain SSI, worker's compensation, or other public disability benefits that the individual has received. This reduction may result in insufficient past-due amounts being available to SSA for direct payment of the fee due to the attorney.

House bill

The payment of attorney's fees for representation of social security clients is changed from a fee petition process to an automatic payment system. Attorneys generally will be paid 25 percent of any back benefits awarded to the claimant, up to a cap of $4,000 (indexed to reflect increases in the cost of living). In cases where no back payment is due because benefits were paid during the appellate process, the attorney will receive 25 percent, up to the $4,000 cap, of the amount paid to the recipient through the period of representation. In cases where no back payment is due nor any benefits paid during appeal, the attorney will receive 3 times either: (1) the claimant's primary insurance amount; or (2) if benefits are paid based on another person's earnings record, the monthly benefit amount; or if less, $4,000. In cases where no back payment is due, the fee will be paid to the attorney by SSA and will be repaid by the beneficiary through withholding of 10 percent of future monthly benefits. In each case, the ALJ, the attorney, or the claimant may protest the 25 percent amount as too low or too high.

If there is a back award, the full amount of the award must be paid in the form of a two-party check, and sent to the attorney for division with the claimant. The attorney and the claimant must complete a sworn affidavit attesting that the attorney has received the correct fee. The attorney must send the affidavit to SSA within 15 days. Otherwise the authorization of the attorney's fee shall be withdrawn and the attorney shall be prohibited from representing claimants before SSA until the affidavit is sent.

An individual's retroactive social security award may not be reduced to take account of certain SSI, worker's compensation or other public disability benefits to the extent that the reduction would result in insufficient past-due amounts being available to SSA for direct payment in full of the fee due to the attorney.

Effective date.—Effective for determinations favorable to the claimant made after December 31, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement: (1) rescinds the $1,500 rule, (2) prohibits the issuance or amendment of any rules concerning the payment of attorneys' fees until July 1, 1989, and (3) requires simultaneous studies by the Department of Health and Human Services (to be conducted by the Social Secrity Administration) and the General Accounting Office of the process by which attorneys' fees are authorized and paid.

The rescission of the $1,500 rule is to apply prospectively to fees given final authorization by SSA on or after the date of enactment of this bill. The reinstated $3,000 limit is thus intended to apply to all future fee authorizations made by SSA including those in which, on or after the date of enactment of this bill, (1) benefits have been approved but a fee petition has not yet been submitted, (2) a petition in excess of $1,500 is pending before an ALJ or a regional chief ALJ, and (3) a fee authorized by an ALJ has been appealed by an attorney.

The SSA study will assess levels of reimbursement to attorneys, taking into account the contingent nature of most agreements between beneficiaries and their legal representatives, and propose alternative methods for establishing fees which take into account the nature of these agreements. It will also recommend changes which simplify and streamline the fee payment process. The GAO study will access the impact of the fee payment process on both beneficiaries and attorneys. It will include at a minimum an identification of obstacles to the timely payment of attorneys' fees and an assessment of the effects, if any, of the $1,500 limit on access to legal representation by applicants for social security disability benefits. Both studies must be submitted to Congress by July 1, 1988.

14. TREATMENT OF CORPORATE DIRECTORS AS EMPLOYEES FOR FICA TAX PURPOSES

(Section 9022 of the House bill)

Present law

Income from wages or self employment causes a reduction in social security benefits for recipients under age 70, if the income exceeds certain exempt amounts. Income from self employment for work performed after a person becomes entitled to social security benefits is counted in the year it is received. The wages of an employee, on the other hand, are counted in the year they are earned, regardless of when they are received.

Because corporate directors' earnings are treated as self-employment income, a director is able to avoid benefit reductions from the earnings test by deferring receipt of them until reaching 70. Since the earnings test does not apply to recipients age 70 and older, the deferred directorship earnings do not cause a reduction in benefits. In addition, since the earnings are deferred, the payment of SECA taxes is delayed; and the corporation is not responsible for either payment or withholding of FICA taxes on any remuneration to such individuals.

House bill

The provision amends the Social Security Act to treat directors of corporations as employees solely for purposes of the FICA tax and social security earnings test. This change is intended to be narrowly construed, and is not to be applied for other purposes.

Effective date.—This proposal is effective for remuneration paid on or after January 1, 1988.

Senate amendment

No provision.

Conference agreement

The conference agreement treats corporate directors' earnings as received when services are performed, regardless of when actually paid, for purposes of both the SECA tax and the earnings test.

15. APPLICATION OF EARNINGS TEST IN YEAR OF INDIVIDUAL'S DEATH

(Section 9023 of the House bill)

Present law

A Social Security beneficiary under age 70 with earnings in excess of certain thresholds is subject to a $1 reduction in benefits for every $2 earned over this exempt amount.

The annual exempt amount under the earnings test is lower for beneficiaries under age 65 than it is for beneficiaries ages 65-69. This year the under age 65 exempt amount is $6,000 and the age 65-69 exempt amount is $8,160. Thus, beneficiaries under age 65 begin to lose benefits at a lower earnings level than beneficiaries ages 65-69. If a beneficiary dies, the annual exempt amount applicable to his or her age group at time of death is prorated based on the number of months that he or she lived during the year. Thus, if a 63 year old individual dies in October, the annual exempt amount is $5,000 (10/12 of the full year $6,000 exempt amount). In addition, the higher exempt amount is applicable in the year a beneficiary reaches age 65 regardless of when during the year the beneficiary turns 65. However, if a beneficiary dies at age 64 in the year that he or she would have turned 65, the lower exempt amount applies. If the beneficiary dies after his or her 65th birthday but still in the same year, the higher exempt amount applies.

House bill

The annual exempt amount is not prorated in the year of death. In addition, the higher annual exempt amount for recipients age 65-69 applies to people who die before they reach 65 in the year that they otherwise would have attained age 65.

Effective date.—Effective with respect to deaths after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House provision.

16. DENIAL OF BENEFITS TO INDIVIDUALS DEPORTED OR ORDERED DEPORTED ON THE BASIS OF ASSOCIATION WITH THE NAZI GOVERNMENT OF GERMANY DURING WORLD WAR II

(Section 9024 of the House bill)

Present law

People who are deported for violating specified provisions of the Immigration and Nationality Act lose their social security benefits. However, the list of provisions does not include paragraph 19. Paragraph 19, which was added to the Immigration and Nationality Act in 1978, pertains to people who are deported for certain activities in association with the Nazi government of Germany during World War II.

House bill

Benefits to individuals who are deported as Nazi war criminals under paragraph 19 of the Immigration and Nationality Act are terminated.

Effective date.—Applies only in the case of deportations occurring, and final orders of deportation issued, on or after the date of enactment, and only with respect to benefits beginning on or after such date.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House provision.

17. MODIFICATIONS IN THE TERM OF OFFICE OF PUBLIC MEMBERS OF THE BOARDS OF TRUSTEES

(Section 9025 of the House Bill)

Present law

The Boards of Trustees of the social security trust funds are composed of the Secretaries of the Treasury, Labor, Health and Human Services, and two members of the public. The members of the public are nominated by the President and confirmed by the Senate. The law specifies that their term of service is for four years, but is otherwise silent on the length of term for a public member appointed to fill a vacancy left by another public member who leaves before the end of his or her term, or on whether a public member is permitted to serve after the expiration of his or her term until a successor has taken office.

House bill

A public member appointed to fill a vacancy occurring before the end of a term shall serve only for the remainder of such term. Also a public member may serve after the expiration of his or her term until a successor has taken office.

Effective date.—Upon enactment.

Senate amendment

No provision.

Conference agreement

The Conference agreement does not include the House provision.

18. RAILROAD RETIREMENT TAX PROVISIONS

(Sections 9031-9033 of the House Bill and Sections 6582-6585 of the Senate Bill)

Present law

The Railroad Retirement Program consists of a Tier I benefit structure which is generally equivalent in benefits and financing to the social security program and a separately financed Tier II benefit structure. Under present law, the Tier II program is financed primarily by a payroll tax of 14.75 percent for employers and 4.25 percent for employees. This tax is applied to wages up to $33,800 in 1988. (This limitation on the amount of wages is increased annually by the increase in average annual wages in the general economy.)

Tier II benefits are includible in income for tax purposes in the same manner as benefits received under a qualified pension plan. The 1983 Railroad Retirement Solvency Act provides for the transfer to the Railroad Retirement Account of an amount equal to the income received from the taxation of Tier II benefits. This transfer to the Railroad Retirement Account is limited to an aggregate total of $877 million, and applies only to the taxation of benefits which are received prior to October 1, 1988.

House bill

(a) *Railroad retirement tax.*—The provision increases the employer Tier II tax by 1.35 percent to 16.1 percent. The employee rate is increased by 0.65 percent to 4.9 percent.

(b) *Commission on Railroad Retirement Reform.*—The provision establishes a seven-member Commission on Railroad Retirement Reform to perform a comprehensive study of alternative methods of financing the railroad retirement system. The study would look at the possibility of changes in the tax rate or base, the imposition of a tax on operating revenues, changes in investment policy, and the establishment of a private pension plan. In completing its study, the Commission would make findings relating to the economic outlook for the rail industry, and the nature of the relationships between the railroad retirement system, levels of rail employment and compensation, and the performance of the rail sector. The Commission would submit its report and recommendations to Congress by October 1, 1989.

(c) *Extension of transfer to the Railroad Retirement Account of Tier II taxes.*—No provision.

Effective date.—The railroad retirement tax increase is effective January 1, 1988.

Senate amendment

(a) *Railroad retirement tax.*—Same as House provision.

(b) *Commission on Railroad Retirement Reform.*—Same as House bill, except that provision establishes an eight-member commission.

(c) *Extension of transfer to the Railroad Retirement Account of Tier II taxes.*—The provision eliminates the $877 million limit on the amount of general funds that are transferred to the Railroad Retirement Account on the basis of income taxes on Tier II benefits. It also provides that such transfers will be made for two additional years based on Tier II benefits paid prior to October 1, 1990.

Effective date.—The railroad retirement tax increase is effective January 1, 1988.

Conference agreement

(a) *Railroad retirement tax.*—The conference agreed to the House bill and the Senate amendment.

(b) *Commission on Railroad Retirement Reform.*—The conference agreement follows the House bill with modifications. The President would appoint four members of the Commission, one of whom would represent rail labor, one of whom would represent rail management, one of whom would represent commuter railroads, and one of whom would represent the general public. The President pro tempore of the Senate and the Speaker of the House of Representatives would each appoint one public member. The Comptroller-General of the United States would appoint one public member with expertise in the fields of retirement systems or pension plans.

The conference agreement provides for the appointment of a total of four individuals from among members of the public. The conferees believe that these individuals should be selected on the basis of their ability to represent the public interest, as well as the interests of the employers, employees, and retirees who are immediately affected by the system. These appointees should include individuals who have specific knowledge of the issues involved in establishing and maintaining an actuarially sound retirement system. They should also include individuals who have an understanding of the history of and the outlook for the railroad industry. The conferees anticipate that those who have the responsibility of appointing members of the Commission will make every attempt to assure that the Commission will be balanced in its composition so that all interests will be fairly represented.

The Conferees expect that the Speaker of the House of Representatives and the President pro tempore of the Senate will consult with the Chairmen of the appropriate committees before making their appointments to the Commission.

It is the intention of the Conferees that the study will focus primarily on financing issues. In addition, the study will also consider the ability of the system under current law to pay benefits to current and future beneficiaries and the financial relationship of the system to the railroad unemployment insurance system, the social security system, and the general fund. The Conferees do not intend however, that the study make recommendations which will require the use of additional general revenues to finance the system.

It is the intention of the Conferees that the Commission consider the matter of benefits for divorced spouses of retired railroad workers. They note that under present law, divorced spouses of railroad workers do not have the same coverage they would have under social security.

The agreement provides that the members of the Commission will serve without compensation, but will be reimbursed for expenses. They will elect their own Chairman from among themselves.

The agreement authorizes $1 million to fund the Commission.

(c) *Extension of transfer to the Railroad Retirement Account of Tier II taxes.*—The agreement follows the Senate amendment except the transfer of revenue would continue for one year only, until October 1, 1989.

AID TO FAMILIES WITH DEPENDENT CHILDREN

A. FRAUD CONTROL UNDER AFDC PROGRAM

(Section 9202 of House bill)

Present law

States are reimbursed with 50 percent Federal funds for the proper and efficient administration of the AFDC program. This includes the cost of any pre-prosecutorial fraud control activities.

House bill

The House bill authorizes 75 percent Federal funding for costs of a State's fraud control program. In addition, it would disqualify from eligibility recipients found to have intentionally violated the program as follows: for first offense, six months; second offense, 12 months; third offense, permanently.

The determination of intentional violation would be based on proof of intentionally (a) making a false or misleading statement; (b) misrepresenting, concealing, or withholding facts; or (c) committing any act that violates the AFDC program, the State's AFDC plan or any Federal or State law or regulation relating to AFDC. The determination could be made either through an administrative hearing or by a court. The State agency could combine hearings for alleged violations in the AFDC and food stamp programs when factual issues arise from the same or related circumstances.

Effective date.—October 1, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with several modifications. First, statutory language is added to clarify that matching funds are available for cases in which an individual pleads guilty or nolo-contendere, as well as for cases requiring prosecution. Second, States would be required to provide written notice at application of the penalties for fraud under the AFDC program. Third, the purposes for which Federal matching funds may be used are clarified. Funds may be used for costs relating to the investigation, prosecution, administrative hearing and collection of fraudulent cases. Fourth, language has been added to clarify that the fraud control provision applies to intentional actions to obtain or increase benefit amounts. The types of activities to be covered are expected to parallel those covered under the food stamp program. Similarly, the procedures used to carry out the AFDC fraud control program, including the hearings process, are expected to parallel those currently in use under the food stamp program.

B. ASSISTANCE TO HOMELESS FAMILIES. (SECTION 9219 OF HOUSE BILL; SECTION 4121 OF SENATE AMENDMENT)

Present law

(a) States may operate an emergency assistance program for needy families with children (whether or not eligible for AFDC) if the assistance is necessary in order to avoid the destitution of the child or to provide living arrangements in a home for the child. The statute authorizes 50 percent Federal matching for emergency assistance furnished for a period not in excess of 30 days in any 12-month period. Regulations state that Federal matching is available for emergency assistance authorized by the State during one period of 30 consecutive days in any 12 consecutive months, including payments which are to meet needs which arose before the 30-day period or are for such needs as rent which extend beyond the 30-day period.

(b) AFDC regulations allow States to include in their State standards of need provision for meeting "special needs" of AFDC applicants and recipients. The State plan must specify the circumstances under which payments will be made for special needs.

(c) No provision.

House bill

(a) The Secretary of HHS would be prohibited from taking any action to prevent a State, prior to October 1, 1988, from furnishing emergency assistance without durational limitation during any period of 12 consecutive months, if such assistance is authorized by the State during a single period of 30 consecutive days in such 12-month period, including assistance to meet needs which arose before the 30-day period or needs such as rent which extend beyond the 30-day period.

(b) The Secretary of HHS would also be prohibited from taking any action to prevent a State, prior to October 1, 1988, from including in its standard of need (either as a basic or a special need) an amount for shelter and related needs that varies according to geographic location, family circumstance, or the type of living accommodation occupied.

(c) A demonstration program would be authorized under which any State that provides for temporary shelter as a special need could submit an application to conduct a demonstration for the purpose of encouraging landlords to make permanent dwelling units available to needy families that otherwise require emergency assistance under title IV-A of the Social Security Act in the form of commercial or similar transient accommodations, and of testing a method of minimizing or eliminating the need for emergency assistance in the form of commercial or similar transient accommodations.

A demonstration would provide for the payment of rent (under lease with owners of permanent dwellings): for the first 12 months of the lease, at the rate payable for comparable commercial or transient accommodations under the emergency assistance program; and, for the remainder of the lease, at the applicable AFDC housing allowance. No lease could be entered into after September 30, 1989. Notwithstanding any provision of AFDC law or regulation, the full amount of rent payable for the first 12 months of a lease would be matched at the State's AFDC matching rate.

The Secretary would be authorized to approve an application if it appears likely that the proposed project will contribute significantly to the purpose of the demonstration.

Effective date.—Prohibitions on Secretarial action would be effective October 15, 1987. Demonstration authority would be effective November 20, 1987.

Senate amendment

(a) No provision.

(b) The Secretary of HHS would be prohibited from taking any action, prior to October 1, 1988, from including in its standard of need (as a special need for individuals who would otherwise be homeless) an amount for shelter and related needs that varies according to geographic location, family circumstance, or the type of living accommodation occupied.

(c) No provision.

Effective date.—The prohibition on Secretarial action would be effective December 1, 1987.

Conference agreement

The conference agreement is a substitute for the House and Senate provisions. It prohibits the Secretary of Health and Human Services, prior to October 1, 1988, from taking any action that would have the effect of implementing, in whole or in part, the proposed regulation published in the *Federal Register* on December 14, 1987 with respect to emergency assistance and need and amount of assistance under the program of Aid to Families with Dependent Children, and from taking any other action that would change current policy with respect to the matters addressed in the proposed regulation published on that date.

The conferees note that the tragic problem of widespread homelessness of families with children is a relatively new phenomenon in this Nation, and governments at all levels are experiencing difficulty in dealing with it. The Committee on Ways and Means and the Committee on Finance intend to hold hearings in the coming year on whether and how the current AFDC statute should be amended to respond to the problem of homeless families. The conferees emphasize that while this issue is being considered by the Committees, they expect the Administration to maintain current policies with respect to State reimbursement for costs incurred in serving the homeless under the AFDC program.

C. WASHINGTON STATE DEMONSTRATION PROGRAM

(Section 4115 of Senate amendment)

Present law

The State of Washington has passed legislation to undertake a five-year demonstration program, the Family Independence Program (FIP), as an alternative to the present Aid to Families with Dependent Children program. The legislation directs the Governor to enter into agreements with the Federal government to allow the State to proceed with the program. The Governor must submit those agreements and an implementation plan to the legislature by no later than February 7, 1988. The demonstration cannot proceed without Federal authorizing legislation.

House bill

No provision. (A similar provision is contained in H.R. 1720.)

Senate amendment

The Senate amendment would allow the State of Washington to conduct a demonstration of its proposed Family Independence Program. The demonstration would emphasize education, employment and training services. The State would be required to provide assurances satisfactory to the Secretary that the total amount of Federal reimbursement over the period of the project will not exceed the anticipated Federal reimbursement under the AFDC and Medicaid programs (including reimbursement for additional persons who would qualify for AFDC, and for costs attributable to increases in the State's payment standard).

Every individual eligible for aid under the State AFDC plan would be eligible to enroll in FIP, which would operate simultaneously with the AFDC program so long as there are individuals who qualify for the latter. No family could receive less in cash benefits than it would have received under the AFDC program. Participation in work or training would be voluntary during the first two years of the program, and could thereafter be made mandatory only in counties where more than 50 percent of the enrollees can be placed in employment within three months after they are job ready.

Effective date.—Upon enactment.

Conference agreement

The conference agreement follows the Senate amendment, effective upon enactment.

D. NEW YORK STATE DEMONSTRATION PROJECT

(Section 4114 of Senate amendment)

Present law

No provision.

House bill

No provision. (Identical provision included in H.R. 1720.)

Senate amendment

The Senate amendment would allow the State of New York to test a child support supplement demonstration program as an alternative to the present Aid to Families with Dependent Children (AFDC) program. The Federal government would pay to the State with respect to families receiving assistance under the demonstration program the same amounts as would be payable with respect to the families as if they were receiving cash and medical assistance under the regular AFDC and Medicaid programs.

The State would be required to provide assurances to the Secretary that the State will continue to make assistance available to all eligible children in the State who are in need of financial support, and will continue to operate an effective child support program. The State must also agree to have the program evaluated, and to report interim findings to the Secretary at such times as the Secretary provides. In addition, the State must satisfy the Secretary that the program will be evaluated using a reasonable methodology that can determine whether changes in earnings are attributable to participation in the program.

The State would be required to submit its plan for the demonstration to the Secretary of Health and Human Services for his approval. Unless the Secretary or the Governor choose to terminate the project sooner, the demonstration would be conducted for a period not to exceed five years.

Effective date.—Upon enactment.

Conference agreement

The conference agreement follows the Senate amendment, effective upon enactment.

II. CHILD SUPPORT ENFORCEMENT AMENDMENTS

A. CONTINUATION OF CHILD SUPPORT ENFORCEMENT SERVICES FOR FAMILIES NO LONGER RECEIVING AFDC

(Section 9231 of House bill)

Present law

State child support enforcement agencies are required to continue to collect child support payments on behalf of families that leave AFDC for a period of 3 months. After 3 months, if the State is authorized by the family to do so, it must continue to collect support without requiring the family to reapply as a non-AFDC case or to pay an application fee.

House bill

State child support enforcement agencies would be required to continue services for persons no longer eligible for AFDC on the same basis and under the same conditions as other non-AFDC families, except that no application (or application fee) for services could be required.

Effective Date.—Upon enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, effective upon enactment.

B. CHILD SUPPORT SERVICES FOR CERTAIN FAMILIES RECEIVING MEDICAID.

(Section 9232 of House bill)

Present law

State child support enforcement agencies are required to petition for inclusion of medical support in child support orders (when health insurance is available to the absent parent at a reasonable cost) on behalf of AFDC recipients, non-AFDC families requesting child support services, and certain foster care families. As a condition of eligibility, all Medicaid applicants and recipients must assign to the State their rights to support (specified as support for the purpose of medical care by court or administrative order) and to payment of medical care from any third party. States are not required to extend child support services to Medicaid families who do not also receive AFDC.

House bill

State child support enforcement agencies would be required to provide services to all families with an absent parent who receive Medicaid and have assigned to the State their rights to support, regardless of whether they are receiving AFDC.

Effective date.—Upon enactment.

Senate amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, effective July 1, 1988.

C. REPEAL OF CHILD SUPPORT REVOLVING FUND

(Section 4116 of Senate amendment)

Present Law

States may in specified circumstances request assistance from the Internal Revenue Service (IRS) in collecting child support obligations. When IRS makes a child support collection on behalf of a State, the monies collected must be deposited in a revolving fund. They are disbursed from the revolving fund to the State for further distribution as though the State had made the collection directly. Because of the existence of the fund, the monies flow through the Federal budget, although with no net budgetary impact, since income to the fund is offset by outgo from the fund. In the event of a sequestration under the Balanced Budget and Emergency Deficit Control Act, however, these monies would be subject to sequestration even though they are not Federal funds in any sense. Under the November 20th sequestration order, a total of $38,000 from this account is to be sequestered in fiscal year 1988.

House bill

No provision.

Senate amendment

The Senate amendment would replace the present revolving fund mechanism with a requirement that any amounts collected by IRS under this procedure be transferred to the State requesting the IRS assistance.

Effective date.—Upon enactment.

Conference Agreement

The conference agreement follows the Senate amendment, effective upon enactment.

III. UNEMPLOYMENT COMPENSATION AMENDMENTS

A. RETROACTIVE CHANGE IN EFFECTIVE DATE OF CERTAIN EXTENDED BENEFIT REQUIREMENTS

(Section 9241 of House bill; Section 4120 of Senate amendment)

Present law

The Omnibus Reconciliation Act enacted in December 1980 gave States three months (to March 31, 1981) to enact laws requiring job search by individuals receiving extended unemployment benefits (which are partially funded out of the Federal unemployment tax). Sixteen States failed to enact legislation within the required time. The Inspector General of the Department of Labor has found them out of compliance, and has determined that they should repay a total of $152 million to the Federal accounts in the trust fund.

House bill

The House bill would amend the 1980 Act retroactively to give States six additional months, until October 31, 1981, to come into compliance. States whose legislatures did not meet in 1981 are given until October 31, 1982, to come into compliance. The Congressional Budget Office considers the amendment to be budget neutral, because the $152 million would be shifted within accounts in the unemployment trust fund.

Effective date.—Upon enactment.

Senate amendment

The Senate amendment is the same as the House bill except that it provides for a compliance date of October 1, 1981 rather than October 31, 1981.

Conference agreement

The conference agreement follows the House bill.

B. SELF-EMPLOYMENT DEMONSTRATION PROGRAM

(Section 9242 of House bill; Section 4119 of Senate amendment)

Present law

Workers who become involuntarily unemployed are entitled to receive unemployment compensation benefits under State benefit programs. In general, benefits are available for up to 6 months of unemployment. To qualify for benefits, an individual must be able to work and must be available for work. If an individual attempts to set up his own business, he would be ineligible for further unemployment benefits since he would no longer be unemployed.

House bill

The House bill would authorize a demonstration project under which States would continue paying unemployment benefits to unemployed persons who attempt to set up their own businesses. A maximum of three 3-year demonstration projects would be authorized. In each State, the number of participants could not exceed the lesser of (1) 3 percent of the number of claimants receiving regular unemployment compensation at the start of the calendar year or (2) the number of individuals who exhausted unemployment benefits during the previous calendar year.

In order to participate in a self-employment project, a State would have to establish a project to assist claimants to set up businesses and would have to demonstrate that suitable conditions for creating new small businesses exist. States would have to establish the projects on a basis that would permit an estimate of the cost incurred or savings achieved. States would be required to guarantee that no net additional costs in any fiscal year would accrue to the unemployment program as a result of the projects. (State general revenues would have to be used to meet administrative costs and to make up any losses to the unemployment compensation program.)

Effective date.—Upon enactment.

Senate amendment

Same as House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, effective upon enactment.

C. FUTA TAX EXTENSION

(Sections 9243-46 of House bill; Sections 4585-86 of Senate amendment)

Present law

The Federal Unemployment Tax Act (FUTA) imposes a gross employer tax of 6.2 percent on the first $7,000 paid annually to each employee. Employers in States with no overdue Federal loans are eligible for a full 5.4 percentage point credit, making the basic net FUTA tax rate 0.8 percent. The 0.8 percent tax rate has a permanent component of 0.6 and a temporary component of 0.2. The 0.2 percentage point surtax expires at the end of the year in which the Unemployment Trust Fund pays off an $8.7 billion debt incurred in the 1970s. Since this debt was repaid in May 1987, the 0.2 percentage point surtax is scheduled to expire at the end of 1987.

House bill

The 0.2 percentage point surtax is extended for 3 years. Half of the additional revenue collected during the extension flows into the Extended Unemployment Compensation Account and the other half goes into the Federal Unemployment Account.

In order to accumulate reserves in these accounts to help avoid future debt to the General Fund, the ceilings in these accounts are tripled from 0.125 percent to 0.375 percent of total covered wages.

If these accounts obtain new loans from the general fund, interest would be charged on the new loans. Currently, these loans are interest free. The interest rate is the same rate that is used to calculate interest on balances in the Unemployment Trust Fund. Interest payments by States on borrowing from the Federal Unemployment Account would be paid to that Account. Under present law, such interest is paid into the General Fund.

Effective date.—Wages paid on or after January 1, 1988.

Senate amendment

Same as House bill, except that the ceiling on the Federal Unemployment Account is increased from 0.125 percent to 0.625 percent of total covered wages and no provision is made for interest payments on loans from the General Fund.

Effective date.—Wages paid on or after January 1, 1988.

Conference agreement

The conference agreement follows the House bill except that it increases the ceiling on the Federal Unemployment Account to 0.625 percent of total covered wages as proposed in the Senate amendment.

IV. SUPPLEMENTAL SECURITY INCOME (SSI)

A. PERMANENT EXTENSION OF DISREGARD OF CERTAIN IN-KIND ASSISTANCE

(Section 9201 of House bill; Section 4071 of Senate amendment)

Present law

In counting income for purposes of determining SSI benefits, the law requires exclusion of any support or maintenance assistance furnished to or on behalf of an individual that (as determined by the State) is based on need for such support or maintenance, including assistance received to help in meeting the costs of home energy (both heating and cooling), and that is (a) assistance furnished in-kind by a private nonprofit agency; or (b) assistance furnished by a supplier of home heating oil or gas, or by an entity providing home energy. States have the option to exclude this kind of assistance in determining AFDC benefits. This provision expired September 30, 1987.

House bill

The House bill would permanently extend the mandatory SSI disregard and the optional AFDC disregard of such in-kind assistance.

Effective date.—October 1, 1987.

Senate amendment

The Senate amendment is the same as the House bill except for a technical difference with respect to the effective date.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment with an effective date of October 1, 1987.

B. EXCLUSION OF REAL PROPERTY WHEN IT CANNOT BE SOLD

(Section 9203 of House bill; Section 4069 of Senate amendment)

Present law

An individual may receive SSI benefits for a limited time even though he has property that, if counted, would make him ineligible. These benefits are conditioned upon the disposal of the property, and are subject to recovery as overpayments when the property is sold, or if the individual fails to dispose of them within the required time.

Regulations permit conditional payments for up to three months in the case of excess liquid resources that do not exceed $3,000 for an individual and $4,500 for a couple. In the case of real property, regulations allow conditional payments for up to six months. There is no limit on the value of the real property which an individual can own and receive conditional payments.

SSI regulations also provide that property which no one has offered to buy within the conditional payment disposition period cannot be presumed to have zero market value and therefore not be counted as a resource. The regulations provide that the estimate of the property's market value remains operative unless the SSI recipient submits evidence which establishes a lower value.

House bill

The House bill would exclude from countable resources real property owned by an SSI recipient which cannot be sold because: (1) it is jointly owned (and its sale would cause undue hardship, including loss of housing, for the other owners); (2) its sale is barred by a legal impediment; or (3) the owner's reasonable efforts to sell it have been unsuccessful.

Effective date.—October 1, 1987.

Senate amendment

The Senate amendment would exclude (and does not require the sale of) real property for so long as it cannot be sold because: (1) it is jointly owned (and its sale would cause undue hardship due to loss of housing for the other owner or owners); (2) its sale is barred by a legal impediment; or (3) as determined by regulations issued by the Secretary, the owner's reasonable efforts to sell it have been unsuccessful.

Effective date.—The first day of the second calendar quarter to begin after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment, with an effective date of April 1, 1988.

C. TRANSFER OF ASSETS FOR LESS THAN FAIR MARKET VALUE

(Section 9204 of House bill; Section 4067 of Senate amendment)

Present law

When an individual gives away or sells an asset at less than fair market value, the value of that asset is counted for 24 months after disposal in determining whether the individual meets the SSI resource requirements, provided it is determined that the transaction was for the purpose of establishing eligibility for SSI. The transaction is presumed to have been for the purpose of establishing SSI eligibility unless the individual furnishes convincing evidence that it was exclusively for some other purpose.

House bill

The House bill provides that the value of resources given away or sold for less than fair market value in the prior 24 months may not be counted toward the SSI resource limit until the cumulative uncompensated value of such resources exceeds $3,000. It would also require the Secretary to issue regulations for suspending the transfer of assets rule in cases where he determines that the suspension is necessary to avoid undue hardship.

Effective date.—October 1, 1987.

Senate amendment

The Senate amendment would require the Secretary of HHS to issue regulations for suspending the transfer of assets rule where he determines that the suspension is necessary to avoid undue hardship.

Effective date.—The first day of the second calendar quarter to begin after the date of enactment.

Conference agreement

The conference agreement includes only the provision which allows the Secretary of Health and Human Services to waive the SSI transfer of assets policy in cases of undue hardship, effective April 1, 1988. The conferees believe that the SSI transfer of assets policy should be coordinated with the Medicaid transfer of assets policy and expect that the two will be coordinated in the catastrophic health care bill which will be in conference during the second session.

D. EXCLUSION OF INTEREST IN BURIAL ACCOUNTS

(Section 9205 of House bill; Section 4070 of Senate amendment)

Present law

In determining whether an individual's resources are within the SSI eligibility limits ($1,800 per individual in counted resources in 1987) there is excluded an amount of up to $1,500 that is placed in a separately identifiable burial account, if the inclusion of any portion of the amount in the account would cause the individual's resources to exceed the SSI resource limit. Any interest earned on the excluded account also is excluded. If the person's resources are so low that the amount in the burial account would not cause ineligibility, any interest earned is not excluded.

House bill

The House bill would require that any interest on designated burial accounts must be excluded in determining whether an individual meets the SSI resource requirements, regardless of the amount of the individual's other resources.

Effective date.—October 1, 1987.

Senate amendment

The Senate amendment is the same as the House bill except for a technical difference.

Effective date.—The first day of the second calendar quarter to begin after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment, effective April 1, 1988. In addition, the conferees wish to clarify that the term "separately identifiable" as used in defining an excludable burial fund means that the assets set aside as a burial fund must be kept separate from the individual's other assets and the fund must be specifically identified as to its purpose.

E. TREATMENT OF AFDC BENEFITS UNDER SSI RETROSPECTIVE ACCOUNTING

(Section 9206 of House bill; Section 4068 of Senate amendment)

Present law

When a recipient of Aid to Families with Dependent Children (AFDC) becomes eligible for SSI, his eligibility for AFDC is terminated. However, rules for determining the amount of an individual's SSI benefit require that the AFDC payment received in the month of application must be counted as income in determining SSI benefits for the first and second months after the month of application. This results in reduced SSI payments for those months, even though the individual's AFDC payments have actually been terminated.

House bill

The House bill would require that AFDC payments made by a State welfare agency be disregarded in determining SSI benefits.

Effective date.—October 1, 1987.

Senate amendment

The Senate amendment is the same as the House bill except for a technical difference.

Effective date.—The first day of the second calendar quarter to begin after the date of enactment.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, with language clarifying that certain income will be counted only in the month it is received. This provision will apply to income received under title IV-A (AFDC), title IV-E (foster care), refugee cash assistance, Cuban/Haitian entrant assistance, or general and child welfare assistance provided by the Bureau of Indian Affairs. The provision is effective April 1, 1988.

F. TREATMENT OF CERTAIN COUPLES IN INSTITUTIONS

(Section 9207 of House Bill; Section 4074 of Senate Amendment)

Present law

States are allowed to treat a husband and wife who have shared a room in a Medicaid institution for a period of six months as a couple (rather than as two eligible individuals, as would otherwise be required under SSI rules) if doing so would prevent a reduction or termination of Medicaid benefits.

House bill

The House bill would expand this option to cover situations in which the husband and wife live in the same facility.

Effective date.—November 10, 1986.

Senate amendment

The Senate amendment is the same as the House bill.

Effective date.—Upon enactment.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, effective November 10, 1986.

G. EXTENSION OF DEADLINE FOR CERTAIN WIDOW(ER)S TO APPLY FOR MEDICAID

(Section 9208 of House bill; Section 4079 of Senate amendment)

Present law

The 1983 social security amendments increased benefits for disabled widows and widowers. Because this benefit increase had the effect of making some individuals ineligible for SSI and therefore for Medicaid, a provision was later enacted to deem them to be SSI recipients for purposes of Medicaid eligibility. The law provided a 15-month period (to July 1, 1987) during which affected individuals could file an application for Medicaid under this provision.

House bill

The House bill would extend the period during which these persons may file an application for Medicaid to July 1, 1988.

Effective date.—July 1, 1987.

Senate amendment

Same provision.

Effective date.—Upon enactment.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, effective July 1, 1987.

H. INCREASE IN SSI EMERGENCY ADVANCE PAYMENTS

(Section 9209 of House bill; Section 4066 of Senate amendment)

Present law

The Social Security Administration may make emergency advance payments of up to $100 to individuals who are presumptively eligible for SSI and who face a financial emergency.

House bill

The House bill would increase the allowable emergency advance payment to equal the maximum amount of the regular Federal SSI monthly benefit rate (currently $340 for an individual) plus, if any, the Federally-administered State supplementary payment.

Effective date.—October 1, 1987.

Senate amendment

Same provision.

Effective date.—The first day of the second calendar quarter to begin after the date of enactment.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, effective upon enactment.

I. EXTENSION OF INTERIM ASSISTANCE REIMBURSEMENT

(Section 9210 of House Bill; Section 4118 of Senate Amendment)

Present law

Upon written authorization by an individual, the Secretary of Health and Human Services may withhold SSI benefits due to that individual and pay a State from the benefits withheld an amount sufficient to reimburse the State for interim assistance furnished the individual. This method of reimbursing States for interim SSI assistance may be used only in the case of payments made to an applicant awaiting a determination of initial eligibility.

House bill

(a) The House bill would permit States to also receive reimbursement for interim assistance in cases where they have provided cash assistance to individuals whose SSI benefits were terminated or suspended, but who subsequently were found eligible for benefits.

(b) The House bill would also permit use of this mechanism to reimburse a State for interim assistance given to a recipient whose SSI check has been lost or stolen and not promptly replaced.

Effective date.—The provision would be effective the 13th month following the month of enactment, or if sooner, the first month for which the Secretary determines that it is administratively feasible.

Senate amendment

(a) Same as the House bill.

(b) No provision.

Effective date.—Same as House bill.

Conference agreement

The conference agreement follows the Senate amendment, effective the 13th month following the month of enactment, or, if sooner, the first month for which the Secretary determines that it is administratively feasible. Although the conferees have not agreed to the House provision authorizing use of the interim assistance mechanism with respect to lost or stolen checks, they expect the Social Security Administration to take steps to improve its procedures for responding to the needs of recipients who are facing emergency situations because their checks have been lost or stolen.

J. SPECIAL NOTICE TO BLIND RECIPIENTS

(Section 9211 of House bill; Section 4076 of Senate amendment)

Present law

No provision.

House bill

(a) The House bill would require the Social Security Administration to give blind SSI applicants or recipients the option: (1) to receive a supplementary notice regarding decisions or determinations about their rights under the SSI program, by telephone, within five days after the initial notice is mailed; or (2) to receive the initial notice in the form of a certified letter.

(b) The Secretary would also be required to take appropriate steps, no later than one year after enactment, to ensure that every individual already receiving SSI benefits on the basis of blindness is given an opportunity to make the election provided above.

(c) Finally, the House bill would require the Secretary to study the desirability and feasibility of extending special or supplementary notices to other persons who may lack the ability to read and comprehend regular written notices, and to make any appropriate recommendations within 6 months after enactment.

Effective date.—October 1, 1987.

Senate amendment

(a) The Senate amendment would require the Social Security Administration to give blind SSI applicants or recipients the option: (1) to receive a supplementary notice regarding decisions or determinations relating to their eligibility, by telephone, within five days after the initial notice is mailed; (2) to receive the initial notice in the form of a certified letter; or (3) to receive notification by some alternative procedure established by the Secretary of HHS and agreed to by the individual.

(b) Same as the House bill.

(c) The Senate amendment would require the Secretary to study the desirability and feasibility of extending special or supplementary notices to other persons who may lack the ability to read and comprehend regular written notices, and to make any appropriate recommendations within 12 months after enactment.

Effective date.—The first day of the second calendar quarter to begin after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment, effective July 1, 1988. The conferees want to clarify that they expect the Social Security Administration to assure that individual recipients are adequately informed that they have the option of selecting whichever method of notification they prefer.

K. CONTINUED SSI BENEFITS FOR RECIPIENTS OF REHABILITATION SERVICES WHOSE BLINDNESS HAS CEASED

(Section 9212 of House bill; Section 4077 of Senate amendment)

Present law

Benefits to a disabled individual may not be terminated, even though the individual's impairment has ceased, if the individual is participating in an approved vocational rehabilitation program and the Commissioner of Social Security determines that the completion or continuation of the program will increase the likelihood that the individual may be permanently removed from the disability rolls. There is no similar provision with respect to SSI recipients who are blind.

House bill

The House bill would continue SSI benefits to individuals whose blindness has ceased if they are participating in an approved vocational rehabilitation program, under the same conditions as apply to the disabled.

Effective date.—October 1, 1987.

Senate amendment

Same as House bill.

Effective date.—The first day of the second calendar quarter to begin after the date of enactment.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, effective April 1, 1988.

L. SSI ELIGIBILITY FOR INDIVIDUALS IN PUBLIC EMERGENCY SHELTERS

(Section 9213 of House bill; Section 4075 of Senate amendment)

Present law

Individuals in a public institution generally are not eligible for SSI. However, SSI benefits are paid for a period of up to three months out of a 12-month period to an otherwise eligible individual who is living in a public emergency shelter for the homeless.

House bill

The House bill would extend to 12 consecutive months the maximum period during which SSI benefits may be paid to persons in public emergency shelters.

Effective date.—October 1, 1987.

Senate amendment

The Senate amendment would extend to 6 months out of 9 consecutive months the maximum period during which SSI benefits may be paid to persons in public emergency shelters.

Effective date.—The first day of the second calendar quarter beginning after the date of enactment.

Conference agreement

The conference agreement generally follows the Senate amendment in providing that an individual in an emergency public shelter may receive SSI for up to a total of 6 months in any period of 9 consecutive months beginning after December 1987. Thus, an individual may receive up to 6 months of SSI benefits while in a public emergency shelter during the period of January-September 1988, without regard to his status during months prior to January 1988.

M. EXCLUSION OF UNDERPAYMENTS FROM RESOURCES

(Section 9214 of House bill)

Present law

The SSI program disregards retroactive SSI or social security payments as a resource for 6 months.

House bill

The House bill provides that, for the 2-year period beginning January 1, 1987, retroactive SSI and social security payments received during the period must be disregarded as a resource for 12 months.

Effective date.—January 1, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement generally follows the House bill, but provides that retroactive payments received during the two-year period beginning October 1, 1987 will be disregarded as a resource for 9 months.

N. FULL BENEFITS FOR SSI RECIPIENTS TEMPORARILY IN INSTITUTIONS

(Section 9215 of House bill; Section 4073 of Senate amendment)

Present law

An SSI recipient's benefit is reduced to $25 for any month during all of which he is in a Medicaid institution. Individuals who are in public institutions that are not Medicaid institutions (public mental institutions, for example) are generally not eligible for SSI benefits.

Medicaid regulations give States the option to allow an individual who enters a Medicaid institution to retain, for six months only, more than $25 a month if the State determines that the excess above $25 is needed to maintain a home that he will return to after a temporary stay in the institution.

House bill

The House bill provides full SSI benefits, including State supplementary payments, for a person who enters a public institution or a Medicaid institution, if it is determined that the person's stay is not likely to exceed 3 months and he must continue to maintain a home to which he may return upon leaving the institution.

It would also require the Secretary to establish procedures for making necessary determinations and would authorize him to enter into agreements with State and local public and private agencies for making such determinations. The procedures and agreements would provide appropriate assistance to individuals who, because of their physical or mental condition, have limited ability to furnish the information needed to make the determinations.

Effective date.—July 1, 1988.

Senate amendment

The Senate amendment contains a similar provision. It would require that a physician certify that the individual's stay in the institution is not likely to exceed 3 months. Full benefits could be paid to an individual in a public institution only if the institution's primary purpose is the provision of medical or psychiatric care.

Effective date.—July 1, 1988.

Conference agreement

The conference agreement follows the Senate amendment, effective July 1, 1988.

The conferees recognize that it may frequently be difficult to make the determination that an individual's stay in an institution (or institutions) is likely not to exceed three months. It will require a physician to certify something that is anticipated, not something that has actually happened.

Because of the anticipatory nature of the provision, it is clear that SSI recipients may be able to take advantage of it only if they are informed of its existence. Therefore, the conferees direct the Social Security Administration to include in informational literature for applicants and recipients specific information about their possible eligibility for continuation of full benefits in case of temporary institutionalization. Recipients (or others acting on their behalf) will thus be aware of the need to acquire the necessary certification and to apply for continued full benefits in a timely way.

In developing the procedures to be used in administering this provision the conferees anticipate that the Secretary will examine the procedures used in States like Wisconsin that currently provide for "maintenance of the home" allowances for persons who are in temporary care in Medicaid institutions.

In addition, the conferees note that SSA will have authority under this provision to make arrangements with public or private agencies to assist in making the determinations required under this provision to the extent that it determines this will facilitate the administration of the provision.

Finally, the conferees direct SSA to evaluate the effects of this provision and to report its findings to the Congress within three years after enactment.

O. RETENTION OF MEDICAID FOR CERTAIN WIDOW(ER)S

(Section 9216 of House bill; Section 4078 of Senate amendment)

Present law

SSI law requires individuals to apply for all other benefits for which they may be eligible. Thus, at age 60, disabled widows or widowers who apply for or are receiving SSI, are required to apply for early aged widow or widower social security benefits, which are actuarially reduced. Where the resulting social security benefit is sufficient to end SSI eligibility, the disabled widow or widower may lose Medicaid coverage.

House bill

The House bill would require that an individual who would otherwise qualify for SSI on the basis of disability or blindness, but beginning at age 60 qualifies for social security early aged widow's or widower's benefits and loses eligibility for SSI, nevertheless, be deemed to be an SSI recipient for purposes of Medicaid eligibility. It would continue Medicaid eligibility until the individual becomes eligible for Medicare.

Effective date.—The provision would apply with respect to any individual without regard to whether the determination of his or her eligibility for SSI benefits occurred before, on, or after the date of enactment. However, no individual would be eligible for Medicaid by reason of this amendment before October 1, 1987.

Senate amendment

Same as House bill.

Effective date.—The Senate amendment is the same as the House bill, except that it provides that no individual would be eligible for Medicaid by reason of this amendment before the first day of the second calendar quarter beginning after the date of enactment.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, effective July 1, 1988. The conferees note that the Social Security Administration is not expected to individually identify all of those whose SSI benefits have been terminated in the past. SSA may instead provide a generalized notice to a category or class of Social Security beneficiaries which is likely to include those who may have been affected. The conferees do expect that widows or widowers who lose benefits in the future will receive individual notification of their continued eligibility for Medicaid.

P. DEMONSTRATION TO ASSIST HOMELESS INDIVIDUALS IN OBTAINING SSI

(Section 9217 of House bill; Section 4117 of Senate amendment)

Present law

SSI law requires the Secretary to make payments to eligible individuals who do not have a fixed address but does not authorize specific services and procedures for identifying potentially eligible homeless persons and helping them apply for benefits.

House bill

(a) The House bill would authorize $1.25 million for FY 1988, $2.5 million for FY 1989, and such sums as may be necessary thereafter for projects to demonstrate and test the feasibility of developing and using special procedures to ensure that all homeless individuals in shelters understand their rights to benefits under the SSI program and other programs under the Social Security Act, to provide them with all possible help in applying for benefits and obtaining necessary documentation, and ensuring that they receive the benefits to which they are entitled. It would permit up to 10 States to create SSI outreach team projects at a cost not to exceed $250,000 yearly per project.

(b) A demonstration State's SSI Outreach and Eligibility Team would consist of: a caseworker from the State adult social services agency (or from a local adult social services agency), who would be the team leader, and, if necessary, one other caseworker; a consultative medical examiner who is a physician/psychiatrist qualified to provide consultative examinations for the Disability Determination Service (DDS) of the State; a disability examiner from the State DDS; and a social security claims representative. The Secretary would enter into an agreement with the State providing that team members detailed from their agencies shall retain authority to make decisions and determinations that they would have within the agency.

(c) The team leader would be assigned the following duties: determining, before visiting the shelter, the names of persons there who are potentially eligible for SSI; arranging transportation and, if necessary, accompanying SSI disability applicants to necessary examinations outside the shelter; assisting as needed in interviews; tracking and monitoring decisions made on claims; and assisting as needed in obtaining additional eligibility-related information about applicants.

(d) The Secretary would be required to waive requirements, restrictions, and limits in SSI law or regulations, or in any other law or regulation, that could prevent or hinder the team from carrying out its functions.

Effective date.—October 1, 1987.

Senate amendment

(a) Same as House bill.

(b) No provision.

(c) No provision.

(d) The Secretary would be permitted to waive requirements, restrictions, and limits in SSI law, or in any other law or regulation, that could prevent or hinder operation of the demonstration program.

Effective date.—October 1, 1987.

Conference agreement

The conference agreement authorizes several types of demonstration projects designed to assist homeless individuals who may qualify for SSI. Under this authority, the Secretary of Health and Human Services would be authorized to approve demonstrations which: create cooperative approaches by the Federal, State and local governments; establish, where appropriate, multi-agency SSI outreach teams similar to those proposed in the House bill; test special efforts for identifying homeless individuals who are potentially eligible for SSI; provide assistance to the homeless in applying for benefits and developing evidence related to eligibility; provide special staff training; provide assistance to formerly homeless individuals to ensure their continuing compliance with SSI rules; provide services designed to help homeless individuals obtain permanent housing, nutrition and physical and mental health care; and such other demonstrations as the Secretary may approve.

The conferees do not intend for the Social Security Administration to develop a new disability determination process as a result of this provision. Instead, the intent is to establish procedures and services, in cooperation with other public and private nonprofit organizations, which reduce the barriers facing homeless individuals eligible for SSI.

Q. SSI ELIGIBILITY REQUIREMENTS FOR CERTAIN ALIENS

(Section 9218 of House bill)

Present law

SSI law requires that the income and resources of an alien's sponsor be considered in determining the alien's eligibility, provided the sponsor signed an affidavit of support. A portion of the sponsor's income (after allowance is made for his own family needs) is deemed available for the alien's support for 3 years after entry into the United States. This provision does not apply to those who become blind or disabled after entry, to refugees, to those granted political asylum, or to aliens sponsored by an agency or organization. AFDC law has a similar provision; however, the AFDC program also restricts the eligibility of aliens sponsored by agencies for 3 years after entry.

House bill

The House bill would make ineligible for SSI for 3 years after entry an alien for whom an organization executed an affidavit of support or similar agreement unless the sponsoring organization has ceased to exist or has been determined by a bankruptcy court to be bankrupt.

Effective date.—Upon enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House provision.

R. INCREASE IN PERSONAL NEEDS ALLOWANCE

(Section 4065 of Senate amendment)

Present law

The amount payable to an SSI recipient for any month throughout which he is in a Medicaid institution is reduced to $25 for an individual and to $50 for an individual and spouse. These amounts are intended to cover the cost of personal needs, such as toiletries and other small items, that are not covered by Medicaid. These amounts have been in effect since the SSI program began in 1974.

Medicaid regulations require that States allow SSI recipients who are residents of Medicaid institutions to retain from their income no less than the $25 personal needs allowance benefit standard.

House bill

No provision.

Senate amendment

The Senate amendment would increase the personal needs allowance to $30 for an individual and to $60 for a couple. It would also require States that supplement the Federal benefit to pass through this increase in the Federal payment level to SSI recipients.

Effective date.—July 1, 1988.

Conference agreement

The conference agreement follows the Senate amendment, with an effective date of July 1, 1988.

S. EXCLUSION OF DEATH BENEFITS SPENT ON LAST ILLNESS AND BURIAL

(Section 4072 of Senate amendment)

Present law

SSI law specifies certain kinds of income that must be excluded in determining whether an individual's income is within SSI limits. These include proceeds of a life insurance policy to the extent they are used for purposes of the final illness and burial of the insured person, or $1,500, whichever is less.

House bill

No provision.

Senate amendment

The Senate amendment would exclude payments occasioned by the death of another person, to the extent that the payments do not exceed the amount spent for purposes of the deceased person's last illness and burial. It would also exclude gifts and inheritances to the extent they are used for a last illness or burial.

Effective date.—The first day of the second calendar quarter to begin after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment, effective April 1, 1988.

V. SOCIAL SERVICES, CHILD WELFARE SERVICES, AND OTHER PROVISIONS RELATING TO CHILDREN

A. EXTENSION OF AUTHORITY FOR VOLUNTARY FOSTER CARE PLACEMENTS

(Section 9221 of House bill; Section 4063 of Senate amendment)

Present law

Title IV-E of the Social Security Act authorizes Federal matching for maintenance payments made by States for AFDC-eligible children placed in foster care homes or institutions. Most placements are made under court order. However, since 1981 there has been temporary authority in the law allowing States to make payments for children placed in foster care on a voluntary basis. To use this authority, States must have in place certain foster care protections and procedures. This authority expired September 30, 1987.

House bill

The House bill would permanently extend the authority for Federal matching funds for voluntarily-placed foster care children.

Effective date.—October 1, 1987.

Senate amendment

The Senate amendment is the same as the House bill, except for a technical difference.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, with the technical change in the Senate amendment, effective October 1, 1987.

B. EXTENSION OF AUTHORITY TO TRANSFER FOSTER CARE FUNDS

(Section 9222 of House bill; Section 4062 of Senate amendment)

Present law

In any year that the Federal appropriation for child welfare services exceeds a specified statutory level, there is a mandatory ceiling on the amount each State may receive for foster care maintenance payments. Under this mandatory ceiling, States may, under certain conditions, transfer all unused foster care maintenance funds to their child welfare services program. In any year that the Federal appropriation is below the specified level, States may choose to operate under a voluntary ceiling. Under the voluntary ceiling, States may, under certain conditions, transfer part of their unused foster care maintenance funds to the child welfare services program. The foster care ceilings and transfer authority expired September 30, 1987.

House bill

The House bill would extend the foster care ceilings and transfer authority through September 30, 1989.

Effective date.—October 1, 1987.

Senate amendment

Same as House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, effective October 1, 1987.

C. MOTHER/INFANT FOSTER CARE

(Section 9223 of House bill; Section 4064 of Senate amendment)

Present law

When a minor who is in foster care has a child, the minor continues to be eligible for foster care maintenance payments, but the child is eligible only for regular AFDC benefits, which are generally lower.

House bill

The House bill would require that in cases where a child in foster care is the parent of a son or daughter who is in the same home or institution, the foster care maintenance payments for the child shall include amounts necessary to cover costs of items provided on behalf of the son or daughter.

It would also deem the infants to be title IV-E foster care children for purposes of Medicaid eligibility or for eligibility under the adoption assistance program.

Effective date.—October 1, 1987.

Senate amendment

Same as House bill.

Effective date.—The first day of the second calendar quarter to begin after the date of enactment.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, effective April 1, 1988.

D. INCREASE IN FUNDING FOR TITLE XX BLOCK GRANT

(Section 4061 of Senate amendment)

Present law

The Title XX block grant program provides entitlement funds to the States and certain outlying areas to provide social services aimed at five specified goals. States determine which services to provide in pursuing these goals. Funds are generally allocated on the basis of population. Effective in FY 1984, the ceiling on Title XX entitlement funds was set permanently at $2.7 billion.

House bill

No provision.

Senate amendment

The Senate amendment would increase the Title XX entitlement cap by $50 million to $2.750 billion for fiscal year 1988; the cap reverts to $2.7 billion in 1989.

Effective date.—October 1, 1987.

Conference agreement

The conference agreement follows the Senate amendment with an amendment requiring that the additional funds be used for additional services and not supplant existing State funds.

E. EXTENSION OF TITLE XX AND CHILD WELFARE SERVICES TO AMERICAN SAMOA

(Section 4061 of Senate amendment)

Present law

All States and outlying areas, with the exception of American Samoa, are eligible for Title XX social services funds. In addition, the law provides Title IV-B funds for child welfare services to States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam, but not American Samoa.

House bill

No provision.

Senate amendment

The Senate amendment would make American Samoa eligible to participate in both the Title XX and child welfare services programs.

Effective date.—October 1, 1987.

Conference agreement

The conference agreement follows the Senate amendment, effective October 1, 1988.

F. NATIONAL COMMISSION ON CHILDREN

(Section 9703 of House bill; Section 4111 of Senate amendment)

Present law

No provision.

House bill

The House bill would establish a bipartisan National Commission on Children composed of 36 members: 12 persons representing organizations serving children, involved in activities on their behalf, or engaged in academic research about their problems and needs; 12 elected or appointed public officials involved in issues and programs relating to children, and 12 parents or representatives of parents or parents' organizations. It would direct the President, the Speaker of the House, and the President pro tempore of the Senate to each name 12 members, 4 in each category.

The Commission would hold public hearings throughout the country on how to safeguard and enhance the physical, mental, and emotional well-being of children and youth.

The Commission would make recommendations regarding five subjects: health of children, social and support services for children and their parents, education, income security, and tax policy.

The Commission would also seek to identify ways in which public and private organizations and institutions can work together at the community level to identify deficiencies in existing services for families and children and to develop recommendations to ensure that the needs of families and children are met, using all available resources, in a coordinated and comprehensive manner.

The Commission would be required to submit recommendations to the President and Congress by September 30, 1988.

Effective date.—Upon enactment.

Senate amendment

The Senate amendment is the same as the House bill except that it would charge the Commission with making recommendations regarding four subjects: health of children, social and support services for children and their parents, education, and income security. Recommendations would be made in the context of the purposes of relevant Federal law.

Effective date.—Upon enactment.

Conference agreement

The conference agreement generally follows the House bill and the Senate amendment. It includes the House provision that directs the Commission to study and make recommendations with respect to tax policy (in addition to health, social and support services, education, and income security), and excludes the Senate provision that directs the Commission to address specified issues within the context of particular provisions of law. The conferees intend that the Commission take into account the work of other commissions and task forces addressing related issues. The Conferees also intend that in selecting members of the Commission, the Speaker of the House will consult with the Committee on Ways and Means, the Committee on Education and Labor and the Committee on Energy and Commerce and the President Pro Tempore of the Senate will consult with the Committee on Finance and the Committee on Labor and Human Resources.

G. BOARDER BABIES DEMONSTRATION PROJECTS

(Section 4112 of Senate amendment)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment would authorize $4 million yearly for three years to fund demonstration projects to provide residential care for newborn babies whose parents abandon them to the care of hospitals.

Demonstrations could include: (1) projects in which infants remain with a parent in a residential setting, where appropriate care for the infant and suitable treatment for the parent may be assured; (2) projects that assure appropriate individualized care for such infants in a foster home or other non-medical residential setting; (3) such other projects as the Secretary of Health and Human Services determines will best serve the interests of such infants and will serve as models for projects in other communities.

The Secretary would be required to give priority among applicants for funds to those projects that serve areas most in need of alternative care arrangements for boarder babies, provide for adequate evaluation, and meet such other criteria as he prescribes. Grants could be used to pay costs of maintenance and necessary medical and social services and for such other purposes as the Secretary may allow.

Effective date.—October 1, 1987.

Conference agreement

The conference agreement generally follows the Senate amendment, effective October 1, 1987, with the following modifications: language is added to clarify that infants in non-medical residential settings are to be subject to foster care case planning and case review requirements comparable to those in section 475 of the Social Security Act; the demonstration's purpose is expanded to include projects which are designed to recruit, train, and support foster parents and other professionals working with these infants; and additional application requirements for potential demonstration grantees are established.

The demonstration projects approved by the conferees will provide residential care for newborn babies whose parents abandon them to the care of hospitals. These "boarder babies" are frequently the offspring of drug addicts. They are generally healthy and do not require hospitalization, but cities such as New York have found it difficult to arrange alternative care. The conferees understand that the "boarder baby" problem is likely to grow and become even more intractable in the coming years, and new approaches to resolving this problem, as well as new resources, may well be needed. This will be an issue for future Congressional consideration.

H. STUDY OF CHILDREN WITH AIDS IN FOSTER CARE

(Section 4113 of Senate amendment)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment would authorize a study to determine the number of infants and children in the United States who have acquired immune deficiency syndrome and who have been placed in foster care; the problems encountered by social services agencies in placing such infants and children; and the potential growth in the number of such children who will require foster care over the next five years. The Secretary of Health and Human Services and the Comptroller General of the General Accounting Office would conduct the study and make recommendations for improving care of AIDS infants and children who lack ongoing parental involvement and support. The Secretary and the Comptroller General could not duplicate activities of the Centers for Disease Control. Recommendations would be made within one year after enactment.

Effective date.—Upon enactment.

Conference agreement

The conference agreement follows the Senate amendment with an amendment requiring that the study be conducted by only one agency, the Department of Health and Human Services.

C.—VACCINE INJURY COMPENSATION

EXCISE TAX TO FUND THE VACCINE INJURY COMPENSATION TRUST FUND

Present Law

The National Vaccine Injury Compensation Program provides a no-fault Federal insurance system to compensate individuals who are injured or die due to the administration of certain prescribed vaccines (diptheria, pertussis, and tetanus (DPT), measles, mumps, and rubella (MMR), and polio).

When the compensation program is effective, all vaccine-related damage claims must first be determined by U.S. District Courts under the program. Awards for the new compensation program are paid over the life of the injured party, instead of lump-sum. The awards cover unreimbursed medical expenses, lost wages, attorney's fees, pain and suffering, and a death benefit.

Compensation awards under the program are authorized for injuries with respect to vaccines administered "after the effective date of a tax enacted" to fund the program.

House bill

The House bill imposes a per-dose excise tax on the sale of commonly prescribed vaccines at a rate of $4.56 on DPT, $4.44 on MMR, $0.29 on polio, and $0.06 on diptheria-tetanus. An amount equivalent to the net revenue raised by this tax is to be deposited in a new Vaccine Injury Compensation Trust Fund, which is to be used to compensate injuries from vaccines administered after September 30, 1987, and before the termination of the program. The net revenue is the gross revenue raised by the excise tax reduced by an amount (25% of gross revenue) to account for the reduction in income tax receipts due to the deductibility of the excise tax from taxable income.

New restrictions are placed on the eligibility for compensation. Types and amounts of awards are restricted. The awards must be made in a lump-sum fashion. The program will terminate if the number of awards made in specified time periods exceeds certain prescribed limits.

The excise tax becomes effective for vaccines sold after December 31, 1987. If the Trust Fund is found not to have a negative balance, the tax will terminate on January 1, 1993. Likewise, if the compensation program terminates early through the provision relating to the maximum permitted number of awards, the tax will terminate when and if there is not a negative balance in the Trust Fund.

The corresponding compensation program becomes effective October 1, 1988, and remains in effect until September 30, 1992, unless terminated earlier by the described procedure.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

D.—PBGC AND PENSION FUNDING

1. MODIFY FULL FUNDING LIMITATION

Present law

In general

Under present law, subject to certain limitations, an employer may make deductible contributions to a qualified defined benefit pension plan up to the full funding limitation (sec. 404). The full funding limitation generally is defined as the excess, if any, of (1) the accrued liability (including normal cost) under the plan, over (2) the lesser of (a) the fair market value of the plan's assets, or (b) the value of the plan's assets determined under section 412(c)(2) (sec. 412(c)(7)). Generally, the accrued liability is based on projected benefits, which, unlike accrued benefits, are the benefits that are projected to be earned by normal retirement age, rather than the benefits accrued as of the close of the current year.

If a defined benefit plan is terminated, the employer's liability to plan participants does not exceed the plan's termination liability (generally, the liability for benefits determined under sec. 401(a)(2) as of the date of the plan termination). However, contributions to a plan with assets in excess of termination liability (even, in some cases, with assets significantly in excess of termination liability) may be deductible because the full funding limitation is determined on the basis of projected benefits.

Interest rate and actuarial assumptions

Under present law, the actuarial assumptions used to determine costs, liabilities, interest rates, and other factors under a plan are required to be reasonable in the aggregate.

Asset valuation

Under present law (sec. 412(c)(2)(A)), the value of plan assets generally is to be determined in accordance with any reasonable actuarial method of valuation that takes into account fair market value and that is permitted under Treasury regulations. Treasury regulations provide that, regardless of the valuation method used, the method is required to result in a value that is between 80 percent and 120 percent of fair market value or between 85 percent and 115 percent of the average value over a period not exceeding the 5 most recent plan years (Treas. reg. sec. 1.412(c)(2)-1(b)(6)).

In addition, under section 412(c)(2)(B), the value of a bond or other evidence of indebtedness that is not in default as to principal or interest may, at the election of the plan administrator, be determined on an amortized basis running from initial cost at purchase to par value at maturity or earliest call date.

House bill

In general

Under the House bill, the full funding limitation generally is defined to mean the excess, if any, of (1) the lesser of (a) the accrued liability (including normal cost) under the plan, or (b) 150 percent of termination liability, over (2) the lesser of (a) the fair market value of the plan's assets, or (b) the value of the plan's assets determined under section 412(c)(2).

Interest rate

The House bill provides a special limitation on the interest rate used for funding purposes (including the full funding limitation). Under the bill, the interest rate is required to be within a permissible range, which is defined as a rate of interest that is not more than 20 percent above or below the average long-term applicable Federal rate (AFR) for the 5-year period ending on the last day before the beginning of the plan year for which the interest rate is being used.

If any interest rate used under the plan is not within the permissible range, then the plan generally is required to establish a new interest rate that is within the permissible range. However, the Secretary may permit a plan to use an interest rate that is not within the permissible range if it is established, to the satisfaction of the Secretary, that the interest rate is reasonable. Further, if the Secretary determines that any interest rate used under the plan is not reasonable (without regard to whether the rate is within the permissible range), then the plan is required to establish a new interest rate that is permitted by the Secretary.

Asset valuation

The House bill provides that, effective with respect to plan years beginning after December 31, 1987, the regulations under section 412(c)(2) permitting asset valuations to be based on a range of other than fair market value are to have no force and effect. In addition, the bill provides that the Secretary is to amend the regulations to carry out the intent of this provision.

Actuarial assumptions

The House bill modifies the standard for actuarial assumptions to require that all costs, liabilities, interest rates (subject to the special rule described above), and other factors are to be determined on the basis of actuarial assumptions and methods (1) each of which is reasonable (taking into account the experience of the plan and reasonable expectations) or (2) which result, in the aggregate, in a total plan contribution equivalent to the contribution that would be obtained if each assumption were reasonable. Under the bill, as under present law, the costs, etc., are required to represent the plan actuary's best estimate of anticipated experience under the plan. It is intended that the taxpayer has the burden of demonstrating that each actuarial assumption is reasonable and, if each actuarial assumption is not reasonable, that the assumptions in the aggregate result in a total contribution equivalent to the contribution that would be obtained if each assumption were reasonable.

Definition of termination liability

For purposes of the definition of the full funding limitation, the term "termination liability" means the value of all liabilities to employees and their beneficiaries under the plan. For purposes of determining termination liability under this rule, liability for any benefit contingent on (1) a facility shutdown, (2) a reduction or contraction in workforce, or (3) any event that cannot reliably and reasonably be predicted (as determined under regulations) is not to be taken into account until such shutdown, reduction or contraction, or other event occurs.

It is not intended that an event will be considered reliably and reasonably predictable solely because an actuarial probability of the event occurring may be determined. It is further intended that the Secretary will prescribe regulations defining events that can and cannot be reasonably and reliably predicted and will revise these regulations as new benefits are developed.

The third category of contingent benefits is intended to include contingencies that, like facility shutdowns or reductions or contractions in workforce, are not reliably and reasonably predictable. This category is not limited to events that are similar to shutdowns or reductions in force. An example of a benefit that is included in the third category is a benefit dependent upon the profits of the employer or the value of employer stock dropping below a certain level.

On the other hand, if an employer provides an early retirement window benefit under which employees who have satisfied certain age or service requirements or both are offered a limited period of time during which they may elect to retire, such a window benefit is not necessarily considered to be contingent on an event that cannot be reasonably and reliably predicted.

Effect on other funding rules

The bill does not modify the definition of accrued liability in section 412(c)(7). Also, the requirement that all amortizable amounts be considered fully amortized (sec. 412(c)(6)(B)) is applied without regard to the change in the full funding limitation (adding the 150 percent of termination liability limitation).

Multiple plans

It is intended that the full funding limitation (as well as the other limitations on deductions for plan contributions) may not be avoided by the creation of multiple plans with coordination of benefits between the plans. The Secretary is to prescribe rules consistent with this intent.

Regulatory authority

The Secretary may, under regulations, adjust the 150-percent figure in the full funding limitation to take into account the average age (and length of service, if appropriate) of the participants in the plan (weighted by the value of their benefits under the plan). Any such adjustments are to be prescribed only if, in the aggregate, their effect on Federal budget receipts is substantially identical to the effect of this provision of the bill. For example, the Secretary could, if it satisfies the budget receipts requirement, adjust the 150-percent figure to 175 percent for younger workforces and to 125 percent for older workforces.

Effective date.—This provision is effective for years beginning after December 31, 1987.

Senate amendment

The Senate amendment generally follows the House bill, with the following exceptions.

Interest rate

The Senate amendment uses the term "current liability" instead of the term "termination liability" as under the House bill, but the substance of the two terms is the same. For purposes of calculating current liability under the amendment, the interest rate is the rate used for calculating costs under the plan. If such rate is not within the permissible range, however, then for this purpose the plan is required to establish a new interest rate that is within the permissible range. The permissible range is defined as a rate of interest that is not more than 20 percent above or below the average mid-term applicable Federal rate (AFR) for the 3-year period ending on the last day before the beginning of the plan year for which the interest rate is being used (or, if shorter, the period that the AFR has been computed). The average is determined by averaging the rate in effect for each month during the applicable 3-year period. The Secretary may prescribe one or more indices in lieu of the average mid-term AFR to be used in determining the permissible range.

Asset valuation

The amendment provides that, effective with respect to plan years beginning after December 31, 1987, the portions of the regulations permitting asset valuations to be based on a range between 85 percent and 115 percent of average value are to have no force and effect. In addition, the amendment provides that the Secretary is to amend the regulations to carry out the intent of this provision.

Regulatory authority

The Secretary is not authorized to adjust the 150-percent figure in the full funding limitation.

Conference agreement

The conference agreement follows the House bill (using the term "current liability" rather than "termination liability"), with certain modifications.

Interest rate

The conference agreement follows the rule under the Senate amendment with respect to the interest rate to be used in determining current liability, with certain modifications. Under the conference agreement, for this purpose, the interest rate is generally the rate determined under the plan's assumptions. However, notwithstanding the plan's assumptions, the interest rate is required to be within 10 percent of the average rate for 30-year Treasury bonds for the 4-year period ending on the last day before the beginning of the plan year for which the interest rate is being used. This creates a permissible range of between 90 percent and 110 percent of such average rate. Under appropriate circumstances, the Secretary may also permit interest rates that are between 80 percent and 90 percent of the average rate described above. For purposes of determining the average rate for the 4-year period, the Secretary may prescribe rules weighting the more recent years more heavily.

No rate outside of the specified corridor is permitted under any circumstances. Also, the specified corridor is not intended to be a safe harbor with respect to whether an interest rate is reasonable. The Secretary is authorized to adjust a rate within the corridor to the extent that it is unreasonable under the rules applicable to actuarial assumptions.

ASSET VALUATION

The conference agreement follows the Senate amendment with respect to the value of assets (sec. 412(c)(2)(A)). In addition, the conference agreement repeals section 412(c)(2)(B), thus subjecting bonds and other evidence of indebtedness to the general valuation rules. The Secretary may, however, prescribe regulations under which a dedicated bond portfolio may be valued by using the interest rate used to determine current liability.

These changes with respect to asset valuation do not apply to multiemployer plans.

Actuarial assumptions

For purposes of the modification of the full funding limitation for plans other than multiemployer plans, the conference agreement follows the House bill and Senate amendment with respect to the standard for actuarial assumptions subject to the requirement that the interest rate be within the corridor described above. In addition, the determination of whether an interest rate is reasonable depends on the cost of purchasing an annuity sufficient to satisfy current liability. The interest rate is to be a reasonable estimate of the interest rate used to determine the cost of such annuity, assuming that the cost only reflected the present value of the payments under the annuity (i.e., and did not reflect the seller's profit, administrative expenses, etc.). For example, if an annuity costs $1,100, the cost of $1,100 is considered to be the present value of the payments under the annuity for purposes of the interest rate rule, even though $100 of the $1,100 represents the seller's administrative expenses and profit. In making this determination with respect to the interest rate used to determine the cost of an annuity, other factors and assumptions (e.g., mortality) are to be individually reasonable.

It is further intended that, for purposes of determining the reasonableness of an interest rate under the approach described above, the plan benefit is the normal benefit under the plan (without regard to, for example, any provision providing for a lump sum payment).

Regulatory authority

In addition to the regulatory authority provided under the House bill, the conference agreement authorizes the Secretary to prescribe regulations that apply, in lieu of the 150 percent of current liability limitation, a different full funding limitation based on factors other than current liability. The Secretary may exercise this authority only in a manner so that, in the aggregate, the effect of the regulations on Federal budget receipts is substantially identical to the effect of the 150-percent limitation.

Effect on other rules

In addition, under the conference agreement, the Secretary is to prescribe rules with respect to the treatment of contributions that would be required to be made but for the modification of the full funding limitation. The rules are to provide that the amount of such contributions are to be cumulated. In years in which the contributions required to be made to the plan are less than the full funding limitation (without regard to these cumulated amounts), the employer is to be required to contribute a portion of the cumulated amount. In determining the amount of this supplemental contribution, the Secretary may take into account factors such as the remaining working lifetime of the participants over which the entire cumulated amount may be contributed.

Study and issuance of regulations

The conference agreement requires the Treasury Department to study the effect of the modification of the full funding limitation on benefit security in defined benefit pension plans and to report the results of the study to the House Ways and Means Committee, the Senate Finance Committee, and the Joint Committee on Taxation by August 15, 1988.

In addition, under the conference agreement, the Secretary is to prescribe regulations under this provision no later than August 15, 1988.

2. MINIMUM FUNDING STANDARD AND DEDUCTIONS

A. Modifications of minimum funding standard

Present law

Affected plans

Under present law, certain pension plans are required to meet a minimum funding standard for each plan year. The present-law funding rules do not apply to (1) profit-sharing or stock bonus plans, (2) certain insurance contract plans, (3) governmental plans, (4) church plans, (5) plans that have not provided for employer contributions after September 2, 1974, and (6) certain plans maintained by an organization described in section 501(c) (8) or (9) of the Code.

Calculation of contribution

Under present law, certain defined benefit pension plans are required to meet a minimum funding standard for each plan year. The minimum funding standards require that an employer contribute an annual amount sufficient to fund a portion of participants' projected benefits determined in accordance with one of several prescribed funding methods, using actuarial assumptions that are reasonable in the aggregate.

Generally, a funding method calculates the cost of benefits under the plan in 2 components: (1) normal cost, which represents the cost of benefits allocated to the current year under the plan's funding method, and (2) a portion of the plan's accrued liabilities (i.e., all costs other than normal cost). The costs in (2) include costs with respect to past service liability (e.g., the cost of retroactive benefit increases), experience losses, and changes in actuarial assumptions. The amounts in (2) above are amortized over a period of years depending on the nature of the cost. Experience gains and gains from changes in actuarial assumptions are taken into account generally by offsetting a portion of the gains against the amounts determined under (1) and (2) above for the year. Losses increase such amounts.

Each defined benefit pension plan is required to maintain a special bookkeeping account called a "funding standard account". The account is charged with the costs described above and the amount necessary to amortize waived contributions (see below), and credited with the gains described above, the amount of waived contributions for the year, and contributions for the plan year. If, as of the close of a plan year, the account reflects credits equal to or in excess of charges, the plan is treated as meeting the minimum funding standard for the year. Thus, as a general rule, the minimum contribution for a plan year is determined as the amount by which the charges to the account would exceed credits to the account if no contribution were made to the plan.

Under present law, benefits contingent on events such as the shutdown of a facility are funded in the same manner as other benefits. Thus, the plan assumptions may include a probability that the shutdown or other contingency will occur. If too low a likelihood of the contingency occurring is assumed, then an experience loss occurs when the event occurs.

Valuation of assets

Under present law, the value of plan assets is to be determined in accordance with any reasonable actuarial method of valuation that takes into account fair market value and that is permitted under Treasury regulations. The regulations permit plan assets to be valued on the basis of the average value over a period not exceeding the 5 most recent plan years. Regardless of the valuation method used, the method must result in a value that is between 80 percent and 120 percent of fair market value or between 85 percent and 115 percent of average value as defined in the regulations (Treas. reg. sec. 1.412(c)(2)-1(b)(6)).

House bill

Ways and Means Committee bill

Affected plans.—A special funding rule applies to plans with a funded ratio less than 100 percent. This special rule does not apply to (1) plans exempt from the funding requirements under present law, or (2) multiemployer plans.

Calculation of contribution.—The bill retains the present-law funding standards. In addition, for plans with a funded ratio of less than 100 percent, the minimum funding contribution is the greater of (1) the amount determined under the present-law rules (as modified by the bill), or (2) normal cost plus the greatest of—

(A) the unfunded amortization charge, which is the amount of the charge that would be determined if the unfunded termination liability were amortized in equal annual installments over (i) 3 years, if the funded ratio of the plan is less than 50 percent; (ii) 5 years, if the funded ratio equals or exceeds 50 percent and is less than 70 percent; or (iii) 15 years, if the funded ratio equals or exceeds 70 percent. This schedule is phased in over 6 years with respect to existing liabilities;

(B) the anti-insolvency amount, which is the sum of (i) nonannuity distributions for the plan year, plus (ii) the amount of the charge which would be determined if the liabilities for benefits in pay status and liabilities for benefits reasonably expected to commence within the net 5 years were amortized over 3 years; and

(C) the anti-deterioration amount, which is the sum of the amount necessary to amortize decreases in the funded ratio of the plan over 3 years, and 2 percent of the termination liability of the plan.

Cap on additional contribution.—A contribution in excess of the contribution required under the present-law funding rules generally is not required if a plan has a funded ratio of 100 percent.

Funded ratio.—A plan's funded ratio is the ratio of plan assets to "termination liability." "Termination liability" is generally defined as under present law, and thus includes all fixed and contingent liabilities under the plan, included liabilities for benefits that are in the plan upon termination, but may be eliminated prior to plan termination (Code sec. 401(a)(2)). Under the bill, "termination liability" for purposes of the funding rules does not include any benefit contingent on a facility shutdown, a contraction in workforce, or any event that is not reasonably and reliably predictable (as determined under regulations) until the event has occurred. The interest rate used in calculating termination liability is the rate used for funding purposes generally, which under the bill is required to be within 20 percent of a 5-year average of the applicable Federal long-term rate.

Existing liabilities.—"Existing liabilities" means the funded termination liability as of the beginning of the first plan year beginning after December 31, 1987 (determined without regard to any plan amendment adopted after June 30, 1987). Existing liabilities are reduced by all contributions in excess of normal cost.

Valuation of assets.—The bill provides that the regulations permitting asset valuations to be based on a range of other than fair market value are to have no force and effect. In addition, the bill provides that the Secretary of the Treasury is to amend the regulations to carry out the intent of this provision.

Effective date.—The provisions are effective with respect to plan years beginning after December 31, 1987. A special rule applies to steel company plans for the first 5 plan years the new funding rules are in effect.

Education and Labor Committee bill

Affected plans.—Same as the Ways and Means Committee bill. In addition, the additional funding rule for plans with a funded ratio less than 100 percent does not apply to plans that are not subject to the plan termination insurance program under Title IV of ERISA.

Calculation of contribution.—The bill retains the present-law funding standards, with certain modifications. In addition, a special funding rule applies to certain plans that have a funded ratio less than 100 percent. Under the special rule, the amount of the minimum funding contribution for a plan year is the greater of (1) the amount determined under the present-law funding rules (as modified by the bill) or (2) the sum of—

(A) the amount of benefit payments for the year (other than single sum distributions and payments for certain annuity contracts);

(B) the amount of the single sum distributions and payments for certain annuity contracts for the year multiplied by the excess (not less than zero and not more than 100 percent) of 150 percent over the funded ratio of the plan as of the beginning of the plan year;

(C) interest on the amount of unfunded vested benefits at the rate used by the plan for calculating the value of vested benefits; and

(D) the amount necessary to amortize any waived funding deficiency.

Cap on additional contribution.—For plans with a funded ratio greater than 50 percent, the amount required to be contributed under the new rule is capped at the greater of (1) the amount of unfunded vested benefits or (2) the amount required to bring the level of plan assets up to the funded ratio of the plan at the beginning of the plan year plus the funded ratio improvement factor. The funded ratio improvement factor is determined by multiplying 1 minus the funded ratio of the plan by 5 percent.

Thus, the funded ratio improvement factor ranges from 0 to 2.5 percent.

Funded ratio.—A plan's funded ratio is the ratio of plan assets to vested benefits. The interest rate used for calculating the value of vested benefits is the rate used by the plan for funding purposes.

Existing liabilities.—Existing liabilities are treated the same as other liabilities under the new funding rule.

Effective date.—The provisions are effective with respect to plan years ending after December 31, 1991. A special rule applies to steel company plans for the first 5 plan years the new funding rule is in effect.

Senate amendment

Finance Committee amendment

Affected plans.—Same as the Ways and Means Committee bill. In addition, the new funding rules for plans with a funded ratio of less than 100 percent do not apply to (1) plans that are not defined benefit plans and (2) plans with no more than 100 participants on any day in the preceding plan year. In the case of a plan with more than 100 but no more than 150 participants during the preceding year, the amount of the additional contribution is determined by multiplying the otherwise required additional contribution by 2 percent for each participant in excess of 100.

Calculation of contribution.—In general.—The amendment retains the present-law funding standards, with certain modifications. In addition, with respect to certain plans with a funded ratio less than 100 percent, the minimum required contribution is, in general terms, the greater of (1) the amount determined under section 412 (with the modifications made by the amendment), or (2) the sum of (i) normal cost, (ii) the amount necessary to amortize experience gains and losses and gains and losses resulting from changes in actuarial assumptions over 5 years, and (iii) the deficit reduction contribution. In addition, a special funding rule applies with respect to benefits that are contingent on unpredictable events.

Under the amendment, the deficit reduction contribution is the sum of (1) the unfunded old liability amount, and (2) the unfunded new liability amount. Calculation of these amounts is based upon the plan's "current liability".

Current liability.—Under the amendment, the term "current liability" means all liabilities to employees and their beneficiaries under the plan (Code sec. 401(a)(2)) determined as if the plan terminated. However, the value of any "unpredictable contingent event benefit" is not taken into account in determining current liability until the event on which the benefit is contingent occurs. An "unpredictable contingent event benefit" is in general any benefit contingent on an event other than (1) age, service, compensation, death, or disability, or (2) an event which is reasonably and reliably predictable as determined by the Secretary.

Current liability is generally determined in accordance with plan assumptions, including the interest rate assumption. However, the amendment provides a special limitation on the interest rate used for purposes of calculating current liability. Under the amendment, if the plan interest rate is not within the permissible range, then the plan must establish a new rate within the permissible range. The permissible range is defined as a rate of interest that is not more than 20 percent above or below the average mid-term applicable Federal rate (AFR) for the 3-year period ending on the last day before the beginning of the plan year for which the interest rate is being used (or, if shorter, the period that the AFR has been computed). The average is determined by averaging the rate in effect for each month during the applicable 3-year period. The Secretary may prescribe one or more indices in lieu of the average mid-term AFR to be used in determining the permissible range.

The amendment provides that certain service may be disregarded at the employer's election in calculating the plan's current liability. In the case of certain participants, the applicable percentage of the years of service before the individual became a participant are taken into account in determining current liability. The applicable percentage is (1) 0, if the individual has 5 or less years of participation, (2) 20, if the individual has 6 years of participation, (3) 40, if the individual has 7 years of participation, (4) 60, if the individual has 8 years of participation, (5) 80, if the individual has 9 years of participation, and (6) 100 if the individual has 10 or more years of participation. Partial years of participation are rounded to the nearest whole year.

The amendment provides that unfunded current liability means, with respect to any plan year, the excess of (1) the current liability under the plan over (2) the value of the plan's assets reduced by any credit balance in the funding standard account. The funded current liability percentage of a plan for a plan year is the percentage that (1) the value of the plan's assets reduced by any credit balance in the funding standard account is of (2) the current liability under the plan.

Unfunded old liability amount.—The unfunded old liability amount is, in general, the amount necessary to amortize the unfunded old liability under the plan in equal annual installments (until fully amortized) over a fixed period of 15 plan years (beginning with the first plan year beginning after December 31, 1987). The "unfunded old liability" with respect to a plan is the unfunded current liability of the plan as of the beginning of the first plan year beginning after December 31, 1987, determined without regard to any plan amendment adopted after October 16, 1987, that increases plan liabilities (other than amendments adopted pursuant to certain collective bargaining agreements).

Under a special rule applicable to collectively bargained plans, increases in liabilities pursuant to a collective bargaining agreement ratified before October 17, 1987, are also amortized over 15 years.

Unfunded new liability amount.—The unfunded new liability amount for a plan year is the applicable percentage of the plan's "unfunded new liability." "Unfunded new liability" means the unfunded current liability of the plan for the plan year, determined without regard to (1) the unamortized portion of the unfunded old liability and (2) the liability with respect to any unpredictable contingent event benefits, without regard to whether or not the event has occurred. Thus, in calculating the unfunded new liability, all unpredictable contingent event benefits are disregarded, even if the event on which that benefit is contingent has occurred.

If the funded current liability percentage is less than 35 percent, then the applicable percentage is 30 percent. The applicable percentage decreases by .25 of one percentage point for each 1 percentage point by which the plan's funded current liability percentage exceeds 35 percent.

Unpredictable contingent event benefits.—If the event on which an unpredictable contingent event benefit is contingent occurs during the plan year and the assets of the plan are less than current liability (calculated after the event has occurred), then an additional funding contribution (over and above the minimum funding contribution otherwise due) is required. The amount of the required additional contribution is generally equal to the greater of (1) the amount of unpredictable contingent event benefits paid during the plan year (regardless of the form in which paid), including (except as provided by the Secretary of the Treasury) any payment for the purchase of an annuity contract with respect to a participant with respect to such benefits, and (2) the amount that would be determined for the year if the unpredictable contingent event benefit liabilities were amortized in equal annual installments over 5 years, beginning with the plan year in which the event occurs. For the year in which the event occurs, an amount equal to 150 percent of the amount determined under (1) above may, at the employer's election, be treated as the unpredictable contingent benefit amount. In no case, however, will the unpredictable contingent event amount exceed the unfunded current liability (including the liability due to the contingent event benefit) of the plan.

Cap on additional contribution.—Same as the Ways and Means Committee bill.

Funded ratio.—A plan's funded ratio is the ratio of plan assets to current liability.

Valuation of assets.—The portion of the regulations permitting asset valuations to be based on a range between 85 percent and 115 percent of average value are to have no force and effect.

Effective dates.—In general, the changes in the minimum funding requirements for defined benefit pension plans apply with respect to plan years beginning after December 31, 1988. Unpredictable contingent event benefits with respect to which the event has occurred before October 17, 1987, are not subject to the new funding rule for such benefits. If the event has not occurred before October 17, 1987, such benefits are subject to the new funding rules for such benefits. For the first plan year beginning after December 31, 1987, unpredictable contingent event benefits are subject to the provisions of the amendment relating to gains and losses.

With respect to provisions that cross reference the definition of "current liability", the definition is effective at the time the provision cross referencing it is effective.

The change in the valuation regulations if effective with respect to plan years beginning after December 31, 1987.

Labor and Human Resources Committee amendment

Affected plans.—Same as the Ways and Means Committee bill.

Calculation of contribution.—The amendment retains the present-law funding standards, with certain modifications. In addition, for certain plans with a funded ratio of less than 100 percent, the minimum funding contribution is the greater of (1) the amount determined under the present-law rules (as modified by the amendment), or (2) the sum of—

(1) normal cost;

(2) the amount necessary to amortize unfunded past service liability of individuals in pay status and the unfunded portion of nonannuity distributions for the year over 10 years; and

(3) the amount necessary to amortize the unfunded past service liability of individuals

not in pay status over the greater of (i) 15 years or (ii) the plan's average worklife. The 15-year amortization period for past service liabilities is phased in with respect to existing liabilities over 5 years.

A special rule applies in the case of plans with all participants in pay status.

Cap on additional contribution.—Same as the Ways and Means Committee bill.

Funded ratio.—A plan's funded ratio is the percentage that plan assets are of "benefit liabilities." The term "benefit liabilities" with respect to any person includes all benefits of such person under the plan (including benefits the reduction or elimination of which is not prohibited under section 411(d)(6) of the Code or section 204(g) of ERISA).

Existing liabilities.—"Existing liabilities" means liabilities not attributable to plan amendments after the date of enactment.

Effective date.—The provisions are effective for plan years beginning after December 31, 1987.

Conference agreement

In general

In general, the conference agreement follows the Finance Committee amendment, with certain modifications.

Affected plans

The conference agreement follows the Senate Finance Committee amendment. As under the Senate Finance Committee amendment, for purposes of the rules for plans with no more than 100 participants or plans with 101 to 150 participants, all defined benefit plans (including multiemployer plans) of the employer and the employer's controlled group are treated as a single plan. The definition of a controlled group is the same as the definition in section 414(b), (c), (m) and (o). With respect to a multiemployer plan, only employees of the employer (or a controlled group member) are taken into account.

Calculation of contribution

In general.—The conference agreement follows the Finance Committee amendment, with the following modifications. Gains and losses due to changes in actuarial assumptions are amortized over 10 years, rather than over 5 years. The conferees intend that reporting requirements will be revised as necessary to implement the new funding rules, for example, to reflect current liability, unfunded old liability, unfunded new liability, and the liabilities for unpredictable event contingent benefits.

Current liability.—Current liability is defined as in the Finance Committee amendment, with the following modifications. Thus, current liability is, in general, all liabilities to participants and beneficiaries under the plan (Code sec. 401(a)(2)) determined as if the plan terminated. Under the conference agreement, the permissible range for the interest rate is not more than 10 percent above or below the average rate for 30-year Treasury bonds for the 4-year period ending on the last day before the beginning of the plan year for which the interest rate is being used. Under appropriate circumstances, the Secretary of the Treasury may provide that the permissible range is expanded to include rates between 80 and 90 percent of the average rate described above. For purposes of determining the average rate for the 4-year period, the Secretary may prescribe rules weighting the more recent years more heavily.

No rate outside the permissible range is permitted under any circumstances. Also, the specified corridor is not intended to be a safe harbor with respect to whether an interest rate is reasonable. The Secretary is authorized to adjust a rate within the range to the extent that it is unreasonable under the rules applicable to actuarial assumptions.

The conference agreement modifies the rule disregarding certain preparticipation service. Under the modification, preparticipation years of service are taken into account over 5 years of participation. Partial years of participation are rounded to the nearest whole year.

The rule disregarding preparticipation service is available with respect to any participant who, at the time of becoming a participant, has not accrued any other benefits under any defined benefit pension plan (whether or not terminated) of the employer or a member of the controlled group of the employer, and has years of service before such time in excess of the years of service required for eligibility to participate in the plan. The rule applies only with respect to new participants in years beginning after December 31, 1987. The rule is not elective.

With respect to the definition of unpredictable contingent event benefits, the conferees do not intend that an event will be considered reliably and reasonably predictable solely because an actuarial probability of the event occurring may be determined. It is further intended that the Secretary of the Treasury will prescribe rules defining events that can and cannot be reasonably and reliably predicted and will revise these rules as new benefits are developed.

Unpredictable contingent event benefits are intended to include benefits that depend on contingencies that, like facility shutdowns or reductions or contractions in workforce, are not reliably and reasonably predictable. Such contingencies are not limited to events that are similar to shutdowns or reductions in force. For example, a benefit dependent on the profits of the employer or the value of employer stock dropping below a certain level would be considered a benefit contingent on an event that is not reasonably and reliably predictable (unless the contingency is illusory).

If an employer provides an early retirement window benefit under which employees who have satisfied certain age or service requirements or both are offered a limited period of time during which they may elect to retire, such a window benefit is generally considered to be contingent on an event that can be reasonably and reliably predicted. The Secretary of the Treasury may, in appropriate circumstances, treat such window benefits as benefits which are contingent on an event that cannot be reasonably and reliably predicted.

It is intended that a benefit contingent on marital status, such as a qualified joint and survivor annuity, is generally to be considered a benefit that is contingent on an event that can be reasonably and reliably predicted.

It is intended that the Secretary of the Treasury may prescribe rules to prevent employers from avoiding the new minimum funding rules by characterizing contingencies as not reasonably and reliably predictable. For purposes of the definition of current liability, a benefit is generally not to be considered contingent on an event which is not reasonably and reliably predictable if there is substantial certainty that the event on which the benefit depends will occur.

An early retirement subsidy, social security supplement, survivor subsidy or similar benefit in addition to the basic retirement benefit under a plan that is payable only on the satisfaction of certain eligibility conditions (e.g., age and/or years of service eligibility conditions), is included in current liability (provided it is not an unpredictable event contingent benefit) to the extent that the employee has earned the subsidy, supplement, or similar benefit.

For example, assume that a plan provides that an employee is entitled to a basic retirement benefit commencing at age 65 of 1 percent of final average pay times years of service and that, if the employee retires at age 55 with at least 25 years of service, the employee's retirement benefit will not be actuarially reduced for early commencement (i.e., this is an early retirement subsidy). For purposes of calculating the current liability for such plan for a year, an employee age 50 with 20 years of service has a total retirement benefit (i.e., normal retirement benefit plus early retirement subsidy) of 80 percent of the unreduced age 55 benefit (based on final average pay at age 50). That is, there is no actuarial reduction for commencement before age 65. The same analysis applies in determining the extent to which a social security supplement, survivor subsidy, or similar benefit has been earned under the plan.

Current liability is generally determined in accordance with plan assumptions. Thus, in the example described above, because not all employees who have earned a right to some portion of the early retirement benefit will ultimately satisfy the eligibility conditions for the subsidy (e.g., not all such employees will remain with the employer until age 55 or retire at age 55), a plan is to calculate its current liability for the year by using reasonable turnover and mortality factors.

Unfunded old liability amount.—The conference agreement follows the Finance Committee amendment, except that the unfunded old liability amount is amortized over 18 years rather than 15 years. Thus, under the conference agreement, the unfunded old liability amount with respect to a collectively bargained plan is increased by the amount necessary to amortize the unfunded existing benefit increase liabilities in equal annual installments over a fixed period of 18 plan years, beginning with the plan year in which the increase in liabilities occurs pursuant to the bargaining agreement (or, if later, the first plan year beginning after December 31, 1988). For purposes of this rule, the unfunded existing benefit increase liability means the unfunded current liability determined by taking into account only (1) liabilities attributable to the increase in liabilities pursuant to the agreement, and (2) the value of assets in excess of current liability (determined without regard to the liabilities described in (1)).

For purposes of the special rule applicable to certain benefit increases pursuant to a collective bargaining agreement ratified before October 17, 1987, any extension, amendment, or other modification of a bargaining agreement after October 16, 1987, is not taken into account. In general, the special rule only includes increases in liability pursuant to the bargaining agreement and therefore does not include liability increases with respect to individuals covered by the plan who are not subject to the collective bargaining agreement. However, if more than 75 percent of the employees covered by the plan on October 16, 1987, are subject to the collective bargaining agreement, then the unfunded existing benefit increase liability includes the liability with respect to all employees in the plan whose benefits are determined directly or indirectly by reference to the terms of the bargaining agreement, whether or not such employees are subject to the agreement. Separate plans may not be treated as a single plan for purposes of this rule, even if the benefits under the plans are coordinated.

Unpredictable contingent event benefits

The conference agreement follows the Finance Committee amendment with respect to the definition and funding of unpredictable contingent event benefits, except that the cash flow rule and amortization period are modified. Under the conference agreement, the amount of the additional contributions is generally equal to the greater of (1) the unfunded portion of the benefits paid during the plan year (regardless of the form in which paid), including (except as provided by the Secretary of the Treasury) any payment for the purchase of an annuity contract with respect to a participant with respect to contingent event benefits, and (2) the amount that would be determined for the year if the unpredictable contingent event benefit liabilities were amortized in equal annual installments over 7 years, beginning with the plan year in which the event occurs.

The effects of the cash flow rule in (1) are phased in at a rate of 5 percent for plan years beginning in 1989 and 1990, 10 percent for plan years beginning in 1991, 15 percent for plan years beginning in 1992, 20 percent for plan years beginning in 1993, 30 percent for plan years beginning in 1994, 40 percent for plan years beginning in 1995, 50 percent for plan years beginning in 1996, 60 percent for plan years beginning in 1997, 70 percent for plan years beginning in 1998, 80 percent for plan years beginning in 1999, 90 percent for plan years beginning in 2000, and 100 percent for plan years beginning in 2001.

The event on which an unpredictable contingent event benefit is contingent is generally not considered to have occurred until all events on which the benefit is contingent have occurred. If the event on which an unpredictable contingent event benefit is contingent occurs during the plan year and the assets of the plan equal or exceed current liability (calculated after the event has occurred), then the employer may continue to fund the plan's unpredictable contingent event benefits as under present law (i.e., generally as an experience loss), subject to application of the special rule if the plan's funding falls below current liability.

Cap on additional contribution

The conference agreement follows the Finance Committee amendment.

Funded ratio

The conference agreement follows the Finance Committee amendment.

Valuation of assets

The conference agreement follows the Finance Committee amendment with respect to the value of assets under section 412(c)(2)(A). In addition, the conference agreement repeals section 412(c)(2)(B) (except for multiemployer plans), subjecting bonds and other evidence of indebtedness to the general valuation rules. The Secretary may, however, prescribe regulations under which a dedicated bond portfolio is to be valued by using the interest rate used to determine current liability.

Effective date.—The conference agreement generally follows the Finance Committee amendment, except that the modified cash flow rule for unpredictable contingent event benefits is effective for plan years beginning after December 31, 1988.

In addition, the conference agreement adopts the special rule for steel employer plans in the Ways and Means Committee bill, with a modification. Under the modification, liabilities (and contributions) with respect to unpredictable event contingent benefits with respect to which the contingency occurs after December 17, 1987, are not taken into account in calculating current liability under the rule, but are amortized separately over 10 years.

B. TIME FOR CONTRIBUTIONS

Present law

In general

Under present law, the minimum required contribution for a plan year must be made within 8-½ months after the end of the plan year. If the contribution is made by such due date, the contribution is treated as if it were made on the last day of the plan year.

Present law contains no requirement that an employer make installment payments to a plan during the plan year.

Failure to make total contribution for plan year

The employer who is responsible for contributing to a defined benefit pension plan is liable for an excise tax equal to 5 percent of any accumulated funding deficiency (sec. 4971). The term "accumulated funding deficiency" means the excess of total charges to the funding standard account over the total credits to such account. The excise tax increases to 100 percent if the deficiency is not corrected within the taxable period.

House bill

Ways and Means Committee bill

In general

Under the bill, three installments of estimated contributions are required during the plan year, with the total contribution due within 2-½ months after the end of the plan year. The amount of each installment is ¼ of the lesser of (1) 80 percent of the amount required to be contributed for the current plan year or (2) 90 percent of the amount required to be contributed for the preceding plan year.

Failure to make installments.—An excise tax is imposed if the full amount of any required installment is not paid. The excise tax is determined by applying the interest rate for underpayment of income taxes to the amount of the underpayment for the period of the underpayment. The period of the underpayment begins on the due date of the installment and ends on the earlier of the date on which the underpayment is contributed to the plan or the date the total contribution is due. Each member of the employer's controlled group is jointly and severally liable for the tax.

Failure to make total contribution for plan year.— Each member of the employer's controlled group is jointly and severally liable for the excise tax.

Effective dates.—The acceleration of the due date for required plan contributions generally is effective for plan years beginning after December 31, 1988, with a phase-in rule applying for plan years beginning in 1988. The provision requiring plan contributions to be made in installments is effective for plan years beginning after December 31, 1987, with a transition rule applicable for 1988 plan years.

Education and Labor Committee bill

In general.—Similar to the Ways and Means Committee bill, except that installment contributions are required only if a plan has an outstanding funding waiver. In that case, four installments are required during the plan year and the amount of each required installment is ¼ of the lesser of (1) 100 percent of the amount required to be contributed for the current plan year or (2) 100 percent of the amount required to be contributed for the preceding plan year.

Failure to make installments.—Same as the Ways and Means Committee bill. The tax is imposed on the employer responsible for contributions to the plan.

Failure to make total contribution for plan year.—Same as the Ways and Means Committee bill.

Effective dates.—The provisions apply for plan years beginning after December 31, 1988.

Senate amendment

Finance Committee amendment

In general.—Similar to the Ways and Means Committee bill, except that four installments are required during the plan year, with the total contribution due within 8-½ months after the end of the plan year. The amount of each required installment is ¼ of the lesser of (1) 90 percent of the amount required to be contributed for the current plan year or (2) 100 percent of the amount required to be contributed for the preceding plan year.

Failure to make installments.—Same as the Ways and Means Committee bill, except that interest is paid to the plan rather than as an excise tax, and the interest rate on missed contributions is the greater of (1) 175 percent of the mid-term applicable Federal interest rate (AFR) or (2) the rate of interest taken into account in determining costs under the plan. In addition, a lien arises if a required installment is not paid in full. The employer is required to notify employees of the failure to make required installments.

Failure to make total contribution for plan year.—Same as the Ways and Means Committee bill. In addition, the 5-percent excise tax is increased to 10 percent, and a lien arises in favor of the plan if the required contribution is not paid in full. The employer is required to notify employees of the failure to make contributions.

Effective dates.—The provisions apply for plan years beginning after December 31, 1987.

Labor and Human Resources Committee amendment

In general.—Similar to the Education and Labor Committee bill, except that four installments are required for the plan year.

Failure to make installments.—Same as the Education and Labor Committee bill.

Failure to make total contribution for plan year.—Same as the Ways and Means Committee bill.

Effective dates.—The provision requiring quarterly installment payments is effective for plan years beginning after December 31, 1990. The provision relating to liability for the excise tax for a failure to make required contributions for a plan year applies with respect to taxes imposed for taxable years beginning after December 31, 1987.

Conference agreement

The conference agreement generally follows the Finance Committee amendment, with modifications.

With respect to the interest rate applicable to a failure to make contributions when due, the conference agreement clarifies that the interest rate continues at the specified rate until the missed contributions are actually paid to the plan.

In the case of a plan with a funded ratio of less than 100 percent, a statutory tax lien arises on all controlled group property in favor of the plan 60 days after the due date of an unpaid contribution (whether or not a waiver application is pending). The amount of the lien is the cumulative missed contributions in excess of $1 million. Missed contributions originally due before the effective date are not subject to this lien provision (but they are taken into account in applying the $1 million rule).

Under the conference agreement, the employer and each member of the controlled group that includes the employer are liable for contributions required under the minimum funding rules. However, this controlled group liability does not alter the rules for determining the extent to which an employer's contributions to a plan are deductible. Thus, in general, a deduction for a contribution is available under section 404 only for the employer who directly employs the participants.

C. FUNDING WAIVERS

Present law

In general

An employer may obtain a waiver of the minimum funding requirement if the employer is unable to satisfy the requirement without substantial business hardship and if application of the requirement would be adverse to plan participants. Under IRS administrative procedures, a waiver generally will not be granted unless the employer demonstrates that the business hardship is likely to be temporary.

Time for requesting waivers

Under IRS administrative procedures, a request for a waiver must be submitted by the end of the plan year following the plan year for which the waiver is requested. The time for submitting a waiver request may be extended for good cause.

Frequency of waivers

Under present law, funding waivers cannot be granted in more than 5 of any 15 consecutive plan years.

Notice of waiver requests

An employer is required, under present law, to notify each employee organization representing employees covered under the plan that a waiver has been requested.

Interest rate charged for waived contributions

The interest rate charged on waived contributions is the rate charged with respect to late payments of income taxes.

Amortization period for waived contributions

Waived contributions are amortized over 15 years.

Security required for waived contributions

The IRS may require an employer to provide security as a condition of granting a funding waiver if the outstanding balance of accumulated funding deficiencies and certain other amounts equals or exceeds $2 million.

House Bill

Ways and Means Committee bill

In general.—The bill clarifies that a waiver can be granted only if the business hardship is temporary and if the entire controlled group of which the employer is a member, as well as the employer itself, is experiencing the hardship.

Time for requesting waivers.—A request for a waiver is required to be submitted within 2-½ months after the end of the plan year.

Frequency of waivers.—Funding waivers cannot be granted in more than 3 of any 15 consecutive plan years.

Notice of waiver requests.—In addition to the notice to employee organizations, an employer is required to demonstrate that it made reasonable efforts to notify current employees that a waiver is being requested.

Interest rate charged for waived contributions.—The interest rate charged on waived contributions is the greater of (1) the rate used in computing costs under the plan, or (2) 150 percent of the mid-term applicable Federal interest rate (AFR) in effect for the first month of the plan year.

Amortization period for waived contributions.—The amortization period for waived contributions is the greater of (1) 5 years or (2) 15 years multiplied by the funded termination liability percentage for the plan year, rounded to the nearest whole number of years.

Security required for waived contributions.—The bill lowers from $2 million to $250,000 the threshold on the accumulated funding deficiency with respect to which the IRS can require security. In the case of a plan with accumulated funding deficiencies in excess of $1 million or a plan that is not more than 70 percent funded, the PBGC is authorized to require that an employer provide security as a condition of granting a funding waiver.

Effective dates.—The provision relating to the funding waivers generally is effective with respect to (1) any application for a funding waiver submitted after June 30, 1987, and (2) any waiver granted with respect to an application submitted after June 30, 1987. The provision requiring that applications for funding waivers be filed within 2-1/2 months following the close of a plan year is effective for plan years beginning after December 31, 1987, with a transition rule for 1988 plan years.

Education and Labor bill

In general.—Same as the Ways and Means Committee bill.

Time for requesting waivers.—Same as the Ways and Means Committee bill.

Frequency of waivers.—Same as the Ways and Means Committee bill.

Notice of waiver requests.—The present-law notice is to be provided to all affected parties (i.e., participants, beneficiaries, alternate payees, and employee organizations representing employees covered under the plan). In addition, the notice must describe the extent to which the plan is funded with respect to guaranteed benefits and benefit liabilities.

Interest rate charged for waived contributions.—Same as the Ways and Means Committee bill, except that 120 percent of the mid-term applicable Federal interest rate (AFR), rather than 150 percent, is used.

Amortization period for waived contributions.—Same as the Ways and Means Committee bill, except that benefit liabilities, rather than termination liability, is used and partial years are rounded to the next highest whole number of years.

Security required for waived contributions.—No provision.

Effective dates.—The provision relating to funding waivers generally is effective with respect to (1) any application for a funding waiver submitted after the date of enactment with respect to a plan year beginning after December 31, 1985, and (2) any waiver granted with respect to such an application. The provision requiring that applications for funding waivers be filed within 2-½ months following the close of a plan year is effective for plan years beginning after December 31, 1987, with a transition rule for 1988 plan years.

Senate amendment

Finance Committee amendment

In general.—Same as the Ways and Means Committee bill, except that a waiver cannot be granted if the plan's funded ratio is less than 100 percent.

Time for requesting waivers.—An application for a waiver with respect to any required contribution (including required installments) is required to be submitted before the due date of the contribution.

Frequency of waivers.—No provision.

Notice of waiver requests.—No provision.

Interest rate charges for waived contributions.—Same as the Ways and Means Committee bill.

Amortization period for waived contributions.—No provision.

Security required for waived contributions.—No provision.

Effective dates.—The provisions apply with respect to any application for a funding waiver submitted for any plan year beginning after December 31, 1987.

Labor and Human Resources Committee amendment

In general.—Same as the Ways and Means Committee bill.

Time for requesting waivers.—Same as the Ways and Means Committee bill.

Frequency of waivers.—Same as the Ways and Means Committee bill.

Notice of waiver requests.—Same as the Education and Labor Committee bill, except that no definition of affected party is provided.

Interest rate charged for waived contributions.—Same as the Education and Labor Committee bill.

Amortization period for waived contributions.—The amortization period for waived contributions is 5 plan years.

Security required for waived contributions.—No provision.

Effective dates.—Same as the Education and Labor Committee bill, except that the provision requiring applications for waivers to be filed within 2-½ months following the close of a plan year is effective for plan years beginning after the date of enactment.

Conference agreement

In general

The conference agreement follows the Ways and Means Committee and Education and Labor Committee bills, and the Labor and Human Resources Committee amendment. In addition, the conference agreement provides that the Secretary may provide that an analysis of the financial hardship of a member of the controlled group of the employer need not be conducted. Such an analysis is not necessary because taking into account the circumstances of the member of the controlled group would not significantly affect the determination of whether a waiver should be granted. Although, with respect to multiemployer plans, the conference agreement does not incorporate in the statute the requirement that the financial hardship be temporary, the conferees do not intend to create an inference with respect to the current IRS practice of granting waivers only in the case of temporary hardship.

Time for requesting waivers

The conference agreement follows the Ways and Means Committee and Education and Labor Committee bills, and the Labor and Human Resources Committee amendment.

Frequency of waivers

The conference agreement follows the Ways and Means Committee and Education and Labor Committee bills, and the Labor and Human Resources Committee amendment, except that employers will not be treated as exceeding the number of permissible waivers due to waivers granted with respect to the plan years beginning before January 1, 1988. Thus, under the conference agreement, employers are provided a fresh start with respect to the frequency limit on waivers. As under present law, where a plan undergoes a transaction pursuant to the Implementation Guidelines, the successor plan shall not be considered a new plan for purposes of the frequency limit on waivers.

Notice of waiver requests

The conference agreement follows the Education and Labor Committee bill and the Labor and Human Resources Committee amendment. The conference agreement does not require that the employer furnish a copy of the waiver request to employees, and does not require that the Secretary furnish (or make available) a copy of the request to employees.

Interest rate charged for waived contributions

The conference report follows the Ways and Means Committee bill and the Finance Committee amendment.

Amortization period for waived contributions

The conference agreement follows the Labor and Human Resources Committee amendment.

Security for waivers

The conference agreement follows the Education and Labor Committee bill, and the Finance Committee and Labor and Human Resources Committee amendments, except that the present-law threshold with respect to which IRS may require security, etc., is reduced from $2 million to $1 million.

Effective date.—The conference agreement follows the Ways and Means Committee bill, except that the date after which a submission of a funding waiver request is subject to the funding waiver provisions is December 17, 1987, rather than June 30, 1987. In addition, the provision regarding notice of waiver requests is effective with respect to applications for waivers submitted more than 90 days after the date of enactment.

D. AMORTIZATION PERIOD FOR UNFUNDED LIABILITIES

Present law

The amortization period for certain unfunded liabilities may be extended by the Secretary of the Treasury for up to 10 years. The employer is required to notify each employee organization representing employees covered under the plan that an extension has been requested. The interest rate charged with respect to an extension is the rate for underpayment of income tax. The same rules relating to security for funding waivers apply to extensions of amortization periods.

House bill

Ways and Means Committee bill

The same rules under the bill relating to security for funding waivers apply to extensions of amortization periods.

The provision applies to applications for extensions filed after the date of enactment.

Education and Labor Committee bill

The employer is required to notify each affected party that an extension is being requested. The interest rate charged with respect to an extension is the greater of (1) the interest rate used for calculating contributions under the plan or (2) 120 percent of the mid-term AFR in effect on the first day of the plan year for which the extension is requested.

The provision is effective with respect to (1) any application for an extension submitted after the date of enactment with respect to a plan year beginning after December 31, 1985, and (2) any waiver granted pursuant to such an application.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

Same as the Education and Labor Committee bill, except that no definition of affected party is provided.

The provision applies to applications for extensions filed on or after the date of enactment.

Conference agreement

The conference agreement follows the Education and Labor Committee bill and the Labor and Human Resources Committee amendments, with two modifications.

First, the interest rate charged is the greater of (1) the rate used in computing costs under the plan, or (2) 150 percent of the mid-term AFR in effect for the first month of the plan year.

Second, the $2 million threshold on the accumulated funding deficiency with respect to which the IRS can require security is reduced to $1 million, as under the rules for funding waivers.

The effective date of the provision is the same as the effective date of the funding waiver provisions.

E. EXPERIENCE GAINS AND LOSSES

Present law

Experience gains and losses for a year are required to be amortized over a 15-year period.

House bill

Ways and Means Committee bill

The period for amortizing experience gains and losses is reduced to 3 years from 15 years.

The provision is effective for plan years beginning after December 31, 1987.

Education and Labor Committee bill

The period for amortizing experience gains and losses is reduced to 5 years from 15 years.

The provision is effective for plan years beginning after December 31, 1988.

Senate amendment

Finance Committee amendment

The Finance Committee amendment is the same as the Education and Labor Committee bill, except that the provision is effective for years beginning after December 31, 1987.

Labor and Human Resources Committee amendment

The period for amortizing experience gains and losses is reduced to 7 years from 15 years.

The provision is effective for plan years beginning on or after the date of enactment.

Conference agreement

The conference agreement follows the Finance Committee amendment. The provision does not apply to gains and losses arising in plan years beginning before January 1, 1988.

F. GAINS AND LOSSES DUE TO CHANGES IN ASSUMPTIONS

Present law

Gains and losses due to changes in actuarial assumptions are required to be amortized over 30 years.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

No provision.

Senate amendment

Finance Committee amendment

Gains and losses due to changes in actuarial assumptions are amortized over 5 years.

The provision is effective for years beginning after December 31, 1987.

Labor and Human Resources Committee amendment

Gains and losses due to changes in actuarial assumptions are amortized over 7 years.

The provision is effective for plan years beginning on or after the date of enactment.

Conference agreement

The conference agreement follows the Finance Committee amendment, except that the amortization period is 10 years.

G. ACTUARIAL ASSUMPTIONS MUST BE REASONABLE

Present law

The actuarial assumptions used to determine cost, liabilities, interest rates, and other factors under a plan are required to be reasonable in the aggregate.

House bill

Ways and Means Committee bill

All costs, liabilities, interest rates, and other factors are required to be determined on the basis of actuarial assumptions and methods (1) each of which is reasonable individually or (2) which result, in the aggregate, in a total plan contribution equivalent to the contribution that would be obtained if each assumption were reasonable.

The interest rate used in calculating costs generally is required to be within a permissible range, defined as an interest rate not more than 20 percent above or below the average long-term AFR for the 5-year period ending on the last day of the preceding plan year.

The provision applies to plan years beginning after December 31, 1987.

Education and Labor Committee bill

No provision.

Senate amendment

Finance Committee amendment

The Finance Committee amendment is the same as the Ways and Means bill, except that the amendment does not include the requirement that the plan's interest rate be within the permissible range.

The provision applies to years beginning after December 31, 1987.

Labor and Human Resources Committee amendment

No provision.

Conference agreement

The conference agreement follows the Finance Committee amendment, with certain modifications. The interest rate applicable in determining current liability is required to be used with respect to determining the required contribution under section 412(1).

In addition, with respect to the interest rate that is used to determine current liability and thus is required to be within the permissible range, the determination of whether such interest rate is reasonable depends on the cost of purchasing an annuity sufficient to satisfy current liability. The interest rate is to be a reasonable estimate of the interest rate used to determine the cost of such annuity, assuming that the cost only reflected the present value of the payments under the annuity (i.e., did not reflect the seller's profit, administrative expenses, etc.). For example, if an annuity costs $1,100, the cost of $1,100 is considered to be the present value of the payments under the annuity for purposes of the interest rate rule, even though $100 of the $1,100 represents the seller's administrative expense and profit. Also, in making this determination with respect to the interest rate used to determine the cost of an annuity, other factors and assumptions (e.g., mortality) are to be individually reasonable.

It is further intended that, for purposes of determining the reasonableness of an interest rate under the approach described above, the plan benefit generally is the normal benefit under the plan (without regard to, for example, any provision providing for a lump sum payment).

H. LIMITATION ON AMORTIZATION OF PAST SERVICE COSTS

Present law

A deduction is allowed for contributions necessary to amortize past service or other supplementary credits in equal amounts over 10 years. In *AMP, Inc.* v. *U.S.*, the 3rd Circuit held that the amortizable base for purposes of determining an employer's maximum deduction includes all past service liability, rather than only the unfunded portion of its past service liability.

House bill

Ways and Means Committee bill

The bill clarifies that the amortizable base in determining an employer's maximum deduction for past service liability equals only the unfunded costs attributable to such liability.

The provision is effective for plan years beginning after December 31, 1987.

Education and Labor Committee bill

No provision.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

No provision.

Conference agreement

The conference agreement follows the Ways and Means Committee bill. No inference is intended with respect to present law.

I. LIMITATION ON DEDUCTION FOR CONTRIBUTIONS TO CERTAIN PLANS NOT LESS THAN UNFUNDED TERMINATION LIABILITY

Present law

An employer's contributions to a defined benefit pension plan may not be deductible even though the sum of the contributions plus the plan assets do not exceed the plan's termination liability for the plan year.

House bill

Ways and Means Committee bill

The maximum deduction limit for contributions is not less than the unfunded termination liability of the plan. This rule applies only to a plan subject to the plan termination insurance provisions of ERISA and only if the plan has 100 or more participants during the plan year.

The provision is effective for plan years beginning after December 31, 1987.

Education and Labor Committee bill

The maximum deduction limit is not less than the unfunded vested liabilities under the plan. The increased deduction limit applies to all defined benefit pension plans.

The provision is effective for plan years beginning after December 31, 1988.

Senate amendment

Finance Committee amendment

The Finance Committee amendment follows the Ways and Means Committee bill (using "current liability" instead of "termination liability," without a substantive change), except that the increased deduction limit applies to all defined benefit pension plans with 100 or more participants.

The provision is effective for years beginning after December 31, 1987.

Labor and Human Resources Committee amendment

No provision.

Conference agreement

The conference agreement follows the Finance Committee agreement, but also provides that, in determining unfunded current liability, assets are not reduced by credit balances.

3. EMPLOYER ACCESS TO PLAN ASSETS

A. Plan Termination

1. EMPLOYER REVERSIONS

a. Assets available for recovery

Present law

Allocation of excess assets to employee contributions.—On plan termination, an employer may recover plan assets that are in excess of the plan's termination liability to plan participants and their beneficiaries if such excess is due to actuarial error and to the extent that such excess is not attributable to employee contributions. Termination liability includes all vested and contingent liabilities, including those for which the eligibility conditions have not been satisfied as of the date of plan termination. Excess assets are allocated to employee contributions in accordance with one of several methods. At least one court has held that employee contributions (and earnings) are applied first to fund accrued benefits, with the result that the entire excess may be allocated to employer contributions.

Required provision of benefits.—On plan termination, the employer may recover all assets in excess of termination liability (to the extent not attributable to employee contributions) if the plan provides for such recovery.

Implementation Guidelines.—In 1984, the Department of Treasury, Department of Labor, and Pension Benefit Guaranty Corporation (PBGC) issued the "Implementation Guidelines for Terminations of Defined Benefit Plans." Pursuant to these guidelines, an employer is entitled to recover excess assets from a plan that, although formally terminated, is not terminated in substance.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

Allocation of excess assets to employee contributions.—Assets in excess of "benefit liabilities" are allocated to mandatory employee contributions in the ratio that the present value of accrued benefits attributable to mandatory employee contributions bears to the present value of total benefits. Such excess is allocated among participants, beneficiaries, alternate payees, and persons who received a total distribution of plan benefits during the 3-year period before plan termination, based on the amount of employee contributions they are entitled to. The term "benefit liabilities" has the same meaning as termination liability under present law.

Required provision of benefits.—If a plan terminates with assets in excess of benefit liabilities and amounts attributable to employee contributions, certain excess assets generally are to be allocated to participants, beneficiaries, alternate payees, and persons who received a total distribution of plan benefits during the 3-year period prior to plan termination. The excess assets subject to this rule are limited to those necessary for the plan to attain the minimum benefit security level (MBSL), as defined below with respect to withdrawals from ongoing plans. These excess assets are allocated in proportion to benefits (up to half of the defined benefit plan dollar limit under sec. 415), subject to the applicable rules with respect to limits on benefits (sec. 415) and nondiscrimination (sec. 401(a)(4)).

Effective date.—These provisions apply to plans with a termination date on or after July 22, 1987.

Senate amendment

Finance Committee amendment

The Finance Committee amendment confirms present law as contained in the Implementation Guidelines.

Labor and Human Resources Committee amendment

Allocation of excess assets to employee contributions.—The Labor and Human Resources Committee amendment is the same as the Education and Labor Committee bill.

Required provision of benefits.—The Labor and Human Resources Committee amendment is the same as the Education and Labor Committee bill, except that the allocation of excess assets to participants, etc., is to be made on a per capita rather than a pro rata basis.

Effective date.—These provisions apply to plans with a termination date on or after October 9, 1987.

Conference agreement

The conference agreement follows the Ways and Means Committee bill, with one modification. The conference agreement follows the Education and Labor Committee bill with respect to the allocation of excess assets to employee contributions, except that the effective date is for plan terminations for which notice of termination is sent to participants after December 17, 1987.

b. Other restrictions

Present Law

An employer may not recover excess assets (i.e., a reversion) unless the plan document permits such recovery. The employer may amend the plan at any time prior to termination in order to permit such recovery.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

An employer may receive a reversion of assets in excess of those required to be allocated under the rule described above, but only if the plan so provides. In determining the extent to which a plan provides for the reversion of excess assets, any provision providing for a reversion or increasing the amount that may revert is not effective before the end of the 5th calendar year following the date of the adoption of the provision. A special rule applies with respect to a plan that has been in existence less than 5 years. Additional rules apply to prevent avoidance of this requirement through transactions such as plan mergers.

Any assets that may not be distributed to the employer because of the above rule are to be distributed to participants, beneficiaries, etc., subject to the applicable limits on benefits (sec. 415) and to the nondiscrimination rules (sec. 401(a)(4)).

These provisions apply to plan terminations with respect to which the termination date occurs on or after July 22, 1987.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

The Labor and Human Resources Committee amendment generally is the same as the Education and Labor Committee bill, except that the provision applies to plans with a termination date on or after October 9, 1987. In addition, no reversion to the employer is allowed if the employer has terminated any plan without sufficient assets to pay benefit liabilities. This restriction does not apply if the PBGC and plan participants have been made whole for any loss suffered.

Conference agreement

The conference agreement follows the Education and Labor Committee bill, with a modification of the effective date.

2. SPECIAL FUNDING RULES

a. In general

Present law

The recovery of a reversion from one defined benefit plan does not affect an employer's funding obligations with respect to other defined benefit plans that it maintains.

House bill

Ways and Means Committee bill

In general.—If an employer receives a reversion with respect to a defined benefit plan, a special funding rule applies to other defined benefit plans maintained by the same employer that (1) are not multiemployer plans, and (2) have an "unfunded amount." The term "unfunded amount" means the excess (if any) of (1) the greater of 125 percent of termination liability or the value of projected benefits, over (2) the value of plan assets.

Applicable period.—The special funding rule applies in plan years beginning in the calendar year in which the reversion is received and in the 3 succeeding years.

Funding and allocation rules.—The special funding rule requires that the reversion be used over the applicable 4-year period to reduce the unfunded amounts in the plans to which the rule applies. Each year in which the special funding rule applies, the portion of the reversion that is required to be contributed in that year is first allocated to the plans that have the largest unfunded amounts in relation to the asset level necessary to eliminate the unfunded amounts. A special rule applies if one of the plans to which the special funding rule applies is terminated.

Asset transfers.—Because the determination of the unfunded amount of a plan is remade each year, any assets contributed or transferred to a plan reduce the unfunded amount in the transferee plan.

Security.—The PBGC may require, as a condition of plan termination, that an employer provide security to the plan with respect to the contributions required by the special funding rule. Such security may be perfected only by the PBGC or, at the direction of the PBGC, by the employer.

Funding waivers.—Contributions required by the special funding rule are eligible for funding waivers under the same rules applicable to other required contributions.

Effective date.—The provision applies to any reversion received after June 30, 1987, except that the provision does not apply to any reversion on account of a termination if notice to the PBGC of such termination was provided on or before June 30, 1987.

Education and Labor Committee bill

In general.—If an employer terminates a plan and receives a reversion, a special funding rule applies to defined benefit plans maintained by the same employer that (1) are not multiemployer plans, and (2) have a "funding shortfall." The term "funding shortfall" means the excess (if any) of (1) the lesser of (i) the minimum benefit security level (MBSL) of the plan or (ii) the assets necessary so that the plan would be funded at the controlled group funded ratio (CGFR) over (2) the value of plan assets. The controlled group funded ratio is the ratio of the assets in all plans of the employer to the sum of all benefit liabilities in such plans.

Applicable period.—The special funding rule applies in the 3 plan years following the plan year in which the reversion occurs.

Funding and allocation rules.—The special funding rule requires that the reversion be used over the applicable 3-year period to amortize the funding shortfalls of the plans to which the rule applies. The reversion is first allocated to the plans that have the lowest funded ratio (i.e., the ratio of plan assets to benefit liabilities). Unlike the Ways and Means Committee bill, this allocation occurs only once—in the year of the reversion—and subsequent contributions are based on this allocation.

Asset transfers.—Assets transferred to a plan from another defined benefit plan of the employer are treated like employer contributions and thus reduce the contribution required under the special funding rule.

Security.—As part of the minimum funding rules, the employer is required to provide security to the applicable plans with respect to the special funding rule. The security is to be in the form of a surety bond or an escrow account.

Funding waivers.—Contributions required by the special funding rule may not be waived.

Effective date.—These provisions apply to plan terminations with a termination date on or after the date of enactment.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

The Senate Labor and Human Resources Committee amendment generally is the same as the Education and Labor Committee bill.

Conference agreement

The conference agreement follows the Finance Committee amendment.

3. TRANSFER OF PLAN SPONSORSHIP

Present law

Through certain transactions (e.g., plan mergers, consolidations, or transfers, or the assumption of a plan by another entity), an employer may benefit from the excess assets in a particular plan in the same way that the employer benefits from the amount recovered upon a plan termination. Similarly, through certain such transactions, employers are able to dispose of underfunded plans.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

In general.—A special funding rule similar to the one described above with respect to reversions applies if certain transactions occur and 2 conditions are satisfied.

Transactions covered.—Generally, the covered transactions include plan mergers, consolidations, and transfers, and the assumption of a plan by another entity.

Conditions.—The conditions that are required to be satisfied are:

(1) Immediately following any one of such transactions, the defined benefit plan involved in the transaction or any defined benefit plan maintained by the employer that maintained such plan immediately before the transaction has a funding shortfall (i.e., is a "shortfall plan"), and

(2) Immediately before the transaction, any defined benefit plan maintained by such employer was overfunded (i.e., had assets in excess of the greater of benefit liabilities or the CGFR level).

Plans covered.—The special funding rule applies to defined benefit plans other than multiemployer plans.

Funding requirement.—The special funding rule requires that an amount equal to the assets held by the overfunded plans in excess of the greater of benefit liabilities or the CGFR be used to amortize the funding shortfalls of the shortfall plans over the following 3 plan years. If there is more than one shortfall plan, such amounts are to be allocated first to the plans that have the lowest funding ratios. The amounts allocated to each shortfall plan are to be reduced by the amounts (if any) allocable to such plan on a post-transaction basis. (For this purpose, all assets held by an employer's overfunded plans in excess of the greater of benefit liabilities or the CGFR are "allocable" among all of the shortfall plans maintained by the employer immediately after the transaction.) The reduction described in the preceding sentence generally is not available in cases involving a transfer of assets between plans of the same employer if, following the transfer, the transferee plan is funded at a level above the level of the transferor plan.

Effective date.—These provisions apply to transactions occurring on or after the date of enactment.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

The Labor and Human Resources Committee amendment generally is the same as the Education and Labor Committee bill.

Conference agreement

The conference agreement follows the Ways and Means Committee bill and the Finance Committee amendment.

B. ONGOING PLANS

1. Assets available for recovery

Present law

An employer is not entitled to recover excess assets from an ongoing plan.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

In general.—A withdrawal from an ongoing plan may be made if (1) the value of plan assets in the plan from which the withdrawal is made exceeds the plan's minimum benefit security level (MBSL), and (2) the value of plan assets in each other plan maintained by the employer equals or exceeds such plan's MBSL. Only assets in excess of the plan's MBSL may be withdrawn.

Definition of MBSL.—In a plan that does not provide any qualified event contingent benefits, the MBSL is the sum of (1) the greater of the full funding limit with respect to the plan (using the projected unit credit method) or 125 percent of the present value of benefit liabilities and (2) the amount of any excess assets that are attributable to mandatory employee contributions.

In a plan that does provide qualified event contingent benefits, the MBSL is the lesser of (1) the MBSL determined without regard to qualified event contingent benefits but calculated using 150 percent in lieu of 125 percent in the formula described above, or (2) the amount of the MBSL calculated as if the contingency had occurred with respect to all qualified event contingent benefits.

Qualified event-contingent benefits.—A qualified event contingent benefit is a benefit or subsidy that is contingent upon the occurrence of an event that (1) has not occurred and (2) does not occur solely with respect to a participant or beneficiary (such as the attainment of any age, disability, death, or the completion of any period of service).

Transfers.—Tax-free transfers between defined benefit plans of the same employer of assets in excess of liabilities are permitted. Such net asset transfers from defined benefit plans to defined contribution plans are not permitted regardless of the form of the transaction (e.g., merger).

Effective date.—These provisions generally apply to withdrawals occurring 90 days after the date of enactment. The rule prohibiting net asset transfers from defined benefit plans to defined contribution plans applies to transactions occurring after July 21, 1987.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

In general.—The Labor and Human Resources Committee amendment generally is the same as the Education and Labor Committee bill with the following exceptions.

Definition of MBSL.—For plans with qualified event-contingent benefits, the MBSL is the lesser of (I) the sum of (i) 150 percent of the greater of the full funding limit with respect to the plan (using the projected unit credit method) or 125 percent of the present value of benefit liabilities, and (ii) the amount of any excess assets that are attributable to mandatory employee contributions, or (II) the amount of the MBSL calculated as if the contingency had occurred with respect to all qualified event contingent benefits.

Transfers.—There is no provision with respect to transfers from defined benefit plans to defined contribution plans.

Conference agreement

The conference agreement follows the Ways and Means Committee bill and the Finance Committee amendment.

2. OTHER RESTRICTIONS

Present law

An employer is not entitled to recover assets from an ongoing plan.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

Plan provisions.—A withdrawal may not be made unless the plan so provides. In determining the extent to which a plan provides for withdrawals, any provision providing for withdrawals or increasing the amount that may be withdrawn is not effective before the end of the 5th calendar year following the later of (1) the date of adoption of the provision, and (2) the date notice of the provision is provided to affected parties.

This rule does not apply to a plan that provided for a distribution of plan assets to the employer upon plan termination on July 1, 1987. For such plans, any provision providing for withdrawals or increasing the amount that may be withdrawn is not effective before the end of the 180-day period following written notice of the amendment to affected parties. In addition, if a plan is amended in its first plan year beginning after December 31, 1988, to allow withdrawals, the rule described above applies as if "4th" were substituted for "5th".

Special rules apply to prevent avoidance of the 5-year requirement through transactions such as plan mergers.

Notice.—At least 30 days before a withdrawal, the plan administrator is required to file with the IRS an actuarial statement evidencing compliance with the MBSL requirements.

Within 60 days after the date of a withdrawal, the employer is required to provide certain information with respect to the withdrawal to the Secretary of Labor, the Secretary of the Treasury, the plan administrator, and each employee organization representing plan participants.

Interest rate.—In calculating the present value of benefit liabilities for purposes of determining the MBSL, the interest rate used is the lesser of the plan rate for purposes of determining lump sum distributions or generally 120 percent of the rate that would be used by the PBGC for purposes of determining the present value of a lump sum distribution on plan termination.

Sanction.—An excise tax applies if the amount withdrawn from an ongoing plan exceeds the permissible amount. The amount of the tax is 5 percent of the excess withdrawn over the permissible amount if the excess withdrawal is corrected within 90 days; 50 percent of the excess if the withdrawal is not corrected within 90 days, but is corrected within 365 days; and 100 percent if the withdrawal is not corrected within 365 days; and 100 percent for each succeeding 365 days that the withdrawal is not corrected. The employer making the withdrawal is liable for the excise tax.

Effective date.—These provisions apply to withdrawals occurring after the date 90 days after the date of enactment.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

In general.—The Labor and Human Resources Committee amendment generally is the same as the Education and Labor Committee bill with the following exceptions.

Plan provisions.—For purposes of the special rule for plans that on a specified date provided for a distribution of plan assets to the employer upon plan termination, October 9, 1987, is used in lieu of July 1, 1987.

Asset level of terminated plans.—Withdrawals are not permitted if the employer has terminated any plan without assets sufficient to pay benefit liabilities. This prohibition does not apply if the PBGC and plan participants have been made whole for any loss suffered.

Conference agreement

The conference agreement follows the Ways and Means Committee bill and the Finance Committee amendment.

C. TAX TREATMENT OF REVERSIONS

Present law

Reversions are includible in the gross income of the employer and subject to a nondeductible 10-percent excise tax (sec. 4980), except to the extent the reversion is transferred to an employee stock ownership plan (ESOP) either prior to January 1, 1989, or pursuant to a termination occurring prior to January 1, 1989.

House bill

Ways and Means Committee bill

The Ways and Means Committee bill raises the excise tax on reversions to 20 percent. In addition, the bill provides that a reversion from a defined benefit plan that is transferred in a qualified transfer is not includible in the employer's income and is not subject to the excise tax on reversions.

These provisions apply to any reversion received after June 30, 1987, except that the provisions do not apply to any reversion on account of a termination if notice to the PBGC of such termination is provided on or before June 30, 1987.

The bill does not affect the special rules under the Tax Reform Act of 1986 with respect to the ESOP exceptions or with respect to the application of the excise tax on reversions to certain taxpayers.

Education and Labor Committee Bill

Any net assets transferred directly between defined benefit plans maintained by the same employer are not includible in the employer's income and are not subject to the excise tax on reversions. The ESOP exceptions to the income and excise tax are repealed.

The rule permitting tax-free transfers between defined benefit plans is intended as a clarification of present law. The repeal of the ESOP exceptions applies to transactions occurring after July 21, 1987.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

The Labor and Human Resources Committee amendment is the same as the Education and Labor Committee bill, except that the ESOP exceptions are not repealed.

Conference agreement

The conference agreement follows the Finance Committee amendment.

4. TREATMENT OF PLAN TERMINATIONS

Present law

In general

A single-employer defined benefit pension plan may be voluntarily terminated only in a standard termination or in a distress termination. A plan may be terminated in a standard termination only if it has sufficient assets to pay all benefit commitments under the plan. Benefit commitments are greater than the benefits guaranteed by the PBGC, but are less than plan termination liability. Termination liability represents all benefits that have been promised under the plan up to the date of plan termination, and consists of all fixed and contingent liabilities to plan participants and beneficiaries, including liability for benefits in effect on the date of termination that are not protected under section 411(d)(6) of the Code or section 204(g) of ERISA.

A plan with assets insufficient to provide benefit commitments may be terminated in a distress termination only if the PBGC determines that each contributing sponsor and each substantial member of the contributing sponsors' controlled group satisfies at least 1 of 4 distress standards. A substantial member of a controlled group is generally any entity whose assets comprise at least 5 percent of the assets of the controlled group.

Employer liability to participants

If a plan is terminated in a standard termination so that the plan assets are sufficient to satisfy benefit commitments, then the employer has no further liability to plan participants, even if the plan is not sufficiently funded to meet termination liability.

In a distress termination, if there are benefit commitments in excess of PBGC-guaranteed benefits that cannot be paid out of plan assets, then the PBGC is required to appoint an independent fiduciary with respect to a special termination trust maintained for the benefit of participants. Each contributing sponsor and each member of the controlled group of a contributing sponsor is jointly and severally liable to the termination trust for the lesser of (1) 75 percent of the unfunded benefit commitments in excess of guaranteed benefits, or (2) 15 percent of the value of all benefit commitments under the plan. Benefits may be paid to plan participants from the termination trust before the employer's full liability to the PBGC has been discharged.

Employer liability to PBGC

In a distress termination, if plan assets are insufficient to fund guaranteed benefits, each contributing sponsor and each member of the controlled group of each contributing sponsor is jointly and severally liable to the PBGC for the sum of (1) unfunded guaranteed benefits up to 30 percent of the collective net worth of the entities that are liable; (2) the excess of 75 percent of the unfunded guaranteed benefits over 30 percent of collective net worth; and (3) interest on such amounts from the date of termination.

The PBGC is entitled to a lien of up to 30 percent of the collective net worth of the entities that are liable to the PBGC. Up to this limit, the PBGC's claim has the priority status of a Federal tax claim for bankruptcy purposes. The remainder of the PBGC's claim generally has the lower priority status of an unsecured claim.

Standards for termination

Standard termination.—A plan may be terminated in a standard termination only if the plan has assets sufficient to satisfy benefit commitments. In connection with a standard termination, the plan administrator is required to provide participants and beneficiaries with certain information relating to their benefits.

Distress termination.—In order to terminate a plan in a distress termination, the plan administrator is required to demonstrate that each contributing sponsor and each substantial member of each contributing sponsor's controlled group meets one of the following criteria: (1) a petition in bankruptcy or a State insolvency proceeding seeking liquidation of the entity has been filed and has not been dismissed; (2) a petition in bankruptcy or a State insolvency proceeding has been filed seeking reorganization of the entity, the case has not been dismissed, and the bankruptcy (or other appropriate) court has approved the plan termination; (3) unless a distress termination occurs, the entity will be unable to pay its debts when due and will be unable to continue in business; or (4) the costs of providing pension coverage have become unreasonably burdensome solely as a result of a decline in the workforce.

Information requirements

In connection with a standard or a distress termination, the plan administrator is required to provide certain information to the PBGC, including a certification by an enrolled actuary. Certain information must also be provided to the PBGC or other persons other than at plan termination.

House bill

Ways and Means Committee bill

Employer liability to participants.—Under the Ways and Means Committee bill, the employer's liability to plan participants is increased to the full amount of termination liability following a standard termination. The plan's termination liability is determined as under present law (Code sec. 401(a)(2)), and includes all fixed and contingent liabilities to plan participants and beneficiaries, including liability for benefits in effect on the date of termination that are not protected under section 411(d)(6) of the Code or section 204(g) of ERISA.

Following a distress termination, the contributing sponsor's (and controlled group's) liability to participants is increased to the full amount of the plan's unfunded termination liability to the extent not guaranteed by the PBGC. The PBGC is entitled to recover the full amount of unfunded guaranteed benefits before any amounts are paid from the termination trust to plan participants.

Employer liability to PBGC.—The liability to the PBGC is increased to the full amount of unfunded guaranteed benefits.

Standards for termination

Standard termination.—The required plan asset level for a standard termination is increased to the full level of the plan's termination liability.

Distress termination.—A plan with assets insufficient to provide termination liability is unable to terminate unless the contributing sponsor and each member of the contributing sponsors' controlled group satisfies the criteria for a distress termination.

Under the bill, a reorganization does not qualify as a condition under which a distress termination is permitted. In addition, a distress termination is not available if any person who is a contributing sponsor of the plan or a member of the contributing sponsor's controlled group maintains a plan that is overfunded. For purposes of this rule, a plan is overfunded if the value of plan assets exceeds the plan's termination liability.

Termination charge

No provision.

Replacement plans.—If all liabilities to the PBGC have not been satisfied following a distress termination, then the contributing sponsor (and controlled group members) are precluded from establishing an arrangement under which retirement benefits are provided or providing for further accruals of retirement benefits under any arrangement previously established. The prohibition applies during the 5-year period beginning on the termination date and, to the extent provided in regulations, the 1-year period ending on the termination date.

Security and lien rules for underfunded plans.—The PBGC is authorized to require security in favor of the plan if, as of the close of a plan year (or such other date determined by the PBGC), the level of plan assets does not exceed 70 percent of the termination liability of the plan. The security is to be provided by the contributing sponsor or, at the request of the PBGC, by a member of the contributing sponsor's controlled group.

If the security is not provided, then a lien arises in favor of the plan in an amount determined by the PBGC. The lien is on all property and rights to property belonging to the person or persons required to provide the security. Rules similar to the rules in section 4068 (c), (d), and (e) of ERISA apply with respect to the lien.

Effective date.—Except for the provision relating to security, the provisions are effective for terminations if notice to the PBGC is provided after June 30, 1987, and terminations initiated by the PBGC after June 30, 1987. The provision relating to security is effective with respect to plan years beginning after the date of enactment.

Education and Labor Committee bill

Employer liability to participants.—Same as the Ways and Means Committee bill, except that the bill uses the term "benefit liabilities" instead of "termination liability" (although the definitions are not substantively different), and the bill does not provide that the PBGC is entitled to full recovery before benefits are paid from the termination trust. In addition, under the bill, administrative expenses associated with the termination trust that are incurred before any liability payments have been collected are payable by the persons liable for the payments and are deducted from future payments.

Employer liability to PBGC.—Same as the Ways and Means Committee bill.

Standards for termination

Standard termination.—Same as the Ways and Means Committee bill. In addition, the bill clarifies that the information regarding benefits is to be sent to the same individuals who receive the notice of intent to terminate.

Distress termination.—The bill retains present law, except that the bill provides that a reorganization that has been converted to a liquidation qualifies as a liquidation for purposes of determining whether a distress termination is permitted. In the case of a reorganization, the PBGC is required to be notified in advance that the person intends to request the approval of the termination by the appropriate court. The bill clarifies that the determination of whether the distress criteria have been satisfied is made as of the proposed date of termination.

Termination charge.—In the case of any termination of a single-employer defined benefit plan, the contributing sponsor is to pay to the PBGC a separate termination charge for each participant in the terminating plan based on the deficit of the PBGC. For the period July 1, 1987, through June 30, 1990, the charge is $200 per participant. In the case of a contributing sponsor that terminates a plan in a distress termination and that also maintains a plan with assets in excess of the minimum benefit security level, the per-participant charge is doubled.

Replacement plans.—No provision.

Security and lien rules for underfunded plans.—No provision.

Information requirements.—Information related to the certification by the enrolled actuary in the case of a termination need not be provided in the case of the termination of certain plans funded exclusively by individual insurance contracts or, in a distress termination, if the PBGC determines that the information is not necessary to determine the sufficiency of plan assets or the employer's liability. The information required to be provided in a standard or distress termination must be provided in the case of a termination by the PBGC at the request of the PBGC.

A penalty of up to $1,000 per day is payable to the PBGC for failure to provide required information.

Effective dates.—The provision relating to the termination charge is effective for terminations for which the notice to plan participants is provided on or after July 1, 1987, and terminations by the PBGC initiated on or after July 1, 1987. The other provisions are effective on the date of enactment.

Senate amendment

Finance Committee amendment

Employer liability to participants.—Same as the Ways and Means Committee bill, except that the Finance Committee amendment does not provide that the PBGC is entitled to recover the full amount of unfunded guaranteed benefits before any benefits are paid from the termination trust.

Employer liability to PBGC.—Same as the Ways and Means Committee bill, except that the amendment removes the 30 percent of net worth limit on the PBGC's lien and priority claim.

Standards for termination.—Same as the Ways and Means Committee bill, except that the Finance Committee amendment does not include the provision prohibiting a distress termination if the employer maintains an overfunded plan.

Termination charge.—No provision.

Replacement plans.—No provision.

Security and lien rules for underfunded plans.—Under the amendment, a statutory lien arises in favor of the plan to the extent that, as of the close of a plan year, (1) the plan's assets are less than 70 percent of current liability and (2) the unfunded current liability exceeds $25 million. The unamortized portion of the plan's unfunded old liability amount is disregarded in making these determinations. The lien is on all property and rights to property belonging to the contributing sponsor and the members of the controlled group of the contributing sponsor.

The lien arises on the first day of the plan year following the plan year in which the determination is made, and continues until the close of the plan year in which the plan is not described in (1) and (2) above. If, from one plan year to the next, the level of unfunded current liability increases, the amount of the lien is increased by the amount of the increase in plan underfunding. The employer is required to notify the PBGC when the plan is described in (1) and (2) above.

Rules similar to the rules in section 4068 (c), (d), and (e) of ERISA apply with respect to the lien and the amount on which it is based. As under section 4068(c), a perfected lien is treated as a Federal tax lien, and an unperfected lien is treated as a Federal tax claim. In addition, any lien created by this provision may be perfected and enforced by the PBGC or, at its direction, by the contributing sponsor or any member of the controlled group of the contributing sponsor.

Information requirements.—No provision.

Effective dates.—The provisions are generally effective for terminations notice to the PBGC for which is provided after October 16, 1987, and terminations initiated by the PBGC after October 16, 1987. The lien provision is effective with respect to plan years beginning after the date of enactment.

Labor and Human Resources Committee amendment

Employer liability to participants.—Same as the Ways and Means Committee bill, except that the amendment does not provide that the PBGC is entitled to full recovery before benefits are paid from the termination trust, and the term "benefit liabilities" is used instead of "termination liability", although the terms are not substantively different.

Employer liability to PBGC.—Same as the Ways and Means Committee bill.

Standards for termination.—Same as the Ways and Means Committee bill, except that the amendment does not contain the provisions relating to distress termination.

Termination charge.—No provision.

Replacement plans.—No provision.

Security and lien rules for underfunded plans.—No provision.

Information requirements.—No provision.

Effective date.—The provisions are effective on the date of enactment.

Conference agreement

Employer liability to participants

The conference agreement follows the Ways and Means Committee and Education and Labor Committee bills and the Finance Committee and Labor and Human Resources Committee amendments by increasing the employer's liability to the full amount of termination liability (sec. 401(a)(2) of the Code). Under the conference agreement, the term "benefit liabilities" is used instead of termination liability.

The conference agreement also repeals the termination trust mechanism for payment of benefits above guaranteed levels. Instead, under the conference agreement, the total amount of the employer's liability is paid to the PBGC. The PBGC pays out a portion of unfunded benefit liabilities in excess of unfunded guaranteed benefits based on the total value of the PBGC's recovery with respect to the total liability of the employer. Amounts paid to participants are allocated in accordance with section 4044.

Employer liability to PBGC

The conference agreement follows the Ways and Means Committee and Education and Labor Committee bills, and the Finance Committee and Labor and Human Resources Committee amendments.

Standards for termination

Standard termination.—The conference agreement follows the Ways and Means Committee and Education and Labor Committee bills, and the Finance Committee and Labor and Human Resources Committee amendments.

Distress termination.—The conference agreement generally follows the Finance Committee amendment. Under the conference agreement, in the case of a reorganization, a distress termination is not available unless the bankruptcy court (or other appropriate court) determines that, unless the plan is terminated the person will be unable to pay all its debts pursuant to a plan of reorganization and will be unable to continue in business outside the Chapter 11 reorganization process.

The conference agreement follows the Education and Labor Committee bill with respect to the provisions relating to a reorganization that has been converted to a liquidation, notification to the PBGC, and the date of determination of whether the distress criteria have been satisfied.

Replacement plans

The conference agreement follows the Finance Committee amendment.

Security rules for underfunded plans

The conference agreement generally follows the Finance Committee amendment, with certain modifications. Under the conference agreement, if a plan amendment increasing current liability is adopted, the contributing sponsor and members of the controlled group of the contributing sponsor must provide security in favor of the plan (e.g., a bond) equal to the excess of (1) the lesser of (i) the amount by which the plan's assets are less than 60 percent of current liability, taking into account the benefit increase and the unfunded current liability attributable to prior plan amendments, or (ii) the amount of the benefit increase, over (2) $10 million. The employer must notify the PBGC of the benefit increase before it is effective. As under the Finance Committee amendment, current liability is calculated by disregarding the unamortized portion of unfunded old liability.

Information requirements

The conference agreement follows the Education and Labor Committee bill, except that the amount of the penalty is to reflect the materiality of the failure to provide the required information.

Effective dates.—The provisions are generally effective in the case of terminations notice of which is provided to participants after December 17, 1987, and terminations instituted by the PBGC after December 17, 1987. The provision relating to security in the case of certain plan amendments is effective with respect to plan years beginning after the date of enactment.

5. PBGC PREMIUMS

Present law

Each employer maintaining a single-employer defined benefit pension plan is subject to a flat-rate PBGC premium of $8.50 per participant and beneficiary covered under the plan. No additional premium is charged with respect to participants in underfunded plans. The per-participant PBGC premium is imposed with respect to all single-employer defined benefit plans subject to Title IV of ERISA.

The plan administrator is liable for premium payments.

Any premium income is credited to the single-employer revolving fund.

House bill

Ways and Means Committee bill

The flat-rate per-participant premium is increased to $14.

An additional per-participant premium is charged to the extent that a plan is underfunded. The additional premium is $5.50 per $1,000 of unfunded vested benefits. The maximum additional per-participant premium is $36. Plans with fewer than 100 participants (on a controlled group basis) are exempt from the additional premium for underfunded plans.

The employer maintaining the plan and each member of the controlled group of the employer are jointly and severally liable for premium payments.

The provisions apply to plan years beginning after December 31, 1987.

Education and Labor Committee bill

The flat-rate per-participant premium is increased to $19.

The bill follows the Ways and Means Committee bill with respect to controlled group liability for premium payments and with respect to the effective date.

Senate amendment

Finance Committee amendment

The Finance Committee amendment follows the Ways and Means Committee bill with respect to the flat-rate per-participant premium and is similar to the Ways and Means Committee bill with respect to the additional premium for underfunded plans, except that the additional premium is $6.00 per $1,000 of unfunded current liability. The maximum additional premium is $70, indexed to growth in wages. In addition, the additional premium is reduced for 5 years by $10 for each year (up to 5) preceding the effective date for which the employer made the maximum deductible contribution permitted under present law to the plan.

The amendment is the same as the Ways and Means Committee bill with respect to plans subject to the additional premium, except that the additional premium phases in for plans with 100-150 participants.

The amendment is the same as the Ways and Means Committee bill with respect to controlled group liability for premium payments, except that the plan administrator is also liable for premium payments.

The additional premiums collected under the amendment are credited to a separate revolving fund that cannot be used to pay PBGC administrative expenses or benefits in pre-1988 terminations unless all other PBGC assets are depleted.

The amendment follows the Ways and Means Committee bill with respect to the effective date.

Labor and Human Resources Committee amendment

The flat-rate per-participant premium is increased to $25.

The bill follows the Ways and Means Committee bill with respect to controlled group liability for premium payments and is the same as the Finance Committee bill with respect to the crediting of premiums collected to a separate revolving fund.

The bill follows the Ways and Means Committee bill with respect to the effective date.

Conference Agreement

In general

The conference agreement follows the Ways and Means Committee and Finance Committee bills, with certain modifications.

Flat rate premium

The conference agreement increases the flat-rate per-participant premium to $16.

Additional premium for underfunded plans

Under the conference agreement, the additional premium is $6 per $1,000 of unfunded vested benefits, with a maximium per-participant additional premium of $34. For purposes of determining the value of vested benefits, the interest rate is equal to 80 percent of the yield per annum on 30-year Treasury securities for the month period preceding the plan year.

In addition, if an employer made the maximum deductible contributions to the plan for 1 or more of the 5 plan years preceding the first plan year beginning after December 31, 1987 (i.e., for a calendar year plan, 1983-1987), then the cap on the additional premium is reduced by $3 for each plan year for which such contributions were made. This special rule only applies for the first 5 plan years the premium is in effect.

Small employer exception

The conference agreement follows the Education and Labor Committee bill and Labor and Human Resources amendment.

Liability for premium payments

The conference agreement follows the Finance Committee amendment.

Accounting for additional premium income

The conference agreement follows the Finance Committee amendment, effective for fiscal year 1989.

Effective date.—Except as provided above, the provisions apply to plan years beginning after December 31, 1987.

6. MISCELLANEOUS PROVISIONS

A. Notification of employees

Present law

Under present law, an employer is required to report certain information annually to participants in a pension plan maintained by the employer. This report does not contain specific information relating to the funded status of the plan.

House bill

Ways and Means Committee bill

The report that employees are required to receive annually is required to include a statement of the extent to which the plan is funded.

This provision applies to plan years beginning after December 31, 1987.

Education and Labor Committee bill

No provision.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

No provision.

Conference agreement

The conference agreement follows the Ways and Means Committee bill, except that the requirement only applies to plans that are funded below 70 percent of current liability.

B. STATUTE OF LIMITATION WITH RESPECT TO CERTAIN REPORTS

Present law

Under present law, the statute of limitations with respect to an action commenced under Title I of ERISA for a breach of fiduciary duty begins to run on the date a report is filed from which the plaintiff could reasonably be expected to have obtained knowledge of the breach.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

The bill deletes the provision under which the statute of limitations begins to run on the date a report is filed from which the plaintiff could reasonably be expected to have obtained knowledge of a breach of fiduciary liability.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

No provision.

Conference agreement

The conference agreement follows the Education and Labor Committee bill.

This provision applies to reports filed after December 31, 1987.

C. PENALTY FOR FAILURE TO PROVIDE ANNUAL REPORT IN COMPLETE FORM

Present law

Under present law, no separate penalty applies with respect to a plan administrator's failure or refusal to file an annual report.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

The bill provides that the Secretary of Labor may assess a civil penalty of up to $1,000 a day from the date of a plan administrator's failure or refusal to file an annual report. In addition, an annual report that has been rejected is not to be treated as having been filed for purposes of this penalty.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

No provision.

Conference Agreement

The conference agreement follows the Education and Labor Committee bill, with the clarification that the penalty is to reflect the materiality of the failure.

This provision applies for reports due after December 31, 1987.

D. INTERPRETATION OF PROVISIONS UNDER THE INTERNAL REVENUE CODE AND ERISA

Present law

Under present law, employers may, under certain circumstances, withdraw assets from pension plans prior to plan termination. Under the Code, an employer contribution may be returned if the contribution was conditioned on initial qualification of the plan and the plan does not qualify. Under ERISA, employer contributions may be returned on any denial of qualification, rather than initial qualification.

A recent court case (*Calfee, Halter & Griswold* (88 T.C. No. 35, March 23, 1987)) held that the ERISA standard applied for purposes of the Code, rather than the Code standard.

House bill

Ways and Means Committee bill

The bill would provide that, except to the extent specifically provided in the Code, the Code is to be interpreted as if the provisions of Titles I and IV of ERISA had not been enacted. In addition, the bill specifically rejects the holding in *Calfee, Halter & Griswold.*

The bill does not override or otherwise affect the provisions of Reorganization Plan No. 4.

Education and Labor Committee bill

The Education and Labor Committee bill is similar to the Ways and Means Committee bill, except that Title I of ERISA is amended to permit a return of contributions to an employer if the contribution is conditioned on initial qualification of the plan, if the plan does not qualify initially, and if the application for determination relating to initial qualification is filed by the due date of the employer's return for the taxable year in which the plan was adopted. The bill clarifies that a determination by the Secretary of the Treasury under the Code is not prima facie evidence on issues relating to certain parts of Title I of ERISA.

The provision is effective on the date of enactment.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

No provision.

Conference agreement

The conference agreement follows the Ways and Means Committee bill with respect to the rejection of the holding in *Calfee, Halter & Griswold.* The conference agreement also provides that, except to the extent provided by the Code or determined by the Secretary of the Treasury, Titles I and IV of ERISA are not applicable in interpreting the Code. As under the Ways and Means Committee bill, the conference agreement does not override or otherwise affect the provisions of Reorganization No. 4. Nor is it intended that the bill preclude coordination between the Department of Labor, the PBGC, and the Treasury Department on issues of mutual jurisdiction. These provisions are a clarification of present law.

The conference agreement follows the Education and Labor Committee bill with respect to the effect on Title I of ERISA of a determination by the Secretary of the Treasury under the Code (a clarification of present law) and with respect to conditioning contributions only on initial qualification, effective on the date of enactment.

E. SANCTIONS FOR PROHIBITED TRANSACTIONS THAT ARE CONTINUING IN NATURE

Present law

Under present law, under ERISA, the penalty imposed with respect to a prohibited transaction is 5 percent of the amount involved and, if the prohibited transaction is not corrected within a certain period of time, 100 percent of the amount involved.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

The bill clarifies that the penalty imposed with respect to a prohibited transaction is 5 percent of the amount involved in each prohibited transaction and, if the transaction is not corrected within a certain period of time, 100 percent of the amount involved in each prohibited transaction.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

No provision.

Conference agreement

The conference agreement follows the Education and Labor Committee bill.

The provision is a clarification of present law.

F. MULTIEMPLOYER PLANS

Present law

Within certain limits, the PBGC guarantees nonforfeitable benefits under multiemployer plans.

Under present law, a penalty of up to $100 per day is payable to the PBGC for failure to provide certain information required with respect to multiemployer plans.

The PBGC is to be served with a complaint in certain litigation involving multiemployer plans.

House bill

Ways and Means Committee bill

Some provisions of the bill do not apply to multiemployer plans.

Education and Labor Committee bill

For purposes of determining whether or not benefits are nonforfeitable and, therefore, are guaranteed by the PBGC, the bill conforms the treatment of qualified preretirement survivor annuities for multiemployer plans to the treatment of such annuities in the case of single-employer plans. Thus, for purposes of the guarantee, a qualified preretirement survivor annuity is not treated as forfeitable solely because the participant has not died as of the date of plan termination or insolvency.

The $100 per day penalty for failure to provide certain information to the PBGC with respect to a multiemployer plan is increased to $1,000 per day.

Under the bill, the plan sponsor of a multiemployer plan is to serve the PBGC with any complaint, district court opinion, notice of appeal, or court of appeals decision with respect to certain litigation involving the plan sponsor.

Senate amendment

Finance Committee amendment

The provisions of the bill do not apply to multiemployer plans.

Labor and Human Resources Committee amendment

Some of the provisions of the bill do not apply to multiemployer plans.

Conference agreement

The conference agreement follows the Finance Committee bill.

G. PLAN INVESTMENT IN EMPLOYER SECURITIES

Present law

Ten-percent limit

A plan subject to ERISA may not acquire or hold an employer security other than qualifying employer securities. Except in the case of an individual account plan, a plan may not acquire qualifying employer securities if, after the acquisition, the total fair market value of such securities and qualifying real property would exceed 10 percent of the assets of the plan.

Definition of qualifying employer security

Qualifying employer securities are stock and marketable obligations. An obligation is not a marketable obligation unless: (1) not more than 25 percent of the obligations issued are held by the plan, (2) at least 50 percent of the issue is held by persons independent of the issuer, and (3) not more than 25 percent of the assets of the plan are invested in obligations of the employer.

House bill

Ways and Means Committee bill

Ten-percent limit.—No provision.

Definition of qualifying employer security.—No provision.

Education and Labor Committee bill

Ten-percent limit.—The term "eligible individual account plan" does not include a plan that would otherwise be an individual account plan if the plan is taken into account in determining the benefits payable to a participant under any defined benefit plan. An arrangement consisting of a defined benefit plan and a plan that would otherwise be an individual account plan but for the fact that the plan is taken into account in determining the benefits payable to a participant under the defined benefit plan (a "floor-offset arrangement") is treated as a single plan for purposes of the 10-percent limit.

Definition of qualifying employer security.—In the case of a plan other than an individual account plan, stock is considered a qualifying employer security only if (1) not more than 25 percent of the aggregate amount of stock of the same class issued and outstanding at the time of acquisition by the plan is held by the plan, and (2) at least 50 percent of the aggregate amount of such stock is held by persons independent of the issuer.

Effective date.—Acquisitions of employer securities after February 19, 1987, other than pursuant to a binding contract in effect on such date. Plans that, on February 19, 1987, hold employer securities that do not meet the new requirements or that acquire such securities pursuant to a binding contract in effect on such date have until January 1, 1993, to divest themselves of such securities.

Senate amendment

Finance Committee amendment

Ten-percent limit.—No provision.

Definition of qualifying employer security.—No provision.

Labor and Human Resources Committee amendment

Ten-percent limit.—No provision.

Definition of qualifying employer security.—No provision.

Conference Agreement

The Conference Agreement follows the Education and Labor Committee bill, with modifications of the effective dates. The provision regarding the ten-percent limit on employer securities is effective with respect to arrangements established after December 17, 1987. The rule does not apply to arrangements established on or before December 17, 1987. The effective date of the provision regarding the definition of qualifying employer security, except that December 17, 1987, is substituted for February 19, 1987.

H. INTEREST ON EMPLOYEE CONTRIBUTIONS

Present law

Under present law, mandatory employee contributions to a defined benefit pension plan are required to be credited with interest at a rate of 5 percent per year. The Secretary of the Treasury has the authority to adjust this 5-percent rate under appropriate circumstances.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

No provision.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

Under the amendment, the 5-percent rate is replaced by a rate equal to 120 percent of the mid-term applicable Federal rate (AFR) (as in effect for the first of the plan year). The Secretary of the Treasury does not have the authority to alter this rate.

The provision is effective on the date of enactment.

Conference agreement

The conference agreement follows the Labor and Human Resources Committee amendment, effective for years beginning after December 31, 1987.

I. STUDY OF EVENT-CONTINGENT PENSION BENEFITS

Present law

No provision.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

No provision.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

The Secretary of Labor is required to study the effect of event-contingent pension benefits on private pension plans and, not later than February 1, 1988, report the results of this study, together with legislative recommendations, to the House Committee on Education and Labor and the Senate Committee on Labor and Human Resources.

Conference agreement

The conference agreement follows the Ways and Means Committee and Education and Labor Committee bills and the Finance Committee amendment.

VI. PROVISIONS RELATING TO PENSION PLAN PORTABILITY

A. Portable pension plans

Present law

Portable pension plans, as defined under the Education and Labor Committee bill, do not exist under present law. However, under present law, distributions from qualified plans and IRAs may, under certain circumstances, be rolled over to another qualified plan or IRA. In addition, benefits under a plan may under certain circumstances be transferred to another plan.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

Definition.—Under the Education and Labor Committee bill, a portable pension plan is a rollover individual retirement arrangement (IRA) that (1) satisfies the simplified employee pension (SEP) rules (sec. 408(k) of the Code) with respect to employer contributions, (2) meets certain distribution rules, and (3) meets certain portability rules. A rollover IRA is an IRA that accounts separately for rollovers, basis, and certain transfers.

Distribution requirements.—For married participants, distributions under a portable pension plan are required to be in the form of a 50-percent qualified joint and survivor annuity, unless the participant elects otherwise and the spouse consents. (This rule does not apply to amounts transferred from other plans with respect to which the spouse was not the beneficiary.) In other cases, distributions under a portable pension plan are required to be in the form of a single life annuity, unless the participant elects otherwise. Subject to the spousal consent rule, a participant may designate the form of distribution. All distributions are subject to the minimum distribution rules (Code sec. 408(a)(6) and (b)(3)).

Portability requirements.—A portable pension plan meets the portability requirements if it (1) allows transfers (subject to spousal consent if spousal consent would be required with respect to a distribution) to other portable pension plans and, under certain circumstances, to qualified plans, (2) accepts rollovers and transfers from simplified employee pensions (SEPs), qualified plans, and tax-sheltered annuities, and (3) accepts transfers from portable pension plans.

Investment options.—A portable pension plan is required to (1) allow an option of investing principally in cash and U.S. securities, and (2) if a participant does not elect otherwise, invest the participant's account in cash, U.S. securities, or similarly safe investments determined under regulations.

Notices.—The administrator of a portable pension plan is required to provide participants with a written explanation of the tax treatment of a distribution and of the participant's and spouse's rights with respect to the form of the distribution.

Prototype plan.—The Secretary of Labor and the Secretary of the Treasury are to prescribe a prototype portable pension plan.

Effective date.—The provisions apply to taxable years beginning after December 31, 1991.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

No provision.

Conference agreement

The conference agreement follows the Ways and Means Committee bill, the Finance Committee amendment, and the Labor and Human Resources Committee amendment.

B. ROLLOVERS AND TRANSFERS

1. Qualified plan and tax-sheltered annuity contract distributions

Present law

Distributions from a qualified plan may, under certain circumstances, be rolled over into an IRA or another qualified plan. Distributions from a tax-sheltered annuity contract may, under certain circumstances, be rolled over into an IRA or another tax-sheltered annuity contract. With respect to both qualified plans and tax-sheltered annuity contracts, spousal beneficiaries may only roll over amounts into IRAs.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

Distributions from qualified plans or tax-sheltered annuity contracts may only be rolled over into another qualified plan or tax-sheltered annuity contract, respectively, or into a portable pension plan, and may not be rolled over to an IRA. Spousal beneficiaries may only roll over amounts into portable pension plans.

This provision applies to taxable years beginning after December 31, 1991.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

No provision.

Conference agreement

The conference agreement follows the Ways and Means Committee bill, the Finance Committee amendment, and the Labor and Human Resources Committee amendment.

2. Distributions from portable pension plans

Present law

Portable pension plans, as defined under the Education and Labor Committee bill, do not exist under present law.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

Distributions from portable pension plans may not be rolled over to any other type of plan; certain tax-free transfers from portable pension plans are permitted.

This provision applies to taxable years beginning after December 31, 1991.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

No provision.

Conference agreement

The conference agreement follows the Ways and Means Committee bill, the Finance Committee amendment, and the Labor and Human Resources Committee amendment.

3. Transfers and rollovers from qualified plans and tax-sheltered annuities

Present law

Transfers from qualified plans to IRAs are not permitted. A distribution from a qualified plan of employee contributions may not be rolled over to any plan or IRA. Similar rules apply to tax-sheltered annuities.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

Tax-free transfers from qualified plans to portable pension plans may be made; such transfers may include employee contributions. Distributions of employee contributions from qualified plans may be rolled over into portable pension plans. Employee contributions may be transferred tax-free from a portable pension plan to a qualified plan. Similar rules apply to tax-sheltered annuities.

These provisions apply to taxable years beginning after December 31, 1991.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

No provision.

Conference agreement

The conference agreement follows the Ways and Means Committee bill, the Finance Committee amendment, and the Labor and Human Resources Committee amendment.

4. Life insurance contracts

Present law

An IRA may not invest in a life insurance contract.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

IRAs may hold life insurance contracts that are transferred from a qualified plan or tax-sheltered annuity.

This provision applies to taxable years beginning after December 31, 1991.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

No provision.

Conference agreement

The conference agreement follows the Ways and Means Committee bill, the Finance Committee amendment, and the Labor and Human Resources Committee amendment.

C. QUALIFIED PLAN DISTRIBUTIONS

1. Permissible distributions

Present law

Distributions from a pension plan generally may be made only on account of plan termination or the employee's separation from service, disability, death, or attainment of normal retirement age. Profit-sharing and stock bonus plans generally may permit distributions after the expiration of a stated period of time (2 years or longer) or after the occurrence of a stated event. Special rules apply to section 401(k) plans and tax-sheltered annuities.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

A qualified plan may not permit a distribution not described below:

(a) Direct transfers to another plan or to a portable pension plan selected by the participant (or by the plan administrator if the participant makes no selection, with an exception allowing cash distributions of certain small benefits if the participant makes no selection).

(b) Any distribution of employee contributions.

(c) Any distribution made on or after the employee attains 59-½, dies, or separates from service after attainment of age 55.

(d) Any distribution attributable to the employee being disabled.

(e) A distribution after the employee separates from service in a series of substantially equal periodic payments over the life (or life expectancy) of the employee or over the joint lives (or joint life expectancies) of the employee and the employee's beneficiary.

(f) A distribution of a deductible dividend (Code sec. 404(k)).

(g) A distribution of stock issued by the employer maintaining the plan.

(h) A distribution upon the occurrence of a hardship of the employee.

(i) A distribution of the amount of medical expenses the employee could deduct (assuming the employee itemizes).

(j) A distribution to an alternate payee pursuant to a qualified domestic relations order.

Generally, this provision applies to plan years beginning after December 31, 1991. With respect to collectively bargained plans, this provision does not apply to employees covered by the collective bargaining agreements in plan years beginning before the later of (1) the termination of the last of the collective bargaining agreements (without regard to extensions on or after the date of enactment), or (2) January 1, 1992. The provision does not apply to any individual who attained age 50 before January 1, 1986.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

No provision.

Conference agreement

The conference agreement follows the Ways and Means Committee bill, the Finance Committee amendment, and the Labor and Human Resources Committee amendment.

2. Consent requirements

Present law

If the present value of an employee's vested accrued benefit exceeds $3,500, the benefit may not be immediately distributed without the consent of the employee and, in certain cases, the employee's spouse.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

The consent requirements do not apply to a transfer of an employee's entire benefit (or entire benefit reduced by distributed employee contributions) to a portable pension plan or certain other qualified plans.

The effective date of this provision is the same one applicable to the provision described above with respect to permissible distributions.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

No provision.

Conference agreement

The conference agreement follows the Ways and Means Committee bill, the Finance Committee amendment, and the Labor and Human Resources Committee amendment.

3. Plan mergers and transfers

Present law

Generally, a participant's benefit may not be reduced by a merger or consolidation of plans or by a transfer of plan assets or liabilities.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

The prohibition on reduction of a participant's benefit is not violated by a transfer of a participant's benefit to a portable pension plan or to a qualified plan providing the participant with the benefit distribution options required for a portable pension plan.

The effective date of this provision is the same one applicable to the provision described above with respect to permissible distributions.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

No provision.

Conference agreement

The conference agreement follows the Ways and Means Committee bill, the Finance Committee amendment, and the Labor and Human Resources Committee amendment.

4. Reduction in accrued benefit

Present law

Generally, a plan amendment may not reduce a participant's accrued benefit under a qualified plan. Certain forms of distributions are treated as part of a participant's accrued benefit.

House bill

Ways and Means Committee bill.

No provision.

Education and Labor Committee bill

The prohibition on reduction of a participant's benefit is not violated by a transfer of a participant's benefit to a portable pension plan or to a qualified plan providing the participant with the benefit distribution options required for a portable pension plan.

The effective date of this provision is the same one applicable to the provision described above with respect to permissible distributions.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

No provision.

Conference agreement

The conference agreement follows the Ways and Means Committee bill, the Finance Committee amendment, and the Labor and Human Resources Committee amendment.

5. Vesting service

Present law

A qualified plan generally may disregard service for vesting purposes if the benefit earned for such service has been distributed.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

The Education and Labor Committee bill generally allows service to be disregarded if the benefit earned for such service has been transferred.

The effective date of this provision is the same one applicable to the provision described above with respect to permissible distributions.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

No provision.

Conference agreement

The conference agreement follows the Ways and Means Committee bill, the Finance Committee amendment, and the Labor and Human Resources Committee amendment.

D. SEPS

1. ERISA

Present law

SEPs that are plans generally are subject to the requirements of Title 1 of the Employee Retirement Income Security Act of 1974 (ERISA).

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

All SEPs are subject to ERISA with special rules with respect to participation, vesting, and funding to conform to the tax rules applicable to SEPs. In addition, the Secretary of Labor is to prescribe special means for SEPs to comply with the reporting and disclosure requirements applicable under ERISA.

This provision applies to taxable years beginning after December 31, 1991.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

No provision.

Conference agreement

The conference agreement follows the Ways and Means Committee bill, the Finance Committee amendment, and the Labor and Human Resources Committee amendment.

2. Distributions

Present law

Under the Code, the employer may not prohibit withdrawals from a SEP.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

SEPs generally are subject to the same distribution rules applicable to portable pension plans.

This provision applies to SEPs established after December 31, 1991.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

No provision.

Conference agreement

The conference agreement follows the Ways and Means Committee bill, the Finance Committee amendment, and the Labor and Human Resources Committee amendment.

E. SALARY REDUCTION UNDER SEPS

1. SEP participation requirements

Present law

Under the participation requirements, a SEP does not qualify unless an employer contribution is made on behalf of each employee who meets certain age, service, and compensation requirements.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

Employer contributions need not be made on behalf of an employee who is not employed on the last day of the year, unless an employer contribution was made for the employee in the preceding year. Also, if an employer uses the alternative means of allowing elective contributions described in (2) below, the participation requirements may not exclude any employee who has attained age 21 with 1 year of service from any SEP of the employer, subject to the year-end employment rule.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

No provision.

Conference agreement

The conference agreement follows the Ways and Means Committee bill, the Finance Committee amendment, and the Labor and Human Resources Committee amendment.

2. Elective contributions

Present law

If certain requirements are satisfied, contributions that an employee had the right to receive in cash may be made to a SEP. Generally, the requirements are as follows:

(a) The employer may not be a State or local government or a tax-exempt organization.

(b) The employer may not have had more than 25 employees at any time during the preceding year.

(c) The elective contributions are required to satisfy certain nondiscrimination rules without regard to nonelective contributions made for the same employees. (For purposes of these nondiscrimination rules, no more than $200,000 of compensation may be taken into account.)

(d) All employees who satisfy the participation requirements are required to be entitled to make an elective contribution.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

The Education and Labor Committee bill establishes an alternative means of allowing elective contributions to a SEP. This alternative means is available if the following requirements are satisfied:

(a) The employer may not be a State or local government or a tax-exempt organization.

(b) The employer may not be maintaining a qualified retirement plan for any employee meeting certain age and service requirements. (There is, however, no requirement with respect to the size of the employer.)

(c) The elective contributions are subject to a limit that functions in a manner similar to the present-law nondiscrimination rules, but takes nonelective contributions into account. (There is no limit on the amount of compensation that may be taken into account for this purpose.)

(d) All employees receiving an employer contribution under a SEP are required to be eligible to make an elective contribution.

This provision applies to taxable years beginning after December 31, 1991.

Senate amendment

Finance Committee Amendment

No provision.

Labor and Human Resources Committee amendment

No provision.

Conference agreement

The conference agreement follows the Ways and Means Committee bill, the Finance Committee amendment, and the Labor and Human Resources Committee amendment.

3. Nondiscriminatory contributions

Present law

Nonelective employer contributions to SEPs will satisfy the nondiscrimination rules if they bear a uniform relationship to employees' compensation (up to $200,000). In addition, certain integration with social security is permitted.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

If an employer uses the alternative means of allowing elective contributions, integration is not permitted in any SEP of the employer.

This provision applies to taxable years beginning after December 31, 1991.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

No provision.

Conference agreement

The conference agreement follows the Ways and Means Committee bill, the Finance Committee amendment, and the Labor and Human Resources Committee amendment.

F. LINE OF BUSINESS RULE FOR SEPS

Present law

The nondiscrimination rules applicable to qualified plans, tax-sheltered annuities, and statutory employee benefit plans may be applied separately to separate lines of business or operating units of an employer.

House bill

Ways and Means Committee bill

No provision.

Education and Labor Committee bill

If an employer maintains a qualified plan or SEP in each separate line of business or operating unit, the Secretary of Treasury may by regulation provide that such employer may apply the SEP requirements separately to each such separate line of business or operating unit.

This provision applies to taxable years beginning after December 31, 1991.

Senate amendment

Finance Committee amendment

No provision.

Labor and Human Resources Committee amendment

No provision.

Conference agreement

The conference agreement follows the Ways and Means Committee bill, the Finance Committee amendment, and the Labor and Human Resources Committee amendment.

E.—MISCELLANEOUS PROVISIONS

1. TRUST FUNDS AND OTHER FEDERAL FUNDS MADE WHOLE

(Section 9501 of House bill)

Present law

During a period when sufficient authority under the current public debt limit precludes issuance of Federal debt obligations, required investments of surplus balances of Federal trust and other funds cannot be made on a timely basis. As a consequence, the affected funds also are unable to earn income on their investable funds, and their reserves do not grow as they otherwise would. Legislation usually has been enacted later to make the funds whole. Legislation has been enacted that provides permanent authority for the Secretary of the Treasury to make retroactive investments and interest payments to the Civil Service Retirement and Disability Trust Fund and the Thrift Savings Fund of the Federal Employees Retirement System.

House bill

The Secretary of the Treasury is required to make retroactive investments and interest payments to each trust fund and other Federal fund which was denied such financial transactions during a period when sufficient debt limit authority did not exist to allow such transactions. Additionally, the Secretary is required to credit income lost because of inability to invest or reinvest amounts held in demand deposit obligations of the State and Local Government Series (SLGS).

Effective date.—The amendment applies to periods when debt issuance was suspended that began on or after July 18, 1987. For debt issuance suspension periods that began on July 18, 1987, and ended before the date of enactment, the period is treated as though ended on the date of enactment; thus, the Secretary is given authority to make the necessary investment and interest adjustments retroactive from the date of enactment to July 18, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with a modification that makes the restoration of foregone investments and interest earnings retroactively only. Thus, the conference agreement requires that the Secretary of the Treasury make the necessary adjustments of investments and interest payments on behalf of all affected federal trust funds, demand deposit SLGS, and all other federal funds retroactive from the date of enactment to July 18, 1987.

The authority to make such adjustments does not apply to a future debt issuance suspension period.

2. EXTENSION OF PROGRAM FOR IRS COLLECTION OF NONTAX DEBTS OWED TO FEDERAL AGENCIES

Present law

Certain Federal agencies are authorized to inform the IRS that a person (who has received proper notification from the agency) owes a past due, legally enforceable, debt to the agency. The IRS then must reduce the amount of any tax refund due the person by the amount of the debt and pay that amount to the agency. This program is scheduled to expire after December 31, 1987.

Under Treasury regulations, the debt collection program applies with respect to refunds due individuals but not refunds due corporations.

House bill

No provision.

Senate amendment

The Senate amendment extends the tax refund offset program for three years (i.e., through December 31, 1990). In addition, the amendment expands the program so that: (1) it applies to debts owed to all (not just certain) Federal agencies, and (2) it applies to debts owed by either individuals or corporations.

The IRS and GAO are required to report to Congress by April 1, 1989, on the effects of the program on voluntary tax compliance.

Conference agreement

The conference agreement follows the Senate amendment, with the modification that the tax refund offset program is extended for six months (i.e., through June 30, 1988).

REPEAL LIMITATION ON LONG-TERM BONDS

(Section 9501 of House bill)

Present law

The rate of interest that may be paid on a United States bond, which is defined as an obligation with more than 10 years to maturity when issued, may not exceed 4¼ percent. An exception is provided which allows the issue of up to $250 billion on bonds with interest rates above the statutory ceiling to be held by the general public.

House bill

The 4¼ percent limitation on the rate of interest on U.S. bonds is repealed.

Effective date.—The amendment is effective on the date of enactment.

Senate amendment

No Provision.

Conference agreement

The conference agreement increases the amount of long-term bonds which may be issued under the exception to the 4¼ percent limitation on the interest rates paid on such bonds by $20 billion to a total of $270 billion.

F.—PROVISIONS RELATING TO THE CUSTOMS SERVICE AND OTHER TRADE AGENCIES

1. CUSTOMS SERVICE USER FEES

(Section 9401 of House bill; Section 6593 of Senate amendment)

Present law

As enacted in the Omnibus Budget Reconciliation Act of 1986, an ad valorem user fee is applied to all formal entries of merchandise imported for consumption in the amount of 0.22 percent during fiscal year 1987, dropping to the lesser of 0.17 percent or the rate which will provide revenue equal to the appropriated level of Customs' commercial operations in fiscal year 1988, and expiring September 30, 1989. The fee does not apply to articles classifiable in schedule 8 of the Tariff Schedules (including products containing U.S. components which are classifiable in item 807.00 of the Schedules and U.S. articles returning to the United States after having been repaired (item 806.20) or processed (806.30) abroad).

House bill

Amends the customs user fee provisions by—

(a) extending the expiration date for one additional year, until September 30, 1990;

(b) restoring the original fee level of 0.22 percent through September 30, 1988, at which time it would be adjusted to the lesser of 0.22 percent or the rate which would provide revenue approximating the appropriated level of Customs' commercial operations;

(c) precluding Customs from assessing an annual fee on operators of foreign trade zones and customs bonded warehouses;

(d) modifying the schedule 8 exemption so that for items 806.30 and 807.00, only the value of U.S. components or materials would be exempt from the user fees;

(e) requiring customs services to be "adequately provided" for the clearance or preclearance of vessels, vehicles, aircraft, or passengers without additional charges other than the user fees;

(f) clarifying that user fees designated to reimburse an appropriation for overtime shall be reimbursed directly without being subject to apportionment (Customs would also be precluded from taking steps to modify regular work shifts);

(g) initiating a GAO study concerning Customs' Centralized Cargo Examination Station (CES) program; and

(h) authorizing refunds of user fees for vessel operators who were entitled to such refunds under section 1893(g)(2) of the Tax Reform Act of 1986 but missed the filing deadline, if application is made within 90 days after enactment.

Effective date.—These provisions are effective on the date of enactment, except for paragraphs (a), (b), (d), and (e), which are effective 15 days after date of enactment, and paragraph (f), which is effective on October 1, 1987.

Senate amendment

Amends the customs user fee provisions by—

(a) extending the expiration date for one additional year, until September 30, 1990;

(b) precluding Customs from assessing an annual fee on operators of foreign trade zones and customs bonded warehouses;

(c) modifying the schedule 8 exemption so that for items 806.30 and 807.00, only the value of U.S. components or materials would be exempt from the user fees;

(d) specifying that fees are to be treated as receipts offsetting expenditures of salaries and expenses of commercial operations; and

(e) clarifying that such fees are to be deposited in the same dedicated account.

Effective date.—Effective 15 days after enactment except for paragraph (i), which is effective on October 1, 1990, and paragraph (j), which is effective on October 1, 1988.

Conference agreement

The conferees agreed to drop the House provision which would have restored the original fee level of 0.22 percent for one year and increase the ceiling in later years to that level. Thus, the fee level will continue to be 0.17 percent in fiscal year 1988 and the ceiling will continue to be 0.17 percent in future years. The remaining House and Senate users fee provisions were merged by accepting the following provisions:

(1) the Senate provision extending the expiration date for one additional year, until September 30, 1990;

(2) the House provision precluding Customs from assessing an annual fee on operators of foreign trade zones and customs bonded warehouses;

(3) the House provision modifying the schedule 8 exemption so that for items 806.30 and 807.00, only the value of U.S. components or materials would be exempt from the user fees;

(4) the House provision requiring customs services to be "adequately provided" for the clearance or preclearance of vessels, vehicles, aircraft, or passengers without additional charges other than the user fees;

(5) the House provision clarifying that user fees designated to reimburse an appropriation for overtime shall be reimbursed directly without being subject to apportionment (Customs would also be precluded from taking steps to modify regular work shifts);

(6) the House provision requiring initiation of a GAO study concerning Customs' Centralized Examination Station (CES) program. Further, this provision requires the suspension of the operation of the CES program at airports until after the study is complete, and the further expansion of the program at any airports or seaports unless at least 90 days advance notice is given to the Committees;

(7) the Senate provision specifying that fees are to be treated as receipts offsetting expenditures of salaries and expenses of commercial operations except that the delayed effective date was deleted;

(8) the Senate concept clarifying that such fees are to be deposited in the same dedicated account; and

(9) the House provision authorizing refunds of user fees to be authorized for vessel operators who were entitled to such refunds under section 1893(g)(2) of the Tax Reform Act of 1986 but missed the filing deadline, if application is made within 90 days after enactment.

With regard to the House provision relating to the CES program, the Customs Service is precluded from reducing staffing levels at airports while this suspension is in effect. During the pendency of the CES study and until such time as a decision is made as to the advisability of the CES program, the Committees will closely monitor Customs' ongoing utilization of personnel at airports at which CES programs are being delayed or terminated. This monitoring is intended to insure that Customs' passenger and cargo processing not be adversely impacted or delayed, that Customs personnel are being utilized as efficiently and effectively as possible, and that Customs is not taking any retaliation against the industry for drawing the attention of the Committee to this important matter.

2. INTERNATIONAL TRADE COMMISSION AUTHORIZATION OF APPROPRIATIONS

(Section 9402 of House bill)

Present law

Fiscal year 1987 appropriation—$33,900,000.

House bill

Provides two-year authorizations as follows:

Fiscal year 1988—$35,386,000.
Fiscal year 1989—$36,730,000.
Effective date.—October 1, 1987.

Senate amendment

No provision (section 701 of Senate amendment to H.R. 3 provides for an authorization for fiscal year 1988—$35,386,000).

Conference agreement

The conferees agreed to the House provision regarding the fiscal year 1988 authorization but dropped the authorization for fiscal year 1989.

3. CUSTOMS SERVICE AUTHORIZATION OF APPROPRIATIONS

(Section 9403 of House bill)

Present law

Fiscal year 1987 appropriation—$1,019,435,000.

House bill

Provides two-year authorizations as follows:

Fiscal year 1988—$1,081,501,000 ($348,192,000 for noncommercial operations; $615,000,000 for commercial operations, $171,857 of which is earmarked solely for payment on a contract for automatic license plate reader; and $118,309,000 for operations and maintenance of the air interdiction program.

Fiscal year 1989—$1,138,752,000 ($381,819,000 for noncommercial operations; $630,865,000 for commercial operations; and $126,068,000 for operations and maintenance of the air interdiction program)).

Effective date.—October 1, 1987.

Senate amendment

No similar provision. (Section 702 of Senate amendment to H.R. 3 provides as follows:

Fiscal year 1988—$1,035,211,000 ($358,000,000 for noncommercial operations; $559,000,000 for commercial operations; and $118,000,000 for operations and maintenance of the interdiction program).

Section 702 of the Senate amendment further:

(a) Requires the Customs Service to notify the Congress at least 180 days prior to taking any action that would" result in any significant reduction in force of employees other than by attrition; result in any significant reduction in hours of operation or services rendered at any Customs office or port of entry; eliminate or relocate any office of the Customs Service; eliminate any port of entry; or significantly reduce the number of employees assigned to any office or port of entry.

(b) Establishes a customs private sector advisory committee to advise the Secretary of the Treasury on matters relating to the commercial operations of the Customs Service. The committee is to consist of 20 members representative of the individuals and firms affected by the commercial operations of the Customs Service, a majority of whom may not belong to the same political party.)

Conference agreement

The conferees agreed to accept the House provision with an amendment deleting the fiscal year 1989 authorization and adding two additional provisions. The first requires the Customs Service to notify the Congress at least 180 days prior to taking any action that would result in any significant reduction in force of employees other than by attrition; result in any significant reduction in hours of operation or services rendered at any Customs office or port of entry; eliminate or relocate any office of the Customs Service; eliminate any port of entry; or significantly reduce the number of employees assigned to any office or port of entry.

The second provision adopted by the conferees would establish in lieu of the existing user fee advisory committee a new private sector advisory committee with a broader mandate to advise the Secretary of the Treasury on matters relating to the commercial operations of the Customs Service.

4. U.S. TRADE REPRESENTATIVE

(Section 9404 of House bill)

Present law

Fiscal year 1987 appropriation—$13,300,000.

House bill

Provides two-year authorizations as follows:

Fiscal year 1988—$15,141,000.
Fiscal year 1989—$15,514,000.
Effective date.—October 1, 1987.

Senate amendment

No similar provision. (Section 703 of Senate amendment to H.R. 3 provides as follows:

Fiscal year 1988—$15,348,000, of which $1 million is to remain available until expended and $100,000 shall be used for a full-time position for a Director of Chinese Affairs and a Deputy Director of Japanese Affairs.)

Conference agreement

The conferees agreed to the House provision with an amendment to authorize a total appropriation for the Office of the U.S. Trade Representative of $15,172,000 for fiscal year 1988 and to delete the authorization for fiscal year 1989.

The authorization level for fiscal year 1988 represents the most recent revised USTR budget request, as amended since passage of the House and Senate provisions, of $15,072,000 plus the additional $100,000 included in the Senate amendment.

The conferees note that the original USTR budget request submitted to the Office of Management and Budget and the appropriation level approved by the House Committee on Appropriations for fiscal year 1988 were considerably higher than the amounts authorized by either the House or the Senate. The Department of State is no longer making funds available to cover a portion of USTR's travel expenses overseas to meetings of international trade organizations. The decline in the value of the U.S. dollar since original budget estimates were made has also reduced the funds that would be available to the USTR for expenses of the delegation in Geneva that must be paid in Swiss francs.

The conferees believe it essential that the USTR maintain adequate resources to fulfill its statutory primary responsibility within the Executive branch for the development and coordination of U.S. trade policy and for the conduct of trade negotiations. In particular, staff and other resource support are necessary to represent U.S. interests and lead role in the Uruguay Round of Multilateral Trade Negotiations and to deal with ongoing bilateral trade issues and negotiations involving, for example, Japan, the European Communities, Canada, China, and other major developing countries. The conferees have added $100,000 to the fiscal year 1988 authorization request as a minimal amount necessary to meet these needs.

TITLE X—REVENUES

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PART 1. REVENUE-INCREASE PROVISIONS

I. INDIVIDUAL TAX PROVISIONS

A. INCOME TAX PROVISIONS

1. Deny eligibility of overnight camp expenses for child and dependent care credit

Present law

An income tax credit is available for up to 30 percent of a limited dollar amount of employment-related child and dependent care expenses for a child or other dependent who is under the age of 15, or a physically or mentally incapacitated dependent or spouse (sec. 21).

Eligible employment-related expenses are limited to $2,400 ($4,800 if there are two or more qualifying individuals). The 30-percent credit rate is reduced by one percentage point for each $2,000 (or fraction thereof) of AGI above $10,000, but not below 20 percent for AGI above $28,000.

Expenses eligible for the credit include costs incurred by the taxpayer for day care, nursery school, a housekeeper or other home care, and summer camps, including overnight camps.

House bill

Under the House bill, expenses incurred by a taxpayer for an overnight camp are ineligible for the child and dependent care credit. The provision is effective for taxable years beginning on or after January 1, 1988.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

2. Limitation on deduction for qualified residence interest

Present law

Qualified residence interest (i.e., interest on debt secured by a principal or second residence) is deductible notwithstanding the general rule making personal interest nondeductible. Qualified residence interest is limited to interest on debt up to the amount of the cost of the residence (including improvements), plus debt for educational and medical expenses (up to fair market value).

It is not clear under present law that mobile homes used on a transient basis and boats are specifically excluded from the definition of a second residence.

House bill

The House bill provides that qualified residence interest is limited to (1) debt to acquire or substantially improve a principal or second residence (up to a total debt of $1 million), plus (2) other debt (not in excess of

$100,000) secured by a principal or second residence.

Mobile homes used on a transient basis and boats cannot qualify as a second residence.

The provisions apply to taxable years beginning after December 31, 1987. Indebtedness incurred on or before October 13, 1987 (including certain refinancings of that indebtedness) is grandfathered.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill except that the agreement does not contain the provision in the House bill relating to boats and mobile homes.

The conferees anticipate that Treasury regulations will be issued under section 6050H requiring reporting by mortgage interest recipients of any information necessary to enforce the limitation on qualified residence interest.

3. One-year delay in application of two-percent floor to indirect deductions through a regulated investment company

Present law

For taxable years beginning after December 31, 1986, miscellaneous itemized deductions generally are allowable only to the extent that they exceed two percent of the taxpayer's adjusted gross income (sec. 67). The two-percent floor applies with respect to indirect deductions through certain pass-through entities, including regulated investment companies (RICs), commonly called "mutual funds." The two-percent floor does not apply with respect to certain other pass-through entities, including real estate investment trusts, cooperatives, and certain trusts and estates.

House bill

No provision.[1]

Senate amendment.

No provision.

Conference agreement

Under the conference agreement, the two-percent floor applies to indirect deductions through a publicly offered RIC only for taxable years beginning after December 31, 1987.

A publicly offered RIC is a RIC, the shares of which are (1) continuously offered pursuant to a public offering (within the meaning of sec. 4 of the Securities Act of 1933, as amended), (2) regularly traded on an established securities market, or (3) held by or for no fewer than 500 persons at all times during the taxable year. The provision authorizes the Treasury to prescribe regulations decreasing the minimum 500-shareholder requirement in the case of RICs that experience a loss of shareholders through net redemptions of their shares.

The provision is effective for taxable years beginning after December 31, 1986.

B. EMPLOYEE BENEFIT PROVISIONS

1. Limitation on taxable benefit option under cafeteria plan

Present law

Under present law, compensation generally is taxable to employees when actually or constructively received. An amount is constructively received by a taxpayer if it is made available to the taxpayer or the taxpayer has an election to receive such amount.

There are various exceptions to this basic principle of constructive receipt. Under one exception, no amount is included in the income of a participant in a cafeteria plan meeting certain requirements solely because, under the plan, the participant has an election to receive a taxable benefit (sec. 125). Nontaxable benefits that may be available under a cafeteria plan include, for example, health coverage, group-term life insurance, and dependent care assistance. The cafeteria plan exception from the principles of constructive receipt generally also applies for purposes of the Federal Insurance Contribution Act (FICA) and the Federal Unemployment Tax Act (FUTA).

House bill

Under the House bill, the cafeteria plan exception to the constructive receipt principle is limited to $500. Thus, for example, if an employee is eligible under a cafeteria plan to reduce her salary by $1,500 to buy health coverage or to take the $1,500 in taxable benefits, the employee is in constructive receipt of $1,000 under the bill, which is the excess of the taxable benefits available over $500. This would apply even if she elected to acquire $1,500 of health coverage under the cafeteria plan. Of course, if the employee in this example elected to receive $1,500 in cash, such employee would only include this $1,500 once; i.e., the employee would not include the $1,000 constructively received and include an additional $1,500 actually received.

The $500 limit applies on an individual basis, rather than a plan basis, so that, for purposes of the limit, all cafeteria plans of all employers in which an individual participates are aggregated. Correspondingly, the limit applies to the individual's taxable year. In addition, the employer is required to report on its employees' Forms W-2 the amount of taxable benefits available but not chosen by any employee.

The $500 limit on the cash option applies under the bill for FICA and FUTA purposes.

This provision applies to taxable years beginning after December 31, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

2. Definition of active participant for IRA deduction

Present law

Under present law, a taxpayer is permitted to make deductible IRA contributions up to the lesser of $2,000 or 100 percent of compensation (earned income, in the case of a self-employed individual) if—

(1) in the case of a taxpayer who is not married, the taxpayer either (a) has adjusted gross income (AGI) that does not exceed the applicable dollar amount or (b) is not an active participant in an employer-maintained retirement plan for any part of the plan year ending with or within the taxable year;

(2) in the case of married taxpayers filing a joint return, either (a) the couple has AGI that does not exceed the applicable dollar amount or (b) neither spouse is an active participant in an employer-maintained retirement plan for any part of the plan year ending with or within the taxable year; or

(3) in the case of a married taxpayer filing separately, the taxpayer either (a) has AGI that does not exceed the applicable dollar amount or (b) neither spouse is an active participant in an employer-maintained retirement plan for any part of the plan year ending with or within the taxable year.

For purposes of the active-participant rule, an employer-maintained retirement plan means (1) a qualified pension, profit-sharing, or stock bonus plan; (2) a qualified annuity plan (sec. 403(a)); (3) a simplified employee pension (sec. 408(k)); (4) a plan established for its employees by the United States, by a State or political subdivision, or by any agency or instrumentality of the United States or a State or political subdivision (other than an unfunded deferred compensation plan of a State or local government (sec. 457)); (5) a plan described in section 501(c)(18); or (6) a tax-sheltered annuity (sec. 403(b)).

In a recent Tax Court decision (*Porter* v. *Commissioner,* 88 T.C. No. 28 (March 5, 1987)), it was held that Article III judges are not employees of the United States and, therefore, are not active participants in a plan established for its employees by the United States. Whether or not an individual is an employee also is relevant for other purposes under the Code, such as for the exclusion of certain benefits from income and the eligibility for certain deductions.

House bill

Under the House bill, the decision in *Porter* v. *Commissioner* is overturned, and Federal judges are treated as employees for income tax purposes and as active participants for purposes of the IRA deduction limit, effective for years beginning after December 31, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

C. LIMITATION ON NONRECOGNITION FOR LIKE-KIND EXCHANGE OF REAL PROPERTY

Present law

Gain or loss is not recognized on the exchange of business or investment property for property of a like-kind. In general, any kind of real property is treated as of like kind with all other real estate.

House bill

The amount of gain that a taxpayer can defer from the exchange of real property under this provision will be limited to $100,000 per year. The provision applies to exchanges after October 13, 1987, unless pursuant to a binding contract in effect on that date.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

II. Business Tax Provisions

A. ACCOUNTING PROVISIONS

1. Repeal of vacation pay reserve

Present law

Under present law, an accrual method taxpayer may elect to deduct an amount representing a reasonable addition to a reserve for vacation pay earned during a year if the amount is paid to employees during the year or within 8½ months after the end of the year.

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[1] Subtitle C of title X of the House bill contains a provision under which the two-percent floor does not apply to indirect deductions with respect to publicly offered RICs. Subtitle C provisions generally are not included in the conference agreement.

House bill

The House bill repeals the special election that allows accrual method taxpayers a deduction for additions to a reserve for vacation pay. The amount allowed as a deduction for vacation pay for any taxable year generally is limited to the amount of vacation pay earned during the year to the extent that (1) the amount is paid to employees during the year, or (2) the amount is vested as of the last day of the year and is paid to employees within 2½ months after the end of the year.

The repeal of the vacation pay election is effective for taxable years beginning after December 31, 1987. The adjustment required by the change in method of accounting generally is required to be taken into account ratably over 4 taxable years (i.e., 25 percent per year).

Senate amendment

The Senate amendment is the same as the House bill, except that the adjustment required by the change in method of accounting generally is required to be taken into account as follows: (1) 10 percent for the taxable year of change; (2) 50 percent for the first taxable year beginning after the taxable year of change; (3) 15 percent for the second taxable year beginning after the taxable year of change; and (4) 25 percent for the third taxable year beginning after the taxable year of change. Under the Senate amendment, if Rev. Proc. 84-74, 1984-2 C.B. 736, requires the adjustment to be taken into account over a period of less than 4 taxable years, the adjustment is to be taken into account ratably over the shorter period.

Conference agreement

The conference agreement follows the Senate amendment with modifications. The conference agreement provides that vacation pay earned during any taxable year, but not paid to employees on or before the date that is 2½ months after the end of the taxable year, is deductible for the taxable year of the employer in which it is paid to employees. This provision is an exception to the general rule for deferred compensation and deferred benefits pursuant to which an employer is allowed a deduction for the taxable year of the employer in which ends the taxable year of the employee in which the compensation or benefit is includible in gross income.

A change from the reserve method of accounting for vacation pay to the method required by the conference agreement is treated as a change in method of accounting that is initiated by the taxpayer and made with the consent of the Secretary of the Treasury. The net amount of the adjustment required by the change in method of accounting equals the excess of (1) the amount in the vacation pay account as of the last day of the taxable year immediately preceding the taxable year of change over (2) the amount of accrued vacation pay as of the close of the taxable year immediately preceding the taxable year of change that is paid within 2½ months after the close of such taxable year. This amount is to be reduced by the balance in the suspense account as of the close of the taxable year immediately preceding the taxable year of change.

The net amount of the adjustment as reduced by the balance in the suspense account generally is required to be included in income as follows: (1) 25 percent for the taxable year of change; (2) 5 percent for the first taxable year beginning after the taxable year of change; (3) 35 percent for the second taxable year beginning after the taxable year of change; and (4) 35 percent for the third taxable year beginning after the taxable year of change. As under the Senate amendment, if Rev. Proc. 84-74, 1984-2 C.B. 736, requires the adjustment to be included in income over a period of less than 4 taxable years, the adjustment is to be included in income ratably over the shorter period.

The conferees intend that net operating losses will be allowed to offset the adjustment, tax credit carryforwards will be allowed to offset any tax attributable to the adjustment, and, for purposes of determining liability for estimated taxes, the adjustment will be included in income ratably throughout the year in question.

2. Completed contract method

Present law

Taxpayers engaged in the production of property under a long-term contract must compute income from the contract under the percentage of completion method or the percentage of completion-capitalized cost method. An exception is provided for certain small businesses with respect to construction contracts to be completed within two years.

Under the percentage of completion method, the taxpayer must include in gross income for the taxable year an amount based on the product of (1) the gross contract price and (2) the percentage of the contract completed during the taxable year. The percentage of a contract completed during the taxable year is determined by comparing costs incurred with respect to the contract during the year with the estimated total contract costs.

Under the percentage of completion-capitalized cost method, the taxpayer must take into account 40 percent of the items with respect to the contract under the percentage of completion method. The remaining 60 percent of the items under the contract must be taken into account under the taxpayer's normal method of accounting. For example, if the taxpayer's normal method of accounting is the completed contract method, income from a contract is included and contract costs are deducted upon final completion of the contract. All costs that directly benefit or are incurred by reason of a taxpayer's long-term contract activities must be allocated to its long-term contracts in a manner similar to that provided in Treasury regulations under section 451 for extended period long-term contracts.

House bill

Under the House bill, income from a long-term contract must be reported under the percentage of completion method. A long-term contract is defined in the same manner as under present law. The bill preserves the present-law exceptions for certain construction contracts.

The provision is effective for contracts entered into after October 13, 1987. An exception is provided for certain "qualified ship contracts." A "qualified ship contract" is a contract for the construction in the United States of not more than 5 ships [2] that meet certain other requirements. Such ships must not be constructed (directly or indirectly) for the Federal Government and the taxpayer must reasonably expect to complete such contract within 5 years of the contract commencement date.

Senate amendment

No provision.

Conference agreement

The conference agreement changes the percentage of completion-capitalized cost method of computing income from long-term contracts. Seventy percent (versus 40 percent under present law) of items with respect to such a contract must be taken into account under the percentage of completion method. The remaining 30 percent (versus 60 percent under present law) are taken into account under the taxpayer's normal method of accounting. The look-back method of section 460(b)(3) is applied to the 70 percent taken into account under the percentage of completion method.

For this purpose, a taxpayer's normal method of accounting generally is considered to be the method of accounting it used for long-term contracts prior to February 28, 1986 (the effective date of the percentage of completion-capitalized cost method). Thus, any change in the taxpayer's normal method of accounting requires the consent of the Commissioner of Internal Revenue. It is anticipated that the criteria and methods used by the taxpayer, including those criteria and methods used to determine if an item is "unique," prior to February 28, 1986, in determining if a particular contract was a long-term contract will continue to be used by the taxpayer.

The provision of the conference agreement is effective for contracts entered into after October 13, 1987. The exception for certain "qualified ship contracts" in the House bill is included in the conference agreement.

3. Treatment of Past Service Pension Costs Under Uniform Capitalization Rules

Present law

In general, uniform capitalization rules govern the inclusion in inventory or capital accounts of all costs incurred in manufacturing, construction, and other types of activities involving the production of real or tangible personal property, or incurred in acquiring or holding property for resale. In the legislation mandating a uniform set of capitalization rules, Congress directed the Treasury Department generally to model the regulations implementing these rules after the regulations issued under section 451, dealing with capitalization of costs in connection with extended period long-term contracts.

The extended period long-term contract regulations require capitalization of all direct costs and an allocable portion of indirect costs such as general and administrative and overhead costs. Temporary and proposed regulations issued by the Treasury Department provide that contributions to a pension or annuity plan are not subject to the uniform capitalization rules to the extent they represent past service costs within the meaning of section 412 (containing rules for actuarial funding of pension plans).[3] Such costs are, subject to other limitations in the Code, currently deductible. If the taxpayer's actuarial funding method does not distinguish between current and past service costs, all pension costs must be treated as current service costs, which are subject to capitalization.

House bill

No provision.

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[2] For this purpose, the term "ship" is intended to include only seagoing vessels.

[3] Temp. and Prop. Reg. sec. 1.263A-1T(b)(2)(v)(H)(1).

Senate amendment

Under the Senate amendment, past service costs are subject to the uniform capitalization rules. Thus, an allocable portion of all otherwise allowable pension costs, whether relating to current or past services, must be included in the basis of the property produced by the taxpayer or held for resale by the taxpayer.

The provision is effective for taxable years beginning after December 31, 1987. The amount of any section 481 adjustment required by the amendment (that is, the adjustment reflecting pension costs deducted by a taxpayer in taxable years beginning before January 1, 1988) must be included in income over a period not exceeding four years.

Conference agreement

The conference agreement generally follows the Senate amendment with respect to costs allocable to property produced by the taxpayer or held for resale by the taxpayer. The conference agreement also provides that costs allocable to a long-term contract under section 460(c) include an allocable portion of all otherwise allowable pension costs, whether relating to current or past services. The provision does not affect long-term contracts that are not subject to the cost allocation rules of section 460(c), including those construction contracts described in section 460(e).

For costs allocable to property (other than inventory) produced by the taxpayer, the provision is effective for costs incurred after December 31, 1987, in taxable years ending after such date.

A separate rule is provided for costs allocable to property that is inventory in the hands of the taxpayer. In such a case, the provision of the conference agreement is effective for taxable years beginning after December 31, 1987, and is considered to be a change in the taxpayer's method of accounting. Such change in the taxpayer's method of accounting is treated as initiated by the taxpayer, with the consent of the Secretary of the Treasury, and the net adjustment required by section 481 is taken into account over a period not to exceed four years. The conferees intend that the timing of the section 481 adjustment will be determined under the provisions of Revenue Procedure 84-74, 1984-2 C.B. 736. In addition, the conferees intend that (i) net operating loss carryforwards will be allowed to offset any positive section 481 adjustment; (ii) tax credit carryforwards will be allowed to offset any tax attributable to the section 481 adjustment; and (iii) for purposes of determining estimated tax payments, the section 481 adjustment will be recognized ratably throughout the taxable year in question.

For costs allocable to long-term contracts for which section 460 is effective, the provision of the conference agreement applies to costs incurred after December 31, 1987, in taxable years ending after such date. Section 460 generally is effective for contracts entered into after February 28, 1986. Thus, this provision of the conference agreement does not apply to costs incurred with respect to contracts entered into on or before February 28, 1986.

4. Interest on debt used to purchase or carry tax-exempt obligations

Present law

Interest expense allocable to installment obligations of State or local governments

Present law disallows a deduction for interest on indebtedness incurred or continued to purchase or carry obligations the interest on which is not subject to tax (tax-exempt obligations). Debt incurred in the business of selling items on the installment method to State and local governments generally is not considered incurred to purchase or carry the resulting tax exempt installment obligations, and, therefore, interest on such debt generally is not disallowed under the interest disallowance rule.

De minimis rule

Under present law, a deduction for interest generally is disallowed only when the related indebtedness is incurred or continued for the purpose of purchasing or carrying tax-exempt obligations. In the case of an individual, interest on indebtedness generally is not disallowed if during the taxable year the average adjusted basis of the tax-exempt obligations does not exceed 2 percent of the average adjusted basis of the individual's portfolio investments and trade or business assets. In the case of a corporation, interest on indebtedness generally is not disallowed if during the taxable year the average adjusted basis of the tax-exempt obligations does not exceed 2 percent of the average adjusted basis of all assets held in the active conduct of the trade or business. These safe harbors are inapplicable to financial institutions and dealers in tax-exempt obligations.

House bill

Disallowance of interest expense allocable to installment obligations of State or local governments

Under the House bill, a taxpayer that holds one or more tax-exempt installment obligations acquired after December 31, 1987, is denied a deduction for the portion of the taxpayer's otherwise deductible interest expense that is allocable to such tax-exempt installment obligations. The disallowance rule is effective for taxable years ending after December 31, 1987.

De minimis rule

The House bill establishes a statutory de minimis rule for tax-exempt obligations that are held by any taxpayer other than a financial institution. Under this de minimis rule, which applies in lieu of any other de minimis rule prescribed by the Treasury Secretary, interest on indebtedness is not disallowed for any taxable year if the average adjusted basis of tax-exempt obligations does not exceed the lesser of (1) $1 million or (2) 2 percent of the average adjusted basis of all assets held by the taxpayer. The de minimis rule applies to taxable years ending after December 31, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

5. Installment sales

Present law

Under present law, a taxpayer who sells property ordinarily must recognize gain or loss at the time of the sale. However, a taxpayer who is eligible to use the installment method may defer the payment of tax and recognize gain from a sale of property in proportion to the payments received.

In general, the installment method may be used to report gain from the sale of personal property by dealers in personal property who regularly sell on the installment plan or from the sale of other property where at least one payment is to be received after the end of the taxable year of the sale.

Use of the installment method is not allowed for sales pursuant to a revolving credit plan and for sales of publicly traded property. In addition, use of the installment method generally is limited under the "proportionate disallowance rule" for dealer sales of real property and dealer sales of personal property eligible to be reported on the installment method, as well as for sales of real property used in the taxpayer's trade or business or held for the production of rental income where the selling price of such real property is greater than $150,000. Under the proportionate disallowance rule, a pro rata portion of the taxpayer's indebtedness is allocated to, and is treated as a payment on, the installment obligations of the taxpayer.

At the election of the seller, installment obligations arising from certain sales of residential lots and "timeshares" are not subject to the proportionate disallowance rule. Rather, such taxpayers may compute their tax liability under the installment method and are required to pay interest on the amount of deferred tax attributable to the use of the installment method.

The installment method may not be used for purposes of the alternative minimum tax for sales that are subject to the proportionate disallowance rule. The installment method may be used, however, for purposes of the alternative minimum tax for sales of residential lots and "timeshares" with respect to which a taxpayer elects to use the installment method and pay interest on the deferred tax.

Generally, if an installment obligation is disposed of, gain (or loss) is recognized equal to either (1) the difference between the amount realized and the basis of the obligation in the case of a satisfaction at other than face value or a sale or exchange of the obligation, or (2) the difference between the fair market value of the obligation at the time of the disposition and the basis of the obligation in the case of any other disposition. The basis of the obligation is equal to the basis of the property sold plus the amount of gain previously recognized. In general, the mere pledge of an installment obligation as collateral for a loan is not treated as a disposition.

House bill

No provision.[4]

Senate amendment

In general

The Senate amendment repeals the installment method for dispositions of property by dealers ("dealer disposition"), effective for dispositions occurring after December 31, 1987. Generally, all payments to be received from a dealer disposition of property are treated as received in the year of disposition.

Definition of dealer disposition

A "dealer disposition" is defined for purposes of the repeal of the installment method as any disposition of personal property by a person who regularly sells or otherwise disposes of property on the installment plan. A dealer disposition also includes any disposition of real property that is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business.

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[4] Subtitle C of title X of the House bill contains provisions relating to installment sales. Subtitle C provisions generally are not included in the conference agreement.

A dealer disposition does not, however, include certain dispositions of residential lots or "timeshares" if the taxpayer elects to pay interest on the amount of deferred tax attributable to the use of the installment method. Additionally, a dealer disposition does not include a disposition of property used or produced in the trade or business of farming. Thus, the present-law installment method rules applicable to (1) dispositions of residential lots or "timeshares" with respect to which interest is paid and (2) dispositions of property used or produced in the trade or business of farming, are not affected by the amendment.

Effective date.—The repeal of the installment method for dealer dispositions is effective for dispositions occurring after December 31, 1987. The treatment of an installment obligation arising out of a dealer disposition occurring before March 1, 1986, is not affected by the amendment.

An applicable installment obligation arising out of a dealer disposition occurring after February 28, 1986, and before January 1, 1988, continues to be subject to the proportionate disallowance rule for taxable years ending after December 31, 1986, and beginning before January 1, 1988. Any gain from an installment obligation arising out of a dealer disposition occurring after February 28, 1986, and before January 1, 1988, that remains to be recognized as of the first day of the first taxable year beginning after December 31, 1987,[5] is not to be recognized as payments are received (or treated as received under the proportionate disallowance rule) in a later taxable year. Instead, the amount of the gain that remains to be recognized from such installment obligations is to be taken into account as a section 481(a) adjustment over a period beginning with the first taxable year that begins after December 31, 1987. The amount of the section 481(a) adjustment is to be taken into account under the principles of Rev. Proc. 84-74, 1984-2 C.B. 736, but the adjustment period generally is 4 taxable years rather than 6 taxable years. In determining the period that the adjustment is to be taken into account, the application of the proportionate disallowance rule is not to be treated as a new method of accounting.

The Senate amendment does not affect the transition relief provided at the time the proportionate disallowance rule was enacted.

Conference agreement

Treatment of installment sales by dealers

The conference agreement follows the Senate amendment. Thus, the repeal of the installment method for dealer dispositions applies to dispositions occurring after December 31, 1987. The amount of any gain from an installment obligation arising out of a dealer disposition occurring after February 28, 1986, and before January 1, 1988, that remains to be recognized as of the first day of the first taxable year beginning after December 31, 1987, is to be taken into account as a section 481(a) adjustment over a period beginning with the first taxable year that begins after December 31, 1987. The conferees intend that the exception from the proportionate disallowance rule of the Tax Reform Act of 1986 and the disallowance of the installment method for dealer dispositions under the conference agreement for certain sales of property by a manufacturer to a dealer (sec. 811(c)(2) of the 1986 Act) applies to any manufacturer that qualifies under the terms of that exception.

Treatment of certain installment sales by nondealers

In general.—The conference agreement contains several modifications to the present-law installment sale rules that apply to the sale of non-farm real property that is used in a taxpayer's trade or business or that is held for the production of rental income where the selling price of such real property is greater than $150,000. First, the proportionate disallowance rule is repealed for installment obligations arising out of the disposition of such real property. Second, an interest charge is imposed on the tax that is deferred under the installment method to the extent the amount of deferred payments arising from all dispositions of such real property during any year exceeds $5 million. Third, under the conference agreement, if any indebtedness is secured directly by an installment obligation that arises out of the disposition of such property, the net proceeds of the secured indebtedness is treated as a payment on such installment obligation. Finally, in determining alternative minimum taxable income, the installment method may be used with respect to such dispositions of real property.

Definition of nondealer real property installment obligation.—The provisions of the conference agreement relating to nondealer installment sales apply only to installment obligations that arise out of the disposition of real property that is used in a taxpayer's trade or business or that is held for the production of rental income, where the sales price of the real property is greater than $150,000 ("nondealer real property installment obligations").[6]

The term "nondealer real property installment obligation" does not include any installment obligation that arises out of the disposition by an individual of personal use property or the disposition of any property that is used or produced in the trade or business of farming. Additionally, the term "nondealer real property installment obligation" does not include any installment obligation that arises out of a disposition of a residential lot or "timeshare" if the taxpayer elects to pay interest on the amount of the deferred tax attributable to the use of the installment method. The amount of interest payable with respect to installment obligations arising out of the sale of residential lots or "timeshares" is determined under the present-law rules applicable to such obligations.

Interest charge on deferred tax.—Interest is required to be paid with respect to the deferred tax attributable to a nondealer real property installment obligation that arises during a year and is outstanding as of the close of the year only if the aggregate face amount of all nondealer real property installment obligations that arise during a year and that are outstanding as of the close of that year exceeds $5 million. In determining whether the $5 million threshold has been exceeded for any taxable year, the face amount of installment obligations arising during the year and outstanding as of the close of the year is to be reduced by the amount treated as a payment on such obligations for such taxable year under the pledge rule described below. Furthermore, in applying the $5 million threshold, all persons treated as a single employer under section 52 are treated as one person, except as otherwise provided in Treasury regulations.

If interest is required to be paid with respect to a nondealer real property installment obligation that arises during any year, interest must be paid for any subsequent taxable year if any of the installment obligation is outstanding at the close of that year.

The amount of interest payable with respect to any installment obligation to which the interest rules apply equals the applicable percentage of the deferred tax liability with respect to such obligation multiplied by the underpayment rate under section 6621 in effect for the month with or within which the taxable year ends. For any taxable year, the deferred tax liability with respect to any installment obligation equals the amount of gain under the obligation that has not been recognized as of the close of the taxable year multiplied by the maximum rate of tax in effect for such taxable year. This rate will vary depending on whether the taxpayer is a corporation or is an individual, estate, or trust.

The applicable percentage with respect to installment obligations arising in a taxable year is the percentage determined by dividing (1) the portion of the aggregate face amount of installment obligations outstanding as of the close of the taxable year in excess of $5 million, by (2) the aggregate face amount of the installment obligations outstanding as of the close of the taxable year. This percentage will not change as payments are made (or deemed made under the pledge rule) in subsequent taxable years.

The interest computed under this provision for any taxable year is payable as additional tax for such taxable year. The interest payable under this provision, however, is treated as interest that is subject to the general rules regarding the deductibility of interest on an underpayment of tax (sec. 163).

The Treasury Secretary is authorized to prescribe regulations that carry out the purposes of the interest rule including such regulations as may be necessary to address the treatment of short taxable years, installment obligations with contingent payments, and pass-through entities. The conferees anticipate that the regulations relating to short taxable years will proportionately reduce the amount of interest payable and the $5 million threshold for any short taxable year. The conferees also anticipate that the regulations relating to contingent payments will address the treatment of contingent payments for purposes of the $5 million threshold and for purposes of determining the amount of gain that remains to be recognized under an installment obligation as of the end of any taxable year. Finally, the conferees anticipate that the regulations relating to pass-through entities will treat the installment obligations of a partnership as owned directly by the partners in proportion to each partner's share in the partnership.

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[5] The amount of gain that remains to be recognized as of the first day of the first taxable year beginning after December 31, 1987, does not include any gain that is taken into account for such taxable year or for a later taxable year under the 1986 Act transition rule for sales of real property by dealers (sec. 811(c)(6) of the 1986 Act). Similarly, the amount of gain that remains to be recognized as of the first day of the first taxable year beginning after December 31, 1987, is not affected by the 1986 Act transition rule that permits the delayed payment of certain tax for sales of personal property by dealers (sec. 811(c)(7) of the 1986 Act). Each of these rules continues to apply to installment obligations arising out of dealer dispositions occurring after February 28, 1986, and before January 1, 1988, in taxable years beginning before January 1, 1988.

[6] For purposes of determining whether the sales price of any real property exceeds $150,000, all sales that are part of the same transaction (or series of related transactions) are treated as a single sale.

Pledging of nondealer real property installment obligations.—Under the conference agreement, if a nondealer real property installment obligation is pledged as security for an indebtedness, the net proceeds of the loan [7] are treated as a payment received on such installment obligation on the later of the date that the indebtedness is secured or the date that the net proceeds are received by the taxpayer. Gain is recognized with respect to such obligation in an amount equal to the product of the net loan proceeds received and the gross profit ratio applicable to the installment obligation.

Receipt by the taxpayer of payments on the installment obligation subsequent to the time of the pledge generally does not result in recognition of additional gain, except to the extent that the gain that otherwise would be recognized on account of such payments exceeds the gain, if any, recognized as a result of the pledge. The rule relating to nonrecognition of gain from subsequent payments applies regardless of whether or not such payments are used to pay any portion of the indebtedness secured by the installment obligation. The total amount of gain that can be recognized on an obligation as a result of secured loans and the receipt of payments cannot exceed the total gain from the installment sale.

For purposes of this rule, indebtedness is secured by an installment obligation to the extent that the payment of principal or interest on the indebtedness is directly secured (either under the terms of the indebtedness or any other arrangement) by an interest in the installment obligation.

Use of installment method for alternative minimum tax purposes.— Under the conference agreement, the installment method may be used in determining alternative minimum taxable income for all nondealer dispositions of property.

Effective dates for sales by nondealers.— The proportionate disallowance rule is repealed for nondealer real property installment obligations arising out of dispositions occurring in taxable years beginning after December 31, 1987. Nondealer real property installment obligations arising out of dispositions occurring after August 16, 1986, in taxable years beginning before January 1, 1988, are subject to the proportionate disallowance rule in any later taxable year for which a taxpayer has allocable installment indebtedness.

The interest charge applies to nondealer real property installment obligations arising out of dispositions occurring in taxable years beginning after December 31, 1987. The pledge rule applies to any nondealer real property installment obligation that is pledged after December 17, 1987, in taxable years ending after that date.

If, for any taxable year to which the proportionate disallowance rule applies, a nondealer real property installment obligation is pledged as security for a loan after December 17, 1987, the net proceeds of the loan are treated as payment on the installment obligation. In applying the proportionate disallowance rule for such year, the face amount of the installment obligation shall be reduced by the net proceeds of the loan and the allocable installment indebtedness for such year is not to include the amount of secured indebtedness.

For taxable years ending after December 31, 1986, a taxpayer may elect, pursuant to such rules as may be prescribed by the Treasury Secretary, to apply the interest rules contained in the conferen agreement to dispositions occurring after August 16, 1986,[8] and the pledge rule to pledges occurring after August 16, 1986. If a taxpayer makes this election, the proportionate disallowance rule is not to apply to installment obligations that arise from dispositions occurring after August 16, 1986.

The provision that allows the installment method to be used in determining alternative minimum taxable income for all nondealer dispositions of property is effective for dispositions occurring in taxable years beginning after December 31, 1986. The present-law alternative minimum tax treatment of installment sales occurring in taxable years beginning before January 1, 1987, is continued.

The conference agreement does not apply to any nondealer real property installment obligation that was specifically provided relief at the time the proportionate disallowance rule was enacted.

6. Certain continuing-care facilities

Present law

Under present law, certain loans bearing interest at below-market rates are treated as loans bearing interest at a market rate accompanied by a payment from the lender to the borrower that is characterized in accordance with the substance of the particular transaction (e.g., gift, compensation, dividend, etc.).

An exception from the below-market loan rule is provided for certain loans to certain "continuing care facilities."

House bill

The exception to the below-market loan rules for loans to certain continuing care facilities is repealed. The provision generally is effective for loans made after October 13, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

7. Current accrual of market discount on bonds

Present law

In general, present law requires inclusion of market discount on bonds only upon redemption or other disposition of the bond. Thus, a taxpayer who purchases a bond after original issue at a price less than its face amount (or adjusted issue price in the case of a bond originally issued at a discount) does not, absent an election, include in income any portion of the discount prior to disposition of the bond. Except in the case of tax-exempt obligations, market discount that accrues while the taxpayer holds such a bond is treated as ordinary income upon the disposition of the bond up to the amount of the gain realized. Interest on indebtedness incurred or continued to purchase or carry a bond with market discount is deferred to the extent such interest does not exceed the market discount accruing on the bond. Any interest so deferred is allowed when the market discount is recognized.

House bill

Under the House bill, a purchaser of a market discount bond (including a tax-exempt bond) generally must include in income annually the amount of market discount attributable to the year. The amount of the inclusion is computed under the rules of present law relating to the treatment of market discount on disposition of a bond; thus, discount accrues ratably unless the taxpayer elects to accrue on a constant interest basis. The provision does not apply to the extent the market discount on a bond exceeds the amount that would result in the taxpayer's yield to maturity on the bond being equal to three times the applicable Federal rate at the time the bond was purchased. Special rules are provided for transfers of market discount bonds in nonrecognition transactions.

The bill authorizes the Treasury Department to require reporting by brokers regarding transactions involving market discount bonds.

The provision is effective for bonds acquired after October 13, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

8. Accrual accounting for certain farm corporations

Present law

Entities engaged in the trade or business of farming generally may use the cash method of accounting for such trade or business. A corporation (other than an S corporation) that has gross receipts in excess of $1 million for any taxable year beginning after 1975 must use an accrual method of accounting unless it is a "family corporation." In general, a "family corporation" is a corporation 50 percent or more of whose stock is owned by members of the same family (sec. 447(c)(2)).[9] Certain closely held corporations substantially owned by two or three families on October 4, 1976, and at all times thereafter also qualify as a family corporation (sec. 447(h)).

A partnership engaged in the trade or business of farming must use an accrual method of accounting if it has a corporate partner and such corporate partner would be required to use an accrual method of accounting in connection with a farming business.

If the entity engaged in the trade or business of farming is a tax shelter, it may not use the cash method of accounting, regardless of whether it is also a "family corporation."

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[7] The net loan proceeds are equal to the gross loan proceeds less the direct expenses of obtaining the loan.

[8] Under this election, interest would be charged with respect to installment obligations arising during a year and outstanding as of the close of the year only if the aggregate face amount of installment obligations that arise during the year and that are outstanding as of the close of the year exceeds $5 million.

[9] For this purpose, the members of the same family are an individual, such individual's brothers and sisters, brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants of any of the foregoing, a spouse of any of the foregoing, and the estate of any of the foregoing.

House bill

In general

The House bill requires a family corporation to use the accrual method of accounting unless, for each prior taxable year beginning after December 31, 1985, such corporation (and any predecessor corporation) did not have gross receipts exceeding $25 million. Gross receipts for any taxable year of less than 12 months must be annualized in order to determine if gross receipts exceed $25 million. All corporations that are members of the same controlled group (within the meaning of sec. 1563(a)) are treated as one corporation for the purpose of this test. A family corporation includes those family-owned corporations (sec. 447(c)(2) of present law) and those closely held corporations (sec. 447(h)) that are not required by present law to use the accrual method of accounting.

Suspense account

If any family corporation is required by this provision of the House bill to change its method of accounting, such corporation is not required to take into income so much of the adjustment under section 481 as is used to establish the opening balance of a suspense account. The initial opening balance of the suspense account is the lesser of the net adjustments that otherwise would have been required to be taken into account under section 481 for the year of change or the amount of such net adjustments determined as of the close of the most recent quarter ending before October 13, 1987.

For example, a calendar year family corporation is required to change to the accrual method of accounting effective for its taxable year beginning January 1, 1988. The net adjustment under section 481 as of December 31, 1987, is $100,000. The net adjustment under section 481 as of September 30, 1987, was $90,000. The opening balance of the suspense account is $90,000 and $10,000 ($100,000-$90,000) is required to be included in income in the taxable year beginning January 1, 1988.

The amount placed in the suspense account is required to be taken into income upon the occurrence of certain events. If the taxpayer fails to meet the definition of a family corporation, the amount of the suspense account is taken into income in the taxable year in which the corporation ceases to be a family corporation. Also, if the gross receipts of the corporation attributable to farming for any taxable year decline to an amount below the gross receipts attributable to farming for the last taxable year for which the cash method of accounting was allowed a portion of the suspense account may be taken into income.[10] The portion taken into income is equal to the current balance of the suspense account multiplied by a fraction, the denominator of which is the lesser of (a) the gross receipts of the taxpayer for the taxable year preceding the year of change to the accrual method, or (b) the gross receipts for the most recent year in which a portion of the suspense account was taken into income under this rule and the numerator of which is the amount used as the denominator in this fraction less the gross receipts for the current taxable year. For purposes of determining the portion of the suspense account required to be taken into income, only gross receipts from farming are taken into account.

Effective date.—The provision is effective for taxable years beginning after December 31, 1987.

Senate amendment

In general

The Senate amendment generally parallels the House bill, except that gross receipts of other entities attributed to the family corporation are limited to the family corporation's share of such gross receipts. Also, the portion of the section 481 adjustment used to establish the opening balance of a suspense account is the lesser of (a) the net adjustments that otherwise would have been required to be taken into account under section 481 for the year of change or (b) the amount of such net adjustment as of the beginning of the taxable year preceding the year of change.

Attribution rules

Certain attribution rules apply in determining the amount of gross receipts of a family corporation under the Senate amendment. In the case of a family corporation that is part of a controlled group (within the meaning of sec. 1563(a)), a percentage of the gross receipts for the taxable year of other members of such controlled group is allocated to the family corporation. The percentage used in allocating such gross receipts is equal to the percentage of the fair market value of stock in such other member held, directly or indirectly, by the family corporation on the last day of the taxable year of such other member. For this purpose, stock excluded under section 1563(c) is not considered.

For example, a father and his son own 100 percent of Corporation A (a family corporation) and 60 percent of Corporation B. Corporation A owns an additional 20 percent of Corporation B. The remaining 20 percent of Corporation B is held by an unrelated party. Corporation A and Corporation B are members of the same controlled group. Eighty percent (20 percent direct ownership and 60 percent indirect ownership) of the gross receipts of Corporation B will be included with the gross receipts of Corporation A for the purpose of determining whether Corporation A has gross receipts in excess of $25 million.

The Senate amendment provides that the Secretary of the Treasury will issue regulations to prevent gross receipts from being taken into account of more than once as a result of the attribution rules. For example, assume that Corporation A in the example in the preceding paragraph sells a calf to Corporation B for $100. Corporation B feeds the calf and sells it to unrelated parties for $250. The gross receipts of Corporation B attributable to Corporation A from this transaction would be 80 percent of the difference between $250 and $100, since the $100 of receipts attributable to that stage of the calf's development while held by Corporation A is already taken into account in the gross receipts of Corporation A.

If a family corporation owns, directly or indirectly, any interest in a partnership, estate, trust, or other pass-through entity, the Senate amendment provides that the family corporation must take into account its proportionate share of the gross receipts of such a pass-through entity in determining the gross receipts of the family corporation.

Effective date.—The provision is effective for taxable years beginning after December 31, 1987.

Conference agreement

The conference agreement generally follows the Senate amendment with one modification relating to the recapture of the suspense account where a family corporation is sold outside of the family.

Recapture of suspense account

Under the conference agreement, the balance in the suspense account is required to be included in income in the year in which the corporation ceases to be a family corporation. In addition, the conference agreement generally requires recapture of the suspense account if the required level of control of the corporation is transferred outside the family group that owned the corporation on December 15, 1987. Thus, in the case of a corporation that is a family corporation because at least 50 percent of its shares are owned by a single family (sec. 447(c)(2) of present law and new sec. 447(d)(2)(C)(i)), recapture of the suspense account occurs any time after December 15, 1987, a transfer of stock occurs such that more than 50 percent of that corporation's stock is held by individuals who are not members of the family that held 50 percent or more of the corporation's stock on December 15, 1987. Similarly, in the case of a corporation that was a family corporation because more than 65 percent of its shares are owned by not more than three families (sec. 447(h)), recapture of the suspense account occurs any time, after December 15, 1987, a transfer of stock occurs such that more than 65 percent of that corporation's stock is held by individuals who were not members of the families that held 65 percent or more of the corporation's stock on December 15, 1987.

For example, 100 percent of the stock in a family corporation is owned by an individual and her sisters. If all of the stock is transferred to an unrelated individual and the unrelated individual's brothers, the balance in the suspense account is required to be taken into the income of the corporation in the year of transfer. Nevertheless, if the stock had been transferred to the sons and daughters of the original owners, no portion of the suspense account would be required to be taken into income as a result of the transfer, since the shares were transferred to members of the transferors' family.

In conformance with the House bill and the Senate amendment, these rules are applied to any taxpayer that is a party to any transaction in which there is nonrecognition of gain or loss to any party by reason of subchapter C under regulations prescribed by the Secretary of the Treasury. The conferees anticipate that these regulations will require the inclusion in income of the balance in the suspense account where the ownership of the family corporation is effectively transferred outside of the transferor's family, regardless of whether the transfer is described in section 381.

Effective date.—The provision of the conference agreement is effective for taxable years beginning after December 31, 1987.

9. Amortization of customer base intangibles and similar items

Present law

Taxpayers may take depreciation or amortization deductions for the exhaustion, wear, tear, and obsolescence of property (sec. 167(a)). No such deductions are allowed, however, with respect to property that is not a wasting asset or property whose useful life cannot be estimated with reasonable accuracy. Deductions are generally allowed for the costs attributed to such intangible assets as patents or other statutory or contract rights that exist for a specific, non-extendible period of time. However, because goodwill does not have a determinable useful life, no depreciation deduction is allowed with respect to that intangible asset. Accordingly, the portion of the purchase price of a business that is allocated to goodwill may not be amortized or depreciated. Goodwill has been defined as the expectancy of continued patronage, for whatever reason, or as the probability that old customers will resort to the old place.

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[10] For this purpose, gross receipts from taxable years of less than 12 months will be annualized.

A substantial portion of the purchase price of a business is frequently allocated to certain intangible assets that represent the value of the existing customer base, and amortized over the period it is estimated that those customers may be lost. Courts have upheld such deductions in some cases. In other cases, the deductions have been denied on varying grounds, including the similarity of the assets to goodwill or the failure of the taxpayers to establish that the asset had a determinable useful life. The cases permitting or suggesting the possibility of a deduction have not always indicated whether it is necessary to take into account any expectation or evidence that new customers will replace those that die, move away, or otherwise sever their customer relationships.

Generally, costs attributable to the creation or acquisition of an asset that has a useful life of more than a year may not be currently deducted, but must be capitalized. Goodwill typically would have a life extending beyond one year. However, taxpayers deduct currently costs that may contribute to the creation of goodwill or to the replacement of customer base.

If the transferor of a franchise, trademark, or trade name retains certain significant rights, the transfer is not treated as the sale or exchange of a capital asset (section 1253(a)). Section 1253(d)(2) of the Code permits the transferee to deduct a lump sum payment to such a transferor over a period of not more than 10 years, regardless of whether the period of the transfer exceeds 10 years or is for an indeterminate period. Internal Revenue Service private letter rulings have applied this provision to permit taxpayers to deduct over 10 years payments for franchises, trademarks or trade names made to transferors who do not retain significant rights with respect to the assets.

House bill

The bill provides that any amount paid or incurred to acquire customer base, market share, or any renewing or similar intangible item is treated as paid or incurred for intangible property with indeterminate useful life, and therefore is not amortizable or depreciable. Section 1253(d)(2) does not apply to any amount paid or incurred to acquire such assets.

A significant portion of the value attributed to franchises, trademarks or trade names would generally be considered attributed to an asset of indeterminate useful life. In addition, section 1253(d)(2) does not apply to any payment made by the transferee of a franchise, trademark or trade name to a transferor who does not retain any significant rights.

The provision applies to acquisitions after October 13, 1987, unless pursuant to a binding written contract in effect on that date and at all times thereafter. No inference is intended as to prior law.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

10. Election of taxable year other than required taxable year

Present law

Partnerships, S corporations, and personal service corporations generally are required to conform their taxable years to that of their owners, effective for taxable years beginning after December 31, 1986. An exception is made for a partnership, S corporation or personal service corporation that establishes to the satisfaction of the Secretary of the Treasury a business purpose for having a different taxable year.

House bill

In general

The House bill provides an election for a partnership, S corporation or personal service corporation that is otherwise required to change its taxable year to retain the taxable year used by the partnership, S corporation or personal service corporation for its last taxable year beginning in 1986. An election also is provided for such entities to adopt or change to taxable years with limited deferral periods, if such adoption or change does not result in a greater deferral than the year currently in use.

Partners in an electing partnership and shareholders in an electing S corporation are required to make enhanced estimated tax payments. An electing personal service corporation is limited in the amount of deductions it can take for payments to employee-owners unless certain minimum distributions are made to employee-owners before the end of the calendar year.

Taxable years which may be elected

A partnership, S corporation, or personal service corporation is required to use a taxable year determined by statute or regulation, unless it makes an election under this provision. Generally, a partnership, S corporation or personal service corporation may elect a different taxable year only if such taxable year results in a deferral period not longer than three months. The deferral period is the number of months between the close of the taxable period elected and the close of the taxable year otherwise required (the required taxable year). For example, if a taxable year ending September 30 is elected and a taxable year ending December 31 is otherwise required, the deferral period of the taxable year ending September 30 is three months.

In addition, a partnership, S corporation, or personal service corporation may elect a taxable year under this provision that is the same as the entity's last taxable year beginning in 1986. This election is available only if it is made for the entity's first taxable year beginning after December 31, 1986. Such an election is not required to be made prior to the 90th day after the date of enactment of this Act. In the case of a partnership, S corporation, or personal service corporation changing taxable years, an election is available only if the deferral period of the taxable year elected is not longer than the shorter of three months or the deferral period of the taxable year being changed.

A special provision is provided for C corporations that made an election after September 18, 1986 and before January 1, 1987 to be treated as S corporations. If such a former C corporation had a taxable year other than a calendar year at the time of the election to be treated as an S corporation and elected to have a calendar year as its taxable year as an S corporation, it may change to a taxable year that results in a deferral period not longer than the shorter of three months or the deferral period of the taxable year of the C corporation prior to the election to be treated as an S corporation.

The Secretary of the Treasury is directed to prescribe regulations as may be necessary to carry out these provisions, including but not limited to regulations to prevent a taxpayer from obtaining an elective taxable year that would otherwise not be available through a change in the form of any entity.

Effect of election

Partnerships and S corporations.—In the case of an electing partnership or S corporation, the partners or shareholders of such electing entity are required to make enhanced estimated tax payments. Enhanced estimated tax payments are due in four equal installments on the dates provided for the installment payments of estimated tax. The enhanced estimated tax payments are due whether or not the partner or S corporation shareholder otherwise is required to make a quarterly installment payment of estimated Federal tax. Failure to make required enhanced estimated tax payments results in the imposition of underpayment penalties in the same manner as if the enhanced estimated tax payments were required payments of estimated income tax.

The amount of the enhanced estimated tax payment for any partner or S corporation shareholder is an amount equal to the product of the applicable percentage multiplied by the highest rate of tax imposed by section 1 (35 percent for taxable years beginning in 1987) multiplied by the net base year income of the partner or S corporation shareholder. The applicable percentage is determined by the calendar year in which the applicable election year begins. The applicable election year is the year of the partnership or S corporation for which the election is in effect. The applicable percentage is 25 percent for applicable election years beginning in 1987 and increases by an additional 25 percent each year thereafter, so that the applicable percentage is 100 percent for applicable election years beginning in 1990 or thereafter.

The net base year is the year preceding the applicable election year. The net base year income of a partner or S corporation shareholder with respect to any partnership or S corporation is equal to the sum of (a) the deferral ratio times the taxpayer's distributive share of the partnership or S corporation's net income for the base year, plus (b) the excess (if any) of the deferral ratio times the aggregate amount of applicable payments made by the partnership or S corporation to the taxpayer during the base year over the aggregate amount of such payments made during the deferral period.

The deferral ratio is the number of months in the deferral period divided by the number of months in the partnership's or S corporation's taxable year. A partner's distributive share of partnership net income is the amount determined by taking into account the partner's distributive share of items described in sections 702(a) and 704, other than items of credit. An S corporation shareholder's distributive share is the amount determined by taking into account the shareholder's pro rata share of items described in section 1366(a), other than items of credit. In no case may a partner's or S corporation shareholder's distributive share for the purpose of this calculation be less than zero.

Applicable payments are amounts paid or incurred by a partnership or S corporation that are includible in the gross income of the partner or shareholder, other than as part of such partner's or shareholder's distributive share. The amount of such payments made in the deferral period is the amount of such payments made during the fiscal year before the beginning of a required taxable year.

A taxpayer is required to make enhanced estimated tax payments for all electing partnerships or S corporations in which such taxpayer owns shares or an interest. However, a taxpayer required to make aggregate payments of enhanced estimated taxes for the year of $200 or less is excused from making such payments.

An electing partnership or S corporation is required to compute and disclose to its partners or shareholders the enhanced estimated tax amount for each such partner or shareholder for the applicable election year, as well as any other information the Secretary of the Treasury may prescribe to carry out this provision. This does not, however, release the partner or shareholder from any responsibility he may have with regard to the determination of such amount.

Personal service corporations.—An electing personal service corporation is required to meet minimum distribution requirements in the portion of the applicable election year that constitutes the deferral period.[11] The minimum distribution requirements for any applicable election year are met if applicable amounts paid to employee-owners during the deferral period of the applicable election year equal or exceed the lesser of (a) the product of (i) the applicable amounts paid during the preceding taxable year, divided by the number of months in such year, multiplied by (ii) the number of months in the deferral period or (b) the applicable percentage of the adjusted taxable income of the personal service corporation for the deferral period of the applicable election year. For these purposes, the applicable percentage is the average percentage (not to exceed 95 percent) of the adjusted taxable income of the personal service corporation that was paid out in applicable amounts over the prior three taxable years. Adjusted taxable income is the taxable income for the period increased by any amount paid or incurred to an employee-owner that was taken into account in determining taxable income.

If a personal service corporation fails to meet the minimum distribution requirement for any applicable election year, the amount of applicable payments it may deduct for the applicable election year is limited to a maximum deductible amount. The maximum deductible amount is equal to the sum of (a) the applicable amounts paid in the deferral period plus (b) the applicable amounts paid in the deferral period divided by the number of months in the deferral period multiplied by the number of months not in the deferral period. Any amount paid or incurred by the personal service corporation that would be deductible but for the maximum deduction amount is treated as paid or incurred in the succeeding taxable year.

Tiered structures

The committee is concerned that the use of the election in the case of tiered structures may not yield appropriate results. Accordingly, the elections provided by this provision are not available to an entity that is part of a tiered structure, except as provided in regulations. An example of such a tiered structure would be a calendar year partnership with partners that are personal service corporations with taxable years ending November 30 where the personal service corporations are in turn owned by calendar year individuals. Except as provided in regulations, neither the partnership nor the personal service corporations described would be allowed to use the election provided by this provision.

Effective Date.—The provision generally is effective for taxable years beginning after December 31, 1986. The requirement that enhanced estimated taxes be paid by partners and shareholders of electing entities is effective for taxable years beginning after December 31, 1987, with respect to applicable election years beginning after December 31, 1986.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with a modification requiring an electing partnership or S corporation, rather than the owners of such an entity, to make additional payments. Such additional payments are treated as payments of tax imposed by subtitle C. The conference agreement also clarifies which tiered structures will be eligible to make the election to use a taxable year other than the required taxable year. Further, the conference agreement provides special rules for S corporations that were previously C corporations and denies a net operating loss carrryback to or from any taxable year of a personal service corporation to which an election applies.

Entity level payments

The conference agreement provides that an electing partnership or S corporation must make a "required payment" for any taxable year for which an election is in effect. The payment is due on April 15th of the calendar year following the calendar year in which the election year begins, unless the Secretary of the Treasury provides for a later date. The "required payment" is the payment of a tax imposed by subtitle C that is due on such date. Willful failure by an entity to comply with these rules results in the cancellation of the election by the entity, effective from the year in which the willful failure occurred. The payment by the electing entity replaces the requirement that the owners of such electing entities make enhanced estimated tax payments included in the House bill.

The "required payment" for an election year is equal to the excess of (a) the product of the applicable percentage of the adjusted highest section 1 tax rate multiplied by the net base year income of the entity over (b) the amount of the required payment for the preceding election year. The adjusted highest section 1 rate is 36 percent for election years beginning in 1987, and the rate of tax imposed by section 1 as of the end of the year preceding the election year, plus one percentage point for all other election years. If the required payment for any election year is negative, the entity is entitled to a refund of such amount.

An entity's net base year income is equal to the sum of the deferral ratio multiplied by the entity's net income for the preceding taxable year, plus the excess of (a) the deferral ratio multiplied by the aggregate amount of applicable payments made by the entity during the preceding year, over (b) the aggregate amount of such applicable payments made during the deferral period of the preceding year. The deferral ratio is the ratio that the number of months in the deferral period of the preceding taxable year bears to the number of months in the entity's preceding taxable year. In the case of a partnership, net income is the amount (not less than zero) determined by taking into account the aggregate amount of the partnership's items (other than credits) described in section 702(a). In the case of an S corporation, net income is the amount (not less than zero) determined by taking into account the aggregate amount of the S corporation's items (other than credits) described in section 1366(a). In the case of an S corporation that was a C corporation for such preceding taxable year, net income is the amount (not less than zero) of its taxable income for such year. Applicable payments are amounts paid or incurred by a partnership or S corporation includible in the gross income of its owner, other than gains from the sale or exchange of property between the owner and the entity and dividends.

An entity does not make a "required payment" if the total of required payments for the current and all preceding election years does not exceed $500. An amount not required to be paid is not considered to be part of the required payment for the preceding election year for the purpose of determining the amount of the required payment for the current election year. For example, the required payment of an entity would be $400 in its first election year and an additional $400 in its second election year before the application of this rule. The entity does not make a required payment for the first election year and makes a required payment of $800 for the second election year.

No interest is due or allowable with respect to the refund due an entity in a year in which it has a negative required payment. The Secretary of the Treasury is directed to prescribe such regulations as may be necessary to carry out this provision, including regulations requiring annualization of years of less than 12 months.

Personal service corporations

The conference agreement generally follows the House bill with regard to the treatment of personal service corporations electing a taxable year other than a required taxable year. If a personal service corporation is denied a deduction for all or part of a payment to an owner-employee, the amount for which the deduction is denied is treated as paid or incurred in the succeeding taxable year. No carryback of a net operating loss is allowed either from or to an applicable election year of a personal service corporation.

Tiered structures

No election to use a taxable year other than a required taxable year may be made by an entity that is part of tiered structure other than a tiered structure comprised of one or more partnerships or S corporations, all having the same taxable year. For example, a June partnership that has traditionally used a taxable year ending June 30 is owned by calendar year individuals and an S corporation that has also traditionally used a taxable year ending June 30. The partnership and S corporation may make elections under this provision to continue to use their taxable years ending June 30, providing the election is made by both entities.

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[11] Since personal service corporations are required to use the calendar year, the deferral period is the portion of the applicable election year before January 1.

Effective date.—The conference agreement generally has the same effective date as the House bill. A corporation that made an election after September 18, 1986 and before January 1, 1988 (as long as such election has not been revoked) to be treated as an S corporation and to have the calendar year as the taxable year of the S corporation may elect a taxable year under this provision if the deferral period of the taxable year elected is not longer than the shorter of three months or the deferral period of the taxable year used by the corporation prior to its election to be treated as an S corporation.

B. PARTNERSHIP PROVISIONS

1. Certain publicly traded partnerships treated as corporations

Present law

Under present law, a partnership is not subject to tax at the partnership level, but rather, income and loss of the partnership is subject to tax at the partner's level. A partner's share of partnership income is generally determined without regard to whether he receives any corresponding cash distributions. Similarly, partnership deductions, losses and credits are taken into account at the partner level for tax purposes. A corporation, by contrast, generally is subject to tax at the entity level, and distributions with respect to corporate stock generally are subject to tax at the shareholder level.

The Treasury regulations distinguishing partnerships from corporations currently provide that whether a business entity is taxed as a corporation depends on which form of enterprise the entity "more nearly" resembles (Treas. Reg. sec. 301.7701-2(a)). The regulations list six corporate characteristics, two of which are common to corporations and partnerships, and the other four of which are: (1) continuity of life, (2) centralization of management, (3) liability for corporate debts limited to corporate property, and (4) free transferability of interests. The regulations provide that an association is treated as a corporation (rather than a partnership) for Federal income tax purposes if it has more corporate than non-corporate characteristics. The effect of the regulations generally is to classify an entity as a partnership if it lacks any two of these four corporate characteristics, without further inquiry as to how strong or weak a particular characteristic is or how the evaluation of the factors might affect overall resemblance.[1]

Under present law, if an entity is classified as a partnership, income and loss are subject to tax at the partner level rather than at the partnership level without regard to whether the partnership is engaged in active business activities.

House bill

Under the provision, publicly traded partnerships are treated as corporations for Federal income tax purposes. An exception is provided for certain partnerships, 90 percent or more of whose gross income is passive-type income (as defined for purposes of the provision).

Passive-type income

Passive-type income, for purposes of the provision, is defined as certain interest, dividends, real property rents, gains from the sale or other disposition of real property, and income and gains from certain natural resources activities. Also treated as passive-type income is any gain from the sale or disposition of a capital asset or property described in sec. 1231(b) that is held for the production of income that is treated as passive-type income (e.g., typical commodity pools).

Inadvertent terminations

The bill provides relief from classification as a corporation for tax purposes, where a partnership inadvertently fails to meet the requirement that 90 percent of its gross income be passive-type income. Under this relief provision, if (1) the Secretary determines that the failure was inadvertent, (2) the partnership takes steps within a reasonable time to meet the 90 percent requirement, and (3) the partnership and each holder of an interest in the partnership during the failure period agree to make adjustments determined by the Secretary, then the partnership will be treated as continuing to meet the 90 percent requirement during the failure period. A reasonable time, for this purpose, would be one year, unless otherwise determined in regulations.

Publicly traded partnerships

Publicly traded partnerships are defined for purposes of the provision as partnerships whose interests are (1) traded on an established securities market, or (2) offered with the expectation that there will be a secondary market for such interests, or (3) readily tradable in a secondary market (or the substantial equivalent thereof).

Treatment as a corporation

The bill provides that, in the case of a partnership that is treated as a corporation under this provision, the partnership is treated as contributing all of its assets (subject to all of its liabilities) to a newly formed corporation in exchange for all of the corporation's stock. The stock of the corporation is treated as distributed to the corporation in complete liquidation of the partnership. In general, the tax consequences to the partnership, the corporation, and the distributee holders of interests in the partnership who become shareholders in the new corporation are governed by secs. 351 (permitting tax-free contributions to corporations that are controlled immediately after the contribution transaction), 731 and 732 (governing the treatment of liquidating distributions from partnerships). Rules applicable to recognition of income upon recapture of tax benefits also apply.

Income from publicly traded partnerships that are classified as corporations under the bill generally is treated as dividend income. Regardless of whether such income is characterized as income or gain (e.g., depending on whether it represents a distribution of earnings and profits under section 301), income from such entities is properly treated as portfolio income for purposes of the passive loss rule.

The provision is effective after October 13, 1987, except for existing partnerships. An existing partnership is any partnership publicly traded on October 13, 1987.

An existing partnership also includes a partnership with respect to which a registration statement was filed with the Securities and Exchange Commission on or before October 13, 1987, stating in such registration statement as of October 13, 1987, that the partnership will or intends to publicly trade interests or units including by application for listing on any national securities exchange or local exchange or by trading in an over-the-counter market which results in interests or units so registered to be listed on such exchange or available for trading in an over-the-counter market within a reasonable time after such registration becomes effective. The committee does not intend to grandfather partnerships where registration statements filed on or before October 13, 1987, indicate that there is a possibility (e.g., the general partner may determine) that the interests or units may trade in the future, as opposed to indicating a determination that at the time the partnership is registered with the SEC, trading will occur within a reasonable time after the registration becoming effective.

An existing partnership ceases to be treated as such on the first day after October 13, 1987, on which there has been a substantial expansion of the partnership, or the activities of the partnership have been substantially changed. Any partnership not treated as an existing partnership, that becomes publicly traded after October 13, 1987, is treated as a corporation for tax purposes upon being publicly traded (unless the exception relating to passive-type income applies).

The provision becomes effective with respect to partnerships theretofore grandfathered under the provision for taxable years beginning after December 31, 1994.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, with modifications.

Under the conference agreement, as under the House bill, a publicly traded partnership is treated as a corporation unless 90 percent or more of its gross income consists of qualifying income.

As under the House bill, the provision does not apply to any partnership that would be described in sec. 851(a) if it were a domestic corporation. Thus, a publicly traded partnership that is registered under the Investment Company Act of 1940 generally is treated as a corporation under the provision. The conference agreement provides an exception to this rule, however, to the extent provided in regulations, in the case of a partnership that is registered under the Investment Company Act of 1940, and a principal activity of which is the buying and selling of commodities or options, futures or forward contracts with respect to commodities (including foreign currency transactions of a commodity pool). Thus, for example, an existing partnership that is required to register under the 1940 Act because it is engaged in the business of investing in securities, and a principal activity of which is the buying and selling of such commodities (or futures, options or forward contracts with respect to such commodities), is treated as a partnership as provided in Treasury regulations.

Passive-type income

Under the conference agreement, passive-type income includes interest, dividends, real property rents, gain from the disposition of real property, and income and gains from certain natural resources activities. Passive-type income also includes gain from disposition of a capital asset or property described in section 1231(b) that is held for the production of income that is passive-type income. In addition, passive-type income includes income and gains from commodities (not described in section 1221(1)) or futures, options or forward contracts with respect to such commodities (including foreign currency transactions of a commodity pool) in the case of partnerships, a principal activity of which is the buying and selling of such commodities, futures, options or forward contracts (i.e., typical commodity pools).

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[1] Treas. Reg. secs. 301.7701-2 and -3; *Larson* v. *Commissioner*, 66 T.C. 159 (1976), acq. 1979-1 C.B. 1.

In determining whether 90 percent of a partnership's gross income is passive-type income in the case of the sale or other disposition of real property described in section 1221(1) (i.e., inventory-type property or property held primarily for sale to customers), gross income is not reduced by inventory costs taken into account in determining the gain from the disposition of the real property.

Income and gains from certain activities with respect to minerals or natural resources are treated as passive-type income. Specifically, natural resources include fertilizer geothermal energy, and timber, as well as oil, gas or products thereof. For this purpose, fertilizer includes plant nutrients such as sulphur, phosphate, potash and nitrogen that are used for the production of crops and phosphate-based livestock feed. For this purpose, oil, gas, or products thereof means gasoline, kerosene, number 2 fuel oil, refined lubricating oils, diesel fuel, methane, butane, propane, and similar products which are recovered from petroleum refineries or field facilities. Oil, gas, or products thereof are not intended to encompass oil or gas products that are produced by additional processing beyond that of petroleum refineries or field facilities, such as plastics or similar petroleum derivatives. Income of certain partnerships whose exclusive activities are transportation and marketing activities is not treated as passive-type income. For example, the income of a partnership whose exclusive activity is transporting refined petroleum products by pipeline is intended to be treated as passive-type income, but the income of a partnership whose exclusive activities are transporting refined petroleum products by truck, or retail marketing with respect to refined petroleum products (e.g., gas station operations) is not intended to be treated as passive-type income.

In determining whether income is treated as passive-type income under the provision, in the case of interest and real property rents, it is not intended that amounts contingent on profits be treated as interest or rent. Interest or rent (or other amounts) contingent on profits involves a greater degree of risk, and also a greater potential for economic gain, than a fixed (or even a market-indexed) rate of interest or rent, and thus is more properly regarded as from an underlying active business activity. Under the provision, the determination of whether real property rents based on gross sales are passive-type income is made in accordance with the rules of section 856(d), without regard to section 856(d)(2)(C). Thus, real property rents based on a fixed percentage of receipts or of gross sales are not excluded from rents that are treated as passive-type income. Passive-type rental income does not include income from rental or leasing of personal property.

Publicly traded partnerships

Under the conference agreement, publicly traded partnerships are defined as partnerships whose interests are (1) traded on an established securities market, or (2) readily tradable on a secondary market (or the substantial equivalent thereof).

For this purpose, an established securities market includes any national securities exchange registered under the Securities Exchange Act of 1934 or exempted from registration because of the limited volume of transactions, and any local exchange. It also includes any over the counter market. An over the counter market is characterized by an interdealer quotation system which regularly disseminates quotations of obligations by identified brokers or dealers, by electronic means or otherwise.

A publicly traded partnership also includes a partnership whose interests are readily tradable on a secondary market (or the substantial equivalent thereof). The conferees intend that this test be applied to encompass in the definition of publicly traded partnerships those partnerships that are not traded on established securities markets, but whose partners are nevertheless readily able to buy, sell or exchange their partnership interests in a manner that is comparable, economically, to trading on established securities markets. The conferees intend that substance rather than form determine whether a partnership is treated as publicly traded; whether public trading takes place on an established securities market or elsewhere is not determinative.

A secondary market is generally indicated by the existence of a person standing ready to make a market in the interest. An interest is treated as readily tradable if the interest is regularly quoted by persons such as brokers or dealers who are making a market in the interest. (See Temp. Treas. Reg. section 15a.453-1(e)(4)(iii).) Thus, for example, an interest is readily tradable in a secondary market where the interest is traded on a market essentially equivalent to an over the counter market.

The substantial equivalent of a secondary market exists where there is not an identifiable market maker but the holder of an interest has a readily available, regular and ongoing opportunity to sell or exchange his interest through a public means of obtaining or providing information of offers to buy, sell or exchange interests. Similarly, the substantial equivalent of a secondary market exists where prospective buyers and sellers have the opportunity to buy, sell or exchange interests in a time frame and with the regularity and continuity that the existence of a market maker would provide.

If interests can be traded in a market that is publicly available, but offers to buy or sell interests are normally not accepted in a time frame comparable to that which would be available on a secondary market, then the interests are not treated as readily tradeable on the substantial equivalent of a secondary market. For example, if interests are quoted and traded on an irregular basis as a result of bid and asked prices listed on a computerized system, and such interests cannot normally be disposed of within the time that they could be disposed of in an over the counter market, then the interests are not considered as readily tradable on the substantial equivalent of a secondary market.

In addition, it is not intended that partnership interests be treated as readily tradable on a secondary market or the substantial equivalent of a secondary market where there are occasional accommodation trades of partnership interests (e.g., where the general partner or the partnership sometimes purchases interests from other partners, not pursuant to a put or call right, or where the underwriter that handled the issuance of the partnership interests occasionally arranges such accommodation trades. Similarly, where the general partner provides information to its partners regarding such partners' desire to buy or sell interests to each other, or arranges such transfers between partners, without offering to buy or redeem interests or issues additional interests to such partners, a secondary market or the substantial equivalent of a secondary market is not created.

The existence of a buy-sell agreement among the partners, without more, will not cause a partnership to be treated as publicly traded. Nor will the occasional and irregular repurchase or redemption by the partnership, or acquisition by the general partner, of interests in the partnership, cause the partnership to be considered as publicly traded under the provision. A regular plan of redemptions or repurchases, or similar acquisitions of interests in the partnership such that holders of interests have readily available, regular and ongoing opportunities to dispose of their interests, indicates that the interests are readily tradable on what is the substantial equivalent of a secondary market.

The conferees intend that the complicity or participation (express or tacit) of the partnership or the general partner is relevant in determining whether there is public trading of its interests. Thus, for example, if the partnership acts to list its interests on an exchange, it is clearly participating in causing its interests to be publicly traded.

A partnership is considered as participating in public trading of its interests where trading is in fact taking place (even though the partnership may not have taken explicit action to permit trading, such as by listing on an exchange), and the partnership agreement imposes no meaningful limitation on partners' ability to readily transfer their interests. For example, a provision for the discretion of the general partner or the partnership to refuse consent to the transfer of an interest in the partnership (or of rights to income or other attributes of an interest in the partnership) does not, without more, prevent a partnership from being considered publicly traded. Similarly, the discretion of the general partner to refuse consent to a transfer if the transfer would cause a termination of the partnership for Federal income tax purposes does not cause the partnership to be treated as not publicly traded. Likewise, if the general partner must consent to any transfer of an interest in the partnership, but the assignment of rights to income (or other attributes) of the partnership is not so limited, the consent requirement does not cause the partnership to be considered as not publicly traded.

Conversely, if the partnership agreement provides that partnership interests may not be transferred (and rights to partnership income or other attributes may not be assigned), or provides that partners have only a restricted and limited right to transfer partnership interests or assign partnership income or other attributes, then the conferees intend that occasional actual transfers of interests or assignments of rights generally will not cause the partnership to be treated as publicly traded. A partner's right to transfer an interest or assign rights is considered as restricted and limited, for this purpose, where the transfer of interests or assignment of rights is permitted only in circumstances such as death or divorce of a partner, gifts, certain types of transfers to related parties (such as intrafamily transfers or transfers within an affiliated group where the ownership of the interest or rights is effectively unchanged), or in the case of an occasional accommodation transfer by a partner.

If interests in a partnership are not traded on an established securities market, and the general partner and the partnership have the right to refuse to recognize trades in a secondary market or the substantial equivalent thereof, and exercise the right by taking such actions as are necessary so that trades or assignments of rights are not in fact recognized (either by the general partner, the partnership, the underwriter, or the depositary or any other agent of the partnership or general partner), then the partnership interests are not intended to be treated as publicly traded under the provision.

Inadvertent terminations

The relief provision in the case of inadvertent terminations is the same as the House bill, except that the Treasury regulatory authority with respect to adjustments is modified. The conference agreement provides that the partnership may be treated as continuing to meet the 90 percent test with respect to gross income if the partnership agrees to make such adjustments (including adjustments with respect to the partners) as are required by the Treasury Secretary with respect to the period of inadvertent termination (and provided the other two requirements imposed under the House bill and the conference agreement are also satisfied).

Effective date.—The provision is effective for taxable years after December 31, 1987.

The conference agreement provides a grandfather rule similar to the House bill, for partnerships existing on December 17, 1987, and the provision applies to existing partnerships for taxable years beginning after December 31, 1997. A partnership is not treated as an existing partnership if there has been an addition of a substantial new line of business. Dropping a line of business does not cause an existing partnership to cease to be treated as such. For this purpose, a substantial new line of business does not include a line of business which was specifically described as a proposed business activity of the partnership (not including a general grant of authority to conduct any business) in a registration statement or amendment thereto filed on behalf of the partnership with the SEC on or before December 17, 1987, but in which the partnership had not actively engaged on or before December 17, 1987.

As provided in the House bill, an existing partnership includes a partnership that filed a registration statement with the Securities and Exchange Commission on or before December 17, 1987 indicating that the partnership was to be a publicly traded partnership. For this purpose, the transfer of assets to the partnership and commencement of business, substantially as described or provided for in the registration statement (including subsequent amendments and filings related thereto that do not add descriptions of new lines of business), and the sale of interests in the partnership will not be treated as the addition of a substantial new line of business. It is not intended that the termination (within the meaning of section 708) of such a partnership as a result of the issuance or sale of partnership interests cause the partnership not to be treated as an existing partnership. An existing partnership also includes a partnership that filed a statement with a State regulatory commission on or before December 17, 1987 seeking permission to restructure a portion of a corporation as a publicly traded partnership (whether or not such partnership was actually in existence on December 17, 1987).

2. Treatment of publicly traded partnerships under the passive loss rule

Present law

Under present law, deductions from passive trade or business activities (within the meaning of the passive loss rule (sec. 469)), to the extent they exceed income from such passive activities, generally may not be deducted against other income. Similarly, credits from passive activities generally are limited to the tax attributable to the passive activities. Suspended losses and credits are carried forward and treated as deductions and credits from passive activities in the next year. Suspended losses from an activity are allowed in full when the taxpayer disposes of his entire interest in the activity.

Income from passive activities does not include income such as compensation for services or portfolio income (including interest, dividends, royalties, annuities, and gains from the sale of property held for investment). For this purpose, property held for investment generally does not include an interest in a passive activity.

A passive activity generally is an activity involving the conduct of a trade or business in which the taxpayer does not materially participate. Present law provides that, except as provided in regulations, no interest in a limited partnership as a limited partner is treated as an interest with respect to which the taxpayer materially participates. Present law also provides Treasury regulatory authority to issue regulations requiring net income or gain from a limited partnership to be treated as not from a passive activity. Thus, except to the extent that the Treasury Department may provide in regulations, income from limited partnerships, including publicly traded limited partnerships, may be offset by passive losses from other sources.

House bill

Under the bill, net income from publicly traded partnerships is not treated as passive income for purposes of the passive loss rule. Each partner in a publicly traded partnership treats loss (if any) from the partnership as separate from income and loss from any other publicly traded partnership, and also as separate from any income or loss from passive activities. Net income from publicly traded partnerships is treated as portfolio income under the passive loss rule.

Net losses attributable to the interest in the publicly traded partnership are not allowed against the partner's other income, but rather are suspended and carried forward. Such net losses can be applied against net income from the partnership in the next year (or the next succeeding year in which the holder of an interest in the partnership has net income from the partnership). Upon a complete disposition (within the meaning of the passive loss rule) of the partner's entire interest in the publicly traded partnership, any remaining suspended losses are allowed.

In general, income and loss items attributable to an interest in a publicly traded partnership can offset each other. In the case of publicly traded partnerships with income that is treated as portfolio income (under the passive loss rule as generally applicable) and losses from business activities, the losses are not intended to be applied against the portfolio income. Partners' shares of the loss may not be applied against their shares of that portfolio income. Thus, partners in publicly traded partnerships cannot offset losses from partnership activities against portfolio income within the partnership that could not be offset against portfolio income derived outside the publicly traded partnership.

Under the House bill, partners in publicly traded partnerships are not allowed any amounts under the special $25,000 allowance for rental real estate activities (regardless of whether such amounts would be allowable under the passive loss rule as generally applicable).

Publicly traded partnerships are defined for purposes of the provision as partnerships whose interests are (1) traded on an established securities market, or (2) offered with the expectation that there will be a secondary market for such interests, or (3) readily tradable in a secondary market (or the substantial equivalent thereof).

The intended overall result is that net losses and credits of a partner from each publicly traded partnership be suspended at the partner level, carried forward (not back) and netted only against income from (or tax liability attributable to) that publicly traded partnership, and that suspended losses are allowed upon a complete disposition of the partner's interest in the partnership.

The provision is effective as if included in the amendments made by section 501 of the Tax Reform Act of 1986. Thus, the provision is effective for taxable years beginning after December 31, 1986.

Senate amendment

The Senate amendment is generally the same as the House bill, with two differences.

First, publicly traded partnerships are defined for purposes of the Senate amendment provision as partnerships whose interests are (1) traded on an established securities market, or (2) readily tradable in a secondary market (or the substantial equivalent thereof).

Second, it is intended under the Senate amendment that a partner be entitled to the $25,000 (deduction equivalent) allowance with respect to credits from the partnership as under present law. Thus, a partner in a publicly traded partnership may utilize his share of partnership low income housing credits and rehabilitation credits against tax liability attributable to nonpartnership income to the extent of his unused $25,000 (deduction equivalent) allowance.

Conference agreement

The conference agreement follows the Senate amendment, with a technical modification to provide that the $25,000 allowance of (deduction equivalent) credits applies at the partner level, to the extent the amount of such credits exceeds the partner's regular tax liability attributable to income from the partnership. Such credits are allowable under the partner's $25,000 allowance to the extent that the partner has not fully utilized the allowance with respect to losses and credits from passive activities otherwise allowed under present law sec. 469. The term publicly traded partnership has the same meaning for this provision as for the provision under the conference agreement treating certain publicly traded partnerships as corporations.

3. Treatment of publicly traded partnerships for unrelated business tax

Present law

Under present law, tax-exempt organizations are subject to tax on income from unrelated businesses. Certain types of income (such as interest and certain rental income) are, however, not treated as unrelated business income. Present law also provides that a partner's distributive share of income from a partnership retains the same character as in the hands of the partnership. Thus, a tax-exempt organization's share of income from a partnership (including a publicly traded partnership) may be treated as unrelated business income, or not, depending on the underlying character of the income to the partnership.

House bill

The bill provides that a tax-exempt organization's share (whether or not distributed) of the gross income of a publicly traded partnership (that is not otherwise treated as a corporation) is treated as gross income derived from an unrelated trade or business, and taxable to the organization. The organization's share of the partnership deductions are allowed in computing the organization's taxable unrelated business income. The amounts includable or deductible under this provision are based on the income and deductions of the partnership for the taxable year of the partnership ending within or with the taxable year of the organization.

A publicly traded partnership has the same meaning for purposes of this provision as under the provision added by sec. 10211 of the bill (section 7704 of the Code).

The provision is effective with respect to partnership interests acquired after October 13, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, except that the provision is effective with respect to partnership interests acquired after December 17, 1987.

4. Treatment of certain partnership allocations

Present law

Under present law, tax-exempt organizations generally are subject to tax on unrelated business income (section 511). In general, income from debt-financed property is treated as unrelated business income (section 514). An exception from the unrelated business income tax is provided in the case of debt-financed real property of a partnership that includes a qualified pension plan, educational organization or title holding company (i.e., a qualified tax-exempt organization) (section 514(c)(9)(C)). The exception applies as long as the property is not leased back to the seller and certain other requirements are met, and as long as the principal purpose of any disproportionate allocation to a tax exempt organization is not the avoidance of income tax.

House bill

The bill provides that the exception from treatment of income from debt-financed real property as unrelated business income is available only if certain requirements are met. In addition to the requirements of present law, the bill requires that either (1) each partner be a qualified tax-exempt organization, or (2) if any partner is not a tax-exempt organization, each allocation to a partner that is a qualified tax-exempt organization be (a) consistent with such organization's being allocated the same distributive share of each item of income, gain, loss, deduction, credit, and basis and such share remains the same during the entire period the entity is a partner in the partnership, and (b) the allocation has substantial economic effect within the meaning of the partnership tax rules. The provision retains the rule of present law that an interest in a mortgage is not treated as real property.

The provision applies to property acquired after October 13, 1987. An exception is provided for property acquired pursuant to a binding contract in effect on October 13, 1987, and at all times thereafter before the property was acquired.

Senate amendment

No provision.

Conference agreement

In general

The conference agreement generally follows the House bill, but adds a rule permitting certain types of disproportionate allocations provided the allocations met certain requirements.

Disproportionate allocations

Under the conference agreement, income from debt-financed real property of a partnership that includes both tax-exempt and taxable organizations can qualify under the unrelated business income exception if each allocation to a tax-exempt organization that is a partner is a qualified allocation (within the meaning of section 168(h)(6)), or if the partnership meets the requirements of a new rule allowing certain disproportionate allocations (section 514(c)(9)(E)). A partnership satisfies the disproportionate allocation rule if throughout the entire period that a tax-exempt organization is a partner in the partnership (i) no distributive share of overall partnership loss allocable to a taxable partner can exceed such partner's smallest distributive share of overall partnership income for any taxable year, (ii) no distributive share of overall partnership income allocable to a tax-exempt partner can exceed such partner's smallest distributive share of overall partnership loss for any taxable year, and (iii) each partnership allocation has substantial economic effect within the meaning of section 704(b). The conferees also intend that, in order to satisfy the disproportionate allocation rule, the allocation of items of credit and basis must be made in a manner that is consistent with the limitations on the allocation of overall partnership loss.

Under the disproportionate allocation rule, the exception from unrelated business income treatment is available only if the requirements of the rule are satisfied with respect to each partner. That is, the requirements of the provision must be met with respect to disproportionate allocations to each partner, rather than disproportionate allocations to tax-exempt partners as a group and to taxable partners as a group. Unless the partners' distributive shares of net income or loss will satisfy the requirements of the provision in each taxable year in which a tax-exempt organization is a partner in the partnership, the income from the partnership does not qualify under the unrelated business income exception.

This rule permits separate allocation of items of income, gain, loss and deduction rather than requiring that every item be allocated in the same ratio or requiring only allocations of bottom line profit or loss. The determination of whether the requirements of the rule are satisfied must be made on the basis of each partner's distributive share of overall partnership income or overall partnership loss for each taxable year, taking into account any item allocations. Overall partnership income for any year means the amount, if any, by which the items of partnership income and gain for the year exceeds the items of partnership deduction and loss for such year. Overall partnership loss for any taxable year means the amount, if any, by which the items of partnership deduction and loss for the year exceed the items of partnership income and gain for such year.

It is intended that the disproportionate allocation rule be applied by looking to the provisions of the partnership agreement with respect to each partner's distributive share. The partnership agreement is intended to include any side agreements or separate understandings among the partners. If it is not clear under the terms of the partnership agreement that the allocations meet the requirements of the provision, the income of the partnership does not qualify under the unrelated business income exception. Where the agreement permits allocations that do not satisfy the disproportionate allocation rule at the first time the partnership includes a tax-exempt partner, then the income of the partnership does not qualify under the unrelated business income exception.

Changes in, or amendments to, the allocation provisions of the partnership agreement resulting in disproportionate allocations that would not have satisfied the general rule when a tax-exempt organization first became a partner, will cause the income of the partnership not to qualify under the unrelated business income exception at the time of the change, including open years. It is intended that particular scrutiny be applied to changes to the partnership allocation provisions that are not accompanied by changes in the economics of the partnership arrangement (e.g., not accompanied by the admission of new partners or by capital contributions to the partnership), because of the possibility that such changes may have been previously contemplated.

Allocations that are not expressed in percentages (such as allocations based on economic contingencies or allocations of flat dollar amounts) may not qualify under the provision unless it can be shown that in all circumstances they will satisfy the disproportionate disallowance rule. For example, an allocation of the first $500 of overall partnership loss to a partner cannot satisfy the requirements of the provision because it is not clear what percentage of overall partnership loss such an amount would be for any particular taxable year. Conversely, an allocation of 50 percent of overall partnership loss, up to the amount of the partner's capital account, could satisfy the requirements of the provision.

Example.—The operation of the disproportionate allocation rule is illustrated as follows. A partnership is formed by a taxable partner and a tax-exempt partner, and has debt-financed real property. In years 1 through 5 of the partnership, overall partnership income is allocated 60 percent to the tax-exempt partner and 40 percent to the taxable partner, while overall partnership loss is allocated 80 percent to the tax-exempt partner and 20 percent to the taxable partner. In years 6 through 10 of the partnership, overall partnership income is allocated 40 percent to the tax-exempt partner and 60 percent to the taxable partner, while overall partnership loss is allocated 20 percent to the tax-exempt partner and 80 percent to the taxable partner. The allocations do not qualify under the provision, because the tax-exempt partner's smallest share of loss is 20 percent, and this is exceeded by the allocation to him of 60 percent (in years 1 through 5) and 40 percent (in years 6 through 10) of the overall partnership income. The largest share of income that can be allocated to him consistently with the provision is 20 percent. Any portion of partnership income from 0 to 20 percent can be allocated to him, however, consistently with the provision. Similarly, the largest share of loss that can be allocated to the taxable partner is 40 percent (i.e., his smallest share of overall partnership income).

Chargebacks

In addition, the provision permits (except as otherwise provided in regulations) charge-backs of income or loss to particular partners to offset the amount of prior disproportionate allocations of loss or income that were consistent with the general rule. Thus, disproportionate allocations of overall partnership income may be made to a tax-exempt partner, and overall partnership loss to a taxable partner, to offset such a prior disproportionate allocation. The amount of the chargeback cannot exceed the amount of the prior allocation, and must be made in the same ratio as the prior allocation. Thus, chargebacks may be slower, but not faster, than they might otherwise be absent this restriction.

Example.—For example, a partnership allocates each item of partnership income, gain, loss, or deduction 50 percent to the tax-exempt partner and 50 percent to the taxable partner, except that the first $1,000 of overall partnership loss is allocated 80 percent to the tax-exempt partner and 20 percent to the taxable partner. In 1988, the partnership has an overall partnership loss of $1,000, which is allocated $800 to the tax-exempt partner and $200 to the taxable partner. In 1989, the partnership has overall partnership income of $500 that may be disproportionately allocated to the tax-exempt partner to offset the disproportionate allocation of loss to such partner in 1988 without violating the general rule. This income chargeback, however, must be made in the same 80/20 ratio at which the disproportionate allocation of loss was made to comply with the special rule for chargebacks. Thus, no more than $400 of income can be charged back to the tax-exempt partner in 1989 in order to comply with the disproportionate allocation rule.

Preferred returns and guaranteed payments

The provision also grants Treasury regulatory authority to provide for reasonable preferred returns (i.e., priority cash distributions) or reasonable guaranteed payments (within the meaning of section 707(c)). It is intended that such regulatory authority be exercised consistently with the purpose of the provision to limit the transfer of tax benefits from tax-exempt partners to taxable partners, whether through deferral of income to the taxable partner by virtue of directing income to the tax-exempt partner, or through providing shelter opportunities to the taxable partner by virtue of directing losses and deductions to the taxable partner.

Effective date.—The provision is effective for property acquired by the partnership after October 13, 1987, and for partnership interests acquired after October 13, 1987. An exception is provided for property acquired by, or constructed for, the partnership pursuant to a binding contract in effect on October 13, 1987, and at all times thereafter before the property is acquired.

5. Collection of tax from partnerships

Present law

Under present law, each partnership is required to file a partnership return setting forth the partnership income, deductions, and credits, and each partner's distributive share of these items. In general, each partner is required to treat items on his or her own income tax return consistently with the treatment on the partnership return.

The proper tax treatment of partnership items generally is administratively and judicially determined at the partnership level rather than in separate proceedings with each partner.[2] Upon a determination that the partnership has underreported the amount of net income shown on its return, the Internal Revenue Service may then proceed to assess and collect from each partner any additional income tax owed by that partner resulting from the determination.

House bill

The bill generally provides that the Internal Revenue Service may collect underpayments of tax resulting from administrative or judicial determinations with registered partnerships from the partnership itself, as well as from each partner.[3]

Under the bill, any shortfall of tax resulting from an applicable return adjustment must be paid by the partnership on notice and demand by the Internal Revenue Service in the same manner as a tax imposed on the partnership.

The amount of shortfall in tax for any taxable year equals (1) the applicable percentage of the sum of amount by which the amount of income or gains determined in accordance with the applicable return adjustment exceeds the amount of income or gains shown on the partnership return plus the amount by which the deductions and losses shown on the partnership return exceed the deductions and losses determined in accordance with the applicable return adjustment plus (2) the amount by which the aggregate amount of credits shown on the partnership return exceeds the amount determined in accordance with the applicable return adjustment.[4] For this purpose, the applicable percentage is the highest rate of tax in effect for the taxable year for either individuals (under section 1) or corporations (under section 11). For example, the applicable percentage for a calendar year 1988 partnership would be 34 percent.

The amount of any shortfall in tax for which the partnership is liable is to be reduced by the portion attributable to any item of income, gain, loss, deduction, or credit to the extent the partnership establishes to the satisfaction of the Internal Revenue Service that the item was treated by a partner, either on the partner's original return or an amended return, in accordance with the applicable return adjustment.

This provision will apply to partnerships with interests required to be registered under a Federal or state law regulating securities, or sold pursuant to an exemption from registration requiring the filing of a notice with a Federal or State agency regulating the offering or sale of securities.

The payment by the partnership of any partnership shortfall shall be treated as a payment by each partner of his allocable share of the partnership payment. Each partner's allocable share shall be determined in accordance with the respective interests in the partnership giving rise to partnership shortfall. To the extent the payment by the partnership creates an overpayment with respect to any partner, that partner may file a claim for credit or refund of the overpayment. Under this provision, the partnership has a right to recover any amount paid to the Internal Revenue Service from the partner on whose behalf the payment is made.

This provision applies to taxable years beginning after December 31, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

6. Study of tax treatment of publicly traded partnerships

Present law

Present law provides that a partnership is not subject to tax at the partnership level, but rather, income and loss of the partnership is subject to tax at the partner's level. A partner's share of partnership income is generally determined without regard to whether he receives any corresponding cash distributions. Thus, under present law, partnerships generally are treated as conduits.

House bill

The bill provides that the Secretary of the Treasury shall conduct a study of the issue of treating publicly traded limited partnerships (and other partnerships which significantly resemble corporations) as corporations for Federal income tax purposes, including the issues of disincorporation and opportunities for avoidance of the corporate tax.

The Secretary is required to submit a report on the study, with such recommendations as the Secretary deems appropriate, to the House Committee on Ways and Means and the Senate Committee on Finance, no later than January 1, 1989.

Senate amendment

The amendment provides that the Secretary of the Treasury or his delegate shall conduct a study of compliance and administrative issues relating to the tax treatment of publicly traded partnerships and other large partnerships.

The Secretary is required to submit a report on the study, with such recommendations as the Secretary deems appropriate, to the House Committee on Ways and Means and the Senate Committee on Finance no later than January 1, 1989.

Conference agreement

The conference agreement follows the House bill and the Senate amendment. Thus, the agreement provides that the Secretary of the Treasury or his delegate shall conduct a study of the issue of treating publicly traded limited partnerships (and other partnerships which significantly resemble corporations) as corporations for Federal income tax purposes, including the issues of disincorporation and opportunities for avoidance of the corporate tax. In addition, the study shall address compliance and administrative issues relating to the tax treatment of publicly traded partnerships and other large partnerships. In connection with these compliance and administrative issues, the study shall examine the issues of imposing collection of tax at the partnership level and withholding of tax at the partnership level, and shall make recommendations as to appropriate means of simplifying and improving procedures for audits of and assessments of publicly traded and other partnerships and their partners.

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[2] These rules were added to the Code in 1982 for taxable years beginning after 1982. Therefore the Internal Revenue Service has had relatively little experience administering partnership level proceedings.

[3] For purposes of this discussion, the term "partner" includes any taxpayer with an underpayment resulting from the partnership determination.

[4] The amount of any income, gain, deduction, loss or credit shall be determined as if the partnership were an individual, the elections under section 617(a) and 901 were made, and no amount was excluded under section 108.

The Secretary is required to submit a report on the study, with appropriate recommendations, to the House Committee on Ways and Means and the Senate Committee on Finance no later than January 1, 1989. An interim report on the administrative and compliance issues is due May 1, 1988.

C. CORPORATE PROVISIONS

1. Computation of earnings and profits for purposes of intercorporate dividends and stock basis adjustments (overruling of *Woods Investment Co.* case)

Present law

Treasury regulations require a corporation to adjust its basis in the stock of a subsidiary with which it files a consolidated return by reference to changes in the subsidiary's earnings and profits. The parent corporation increases its basis in the stock of a subsidiary by the amount of the undistributed net earning and profits of the subsidiary for the taxable year, and reduces its basis in such stock by the amount of any deficit in earnings and profits, among other adjustments.

At the time the current consolidated return regulations were issued, differences between earnings and profits and taxable income were permanent differences, and adjustments to the basis of the assets of a subsidiary "inside" basis) were reflected immediately as adjustments to the parent corporation's basis in stock of the subsidiary "outside" basis). Subsequently, Congress enacted amendments to the provisions of the Code defining earnings and profits to prevent tax avoidance on distributions to individual shareholders. These amendments created timing differences between the recognition of taxable income and increases in earnings and profits. In a consolidated return context, the amendments had the unintended effect of creating a disparity between the rate at which these items reduce or increase a parent's basis in the stock of its subsidiary, and the rate at which they reduce or increase the group's consolidated taxable income. The resulting disparity between inside and outside basis may allow an inappropriate reduction in gain, or creation of a loss, on the disposition of the stock of the subsidiary.

In *Woods Investment Co.* v. *Commissioner*, 85 T. C. 274 (1985), the Tax Court upheld the taxpayer's right to the benefits conferred by a literal application of the statute and the investment adjustment rules of the consolidated return regulations, suggesting that it was within the authority of the Treasury Department to amend its regulations to address the problem. No amendments have been made to the regulations in this respect.

Where an insolvent consolidated subsidiary realizes cancellation of indebtedness income, the earnings and profits of the subsidiary may be increased by the amount of such income, even though this amount may be excluded from taxable income. If so, the parent corporation's basis in the stock is increased (or its "excess loss account", or negative basis, is reduced) by an amount that has not been reflected in the group's taxable income.

A benefit similar to that at issue in the *Woods* case may exist where the distributor and distributee do not file a consolidated return. Special rules prevent the occurrence of these distortions in certain circumstances. If a 20-percent or more corporate shareholder receives a distribution from another corporation that would otherwise qualify for the dividends received deduction, the taxable income of the shareholder (and its adjusted basis in the stock of the distributing corporation) is determined by ignoring certain adjustments otherwise required in determining the earnings and profits of the distributing corporation (sec. 301(f)). That is, the earnings and profits treatment of the items is conformed to the taxable income treatment. These special conformity rules do not apply, however, to depreciation.

House bill

Under the House bill, solely for purposes of determining gain or loss on disposition, a parent corporation's basis in the stock of a subsidiary with which it files a consolidated return "intragroup stock") is to be determined by computing earnings and profits of the subsidiary without regard to sections 312 (k) and (n). Thus, the parent's basis for purposes of determining gain or loss on disposition of the stock is computed as if, throughout the period of the subsidiary's affiliation with the parent, the subsidiary's earnings and profits had been computed without regard to the special adjustments for depreciation and other items.

In addition, the bill provides that earnings and profits for this purpose do not include any cancellation of indebtedness income of the subsidiary excluded under section 108 to the extent such income did not reduce basis in assets or other tax attributes.

Finally, the bill expands the provision modifying the definition of earnings and profits in the case of distributions to 20-percent or more corporate shareholder to include adjustments for accelerated depreciation (sec. 301(f)).

The amendments relating to the computation of earnings and profits for purposes of the determining basis of intragroup stock and stock of a nonconsolidated subsidiary apply to stock held on or acquired after October 13, 1987. The amendment relating to the computation of earnings and profits of a nonconsolidated subsidiary for purposes of characterizing a distribution generally applies to distributions after October 13, 1987.

Senate amendment

In general, the Senate amendment is the same as House bill, except that the provisions are effective for distributions or dispositions after October 15, 1987. Exceptions to the provisions relating to basis of stock in a subsidiary are provided for dispositions pursuant to a contract that was binding on October 16, 1987.

Conference agreement

The conference agreement follows the Senate amendment, with certain modifications and clarifications.

The rationale of the provision relating to intragroup stock is that generally adjustments to the outside basis of stock should parallel the adjustments made to inside asset basis. Thus, for example, the provision will cause an adjustment to a parent corporation's basis in the stock of a consolidated subsidiary based on the tax depreciation claimed by the subsidiary during the period the subsidiary was a member of the parent's affiliated group, rather than an adjustment based on the depreciation claimed by the subsidiary for earnings and profits purposes. The Treasury Department shall promulgate regulations addressing cases where a prior owner was not subject to this provision.

The conference agreement clarifies that the term intragroup stock includes any property the basis of which is determined in whole or in part by reference to basis of stock in a corporation that was formerly a member of an affiliated group filing consolidated returns. Thus, if stock in a consolidated subsidiary is disposed of in a nonrecognition transaction, the owning member's basis in any stock received in the transaction for purposes of any subsequent disposition will reflect the adjustments required by this provision. The term also includes stock in a corporation that was formerly a member of a consolidated group, but is not a member of the group at the time of the disposition. Thus, for example, if X Corporation sold 50 percent of its wholly owned consolidated subsidiary, Y Corporation, in 1988, and the remaining 50 percent in 1989, the gain on the sale of each block would be computed after making the adjustments prescribed in this provision to the basis of the stock.[5]

The conferees do not intend the application of this provision to require duplication of any downward adjustments to basis otherwise required under the consolidated return regulations. For example, if an owning member is required to reduce its basis in a subsidiary's stock (as of the beginning of a subsidiary's first separate return year after disaffiliation occurs) by the excess of its net positive adjustments with respect to the stock over its net negative adjustments for prior consolidated return years, the provision would not require any duplicative reduction in basis.[6]

There is no intention, in requiring these adjustments to basis for the limited purpose of determining gain or loss on disposition, to affect the earnings and profits of the subsidiary or any other member of the group for any other purpose, such as the character of a distribution. Nor is it intended that this provision affect the mechanism by which the consolidated return regulations require earnings and profits of members of a consolidated group to reflect annual increases or decreases in the earnings and profits of all lower-tier subsidiaries.[7] Rather, the provision will require this recomputation of earnings and profits to be made only in the year of the disposition of the subsidiary, immediately before such disposition. Therefore, the existing mechanism for the "tiering" of earnings and profits by reference to basis adjustments in the stock of a subsidiary will be unaffected. There is no intention, however, to preclude the Treasury Department from accomplishing this result directly, by requiring a member to increase its earnings and profits without regard to basis adjustments.

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[5] Likewise, if the first sale occurred before the effective date of this provision and the second occurred after the effective date, the provision would apply in determining the basis of the second block of stock.

[6] See Treas. Reg. sec. 1.1502-32(g). In such a case, the recomputation of earnings and profits without regard to sections 312(k) and (n) should be irrelevant because the subsidiary's earnings and profits increases and deficits during affiliation would have been reversed, and hence no longer reflected in the owning member's basis in the subsidiary's stock.

[7] See Treas. Reg. sec. 1.1502-33(c)(4)(ii), requiring, for taxable years after 1975, adjustment of earnings and profits based on adjustments to basis in stock of subsidiaries.

It is intended that this provision apply in the case of any transaction or event that is treated as a disposition of the stock of the subsidiary under the consolidated return regulations, whether or not there is an actual disposition. Thus, for example, if the stock of a subsidiary becomes worthless or the group ceases to file a consolidated return, the amount of any excess loss account with respect to the subsidiary (and therefore the amount of income recognized by the group) will be determined after making the adjustments prescribed in this provision.[8]

Finally, the conference agreement limits the exception from the requirement that earnings and profits for purposes of this provision not take into account discharge of indebtedness income excluded under section 108. The exception applies where the amount excluded was applied to reduce tax attributes, such as net operating losses, that were immediately reflected in basis under the consolidated return regulations. For example, the exception does not apply where the amount excluded was applied to reduce the basis of property. For periods after the effective date of section 312(l)(1), earnings and profits will not be increased to the extent of such basis reduction by virtue of that provision. For any period during which section 312(l)(1) was inapplicable, and hence earnings and profits may have been increased by discharge of indebtedness income notwithstanding a reduction in basis of assets, earnings and profits will be computed without regard to any amount excluded under section 108.

The provisions are generally effective for distributions and dispositions of intragroup stock after December 15, 1987. Exceptions are provided for dispositions of stock after that. Date pursuant to a written binding contract, governmental order, letter of intent or preliminary agreement, or stock acquisition agreement, in effect on or before that date. These exceptions apply only if the stock is disposed of before January 1, 1989.

2. Denial of graduated rates for personal service corporations

Present law

Under present law, a corporation is subject to a tax at the rate of 15 percent on the first $50,000 of taxable income, 25 percent on taxable income over $50,000 but not over $75,000, and 34 percent on taxable income over $75,000. The benefits of the graduated rates are phased out for corporations with income in excess of $100,000.

House bill

The taxable income of a qualified personal service corporation is taxed at a flat rate of 34 percent. A qualified personal service corporation for this purpose is one eligible for relief from the provision requiring C corporations to use the accrual method of accounting (sec. 448). Thus, a personal service corporation is one substantially all of the activities of which involve the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting, and substantially all of the stock of which is held by employees or retired employees or by their estates.

The provision is effective for taxable years beginning after December 31, 1987.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

3. Limitation on consolidated return pass-through

Present law

Under present law, corporations may file consolidated tax returns if they are members of an affiliated group of corporations. In general, a parent and a subsidiary corporation are members of an affiliated group for this purpose if the parent corporation owns stock of the subsidiary possessing at least 80 percent of the total voting power and value of all the subsidiary stock, excluding certain nonvoting preferred stock (secs. 1501 and 1504 of the Code).

Under the consolidated return regulations, the consolidated tax return of a parent corporation and an affiliated subsidiary generally allows 100 percent of a subsidiary's losses to offset the parent's income, or, conversely, allows 100 percent of a subsidiary's income to be offset by the parent's losses, even though the parent may own less than 100 percent of the subsidiary's stock.

The consolidated return regulations generally require the parent corporation to adjust its basis in the subsidiary stock upward for the parent's allocable share of undistributed earnings and profits of the subsidiary, and downward for the parent's allocable share of its deficits in earnings and profits (though no downward adjustment for earnings and profits deficits is required with respect to preferred stock owned by the parent).

House bill

If a member of an affiliated group of corporations owns less than 100 percent of the stock of a subsidiary that is a member of the group, the House bill denies consolidation of the percentage of the subsidiary's income or loss allocable to stock owned by nonmembers. All classes of stock are counted for this purpose, including nonvoting preferred stock described in section 1504(a)(4) of the Code.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

4. Tax benefited transfers through intercorporate dividends received deduction; preferred stock loss transfers

Present law

Under present law, corporations owning less than 80 percent of the stock of a corporation are entitled to a deduction equal to 80 percent of the dividends received from a domestic corporation. (A 100 percent deduction may apply to dividends received by an 80-percent or more corporate parent).

House bill

Under the House bill, the 80-percent dividends received deduction for any corporation owning less than 80 percent of the stock of the distributing corporation is reduced to 75 percent of the amount to the dividend.

The partial dividends received deduction is eliminated entirely for dividends on stock that has certain non-stock characteristics, or characteristics that enhance the likelihood that the holder may recover the principal amount or maintain a certain dividend level, or both (whether from the issuer or from others on resale or otherwise). Such stock includes any stock that is not counted for purposes of determining whether corporations are entitled to file a consolidated tax return under sections 1504(a) (4) or (5), as well as any stock that is not counted for purposes of determining whether there has been an ownership change for purposes of the special loss limitations of section 382 of the Code (sec. 382(k)(6)).

Senate amendment

No provision.

Conference agreement

The conference agreement generally follows the provision of the House bill reducing the 80-percent dividends received deduction, but with several modifications. First, the 80-percent deduction is reduced to 70 percent of the amount of the dividend. Second, the reduction applies only if the recipient corporation owns less than 20 percent of the voting power and value of stock (as defined in section 1504 of the Code) of the issuing corporation; the 80-percent dividends received deduction is preserved for 20-percent or more (but less than 80-percent) corporate shareholders.

The conference agreement follows the Senate amendment with respect to the elimination of the partial dividends received deduction for dividends on stock with certain non-stock characteristics.

The reduction in the dividends received deduction for less than 20-percent shareholders is effective for dividends received or accrued after December 31, 1987, in taxable years ending after that date.

5. Deduction of interest on corporate acquisition indebtedness

Present law

In general, corporate earnings distributed as dividends on equity are taxed at both the corporate level (when earned by the corporation) and at the shareholder level (when distributed). By contrast, corporate earnings distributed in the form of interest on corporate debt bear no corporate-level tax because interest is deductible by the distributing corporation.

Section 279 of the Code in limited circumstances denies a deduction for interest on corporate acquisitions. The limitation applies to interest in excess of $5 million per year incurred by a corporation with respect to debt obligations issued to provide consideration for the acquisition of stock, or two-thirds of the assets of, another corporation, if each of the following conditions exists: (1) the debt is substantially subordinated; (2) the debt carries an equity participation (for example, includes warrants to purchase stock of the issuer or is convertible into stock of the issuer); and (3) the issuer is thinly capitalized (i.e., has an excessive debt-to-equity ratio) or projected annual earnings do not exceed three times annual interest costs.

House bill

Under the House bill, deductions are denied for interest in excess of $5 million per year incurred by a corporation with respect to debt supporting either (1) the acquisition of 50 percent or more of the stock of another corporation or (2) the redemption by a corporation of 50 percent or more of its own stock. All acquisitions during any three-year period are aggregated in determining whether one of these 50-percent thresholds is met.

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[8] See Treas. Reg. sec. 1.1502-19(b).

The provision applies to any interest on debt incurred or continued (i.e., directly allocable) in connection with the stock acquisition or redemption. It also applies to any other interest indirectly allocable to the acquisition or redemption. In the case of indirectly allocable interest, the limitation terminates five years after the date of the acquisition.

The interest disallowance provision does not apply if the acquisition is a qualified stock purchase within the meaning of section 338, and an election is made under that section to treat the acquisition as an asset acquisition.

The provision is generally effective for acquisitions or redemptions after October 13, 1987. Exceptions are provided for transactions pursuant to a binding written contract in effect on October 13, 1987, and at all times thereafter prior to the date of the acquisition, and for transactions after October 13, 1987, if there was action by the board of directors, shareholder approval, a letter of intent, a tender offer, or public announcement to shareholders in effect on October 13, 1987, and at all times thereafter, provided the acquisition or redemption is completed before January 1, 1989.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

6. Reduction of tax avoidance in certain corporate dispositions ("mirror" subsidiary transactions)

Present law

Gains on certain distributions to a controlling U.S. corporate shareholder (an 80-percent distributee) are not taxed to the distributing corporation in a liquidation (sec. 337). (Gains on liquidating distributions to a controlling foreign corporate shareholder generally are taxed to the distributing corporation (sec. 367(e)).

By contrast, a nonliquidating distribution to a controlling U.S. corporate shareholder causes the distributing corporation to recognize gain, though the gain would be deferred if the two corporations were filing consolidated returns until a disposition of the distributed property or the occurrence of certain other events (sec. 311 of the Code; Treas. Reg. sec. 1.1502-13). A distribution represents a dividend to the recipient to the extent of the current or accumulated earnings and profits of the distributing corporation, and produces recovery of basis or a capital gain to the extent it exceeds such earnings and profits (sec. 301).

If the recipient of a nonliquidating distribution is a corporation that is affiliated with the distributing corporation (for example, generally where the recipient corporation owns stock in the distributing corporation representing 80 percent or more of its vote and value), the recipient is eligible for a 100 percent dividends-received deduction if the distribution is out of earnings and profits of a taxable year on each day of which the distributing and recipient corporations were members of the affiliated group, and if an election is made. If the two corporations file a consolidated return, the dividend is excluded ("eliminated") from the income of the recipient.

Certain distributions in which stock is distributed to a corporation's shareholders are also tax-free to the distributing corporation, provided that certain statutory and other constraints are met, including a condition that the transaction not be a device for the distribution of earnings and profits and certain other requirements (sec. 355).

A sale of stock of a subsidiary to a related corporation is generally "deemed" to be a dividend to the extent of earnings and profits of the two corporations, and the statute provides specific rules for the movement of earnings and profits and other aspects related to such a dividend (sec. 304). In determining whether two corporations are related for purposes of this rule, certain "back attribution" rules apply with the result that a corporation can be deemed to receive a dividend or other distribution from another corporation in which it owns no stock (sec. 318). In some instances the deemed dividend rules may produce tax results more favorable than an actual sale or an actual dividend.

A corporation or other shareholder that surrenders stock in a complete liquidation in exchange for property distributed in a liquidation generally recognizes capital gain or loss, respectively, to the extent that the value of the property received exceeds or is less than the shareholder's basis in its stock of the liquidating corporation. Under a special provision, however, no gain or loss is recognized by the recipient corporation on liquidation of another corporation if the recipient corporation owns 80 percent of the vote and value of the stock of the liquidating corporation (sec. 332). Foreign shareholders generally are not taxed on the receipt of liquidating distributions.

House bill

The House bill generally treats liquidating distributions to an 80-percent or more corporate shareholder in the same manner as nonliquidating distributions. Thus, the distributing corporation recognizes gain as if the property distributed had been sold to the distributee at fair market value.[9] Similarly, the consequences for the shareholder are the same as if a nonliquidating distribution had been made of the subsidiary's assets immediately before the liquidation.

The bill retains the result of present law that no gain or loss is recognized by an 80-percent controlling corporate shareholder on the liquidation of a subsidiary, but with a modification. To the extent of the distributing corporation's current or accumulated earnings and profits (including earnings and profits generated by the recognition of any non-deferred gain on the distribution), the amounts distributed to the recipient corporation are treated as a dividend. Similar treatment applies to a foreign corporation that has a U.S. branch engaging in a U.S. trade or business and that liquidates or otherwise terminates its U.S. business.

The bill provides that a distribution of stock will not qualify for nonrecognition under section 355 of the Code if control of a corporation which was conducting such business was acquired in a taxable transaction within the five-year period ending on the date of the distribution through one or more corporations, including the distributing corporation. In addition, any distribution otherwise qualifying under section 355 will be treated in the same manner as a nonqualifying distribution if it is made to a member of the same affiliated group as the distributing corporation.

The bill modifies the provisions of section 304 of the Code in the case of transactions between members of a group controlled by the same corporation (for this purpose, the bill provides that control is determined without regard to the back-attribution rules of sec. 318(a)(3)(C)). In the case of any sale of stock of one member of the group to another member, the transaction is treated as if the stock that is sold had been distributed to the common parent (determined under section 304 without regard to such back-attribution) and recontributed to the recipient corporation, and as if the cash or other property that is exchanged had likewise been distributed to the common parent and recontributed to the recipient corporation. The bill also provides the Secretary authority to provide regulations making appropriate adjustments to the members' earnings and profits and to the indirect foreign tax credit provisions, including proper adjustments to the earnings pool as well as recognition of the indirect credit.

The House bill is effective for distributions after October 13, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows portions of the House bill, with modifications.

As under present law, gain will not be recognized by a corporation on liquidating distributions to a corporate shareholder directly owning 80 percent (by vote and value) of the stock of the distributing corporation. However, under the conference agreement, gain is recognized on any distribution to a corporation that does not meet the 80-percent test by direct ownership. Thus, for example, the distributing corporation recognizes gain on any distribution to a corporation within an affiliated group filing a consolidated tax return if the distributee would be treated as an 80-percent owner for purposes of section 332 solely by reason of the aggregation rules of section 1.1502-34 of the Treasury Regulations.

Treasury Regulations may provide that gain on a distribution to a less than 80-percent owner within an affiliated group filing a consolidated return may be deferred until a recognition event other than the liquidation itself occurs. (Compare Treas. Reg. sec. 1.1502-14(c)(2)).[10] For this purpose, where a portion of the gain on the liquidation is not recognized due to the fact that the liquidating distribution is made to a direct 80-percent corporate owner, the gain on the remaining portions is to be deferred only until the earlier of the time that there is a disposition [10] of the remaining portions or the selling member ceases to be a member of the group. Assume, for example, that a corporation makes a liquidating distribution to two corporate shareholders, one of which (Corporation X) directly owns 80 percent of the stock of the distributee corporation and one of which (Corporation Y) directly owns 20 percent of the stock of the distributee corporation. If there is a direct or indirect disposition of the stock of Corporation X, further deferral would not be permitted for the gains recognized on the liquidating distribution to Corporation Y.

The conference agreement does not modify section 332. Thus, earnings and profits distributed to a corporation that qualifies for nonrecognition treatment under section 332 are not treated as nonliquidating dividend distributions.

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[9] For purposes of the liquidation rule (unlike a nonliquidating distribution) loss is also recognized; however, no loss in excess of the gain recognized is permitted.

[10] See, e.g., Treas. Reg. sec. 1.1502-13(f).

Under the conference agreement, in addition to the requirements of present law, section 355 does not apply to any distribution by a corporation if control of the distributing corporation was acquired by a corporate distributee within five years prior to the distribution. For this purpose, all members of an affiliated group are treated as a single corporate distributee.

Under the conference agreement, if stock of a member of an affiliated group is transferred to another member of such group in a transaction described in section 304(a) of the Code, proper adjustments must be made in the bases of intragroup stock and in the earnings and profits of each member of the group to the extent necessary to carry out the purposes of this provision.

As one example, if one subsidiary ("X") in a group sells the stock of its appreciated subsidiary ("Y") to a sister corporation ("Z") in an affiliated group, in a transaction that is treated as a dividend of accumulated earnings and profits of the sister corporation Z to the selling corporation X and a contribution of the transferred corporation Y to the capital of sister corporation Z, adjustments must be made to the stock bases of members of the group so that neither X, Z, nor any other corporation that is part of the same chain of includible corporations (excluding the common parent) may thereafter be sold without recognition of the built-in appreciation in the Y stock at the time of the section 304 transaction.

The conference agreement is effective for distributions after December 15, 1987, unless 80 percent of the stock (by vote and value) of the corporation was acquired prior to that date or was acquired after that date pursuant to a binding written contract or tender offer in effect on that date, and the acquisition is completed before January 1, 1989; provided in each transition case the distribution occurs before January 1, 1993. Transition relief is also provided for distributions that were eligible for transition relief from the 1986 Act provision repealing the General Utilities doctrine.

The provision with respect to section 304 applies to transfers after December 15, 1987, when the transfer is between corporations which are members of the same affiliated group on December 15, 1987 or which became members of the same group before January 1, 1989, pursuant to a binding written contract or tender offer in effect on December 15, 1987; provided in each transition case that the transfer occurs before January 1, 1993.

No inference is intended as to the Treasury Department's authority to amend the consolidated return regulations consistent with the purposes of this provision.

7. Special rules for hostile corporate acquisitions and greenmail payments

Present law

Gain on the sale or exchange of corporate stock is generally taxed at regular tax rates. A buyer of a controlling interest in corporate stock may (but is not required to) treat the stock purchase as a taxable purchase of the underlying assets (sec. 338). A deduction is generally allowed for interest paid or incurred during the taxable year.

House bill

Under the House bill, if a corporation makes a qualified stock purchase within the meaning of section 338 and any significant portion of the stock is acquired pursuant to an offer disapproved by a majority of the independent directors of such corporation, the acquiring corporation is treated as having made an election under section 338(a). Accordingly, the target corporation is deemed to have sold all of its assets at fair market value in a taxable transaction. Special rules apply for purposes of determining whether there is a qualified stock purchase and the grossed-up basis of the acquiring corporation's recently purchased stock.

The bill also provides that no deduction is allowed for interest on indebtedness incurred or continued by a corporation to purchase 20 percent or more of the stock of another corporation pursuant to a hostile tender offer.

Finally, the bill provides that a person who receives "greenmail" is subject to a non-deductible 50-percent excise tax on any gain realized on such receipt. Greenmail is defined as any consideration paid by a corporation in redemption of its stock if such stock has been held by the shareholder for less than two years and the shareholder (or any related persons or person acting in concert with the shareholder) made or threatened a public tender offer for stock in the corporation during that period.

The treatment of a hostile qualified stock purchase as an asset acquisition under 338 applies to acquisitions after the date of enactment of the provision. The denial of interest deductions with respect to debt incurred in hostile acquisitions applies to debt incurred after the date of enactment. The 50-percent excise tax on gains attributable to the receipt of greenmail applies to amounts received after the date of enactment.

Senate amendment

No provisions.

Conference agreement

The conference agreement adopts only the House bill provision imposing an excise tax on greenmail, with certain modifications; the agreement follows the Senate amendment with respect to hostile qualified stock purchases and interest on acquisition indebtedness.

The greenmail excise tax does not apply if, prior to the redemption, the redeeming corporation offered to purchase the stock of other shareholders for the same consideration and on the same terms that it redeemed the stock of the taxpayer. The provision is intended to apply where a taxpayer otherwise subject to the provision sells his stock to an entity related to the issuing corporation (e.g., a controlled subsidiary).

The provision is effective for transactions after the date of enactment, unless pursuant to a written binding contract in effect on December 15, 1987, and at all times thereafter before the acquisition.

8. Limitation on NOL carryforwards of corporation following worthless stock deduction by 50-percent shareholder

Present law

A deduction is allowed for any loss sustained during the taxable year as a result of securities held by the taxpayer becoming worthless. It has been held that, notwithstanding the fact that a worthless stock deduction has been claimed by a parent corporation with respect to stock of a nonconsolidated subsidiary, the net operating loss carryforwards of the subsidiary survive and may be used to offset future income of the subsidiary. *Textron, Inc.* v. *United States,* 561 F.2d 1023 (1st Cir. 1977).

Loss carryforwards of a corporation are limited if there is a more-than-50-percent change in the ownership of its stock during the relevant testing period. The amount of losses that may be used annually to offset post-change income of the corporation is equal to a prescribed rate of return on the net value of the corporation at the time of the change of ownership (sec. 382).

House bill

Under the House bill, if a worthless securities deduction is claimed by a shareholder with respect to stock of a loss company, the shareholder is treated as having acquired the stock as of the first day of the succeeding taxable year. The shareholder is also treated as not owning such stock during any prior period. Accordingly, if a worthless stock deduction is claimed during the testing period by persons holding more than 50 percent of a loss corporation's stock, net operating loss carryovers of the corporation arising prior to the change may not be used to offset the corporation's post-change income. The provision applies to stock that becomes worthless in taxable years beginning after December 31, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, with certain modifications.

The provision applies only if a worthless stock deduction is claimed by a shareholder who, at any time during the three-year period ending with the year in which the deduction was claimed, owned 50 percent or more of the stock of the corporation.

The provision is effective for stock treated as becoming worthless in taxable years beginning after December 31, 1987.

9. Tax loss mergers and acquisitions

Present law

Special limitations apply to the use of net operating loss carryforwards (NOLs) following an ownership change of the loss corporation—generally, when there has been an increase of more than 50 percentage points in ownership of a loss corporation by certain persons (sec. 382). Built-in losses that are recognized following an ownership change are treated as losses subject to limitations if the net built-in loss exceeds a threshold amount (sec. 382(h)). Depreciation deductions with respect to built-in loss property, however, are not treated as losses subject to limitation following an ownership change. Built-in depreciation deductions may be limited in some circumstances under the consolidated return regulations (Treas. Reg. sec. 1.1502-15).

In the case of certain ownership changes occurring in bankruptcy, the special limitations do not apply. However, 50 percent of the excess of the amount of the indebtedness to certain creditors that was cancelled in the proceeding over the fair market value of stock received by such creditors is applied to reduce the net operating losses of the corporation (sec. 382(1)(5)(C)).

If a loss corporation does not experience an ownership change, the use of its losses may be limited in certain circumstances. For example, in the case of partnerships, regulations that are to be effective with the effective date of the Tax Reform Act of 1986 are to limit the tax benefits that may be derived from transactions in which allocations of partnership income are made to a loss partner or to a corporation that is a member of a consolidated group with NOL carryovers under an arrangement that contemplates the diversion of the economic benefit corresponding to such allocation (or any portion of the economic benefit of the loss corporation's net operating loss) to a higher bracket partner.[11]

Section 269 of the Code may also limit the use of a loss corporation's losses in certain situations where there is a principal purpose of evasion or avoidance of Federal income tax.[12]

House bill

The House bill provides that built-in depreciation is subject to the built-in loss rules of section 382.

The House bill provides that loss carryforwards of a corporation in bankruptcy are reduced by the full amount of the excess of the debt cancelled in the proceeding over the fair market value of the stock given to creditors in exchange for debt.

The House bill provides that loss corporations will be precluded from using their losses to shelter built-in gains of an acquired company recognized within five years of the acquisition. Built-in gains for this purpose includes any item of income which is attributable to periods before the acquisition date.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with respect to built-in depreciation being subject to the built-in loss rules of section 382. The provision is effective for ownership changes occurring after December 15, 1987, unless pursuant to a binding written contract which was in effect on December 15, 1987, and at all times thereafter before such ownership change.

The conference agreement follows the Senate amendment with respect to reducing the loss carryforwards of a corporation in bankruptcy.

The conference agreement generally follows the House bill with respect to loss corporations using their losses to shelter built-in gains of an acquired company recognized within 5 years of the acquisition, but with certain modifications and clarifications. First, the conference agreement clarifies that the provision also applies to companies with built-in gains that are acquired through a liquidation under section 332 or a reorganization under section 368(a)(1)(D). Second, the conference agreement provides an exception to the provision in the case of a consolidation or merger of corporations previously under common control for a 5-year period.

The preacquisition losses that may not be used to shelter built-in gains include built-in losses or items of deduction that have economically accrued prior to the acquisition.

The Treasury Department has regulatory authority to prevent the avoidance of the purposes of the provision through the use of any provision of the Code or regulations, including the provisions of subchapter K. For example (and without limitation), regulations may prevent the use of the so-called "ceiling rule" of section 704(c) of the Code effectively to allocate built-in gain attributable to partner to another partner which is a loss corporation. In such circumstances, the Treasury Department shall provide an appropriate mechanism for taking the built-in gain into income without permitting the use of such losses. Regulations pursuant to this authority shall not be effective for any transaction prior to the issuance of additional guidance by the Treasury Department relating to (i) the mechanism to be employed for taking built-in gain into income and (ii) the types of transactions that will be subject to the provision.

For purposes of determining whether the 25 percent built-in gain threshold of section 382(h) is satisfied, it is expected that any contribution of property with any purpose of avoiding the threshold will be disregarded. The Treasury Department may prescribe any more specific rules that may be necessary to prevent the evasion of the purposes of the section through contributions of property to the corporation.

The provision is effective for acquisitions after December 15, 1987, unless the transaction was pursuant to a binding written contract in effect on or before December 15, 1987, or a letter of intent or agreement of merger signed on or before December 15, 1987.

10. LIFO recapture on conversion from C corporation to S corporation

Present law

In general, gain realized when a C corporation liquidates is subject to corporate-level tax. If a C corporation elects to convert to S corporation status and holds assets with a net unrealized "built-in gain" (that is, with a value in excess of basis) at the time of its conversion, the built-in gain is subject to a separate corporate-level tax to the extent it is realized within ten years after the conversion (sec. 1374).

The Internal Revenue Service has stated that the inventory method used by a taxpayer for tax purposes shall be used in determining whether goods disposed of following a conversion to S corporation status were held by the corporation at the time of conversion. Thus, a C corporation using the last-in, first-out (LIFO) method of accounting for its inventory which converts to S corporation status is not taxed on the built-in gain attributable to LIFO inventory to the extent it does not invade LIFO layers during the ten-year period following the conversion.

House bill

Under the House bill, if a C corporation uses the LIFO method for its last taxable year before a subchapter S election becomes effective, it must include in income the LIFO recapture amount for such last taxable year. For this purpose, the LIFO recapture amount is defined as the excess of the inventory's value using a (FIFO) flow assumption over its LIFO value at the close of its last taxable year as a C corporation. Appropriate adjustments to the basis of inventory are allowed to reflect any amount included in income under this provision.

The provision applies to S elections made after October 13, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, with certain modifications.

The tax attributable to the inclusion in income of the LIFO recapture amount is payable in four equal installments. The first installment must be paid by the due date of the return for the electing corporation's last taxable year as a C corporation. The other installments are due by the respective due dates of the corporation's returns for the three succeeding taxable years. No interest is payable on these installments if they are paid by the respective due dates.

The provision applies in the case of S elections made after December 17, 1987. In the case of elections made after that date and before January 1, 1989, the provision does not apply if, on or before December 17, 1987, the board of directors of the corporation adopted a resolution to make an S election, or a ruling request with respect to the business was filed with the Internal Revenue Service expressing an intent to make such an election. It is intended that this transition rule will apply if a request concerning eligibility for small business corporation status was filed on or before that date by the electing corporation, or by a former parent corporation of the electing corporation that was subsequently merged into the electing corporation.

11. Regulated investment companies

Present law

In order to avoid a penalty excise tax, regulated investment companies (RICs), commonly called "mutual funds," must distribute before January 1 of any year at least 97 percent of their ordinary income earned during the prior calendar year and 90 percent of their capital gain net income for the twelve-month period ending on October 31 of that year.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

Under the conference agreement, the distribution required to avoid the penalty excise tax is increased to 98 percent of capital gain net income.

This applies to calendar years beginning after December 31, 1986.

D. CORPORATE MINIMUM TAX

Present law

Corporations are subject to a minimum tax at a 20 percent rate. One-half of the excess of pre-book income over other alternative minimum taxable income is a preference for taxable years beginning before 1990. For taxable years beginning after 1989, three-fourths of the excess of adjusted current earnings over other alternative minimum taxable income is a preference.

House bill

One hundred percent of the excess of pre-book income (for taxable years beginning before 1990) and one hundred percent of adjusted current earnings (for taxable years beginning after 1989) over other alternative minimum taxable income will be a preference for corporations. The provision is effective for taxable years beginning after December 31, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

Present law

Corporations are subject to a minimum tax at a 20 percent rate. One-half of the excess of pre-book income over other alternative minimum taxable income is a preference for taxable years beginning before 1990. For taxable years beginning after 1989, three-fourths of the excess of adjusted current earnings over other alternative minimum taxable income is a preference.

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[11] H. Rep. No. 99-841, 99th Cong., 2d Sess., pp. 194-195 (1986).

[12] See, e.g., *Briarcliff Candy Corporation* v. *Comm.r*, 54 T.C.M. 667 (1987).

House bill

One hundred percent of the excess of pre-book income (for taxable years beginning before 1990) and one hundred percent of adjusted current earnings (for taxable years beginning after 1989) over other alternative minimum taxable income will be a preference for corporations. The provision is effective for taxable years beginning after December 31, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

E. FOREIGN TAX PROVISIONS

1. Treatment of South African income

Present law

Foreign tax credits are denied, and deferral of U.S. tax on income of controlled foreign corporations is denied, with respect to operations in countries (1) designated by the Secretary of State as repeatedly providing support for acts of international terrorism; (2) with which the U.S. does not have diplomatic relations, or (3) the government of which the U.S. does not recognize (with certain exceptions).

House bill

The House bill denies foreign tax credits and deferral of U.S. tax on income of a controlled foreign corporation with respect to South African income attributable to the period from January 1, 1988 to the date on which the Secretary of State certifies to the Secretary of the Treasury that the South African Government has taken the steps that trigger termination of the measures in the Comprehensive Anti-Apartheid Act of 1986 to undermine apartheid. The provision is applicable to taxable years beginning after December 31, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

2. Imported property income

Present law

The United States generally defers tax on income earned by foreign subsidiaries of U.S. companies until the income comes to America, but currently taxes some types of their income (such as passive, shipping, financial, and oil-related income). Separate foreign tax credit limitations prevent cross-crediting, i.e., the use of foreign tax credits imposed on one stream of income to reduce U.S. tax on an unrelated stream of income.

House bill

The House bill places imported property income in a separate foreign tax credit limitation and currently taxes imported property income of U.S.-controlled foreign corporations. It defines imported property income to include income from goods, services, or intangibles destined for U.S. use or consumption. It generally excludes (1) income from property that is exported from the United States, (2) income from financial instruments, and (3) oil income.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

F. INSURANCE PROVISIONS

1. Interest rate used in computing tax reserves for life insurance companies

Present law

Present law provides that, for purposes of determining life insurance company taxable income, life insurance reserves for any contract are the greater of the net surrender value of the contract or the reserves determined under Federally prescribed rules. In no event will the amount of the Federally prescribed tax reserves exceed the amount of the statutory (annual statement) reserves.

In calculating Federally prescribed reserves for any type of contract, present law requires the application of prevailing commissioners' standard mortality and morbidity tables, and also requires the application of an interest rate (discount factor) to take account of the time value of money.

Under present law, the interest rate in computing Federally prescribed reserves is generally the prevailing State assumed rate (generally, the highest assumed interest rate permitted to be used in at least 26 States in computing life insurance reserves for insurance or annuity contracts of that type as of the beginning of the calendar year in which the contract is issued).

By contrast, the interest rate assumption under the present-law rules applicable in calculating tax reserves of property and casualty insurance companies is determined in accordance with the applicable Federal rate.

House bill

Under the House bill, the interest rate to be applied in determining the amount of the life insurance reserves for any contract is the greater of the applicable Federal interest rate or the prevailing State assumed interest rate.

For purposes of the provision, the applicable Federal interest rate is the rate determined under the discounting rules for property and casualty reserves for the calendar year in which the contract is issued.

The prevailing State assumed rate has the same meaning as under present law, except that the election of a rate for nonannuity contracts, and the special rule for determining a rate for certain accident and health contracts if there is no prevailing State assumed rate, are repealed under the provision.

In the case of reserves for contracts that do not involve life, accident, or health contingencies (sec. 807(c)(3)), the interest rate to be applied is the greatest of: (1) the applicable Federal interest rate, (2) the prevailing State assumed interest rate, or (3) the rate assumed by the company in determining the guaranteed benefit.

A conforming change is made for purposes of calculating policy interest (sec. 812(b)(2)(A)).

The provision is effective for contracts issued in taxable years beginning after December 31, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, with a modification permitting companies a one-time election (revocable only with the consent of the Secretary of the Treasury) to apply an updated applicable Federal interest rate every 5 years in calculating life insurance reserves. The election is provided to take account of the fluctuations in market rates of return that companies experience with respect to life insurance contracts of long duration.

In general, under the provision, the interest rate to be applied in determining the amount of the life insurance reserves for any contract is the greater of the applicable Federal interest rate or the prevailing State assumed rate for the calendar year in which contract is issued. Under the election, this rate continues to be applied in the 4 succeeding years after the year the contract is issued. For the 5th through 9th year after the contract is issued, the rate to be applied in determining reserves for such years (but not for any prior years) with respect to the contract is the greater of the applicable Federal interest rate for such 5th year, or the prevailing State assumed rate for the calendar year in which the contract was issued. Thus, the rate for determining life insurance reserves with respect to any contract cannot be lower than the prevailing State assumed rate for the calendar year in which the contract was issued.

For example, in the case of a company making an election under the provision, the company's life insurance reserves for any contract are determined (for the 5th through 9th years after the original contract year) using the applicable Federal interest rate for such 5th year if such rate is greater than the prevailing State assumed rate for the year in which the contract was issued. If the applicable Federal interest rate for such 5th year is lower than the rate used for the preceding 5 years, the company's deduction for additions to reserves for the 5th through 9th years after the original contract year may be greater than it would have been if the company had not made the election to use the updated rate. Similarly, if the rate for such 5th year is higher than the rate used for the preceding 5 years, the company's deduction for additions to reserves for the 5th through 9th years after the original contract year may be smaller than it would have been absent the election, or there may be a reduction in reserves resulting in an inclusion in income for such years.

The use of the updated applicable Federal interest rate under the election does not cause the recalculation of life insurance reserves for any prior year. Thus, for example, if an updated rate is applied to calculate life insurance reserves in the tenth year following the year in which the contract was issued, the amount of the company's life insurance reserves, and its deduction for additions to reserves, for the preceding 10 years are not affected.

Section 807(f), which generally provides a 10-year spread for any change in computing reserves, does not apply to the use of an updated applicable Federal interest rate under the election. Instead, the difference between the opening reserve computed under the old interest rate and the opening reserve computed under the new interest rate is to be taken into account entirely for the year in which the new interest rate applies.

Under the election, no change is made to the interest rate used in determining life insurance reserves if the updated applicable Federal interest rate is less than one-half of one percentage point different from the rate utilized by the company in calculating life insurance reserves during the preceding 5 years. Thus, for example, if the applicable Federal interest rate is 7.5 percent, and the rate utilized by an electing company during the preceding 5 years is 7.6 percent, the company continues to use the 7.6 percent rate during the second 5-year period with respect to reserves for that contract year. This rule parallels the calculation of State assumed rates under the Standard Valuation Law, under which a change of less than one-half of one percentage point does not give rise to a change in the State assumed rate.

The election applies to all contracts issued during the calendar year for which the election is made and any subsequent calendar year unless the election is revoked with the consent of the Secretary of the Treasury.

The provision applies to contracts issued in taxable years beginning after December 31, 1987. The election applies to life insurance reserves with respect to contracts issued in taxable years beginning after December 31, 1987.

2. Treatment of foreign insurance companies

Present law

Under present law, a foreign corporation that is carrying on an insurance business in the United States is generally taxed in the same manner as a U.S. insurance company on its income that is effectively connected with its conduct of a U.S. trade or business.

Income from sources within the United States derived by a foreign corporation carrying on an insurance business in the United States is generally treated as effectively connected with the conduct of its insurance business in the United States. In addition, in the case of a foreign life insurance company, income from sources outside the United States that is attributable to its U.S. business is treated as effectively connected with the conduct of an insurance business in the United States. Foreign property and casualty insurance companies are not subject to this rule.

Under present law, if the surplus of a foreign life insurance company held in the United States is less than a statutorily defined required surplus, then the income that is effectively connected with the conduct of the U.S. insurance business is increased by an imputed amount. This imputed amount is determined by multiplying (1) the excess of the required surplus over the actual surplus by (2) the current investment yield on the U.S. assets of the foreign life insurance company.

House bill

The House bill extends to foreign property and casualty insurance companies the present-law provision for determining whether foreign source income of a foreign life insurance company is effectively connected with the conduct of a U.S. trade or business. Under this provision, income from sources without the United States that is attributable to a U.S. property and casualty insurance business is treated as effectively connected with the conduct of that trade or business.

The House bill also revises the rules relating to the required surplus of foreign life insurance companies and extends these revised rules to foreign property and casualty insurance companies. Under the House bill, the net investment income of a foreign insurance company that is effectively connected with the conduct of an insurance business in the United States may not be less than the required U.S. assets of the company multiplied by the domestic investment yield applicable to the company for the taxable year.

The required U.S. assets of a foreign insurance company for any year are determined by multiplying the company's total insurance liabilities on U.S. business by the domestic asset/liability percentage applicable to the company. The Secretary is to prescribe for each year a domestic asset/liability percentage for foreign life insurance companies and a separate domestic asset/liability percentage for foreign property and casualty insurance companies. The domestic asset/liability percentage for each type of insurance company equals a fraction, the numerator of which is the assets of the domestic companies of such type and the denominator of which is the total insurance liabilities of the domestic companies of such type.

The Secretary is also required to prescribe a domestic investment yield for foreign life insurance companies and a separate domestic investment yield for foreign property and casualty insurance companies. The investment yield for each type of insurance company equals a fraction, the numerator of which is the net investment income of domestic insurance companies of such type and the denominator of which is the mean of the aggregate assets of the domestic companies of such type.

A foreign insurance company may elect for purposes of the minimum effectively connected net investment income requirement to use its worldwide current investment yield in lieu of the applicable domestic investment yield. The worldwide current investment yield equals a fraction, the numerator of which is the net investment income of the company from all sources and the denominator of which is the mean of the worldwide assets of the company that are held for the production of investment income.

The Secretary is to determine the domestic asset/liability percentage and the domestic investment yield for each type of insurance company on the basis of data derived from a representative sample of domestic insurance companies. For any taxable year, the domestic asset/liability percentage and the domestic investment yield are to be based on data for the second preceding taxable year.

Finally, the House bill clarifies that any person carrying on an insurance business in the United States, whether operating as a partnership, corporation, syndicate, or other entity, is taxable as a U.S. insurance company if such person would qualify as an insurance company for U.S. tax purposes.

The provisions of the House bill relating to the treatment of foreign insurance companies apply for taxable years beginning after December 31, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with several modifications. The conference agreement provides a definition of net investment income for purposes of the minimum effectively connected net investment income requirement. This definition of net investment income applies in determining the actual effectively connected net investment income of a foreign insurance company for any taxable year (i.e., the amount reflected on the U.S. books of the foreign corporation for tax purposes) and also in determining the domestic investment yield and the worldwide current investment yield.

Under the conference agreement, net investment income is defined as gross investment income less the expenses allocable to such income. Gross investment income for this purpose includes interest (including tax-exempt interest), rents, royalties, the total amount of dividends received (i.e., not reduced by the dividends received deduction), and the net gain (or loss) derived from the sale of investment assets. The expenses taken into account for this purpose include not only interest (including interest that is incurred or continued to purchase or carry tax-exempt obligations), taxes (other than Federal income taxes), salaries and other similar items, but also depreciation and depletion, to the extent allocable to gross investment income.

Under the conference agreement, the required U.S. assets of a foreign insurance company for any taxable year are determined by multiplying the mean of the company's total insurance liabilities on U.S. business by the domestic asset/liability percentage applicable to the company. Similarly, the domestic asset/liability percentage for each type of insurance company is determined on the basis of the mean assets and the mean insurance liabilities of domestic companies of such type.

The conference agreement provides regulatory authority to address the treatment of segregated asset accounts. The conferees anticipate that a separate asset/liability percentage will be prescribed for segregated asset accounts similar to the present-law treatment of such accounts. In addition, the Secretary may prescribe the use of an investment yield for segregated asset accounts that is based on the actual earnings of the assets underlying the accounts.

The conference agreement also authorizes regulations that provide appropriate adjustments to the minimum effectively connected net investment income of a foreign insurance company to account for the fact that the domestic investment yield for any year is based on data from the second preceding year. The conferees anticipate that if the actual effectively connected net investment income of a foreign insurance company for any year exceeds the minimum effectively connected net investment income of such insurance company, then such excess is to reduce the amount of net investment income that would otherwise be imputed to the company under this provision for a later taxable year.

The conference agreement further provides regulatory authority to address the treatment of foreign insurance company investments in U.S. subsidiaries.

Under the conference agreement, foreign source income that is attributable to a U.S. trade or business of a foreign property and casualty insurance company is treated as effectively connected with that trade or business. The conferees understand that present regulations under Code section 864, which apply only to life insurance companies, generally look to assets indicated on State insurance reports in determining whether income is attributable to a U.S. trade or business. The conferees believe that those regulations should be reexamined to consider the appropriateness of relying on State insurance rules in determining effectively connected income. The parallel regulations that will be promulgated to cover property and casualty insurance companies should take into account any changes to the existing regulations (covering life insurance companies) that address this concern.

The conferees intend that any new regulations under section 864 should be coordinated with regulations that will be promulgated under the agreement's provision requiring a minimum level of effectively ccnnected investment income (the provision amending sec. 842) so as not to tax the same income twice. Consistent with present law, foreign source income that otherwise would be made effectively connected under the agreement's changes to section 864 will not be treated as effectively connected if it is derived by a controlled foreign corporation and is subpart F income.

If this provision of the conference agreement is found to be in conflict with any existing U.S. income tax treaty, the conferees do not intend to apply the general principle that, in the case of a conflict, a later enacted statute prevails over earlier enacted statutes or treaties. The conferees understand, however, that the Treasury Department believes that the provision does not violate any treaty now in effect. In particular, the Treasury Department believes that the provision does not violate treaty requirements that foreign corporations be taxed only on profits derived from the assets or activities of a corporation's U.S. permanent establishment, that permanent establishments of foreign corporations be taxed only on profits the permanent establishments might be expected to make were they separate enterprises dealing independently with the foreign corporations of which they are a part, or that permanent establishments of foreign corporations be taxed in a manner no more burdensome than the manner in which domestic corporations in the same circumstances are taxed. The conferees similarly believe that this provision does not violate any treaty now in effect.

Several factors are cited by the Treasury Department in support of this view. First, the provision applies to life insurance companies and property and casualty insurance companies in a manner substantially similar to present-law rules covering only life insurance companies. The Treasury Department does not consider those present-law rules to violate U.S. treaties.

Second, the provision attributes to a foreign insurance company an amount of assets determined by reference to the assets of comparable domestic insurance companies, thus reasonably measuring the amount of assets that the U.S. trade or business of a foreign insurance company would be expected to have were it a separate company dealing independently with non-U.S. offices of the foreign insurance company. In addition, a foreign insurance company can elect to determine its investment income based on the company's worldwide investment yield, or utilize the statutory formula based on domestic industry averages. It is well established that use of a formula as an element in determining taxable income does not necessarily violate "separate entity" accounting. The Internal Revenue Code contains a number of provisions that apply fungibility principles to financial assets; use of fungibility principles in these ways is not inconsistent with the arm's-length standard and does not violate U.S. income tax treaties. Similarly, the agreement's provision, which takes into account both the taxpayer's actual investment yield and arm's-length measures of yield and U.S.-connected assets, is appropriate under income tax treaties.

Third, the provision furnishes regulatory authority for the Secretary to provide a relief mechanism, as described above, to mitigate the effects of any increase in tax resulting from the fact that a taxpayer's deemed income from U.S.-connected investments exceeds its actual income from those assets.

The conferees understand that the provision governing foreign insurance companies solves a statutory problem in the context of the broader issue: measuring the U.S. taxable income of a foreign corporation that is effectively connected with its U.S. trade or business. That issue more generally involves the determination of which of the corporation's assets generate gross effectively connected income, and which of its expenses and liabilities are connected with such income. Certain types of assets and liabilities that must, in this process, be attributed in whole or in part to a U.S. trade or business may be particularly suitable for movement among the various trades or businesses of a single foreign corporation, may be fungible with assets and liabilities identified with other trades or businesses of the corporation, or may be usable by more than one such trade or business simultaneously. Financial assets and liabilities tend to fall into these categories.

In some cases, provisions of the Code, such as those governing the amount of U.S.-effectively connected income of a foreign insurance company, are designed to ensure that assets and liabilities that are difficult to assign unambiguously to a single tax jurisdiction are taken into account by the U.S. tax system in a way that reflects economic reality. In other cases, the appropriate resolution is left to regulations. For example, the Code gives the Treasury very broad authority to promulgate regulations to ensure an appropriate allocation and apportionment of expenses, including interest expenses (in effect, to ensure an appropriate allocation of liabilities), to the U.S. trade or business of a foreign corporation (e.g., Code secs. 861(b) and 882(c)(1)(A); Reg. secs. 1.861-8 and 1.882-5). Whether such rules are provided in the Code itself or pursuant to regulatory authority, the consistency of such rules with the treaty obligations of the United States must be determined in the same manner. If a treaty does not provide specific rules for the allocation of expenses, it is consistent with the treaty to make such allocation under the generally applicable principles and provisions of U.S. law. See Rev. Rul. 85-7, 1985-1 C.B. 188. Thus, consistent with the analysis described above, the conferees believe that the current regulatory provisions for determining liabilities allocable to a foreign corporation's U.S. business are fully consistent with the treaty obligations of the United States.

The determination of U.S.-effectively connected income of foreign insurance companies is presently addressed primarily by specific statutory provisions, and the conferees believe that the correction of shortcomings in those rules is appropriately accomplished by amending these provisions. The conferees are aware that analogous rules affecting deductions, namely, rules for the attribution of the financial liabilities of a foreign corporation to the corporation's U.S. trade or business, may also be in need of revision to ensure that such corporations pay sufficient U.S. tax. The conferees believe, however, that this continues to be an issue appropriately addressed by regulations, and that any adjustment of the rules in this area can be accomplished by amending the regulations. The conferees anticipate that the Treasury Department will take steps to amend those regulations insofar as their current practical effect is to permit foreign corporations to allocate excessive amounts of debt and excessive amounts of interest expense toward reducing their U.S.-effectively connected income.

3. Treatment of mutual life insurance company policyholder dividends for purposes of the alternative minimum tax book preference

Present law

Under the present-law provisions for the corporate alternative minimum tax, 50 percent of the excess of the adjusted net book income of a taxpayer over the alternative minimum taxable income of the taxpayer (without regard to book income) is treated as a preference item (the "book income" preference). In general, the book income used in computing the adjusted net book income of a corporate taxpayer is the net income or loss set forth on the taxpayer's applicable financial statement. The applicable financial statement is the statement provided for regulatory or credit purposes, for the purpose of reporting to shareholders or other owners, or for other substantial nontax purposes. Generally, financial statements have the following priority: financial statements required to be filed with the Securities and Exchange Commission; certified audited financial statements; other regulatory statements; and other financial statements used for a substantial nontax purpose. Mutual life insurance companies that are not required to file financial statements with the Securities and Exchange Commission generally determine adjusted net book income on the basis of regulatory statements that are based on statutory accounting principles.

House bill

Under the House bill, in calculating book income for purposes of the book income preference of the corporate alternative minimum tax, mutual life insurance companies may not reduce book income for policyholder dividends paid or accrued during the taxable year by more than the amount allowable in computing life insurance company taxable income under section 801(b) of the Code. Thus, the adjusted net book income will not be reduced by the nondeductible portion of policyholder dividends.

The House bill also provides authority to the Secretary of the Treasury to provide for such adjustments as may be necessary to make the calculation of adjusted net book income in the case of a mutual life insurance company consistent with the calculation of adjusted net book income generally. It is intended that the Secretary will prescribe these rules in a manner that makes the treatment of stock and mutual life insurance companies consistent. For example, it may be appropriate to require mutual life insurance companies to capitalize and amortize acquisition expenses in a manner similar to that provided for purposes of determining adjusted current earnings (sec. 56(g)(4)(F)).

The provision is effective for taxable years beginning after December 31, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, with modifications. Under the conference agreement, in determining the adjusted net book income of any mutual life insurance company, a reduction is allowed for policyholder dividends for any taxable year only to the extent such dividends exceed the differential earnings amount determined for such taxable year. Thus, the reduction of adjusted net book income of a mutual insurance company for policyholder dividends does not include the amount that is not deductible by virtue of section 809 (including the recomputation amount determined under sec. 809(f)) in determining the company's life insurance company taxable income under section 801(b).

The conference agreement also provides that the Treasury regulatory authority to make additional adjustments to the calculation of adjusted net book income in the case of mutual life insurance companies applies to any life insurance company. The regulatory authority is intended to be exercised to make the book income of mutual life insurance companies and stock life insurance companies that file financial statements reflecting a method of accounting other than generally accepted accounting principles ("GAAP") more consistent with the book income of life insurance companies that file GAAP statements.

The conferees intend that the adoption of this provision is not to create any inference with respect to the ongoing Treasury study on segment balance which was mandated by the 1984 Act.

4. Treatment of certain insurance syndicates

Present law

Pursuant to a closing agreement entered into during 1980 between the Internal Revenue Service and the member underwriters of various insurance and reinsurance syndicates of the United Kingdom, the members of the syndicates are subject to tax as individuals and premiums received in any taxable year are not taken into account by the members until the third taxable year after the year of receipt.

House bill

The House bill terminates the closing agreement entered into between the Internal Revenue Service and the members of the syndicates. Any such syndicate that is engaged in a U.S. business is to be taxed as a domestic insurance company for taxable years beginning after December 31, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment, but requires the Treasury Department to conduct a study of the proper Federal income tax treatment of the income derived by members of insurance and reinsurance syndicates.

Since the 1980 closing agreement was entered into, Congress has made substantial changes to the rules governing the taxation of insurance income and the sourcing of income. For instance, the 1984 Act substantially revised the tax treatment of life insurance companies. The 1986 Act required discounting of loss reserves and changed the treatment of unearned premiums of property and casualty insurance companies. The 1986 Act also substantially modified the rules governing the source of income, particularly those rules governing transportation activities and ocean activities. The Subchapter S Revision Act of 1982 codified the rule that an insurance company is not permitted to operate as an S corporation, which means that two levels of tax generally are imposed on U.S. individuals that earn insurance income.

The conferees intend the study to take into account the foregoing and other changes in the law, and that the Treasury Department explore whether the agreement, which imposes only one level of tax, creates a disparity between U.S. underwriters who are members of syndicates formed in the United States and U.S. underwriters who are members of syndicates formed in the United Kingdom.

The results of the study are to be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate before April 1, 1988. The Treasury Department is also required to renegotiate the closing agreement before January 1, 1990, to implement the conclusions reached in the study.

G. TREATMENT OF NET INVESTMENT INCOME OF TRADE ASSOCIATIONS

Present law

In general, present law imposes a tax (the UBIT) on the unrelated business taxable income of otherwise tax-exempt organizations, including trade associations, chambers of commerce, and other organizations described in section 501(c)(6). Under special rules, the UBIT generally does not apply to certain investment income, such as dividends, interest, royalties, rental income, and income on certain dispositions of property (sec. 512(b)). However, in the case of tax-exempt social clubs, voluntary employees' beneficiary associations (VEBAs), and certain other mutual benefit associations, the UBIT generally applies under present law to all income—including investment income—other than "exempt function income," such as membership receipts (sec. 512(a)(3)).

House bill

In the case of section 501(c)(6) organizations ("trade associations"), dividends, interest, royalties, rental income, other items of income described in sections 512(b) (1), (2), or (3), and gain (or loss) on certain dispositions of property described in section 512(b)(5) are treated as derived from an unrelated trade or business, and deductions directly connected with earning such income are allowed in computing unrelated business taxable income. However, the UBIT will not apply to any such income that is set aside to be used exclusively for charitable purposes, or to certain "rollover" gain on disposition of property used directly in performing the association's exempt functions.

The provision is effective for taxable years beginning after December 31, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

III. ESTIMATED TAX PROVISIONS

1. Corporate estimated tax reform

Present law

Under present law, a corporation that fails to pay an installment of estimated income tax on or before the due date generally is subject to a penalty computed at the rate of interest for tax underpayments. The penalty may not be waived.

The penalty is computed by applying the underpayment interest rate to the amount of the underpayment of the installment for the period of the underpayment. The amount of the underpayment is the difference between the payments made on or before the due date of each installment and 90 percent of the total tax shown on the return for the year, divided by the number of installments that should have been made. The penalty on underpayments of estimated tax that are between 80 percent and 90 percent of the actual tax due is imposed at three-quarters of the full rate.

There are generally three exceptions to the penalty. No penalty is imposed if the installment is based on the lesser of (1) the preceding year's tax liability, if a return showing a liability for tax was filed for the preceding year; (2) the tax computed by using the facts shown on the prior year's return under the current year's tax rates; or (3) 90 percent of the taxes which would be due if certain income already recognized during the current year was annualized. Large corporations may not use exceptions (1) and (2) described above. A large corporation is defined as a corporation having at least $1 million of taxable income in any of the three prior taxable years. Under present law, no penalty is imposed if the estimated tax required to be paid is less than $40.

House bill

The House bill consolidates all the corporate estimated tax rules into one section of the Code, similar to the estimated tax provision enacted in 1984 for individuals. Also, several modifications are made to present law.

Under the bill, the underpayment penalty with respect to any installment applies to the difference between payments made by the due date of the installment and the lesser of an installment based on (1) 90 percent of the tax shown on the return, or (2) 100 percent of the tax shown on the preceding year's return. As under present law, exception (2) generally is not available to a large corporation, except that a large corporation could use that exception for purposes of making its first estimated payment for any taxable year. Thus, both large and small corporations may base their first estimated tax payment of any taxable year on 100 percent of the tax shown on the preceding year's return. In determining whether a corporation is a large corporation because its taxable income exceeds $1 million, net operating loss and capital loss carryforwards and carrybacks are disregarded. The safe harbor of the previous year's facts and the current year's rates is eliminated under the bill.

In addition, the full rate of the penalty is imposed with respect to any payment only to the extent the total payments for the year up to the required installment are below 90 percent of the taxes which would be due if the income already received during the current year was placed on an annual basis. Thus, the "cliff" effect of the penalty under present law is eliminated under the bill. Additionally, the reduced rate of the penalty for underpayments that are between 80 and 90 percent is eliminated. Any reduction in a payment resulting from using the annualization exception must be made up in the subsequent payment if the corporation does not use the annualization exception for that subsequent payment.

Finally, no penalty is imposed if the tax shown on the return for any taxable year is less than $500.

This provision applies to taxable years beginning after December 31, 1987.

Senate amendment

The Senate amendment is the same as the House bill, except that the Senate amendment also provides a special transition rule for 1988. For taxable years beginning in 1988 only, both large and small corporations may base their first and second estimated tax payments for that taxable year on 100 percent of the tax shown on the preceding year's return.

Conference agreement

The conference agreement follows the House bill, except that there is a modification to the provision providing that any reduction in a payment resulting from using the annualization exception must be made up in the subsequent payment if the corporation does not use the annualization exception for that subsequent payment. The modification is that the amount required to be made up in the subsequent payment is 90 percent of the amount otherwise required to be made up.

2. Revised withholding certificates required to be put into effect more promptly

Present law

If an employee furnishes to his or her employer a withholding allowance certificate (Form W-4 or W-4A) that replaces an existing certificate, the employer must make the certificate effective no later than the first status determination date that is at least 30 days after the date the employee furnishes the certificate to the employer. The status determination dates are January 1, May 1, July 1, and October 1 of each year.

Employers may elect to make replacement certificates effective earlier than they are required to statutorily; most employers elect to do so.

House bill

The House bill requires employers to give effect to replacement withholding allowance certificates (Form W-4 or W-4A) no later than the start of the first payroll period ending on or after the thirtieth day after the day on which the employee furnishes the certificate to the employer. Employers are permitted to continue to elect to give effect to replacement withholding allowance certificates on any date between the date it is furnished by the employee and the statutorily mandated effective date.

The provision applies to replacement withholding allowance certificates furnished after the day 30 days after the date of enactment of the bill.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

3. Estimated tax penalties for 1987

A. DELAY OF INCREASE IN CURRENT YEAR LIABILITY TEST FOR INDIVIDUALS

Present law

Individuals owing income tax who do not make estimated tax payments are generally subject to a penalty (Code sec. 6654). In order to avoid the penalty, individuals must generally make quarterly estimated tax payments that equal at least the lesser of 100 percent of the prior year's tax liability or 90 percent of the current year's tax liability. Amounts withheld from wages are considered to be estimated tax payments.

The Tax Reform Act of 1986 increased from 80 to 90 percent the proportion of the current year's tax liability that taxpayers must pay to avoid the penalty. This was effective for taxable years beginning after December 31, 1986.

House bill

The House bill delays for one year this increase from 80 to 90 percent. Thus, for taxable years beginning before January 1, 1988, individuals may avoid the estimated tax penalty by making quarterly estimated tax payments that equal at least the lesser of 100 percent of the prior year's tax liability or 80 percent of current year's tax liability. For taxable years beginning after December 31, 1987, individuals may avoid the estimated tax penalty by making quarterly estimated tax payments that equal at least the lesser of 100 percent of the prior year's tax liability or 90 percent of the current year's tax liability.

The increase from 80 to 90 percent is effective for taxable years beginning after December 31, 1987 (instead of taxable years beginning after December 31, 1986).

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

B. CORPORATIONS MAY USE 1986 TAX TO DETERMINE CERTAIN ESTIMATED TAX INSTALLMENTS DUE BEFORE JULY 1, 1987

Present law

Under present law, a corporation that fails to pay an installment of estimated income tax on or before the due date generally is subject to a penalty computed at the rate of interest for tax underpayments. The penalty may not be waived.

The penalty is computed by applying the underpayment interest rate to the amount of the underpayment of the installment for the period of the underpayment. The amount of the underpayment is the difference between the payments made on or before the due date of each installment and 90 percent of the total tax shown on the return for the year, divided by the number of installments that should have been made.

No estimated tax penalty is imposed if the installment is based on the lesser of (1) the preceding year's tax liability, if a return showing a liability for tax was filed for the preceding year; (2) the tax computed by using the facts shown on the prior year's return under the current year's tax rates; or (3) 90 percent of the taxes which would be due if certain income already recognized during the current year were placed on annual basis. Large corporations may not use exceptions (1) and (2) described above. A large corporation is defined as a corporation having at least $1 million of taxable income in any of the three prior taxable years.

Present law does not give explicit authority to the Treasury to provide alternative estimated tax rules for corporations.

The Treasury has issued regulations, applicable to estimated tax payments due before July 1, 1987, that permit corporations to base those estimated payments on 120 percent of 1986 taxable income with certain modifications.

House bill

The House bill provides two safe harbors for corporate estimated tax payments due before July 1, 1987. First, all corporations, including large corporations, are permitted to base those estimated tax payments on 100 percent of the 1986 tax liability. Second, statutory authorization is provided for the safe harbor provided in the Treasury regulations.

Under the first safe harbor, no penalty for the underpayment of estimated tax for a taxable year beginning in 1987 will be imposed on a large corporation (as defined in sec. 6655(i)(2) of the Code) for any payment due on or before June 15, 1987, if the corporation's estimated tax payments meet the present law requirements (of sec. 6655(d)(1)) applicable to other corporations allowing payments to be based on the tax shown on the prior year's return. Thus, large corporations are expressly authorized to utilize the estimated tax safe harbor of paying the preceding year's tax liability for estimated tax installments for the taxable year beginning in 1987 that are also due on or before June 15, 1987. A corporation may take advantage of this rule only to the extent that the underpayment of estimated tax is paid on or before the last date prescribed for payment of the most recent installment of estimated tax due on or before September 15, 1987. This relief is available for the first two payments of a calendar year corporation and for the first payment of a fiscal year corporation whose taxable year begins on or before March 1, 1987.

The provisions are effective for corporate estimated tax installments for 1987 that were due before July 1, 1987.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

IV. ESTATE AND GIFT TAXES

1. Extension of 1987 tax rates

Present law

Under the estate and gift taxes, a single rate schedule is applied to an individual's cumulative gifts and bequests. The generation-skipping transfer tax is computed by reference to the maximum Federal estate tax rate.

For 1987, the estate and gift tax rates are 55 percent on taxable transfers over $3 million. For transfers occurring after 1987, the maximum estate and gift tax rate is scheduled to decline to 50 percent for taxable transfers over $2.5 million.

House bill

The House bill makes permanent the estate and gift rates applicable in 1987.

Senate amendment

The Senate amendment defers the scheduled decline in estate and gift tax rates for two years (through 1989).

Conference agreement

The conference agreement follows the House bill and the Senate amendment, with the modification that the scheduled decline is deferred for five years. Thus, the maximum rate declines to 50 percent for decedents dying, and gifts made, after December 31, 1992.

2. Graduated rates and unified credit

Present law

The estate and gift taxes are unified, so that a single graduated rate schedule is applied to an individual's cumulative gifts and bequests. A unified credit of $192,800 is deducted from the gross gift or estate tax in arriving at the net tax payable. The $192,800 credit in effect exempts the first $600,000 of transfers from gift and estate taxation.

House bill

The House bill phases out the benefit of the unified credit and graduated rates for transfers exceeding $5 million. The gift and estate tax liability for taxable transfers in excess of $5 million is increased by five percent of such excess until the benefit of the unified credit and graduated brackets is recaptured.

Senate amendment

No provision.

Conference agreement

The benefit of the unified credit and graduated rates is phased out for transfers exceeding $10 million. The gift and estate tax liability for taxable transfers in excess of $10 million is increased by five percent of such excess until the benefit of the unified credit and graduated brackets is recaptured.

The rate adjustment for decedent dying, and gifts made, after December 31, 1987, and before December 31, 1992, occurs for cumulative taxable transfers between $10,000,000 and $21,040,000. Once the maximum adjustment applies, the 55 percent rate becomes the rate of taxation. The rate adjustment for decedents dying, and gifts made, after December 31, 1992, occurs for cumulative transfers between $10,000,000 and $18,340,000, after which the rate of taxation becomes 50 percent.

This provision does not otherwise affect the structure of the unified credit. Thus, gifts made prior to December 31, 1987, are counted in determining the amount of the unified credit subject to the phase-out. Therefore, even though a person makes gifts valued at $600,000 prior to December 31, 1987, he is subject to the full 5 percent rate adjustment on transfers after 1987.

Pre-effective date gifts are counted toward cumulative transfers for purposes of determining the rate adjustment for transfers made after the effective date, but the tax rate on pre-effective date gifts remains unchanged. Thus, if a person makes $9 million in gifts prior to the effective date and $4 million in transfers after that date, $3 million of transfers are subject to the adjustment. If a person makes $22 million in gifts prior to the effective date, no transfers after that date are subject to the rate adjustment.

This provision does not affect the maximum Federal estate tax rate for purposes of computing the generation-skipping transfer tax. That rate is 55 percent for generation-skipping transfers made before December 31, 1992, and 50 percent thereafter.

3. State death tax credit

Present law

A dollar-for-dollar credit is allowed against the Federal estate tax for any estate, inheritance, legacy, or succession taxes paid to a State with respect to any property included in the gross estate.

House bill

The House bill repeals the credit for State death taxes and enacts an estate tax deduction for such taxes.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

4. Special valuation rules: minority discounts and estate freezes

Present law

Minority discounts

Numerous courts have found that blocks of corporate stock constituting a minority interest are usually worth less than a proportionate share of the value of the corporate assets. No special burden of proof must be met for a court to make such a finding. Courts have allowed a minority discount even where related persons together own a majority interest in the corporation.

Valuation freezes

Where an individual retains enjoyment of, or the right to income from, transferred property, his gross estate includes the full value of such property. Nonetheless, a decedent's estate does not include the full value of stock of a corporation previously owned by a decedent where the decedent gives his children common stock in the corporation but keeps control over, and the income from, the corporation through retention of preferred stock in that corporation.

House bill

Minority discounts

Under the House bill, the value of stock in a corporation is deemed to be equal to its pro rata share of all the stock of the same class in such corporation, unless a different value is established by clear and convincing evidence. In determining whether a different value can be established, all stock held, directly or indirectly, by an individual or by members of such individual's family is treated as held by one person. Similar rules apply in the valuation of interests in entities other than corporations and of property other than corporate stock.

Valuation freezes

Under the House bill, if a person holds a substantial interest in an enterprise and, in effect, transfers a disproportionate share of the potential appreciation in the enterprise, then the transferred property shall be included in his gross estate.

A person holds a substantial interest in an enterprise if such person owns, directly or indirectly, ten percent or more of the voting power in, or income of, the enterprise.

Transfers for full and adequate consideration to persons other than family members are exempted.

The estate freeze provision is effective for decedents dying after December 31, 1987.

Senate amendment

No provision.

Conference agreement

Minority discounts

The conference agreement follows the Senate amendment.

Estate freezes

The conference agreement follows the House bill, with the following modifications.

In general.—Under the conference agreement, if any person holds a substantial interest in an enterprise and in effect transfers after December 17, 1987, property having a disproportionately large share of the potential appreciation in such person's interest in the enterprise while retaining a disproportionately large share in the income of, or rights in, the enterprise, then the retention of the retained interest is treated as a retention of the enjoyment of the transferred property. The value of the transferred property is includible in a decedent's gross estate if the decedent retained the retained interest for his life, for any period not ascertainable without reference to his death, or for any period which does not in fact end before his death. In addition, that value is includible if the retained interest is disposed of during the 3-year period ending on the date of the decedent's death.[1] For purposes of this provision, an individual and such individual's spouse shall be treated as one person.

For example, if, after December 17, 1987, a person who holds all the preferred and common stock in a corporation transfers the common stock and retains the preferred stock until his death, the common stock is includible in his estate. Likewise, a similar transaction undertaken by transferring a partnership interest with greater rights to appreciation than the retained interest will result in the transferred interest being included in the estate.

If a share of appreciation borne by the transferred property is disproportionately large, but only with respect to part of the transferred property, only that part of the transferred property is included in the estate. Thus, if a person who owns a substantial interest in an enterprise and whose only holdings in the enterprise consist of 100 shares of common stock and 100 shares of preferred stock transfers 80 shares of the common stock and 20 shares of the preferred stock, only 60 shares of the transferred common stock are included in his estate under this provision.

The provision only makes certain property includible in the estate; it does not affect the valuation of such property for estate tax purposes.

Definitions

Substantial interest.—A person holds a substantial interest in an enterprise if such person owns, directly or indirectly, 10 percent or more of the voting power or income stream, or both, in the enterprise. For these purposes, an individual shall be treated as owning any interest in an enterprise owned, directly or indirectly, by any member of such individual's family. Interests held indirectly by a person include interests held by an entity in which such person has an interest.

Enterprise.—Under the conference agreement, an enterprise includes a business or other property which may produce income or gain.

Family.—Family means, with respect to any individual, such individual's spouse, any lineal descendant of such individual or of such individual's spouse, any parent or grandparent of such individual, and any spouse of any of the foregoing. Relationship by legal adoption is treated as one by blood.

Transfer.—A transfer encompasses, but is not limited to, all transactions whereby property is passed to or conferred upon another, regardless of the means or device employed in its accomplishment.

Disproportionately large share of potential appreciation.—A disproportionately large share of potential appreciation is any share of appreciation in the enterprise greater than the share of appreciation borne by the property retained by the transferor.

Rights.—Rights in the enterprise include voting rights, conversion rights, liquidation rights, warrants, options, and other rights of value.

Sales of interests

Sales for full and adequate consideration, other than those to family members, are exempted from the provision. Appropriate adjustments in the value of the estate will be made for sales which are not exempted. Thus, when an interest is sold for less than full and adequate consideration, the amount included in the estate will be reduced by the value of the consideration received by the decedent. Sales to family members will be deemed to be for less than full and adequate consideration for this purpose.

Effective date.—The provision is effective for decedents dying after December 31, 1987. However, it does not apply to transfers completed before December 18, 1987. Thus, for example, when a person who owns all the common and preferred stock in an enterprise transfers all the common stock after December 17, 1987, while retaining the preferred stock, the provision applies, even though the two classes of stock existed prior to December 18, 1987. If, in that situation, all the common stock is transferred prior to December 18, 1987, the provision does not apply to the transferor (or his spouse), even if either the common or preferred stock is transferred in subsequent transactions after December 17, 1987, so long as that transferor or his spouse does not reacquire any common stock.

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[1] It may be includable even if the retained interest is sold for its fair market value during the 3-year period. See *United States* v *Allen*, 293 F.2d 916 (10th Cir. 1961).

5. Estate tax deduction for sales to an ESOP

Present law

The Tax Reform Act of 1986 (sec. 1172 of the Act and sec. 2057 of the Code) adopted a special provision allowing partial relief from estate taxes through an estate tax deduction for sales of employer securities to an employee stock ownership plan (ESOP) or an eligible worker-owned cooperative. This provision was adopted for a temporary period of time to encourage transfers of employer securities to ESOPs. The provision permits a deduction from the gross estate of a decedent equal to 50 percent of the proceeds received from a qualified sale of employer securities.

IRS Notice 87-13 (January 5, 1987) provided that the estate tax deduction for transfers to an ESOP or worker-owned cooperative is not available unless (1) the decedent directly owned the employer securities immediately before death, and (2) after the sale, the employer securities are allocated to plan participants or are held for future allocation in connection with an exempt loan under section 4975 or in connection with a transfer of assets from a defined benefit plan under the rules of section 4980(c)(3). Except in the case of a bona fide business transaction, employer securities are not treated as allocated or held for future allocation to the extent that such securities are allocated or held for future allocation in substitution of other employer securities that had been allocated or held for future allocation.

House bill

The bill confirms the positions taken in IRS Notice 87-13 and further clarifies and restricts the availability of the deduction. Thus, the bill (1) provides that the deduction is available in the case of sales of employer securities to tax-credit ESOPs, (2) limits the deduction to sales of nonpublicly traded securities, (3) permits the sale of any assets listed as securities on the estate tax return, (4) limits the deduction to 50 percent of the taxable estate and the maximum reduction in estate taxes to $750,000, (5) imposes holding period requirements for the decedent and the ESOP, (6) prohibits the deduction in the case of securities acquired with assets transferred from another plan of the employer, and (7) imposes certain excise taxes on an ESOP or worker-owned cooperative for a failure to satisfy the allocation and holding period requirements.

The confirmation of the IRS Notice is effective as if included in the Tax Reform Act of 1986. The other provisions are effective with respect to sales of securities to ESOPs after February 26, 1987, except that the ESOP holding period requirement generally applies to dispositions of securities by the ESOP after February 26, 1987. Securities subject to the ESOP holding period requirement are qualified employer securities, which for this purpose includes employer securities sold before February 27, 1987, for which a deduction was allowed.

Senate amendment

The Senate amendment is the same as the House bill, except that the provisions (other than the confirmation of the IRS Notice) are effective with respect to sales of securities to ESOPs after February 27, 1987, and that the ESOP holding period requirement generally applies to dispositions of securities by the ESOP after February 27, 1987. Securities subject to the ESOP holding period requirement are qualified employer securities, which for this purpose includes employer securities sold before February 27, 1987, for which a deduction was allowed.

Conference agreement

The conference agreement follows the House bill.

V. EXCISE TAXES; USER FEES

A. EXCISE TAXES

1. Telephone excise tax: 3-year extension

Present law

A 3-percent excise tax is imposed on amounts paid for local telephone service, toll (long-distance) telephone service, and teletypewriter exchange service. This tax is scheduled to expire after December 31, 1987.

House bill

The House bill extends the present 3-percent telephone excise tax for 3 years, through December 31, 1990.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

2. Collection of diesel fuel and certain other motor fuels taxes on sales to retailers

Present law

The excise taxes on diesel fuel, special motor fuels, and nongasoline aviation fuel generally are imposed on the sale of the taxable fuel by a retail dealer to the ultimate consumer of the fuel (sec. 4041). Under an exception, retail dealers may elect to have wholesale distributors collect and pay the diesel fuel tax when the fuel is sold to the retailer.

House bill

The excise tax on taxable fuels, which are defined as diesel fuel, taxable special fuels, and nongasoline aviation fuels, is to be imposed on sale of the fuels to any taxable fuel retailer.

Taxable special fuels include special motor fuels (other than gasoline or diesel fuel) that are sold for use as a fuel in a motor vehicle or motorboat. Nongasoline aviation fuels means any liquid on which tax would be imposed if sold for use in an aircraft in noncommercial aviation.

Collection of the excise tax on the sale of any taxable fuel by wholesale dealers is made mandatory for all sales. The provisions of present law permitting tax-free sales for certain exempt purposes are repealed.

Any taxable fuel that is held on January 1, 1988, by a dealer for sale is subject to a floor stocks tax at the rate applicable under this section to that fuel.

The provision is effective on January 1, 1988.

Senate amendment

The Senate amendment generally is the same as the House bill, with the following differences.

The Treasury Department is authorized to prescribe regulations for purposes of making refunds or allowing credits of the non-gasoline fuels excise taxes. In addition, Treasury is authorized to require information reporting and registration from such persons in the distribution chain of these fuels as is deemed necessary to prevent evasion of the tax.

The Senate amendment also requires that amounts equivalent to revenues raised by the floor stocks taxes be transferred to the Highway Trust Fund or the Leaking Underground Storage Tank (LUST) Trust Fund.

The provision is effective on January 1, 1988.

Conference agreement

The conference agreement generally follows the House bill and the Senate amendment, but includes several modifications. First, the tax on special motor fuels continues to be imposed at the retail level. In the case of the taxes on diesel fuel and nongasoline aviation fuels, tax technically is imposed on the sale (or earlier use) of a taxable fuel by the producer thereof. The term producer is defined, however, to include wholesale distributors and other intermediate persons in the chain of distribution of the taxable fuel. All persons who are producers of a taxable fuel must register with the Treasury Department and satisfy such bonding requirements as Treasury may prescribe. Therefore, a wholesale distributor may buy fuels without payment of tax only upon satisfaction of these requirements.

In general, like the House bill and Senate amendment, all provisions permitting exempt sales beyond the wholesale level are repealed. Treasury is, however, given discretionary authority to exempt from tax certain sales where the purchaser demonstrates to the satisfaction of Treasury that the fuel will be used in a nontaxable use and also registers and posts such bond as Treasury may require. This authority is to be exercised on a case-by-case basis. Sales that may be exempted include (1) diesel fuel sold for use as a fuel in a diesel-powered train, (2) aviation fuel sold for use as a fuel in an aircraft in commercial aviation, (3) taxable fuels sold for industrial use other than as a motor fuel, and (4) taxable fuel sold for exclusive use of any State, a political subdivision of a State, or the District of Columbia.[2] As under the House bill and the Senate amendment, sales of fuel that Treasury determines is destined for use as heating oil may be made without payment of tax. All other exemptions from these taxes must be realized through refund procedures following purchase of the fuels tax-paid.

The conference agreement grants Treasury broad authority to ensure compliance generally with the provisions of the agreement. Specifically, Treasury may, in its discretion, require information reporting by and registration of any person in the distribution chain of any taxable fuel (including, e.g., any distributor of fuel destined for use as heating oil).

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[2] States and local governmental units eligible to apply to the Treasury for approval to buy fuels without payment of tax generally include those governmental units that are permitted to buy tax-free under present law (sec. 4221(a)(4)). The conferees are aware that repeal of automatic tax-free sales of these fuels to States and local governments may, in certain cases, result in a temporary additional cost on certain of these entities, but determined that general concerns about compliance with these taxes outweigh that possibility. The discretionary exemption included in the agreement reconciles these compliance concerns with any potential burden on States and local governments. The conferees intend that in determining which governmental units may purchase taxable fuels without payment of tax under the agreement, the Treasury Department is to attempt to minimize any such costs to the extent consistent with the increased compliance objectives of the conference agreement.

These provisions of the conference agreement are effective on and after April 1, 1988, with a floor stocks tax being imposed as was provided under the House bill and the Senate amendment on all persons holding non-tax-paid fuels on April 1, 1988.

3. Extension of termination date for coal excise tax rate

Present law

A manufacturer's excise tax is imposed on the sale or use of domestically mined coal by the producer (sec. 4121). Effective April 1, 1986, the tax rate was increased (by 10 percent) to $1.10 per ton of coal from underground mines, and 55 cents per ton of coal from surface mines, but not to exceed 4.4 percent of the sales price.

Under present law, the tax rate is scheduled to revert to the pre-1982 rate of 50 cents per ton on underground coal and 25 cents per ton on surface coal (but not to exceed two percent of price) on the earlier of January 1, 1996 or the first January 1 as of which there is (1) no balance of repayable advances from the general fund to the Black Lung Disability Trust Fund, and (2) no unpaid interest on such advances.

Amounts equal to the revenues collected from the coal excise tax are appropriated automatically to the Trust Fund. Present law also authorizes repayable advances from the general fund to the Trust Fund. The Trust Fund pays certain black lung disease benefits in cases where no coal mine operator is found specifically responsible for the individual miner's disease.

House bill

No provision.

Senate amendment

The Senate amendment extends the termination date for the present-law coal excise tax rate from January 1, 1996 to the earlier of (1) January 1, 2014 or (2) the date the Trust Fund achieves solvency (as defined under the present-law termination provision). The extension of the termination date for the present-law coal excise tax rate is effective from January 1, 1996 to January 1, 2014, subject to earlier termination under the solvency provision described above.

Conference agreement

The conference agreement follows the Senate amendment.

4. Highway excise tax exemptions for private buses

Present law

Receipts from excise taxes on motor fuels and tires are deposited in the Highway Trust Fund. Receipts of the Trust Fund are used to finance expenditures which are authorized from the Highway Trust Fund. Exemptions from these excise taxes are provided for several purchasers of fuels, including private operators of transit buses and certain private school buses and buses used by section 501(c)(3) organizations.

Private bus operators are exempt from the excise tax on tires. Intercity common carrier buses and qualified local buses are exempt from the 9-cents-per-gallon highway taxes on gasoline and special motor fuels. Qualified local buses are also exempt from the 15-cents-per gallon diesel fuel tax. In addition, private intercity buses receive a 12-cents-per-gallon refund (or credit) of the 15-cents-per-gallon highway diesel fuel tax. No exemption is available for buses engaged in transportation that is not scheduled and is not along regular routes, unless the seating capacity of the bus is at least 20 adults (not including the driver).

House bill

The House bill repeals the motor fuels and tires excise tax exemptions for buses, including buses used by sec. 501(c)(3) organizations. This repeal does not affect the exemptions of governmentally owned and operated mass transit buses or of public school buses.

This provision is effective on January 1, 1988.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

B. USER FEES

1. Internal Revenue Service fees

Present law

The Internal Revenue Service (IRS) currently provides written responses to questions of individuals, corporations, and organizations relating to their tax status or the effects of particular transactions for tax purposes. The IRS responds to these inquiries through the issuance of letter rulings, determination letters, and opinion letters. The IRS currently does not charge a fee for issuing letter rulings, determination letters, or opinion letters.

House bill

The House bill requires the IRS to charge a fee for each request for a letter ruling, determination letter, opinion letter, or other similar ruling or determination. The amount of the fee is to vary based on the type of request. In addition, the IRS is authorized to provide exemptions and reduced fees. The IRS may vary the amount of the fee or provide exemptions or reduced fees only if the average fee charged during a fiscal year for requests in any category is not less than the fee listed for that category.

The amount of the fee is payable in advance and is refundable only if the IRS refuses to respond to the request. The fee is not refundable if the person making the request withdraws the request prior to the issuance of the ruling, opinion, or determination.

The provision applies to requests filed on or after the first day of the second calendar month that begins after the date of enactment. The provision does not apply to requests filed after September 30, 1990.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, except that the average fee for each type of request is not to be less than the amount determined under following table:

Category	*Fee*
Employee plan ruling and opinion	$250
Exempt organization ruling	350
Employee plan determination	300
Exempt organization determination	275
Chief counsel ruling	200

2. Extension and increase in certain alcohol, tobacco, and firearms occupational taxes

Present law

Producers and manufacturers

Occupational taxes are imposed on the producers or manufacturers of firearms and alcohol products. Brewers currently pay $110 per year for each brewery operated by them, except any brewer of fewer than 500 barrels a year pays $55 per year. Manufacturers and importers of National Firearms Act (NFA) firearms pay a $500 per year occupational tax for each place of business, except a person who manufactures or imports only weapons classified as "any other weapons" pays, e.g., a tax of $25 per year.

No occupational taxes are imposed on distillers, wineries, or tobacco manufacturers.

Dealers

Dealers in NFA firearms generally are subject to an annual occupational tax of $200 per place of business. Dealers in only "any other weapons" are subject to an annual tax of $10 per place of business.

Wholesale liquor dealers pay an annual business occupational tax of $255 per place of business. Wholesale beer dealers pay $123 annually per place of business.

Retail liquor dealers pay an annual occupational tax of $54 per place of business. For retail beer dealers, the tax is $24 per place of business. Limited retail dealers in distilled spirits are taxed at $4.50 per month, and the tax is $2.20 per month for limited retail dealers in beer and wine only.

Other occupations

Persons permitted to use distilled spirits without payment of tax, or who deal in or use specially denatured distilled spirits, must obtain permits under present law, but no occupational tax is imposed on these persons with respect to this activity.

Drawbacks (refunds) are permitted of the distilled spirits tax in certain cases. Persons receiving drawbacks of this tax for distilled spirits to be used for nonbeverage purposes are subject to an occupational tax based on the amount of alcohol used. The tax ranges from $25 per year for drawbacks that do not exceed 25 proof gallons to $100 per year for drawbacks exceeding 50 proof gallons.

House bill

Producers and manufacturers

Producers and manufacturers occupational taxes are increased to annual amounts of $1,000 per place of business for producers of all taxable alcoholic beverages (distilled spirits, wine, and beer), manufacturers of all taxable tobacco products, and for producers of firearms. A lower rate of $500 per year applies to businesses having gross receipts of less than $500,000 in the preceding taxable year. For purposes of this reduced rate, all members of a controlled group of corporations (substituting 50 percent for the general 80 percent test of common ownership) are treated as one business.

Dealers

The firearms dealer occupational tax is increased to $500 per year per place of business.

Alcoholic beverage wholesale dealer occupational taxes are combined and imposed at an increased, uniform rate of $500 per year per place of business.

Retail dealers in alcoholic beverages pay an increased annual occupational tax at a uniform rate of $200 per year per place of business. Present law occupational taxes on limited retail dealers are repealed. The retail dealer occupational tax is extended to all persons required to acquire permits for tax-free use of distilled spirits. Occupational tax rates for persons receiving drawbacks of the distilled spirits tax for spirits used in nonbeverage products are combined and imposed at a rate of $500 per year per place of business.

Effective dates.—These provisions are effective on January 1, 1988.

Occupational taxes generally are imposed for a 12-month period, covering the period July 1 through June 30. Taxpayers are liable for payment for a full 12-month period of these new taxes on July 1, 1988. Taxpayers who paid the present law occupational taxes on July 1, 1987, are subject to an adjustment of tax for the period January 1 through June 30, 1988. The adjustment makes these taxpayers liable for 50 percent of the excess of the applicable new annual tax rate over the applicable present-law tax rate. Persons initially subject to an occupational tax as a result of the bill are liable for 50 percent of the applicable new annual occupational tax rate on January 1, 1988.

Senate amendment

The Senate amendment is the same as the House bill, except occupational taxes due on January 1, 1988, under the effective date provision, are payable on April 1, 1988.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, including the special due date for January 1, 1988, payments of occupational taxes contained in the Senate amendment.

VI. OTHER REVENUE—INCREASE PROVISIONS

A. APPLICATION OF TARGETED JOBS TAX CREDIT FOR WAGES PAID DURING PERIOD OF LABOR DISPUTE

Present law

A tax credit is available to employers of individuals from one or more of nine targeted groups. The nine groups consist of individuals who are recipients of payments under means-tested transfer programs, economically disadvantaged (as measured by family income), or disabled. The credit equals 40 percent of the first $6,000 of qualified first-year wages (85 percent of up to $3,000 of wages in the case of disadvantaged summer youth employees). The employer's deduction for wages must be reduced by the amount of the credit.

There is no provision in present law specifically disallowing the targeted jobs credit to an employer when members of a targeted group, whose wages otherwise qualify for the credit, are hired to perform employment services in a labor dispute situation.

The credit is scheduled to expire as of December 31, 1988.

House bill

An employer is not entitled to the targeted jobs tax credit with respect to certain wages if the employer's plant or facility is involved in a strike or lockout. Specifically, the credit is not available for wages paid to a targeted-group individual who performs the same or substantially similar services as those of employees participating in or affected by the strikes or lockcut.

This provision applies with respect to amounts paid or incurred on or after January 1, 1987, for services rendered on or after such date.

Senate amendment

No provision.

Conference agreement

The Senate amendment follows the House bill.

B. ILLEGAL FEDERAL IRRIGATION SUBSIDIES

Present law

The Federal Government makes available water from reclamation and irrigation projects for agricultural purposes. Pursuant to the Reclamation Reform Act of 1982, this water must be provided at "full cost" in certain situations. In other situations, the amount charged for the water may be less than its full cost. If water is provided at less than full cost, the difference between the full cost amount and that actually charged for the water is not an item of income for Federal income tax purposes.

House bill

Gross income includes any illegal Federal irrigation subsidy received by a taxpayer during the taxable year. An illegal Federal irrigation subsidy is the excess (if any) of the amount required by law to be paid for any Federal irrigation water delivered to, or for the benefit of, the taxpayer over the amount paid for such water. Federal irrigation water is any water made available for agricultural purposes from the operation of any reclamation or irrigation project referred to in paragraph (8) of section 202 of the Reclamation Reform Act of 1982. A taxpayer receiving an illegal water subsidy is required to include the amount of such subsidy in gross income in the taxable year in which such water is provided. No deduction is allowed with regard to any amount included in income as a result of this provision.

The provision is effective for water delivered to the taxpayer after December 31, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill. The conferees intend that the amount considered paid for Federal irrigation water for the purposes of this provision includes all amounts paid for such water, whether or not paid in the same taxable year as the water is delivered.

C. COMPIANCE PROVISIONS

1. Escheat of refunds

Present law

Although under present law unclaimed Federal tax refunds remain in the General Fund of the Treasury, no provision of the Code expressly requires that such unclaimed refunds escheat (revert) to the Federal Government. Some States have sued the Federal Government, asserting that unclaimed Federal tax refunds escheat to the State. If the States win these cases, the Federal Government would be required to pay these amounts out of the General Fund of the Treasury to the States.

House bill

The House bill provides that unclaimed Federal tax refunds remain in the General Fund of the Treasury. This provision is effective upon the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

2. IRS funding for better compliance

Present law

During the 1986 filing season, the IRS processed 110 million Federal tax returns. Gross revenue receipts amounted to $782.3 billion, including $497 billion of individual and corporate income tax receipts.

Almost 55 million requests for assistance were handled under the IRS program of taxpayer assistance. Also, more than one million returns were examined by IRS personnel as part of its enforcement efforts.

House bill

The House bill includes a sense of the Continuing Resolution stating that (1) Congress should increase outlays for the IRS for fiscal year 1989 by $0.7 billion and for fiscal year 1990 by $0.8 billion; (2) the IRS should offer improved taxpayer assistance and enforcement efforts by using these increases in areas recommended by the "Dorgan Task Force Report"; (3) the IRS should be one of the first Federal agencies to utilize the new Gramm-Rudman option of a two-year budget cycle; and (4) increased funding should be provided for compilation and analysis of statistics of income and research.

Also, the IRS must issue a public report by April 15, 1989, on the extent of the tax gap and the measures that could be undertaken to decrease the tax gap. The IRS must also report annually on the improvements being made in the audit rate, taxpayer assistance, and enforcement efforts.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

D. TAX-EXEMPT BONDS

1. Tax-exempt bonds to acquire nongovernmental output property

Present law

States and local governments generally may issue tax-exempt bonds to finance the acquisition, construction, and operation of governmentally owned and operated output facilities. Such bonds are not subject to the State private activity bond volume limitations.

House bill

The House bill generally provides that bonds used to finance acquisition of nongovernmental output property by a State or a local governmental unit are private activity bonds and the interest thereon is taxable. Nongovernmental output property is defined as property that prior to its acquisition has been used (or held for use) by any person other than a State or a local governmental unit (e.g., by an investor-owned utility, a cooperative, or the Federal Government) in connection with an output facility. As under present law, output property includes, e.g., facilities such as electric and gas generation, transmission, distribution, and other related facilities.

The House bill includes two exceptions. First, bonds to acquire such output property for the furnishing of electric energy and gas may be issued as tax-exempt private activity bonds, subject to the applicable State private activity bond volume limitation and generally to all other provisions of the Internal Revenue Code governing tax-exempt exempt-facility bonds. Second, bonds to acquire such output property for the furnishing of water are no subject to the new restrictions imposed by the House bill.[3]

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[3] Facilities for the furnishing of water are not defined as output facilities under sec. 141(b)(4).

The provision applies to bonds (including refunding bonds) issued after October 13, 1987. A transitional exception is provided for acquisitions pursuant to contracts that were binding on October 13, 1987, and at all times thereafter, and for a project-specific acquisition.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill in treating as taxable private activity bonds all bonds issued to acquire nongovernmental output property unless the bonds are issued to acquire such property for the furnishing of electric energy and gas (and are issued as tax-exempt exempt-facility bonds) or are issued in connection with the furnishing of water, with several modifications.

Exceptions to general restrictions

Two exceptions are included pursuant to which bonds to acquire nongovernmental output property will not be subject to the new restrictions contained in the conference agreement.

Existing service areas.—Under the first exception, the acquisition of nongovernmental output property by a State or a local governmental unit to meet existing or increased capacity demands within a service area throughout which the acquiring entity has provided the same type of service for at least 10 years immediately preceding the date of the acquisition is not subject to the new restrictions. For example, a governmental authority that provides electricity to a city may use tax-exempt bonds subject only to present-law rules to acquire existing investor- or Federally owned generation and transmission facilities when those facilities will be used to provide output service within the service area throughout which the authority actually has provided electric service during a 10-year minimum service period, described below.[4]

This exception does not apply to those cases where the increase in demand arises from sales outside the existing service area through direct arrangements or through wheeling arrangements with another provider. For example, if a manufacturer built a manufacturing plant outside a governmental output authority's existing service area, but contracted with the authority for electricity, the plant's demand for electricity could not be counted as in demand within the existing service area.

Annexations.—A second exception permits the acquisition of existing nongovernmental output property without regard to the new restrictions in the conference agreement where a governmental unit served by an existing governmental output authority annexes certain contiguous territory in a general governmental purpose annexation, and seeks to expand its electric, gas, or other output service to that annexed territory as part of the annexation. An annexation is treated as being for general governmental purposes if it involves the transfer of voter registration and property tax rolls as well as responsibility for extension of general governmental services (e.g., police and fire protection and sewer and water services) on the same basis as those services are provided to other residents of the governmental unit.

This exception applies only if (1) the annexed area is no greater than 10 percent of the geographic area of the governmental unit or (2) the output capacity of the governmental authority increases by no more than 10 percent as a result of the acquisition of output property to service the annexed area. Both determinations are made as of the last day of the calendar year immediately before the year in which the annexation occurs. Thus, in the case of a city comprised of 90 square miles, up to 9 square miles of additional territory may be annexed and the extension of output services to that 9 square miles (e.g., through acquisition of an existing privately owned distribution system) could qualify under this exception. An area larger than 9 square miles could be annexed and increased capacity acquired, provided that the increase in capacity did not exceed 10 percent of the output capacity of the governmental authority allocable to the area already served by the annexing governmental entity.

The conferees are aware that cities and other governmental units may annex additional territory on a recurring basis and intend that the 10-percent restrictions be applied separately with regard to each such annexation, provided that such recurring annexations are general purpose annexations.

Further, this exception is available only where service in the annexed area is made available directly to all members of the general public by the acquiring governmental output authority. Thus, for example, the acquisition of output capacity to serve a single, or limited group of, industrial users either directly or through wheeling arrangements with another provider currently serving those users, is subject to the restrictions of the conference agreement.

Rules for applying exceptions

10-year minimum service requirement.—The two exceptions described above generally are available only to governmental authorities that satisfy a 10-year minimum service requirement on actually providing service to their service areas. In applying this rule, a service area to which such an authority actually was providing service (as opposed to being authorized to provide service) on October 13, 1987, is treated as having been served for 10 years. Further, an existing service area does not include any area, which although identified as such in State or local law, has not been actively served during at least a substantial part cf the last year.

The conferees recognize that many cities with existing governmental output systems may expand over a 10-year period and as part of that growth may annex neighboring territory in general purpose governmental annexations. Subject to the restrictions in the preceding paragraph on actually serving an area, if such a governmental authority extends its services into such annexed areas in an annexation qualified under the exception described above, the governmental authority is deemed to have satisfied the ten-year minimum service requirement for purposes of future acquisitions if it has served a core area within its total area of actual service with the same type of service for the 10 years immediately preceding the year in which the existing nongovernmental output property is acquired.

Governmental authorities without generation facilities.—The conferees recognize that some existing governmental output systems only provide distribution services, or that they may produce output sufficient to meet only a part of the demand of their service area. The conference agreement does not preclude such a governmental authority from continuing to serve its function by purchasing capacity necessary to meet the existing demand (and reasonable projected future demand, subject to the restrictions described below) of its service area through acquisitions of nongovernmental output property without regard to the new restrictions contained in the agreement.

Excess capacity and the sale of such capacity outside the service area.—The conference agreement does not preclude a governmental authority from acquiring reasonable amounts of capacity beyond the authority's current demand needs while qualifying under either of the two exceptions provided in the agreement. However, no capacity beyond that necessary to meet current output demands may be acquired if that capacity will be used in a manner that gives rise to an amount of private use of bond proceeds sufficient to characterize the bonds issued as part of the issue used to acquire the facilities as private activity bonds.

Under present law, sales of output capacity to nongovernmental entities pursuant to certain output or requirements contracts are not treated as a private business use if the sales occur pursuant to certain power pooling and exchange arrangements or certain spot sales of output capacity, in which case such sales are treated as sales to the general public. Under these rules, exchange agreements that provide for "swapping" of power between governmentally owned and operated utilities and investor-owned utilities do not give rise to a private business use where (1) the swapped power is in approximately equivalent amounts determined over periods of one year or less, (2) the power is swapped pursuant to an arrangement that does not involve output-type contracts, and (3) the purpose of the arrangements is to enable the respective utilities to satisfy differing peak load demands or to accommodate temporary outages. Additionally, spot sales of excess power capacity for temporary periods, other than by virtue of output contracts with specific purchasers, are not treated as private business use of bond proceeds. For purposes of this rule, a spot sale is a sale pursuant to a single agreement that is limited to no more than 30 days' duration (including renewal periods).

Treatment of joint action power agencies.—The conferees are aware that governmental entities may join together to form a governmental joint action agency to supply output services to their citizens. The conference agreement provides that, in applying the exceptions to the new restrictions contained therein, such agencies are to be pierced and the participating governmental units treated as directly providing power within their respective jurisdictions. For example, in applying the 10-year minimum service restriction, the provision of service within each participant's retail service area is determinative. In this case, the joint action agency need not have provided service for the last 10 years as long as the participating governmental entities satisfy the 10-year minimum service requirement. Similarly, if towns A, B, and C who own a joint action agency seek to avail themselves of the exception for annexations, the exception applies only if the area to be annexed is contiguous to the town annexing it and satisfies the size or capacity limits with respect to that town. On the other hand, an extension of service to town D, as a new member of the agency, would not qualify under the exception.

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[4] For example, bonds issued by a governmental output authority to finance construction of a nuclear generation plant to meet capacity requirements for an existing service area (or expansions thereof qualifying for the exception for certain annexations, described below) may be treated as satisfying the exception even if the bonds are issued after it is reasonably anticipated that the interest in the new plant will be traded for an interest in another previously privately owned, coal-fired generation plant.

Definition of nongovernmental output property

The conference agreement clarifies that property is treated as nongovernmental output property only if the property is used or held for use as such by a person other than a State or local government after October 13, 1987. Thus, the fact that property that was previously used by a person other than a State or a local governmental unit will not result in its acquisition being subject to the restrictions in the conference agreement if, before October 13, 1987, another governmental unit, from which the property currently is purchased, acquired the property. As under the House bill, however, if property is constructed for an investor-owned utility, that property is treated as nongovernmental output property. This determination is made without regard to whether the investor-owned utility actually placed the property in service.

The conference agreement further clarifies that nongovernmental output property may be either tangible property or intangible property. Thus, bonds issued to finance acquisition of stock or debt of an existing output company are subject to the restrictions of the agreement, in the same manner as bonds issued to finance an asset buy-out (including intangible assets such as rate deferrals).

Property that, prior to the bond-financed acquisition, has been used as nongovernmental output property, is not subject to the new restrictions in the agreement if the acquiring governmental unit uses the property in another type of use. Thus, for example, acquisition of a garage previously used by an investor-owned utility may be financed with tax-exempt bonds without regard to the new restrictions if the building is acquired to be used as a bus garage by the acquiring governmental unit's public transit system. On the other hand, property that was constructed for use as a nuclear generating plant may not be acquired with the intent to mothball the plant (nothwithstanding that the plant is not used as output property subsequent to the bond financed acquisition).

Finally, the conference agreement clarifies that street lighting installed in a municipal area that may because of historical practice be owned by an investor-owned utility is not output property. Thus, the municipality could acquire such lighting without regard to the new restrictions included in the agreement.

Effective date.—The conference agreement follows the House bill, with a clarification that tax-exempt bonds issued to acquire nongovernmental output property before October 13, 1987, may be refunded (including advance refunded) subject to the same restrictions as apply to the refunding of such bonds under present law.

The conferees additionally wish to clarify that the term binding contract for purposes of the general transitional exception in the House bill does not include an option to purchase output property. Rather, as provided under the general transitional exceptions in Titles II and XIII of the Tax Reform Act of 1986, a binding contract exists only if both parties to a transaction are bound to complete the sale/purchase of specifically identified property.

2. Tax-exempt bonds issued by Indian tribal governments

Present law

Indian tribal governments generally are treated like States under the Internal Revenue Code. However, tribal governments may issue tax-exempt bonds only if the proceeds are used in the exercise of an "essential governmental function." Unlike States, tribal governments may not issue tax-exempt private activity bonds.

Treasury Department regulations have defined an "essential governmental function" to include any projects for which Federal assistance to Indian tribes may be provided, thereby including some commercial and industrial activities not generally conducted by States and local governments with general taxing powers.

House bill

The House bill clarifies that for Indian tribal governments an "essential governmental function" does not include any function which is not customarily performed by States and local governments with general taxing powers.

The provision applies to bonds (including refunding bonds) issued after October 13, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with a modification permitting Indian tribal governments to issue as tax-exempt private activity bonds certain bonds for tribal manufacturing facilities [5] as an exception to the general rule that tribal governments may issue tax-exempt bonds only for essential governmental functions which States and local governments customarily perform. The conferees adopted this limited exception in recognition of the unique responsibilities of Indian tribal governments in managing historical tribal resources and land held in trust by the Federal Government, and limited its scope to bonds designed to foster employment opportunities on these tribal lands as part of the performance of this unique responsibility.

For a bond to qualify under this exception, no person other than the issuing Indian tribal government may use the bond proceeds (or be responsible for debt service on the bonds) in a manner resulting in violation of the private business use and private payment tests that determine generally whether a bond is a private activity bond (sec. 141(a)). Additionally, no person other than the issuing Indian tribal government may be a principal user of the bond proceeds or bond-financed property in a manner violative of the restrictions on participation in qualified small-issue bonds by franchisors, etc. (sec. 144(a)(6)(B)). Bonds issued by Indian tribal governments under this exception are not subject to State volume caps, but are subject to all other Internal Revenue Code provisions that apply to private activity bonds (and the interest thereon). The conference agreement accomplishes this by treating bonds issued under this exception as qualified small-issue bonds.[6]

The following requirements apply specifically to these bonds:

(1) 95 percent or more of the proceeds of the bonds must be used to finance property that is acquired, constructed, or improved by and operated by the Indian tribal government issuing the bonds; [7]

(2) the bond-financed property must be of a character subject to allowance for depreciation and must be part of a manufacturing facility; [8]

(3) the bond-financed property must be located on Indian tribal which has been held in trust by the United States for the issuing tribe for at least five years immediately preceding issuance of the bonds and at all times when the bonds are outstanding); [9] and

(4) an employment test must be satisfied.

The employment test requires that for every $20 of bonds outstanding, at least $1 in FICA wages must have been paid during the preceding year to a member [10] of the issuing tribe employed at the manufacturing facility financed by the bonds.[11] It must be reasonably expected that the employment test will be satisfied when the bonds are issued. Further, the employment test is applied at the end of each calendar year that all or part of the bond issue is outstanding, beginning two years after the date of original issuance of the bonds. If the test is not satisfied as of any of these annual determination dates, the issuing tribal government must redeem bonds in an amount sufficient to meet the test within 90 days. Otherwise, interest on the bonds is taxable as of January 1 of the year following the December 31 when that determination of noncompliance is made.

The employment test is to be applied with respect to the establishment (as that term is used in the *Standard Industrial Classification Manual*) of which the bond financed property is a part, not with respect to the specific bond financed property itself. For example, if bonds were issued to finance additional equipment at an existing saw mill, all wages paid to Indian employees working at the saw mill would count for purposes of the employment test. Wages paid to lumberjacks working at locations different from the saw mill would not count even if they were paid by the same tribal enterprise.

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[5] A facility which does not qualify as a manufacturing facility for purposes of this provision may nonetheless be financed with tax-exempt bonds issued by a tribal government provided that the facility satisfies the "essential governmental function" standard (i.e., the facility is comparable to facilities that are customarily acquired or constructed and operated by States and local governments. For example, a building used for offices for a tribal government itself would be comparable to State or local government office buildings, and therefore, could be financed with tax-exempt bonds. As another example, a lodge owned and operated by a tribal government may be eligible for tax-exempt financing if it is comparable to lodges customarily owned and operated by State park or recreation agencies.

[6] Despite their treatment as qualified small-issue bonds, many of the restrictions generally applicable to such bonds under sec. 144(a) do not apply to these bonds. For example, bonds qualifying for tax-exemption under this exception are not subject to the termination date or the special size limits generally applicable to qualified small-issue bonds.

[7] The conferees intend that this requirement be treated as satisfied if the property is owned by a wholly-owned Indian corporation or other entity, which owns the property on behalf of the issuing tribal government. In addition, property financed with the bonds may be owned by a joint venture entered into between two or more Indian tribal governments.

[8] The term manufacturing facility is defined in the same manner under this exception as that term is defined for purposes of the exception permitting issuance of qualified small-issue bonds. (*See* sec. 144(a)(12)(C).)

[9] Qualifying land held in trust by the United States for a tribe includes, e.g., trust land located on a reservation or elsewhere in Indian country (e.g., Oklahoma).

[10] Members of the issuing tribe include a tribal member's spouse, even if such spouse is not a member of the issuing tribe.

[11] If two or more Indian tribes jointly financed a manufacturing facility under this provision, the employment test is met by a pro rata apportionment of FICA wages by tribe according to the relative participation of each tribe.

These provisions apply to bonds (including refunding bonds) issued after October 13, 1987.

PART 2. TECHNICAL CORRECTIONS

House bill

The House bill contains technical, clerical, and conforming amendments to the Tax Reform Act of 1986 and other recently enacted tax legislation (subtitle B of Title X of the House bill).

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

PART 3. MISCELLANEOUS TAX PROVISIONS

House bill

The House bill contains miscellaneous tax provisions (subtitle C of Title X of the House bill).

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

PART 4. TAX-EXEMPT ORGANIZATIONS' LOBBYING AND POLITICAL ACTIVITIES

A. DISCLOSURE REQUIREMENTS

1. Disclosure by certain tax-exempt organizations of nondeductibility of contributions

Present law

Only certain categories of tax-exempt organizations are eligible to receive tax-deductible charitable contributions for Federal income tax purposes (sec. 170(c)). Present law does not require other types of tax-exempt organizations, such as certain lobbying groups or political action committees, to state in solicitations for "contributions" or "donations" that such amounts are not deductible as charitable contributions.

House bill

The House bill requires that certain fundraising solicitations by a tax-exempt organization, other than by an organization eligible to receive tax-deductible charitable contributions, must contain a conspicuous and easily recognizable statement that contributions or gifts to the organization are not deductible as charitable contributions for Federal income tax purposes. The disclosure requirement applies to a solicitation if: (1) the soliciting organization normally has gross receipts in excess of $100,000 per year, (2) the solicitation is part of a coordinated fundraising campaign soliciting more than 10 persons during the year, and (3) the solicitation is made in written form, by television or radio, or by telephone.

A penalty of $1,000 is imposed on the organization for each day there was a failure to comply, unless the failure was due to reasonable cause; the maximum penalty for any one year is $10,000. A higher penalty, not subject to this maximum, applies if the failure to comply was due to intentional disregard.

The provision is effective for solicitations made after December 31, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with a modification that the provision is effective for solicitations made after January 31, 1988.

2. Public inspection of exemption application and annual information returns of tax-exempt organizations

Present law

The annual information return of a tax-exempt organization is disclosable to the public through requests to the IRS. (Names of contributors to public charities, however, are not disclosable.) In addition, private foundations must make current annual returns available for public inspection at their principal office.

An exemption application filed by a tax-exempt organization, and the IRS determination of its exempt status, are disclosable to the public through requests to the IRS.

House bill

Information returns.—The House bill provides that a tax-exempt organization (other than a private foundation) must make available for public inspection, generally at the organization's principal office, a copy of its three most recent annual information returns. (Names of contributors to the organization need not be disclosed.) The returns also must be available for inspection at certain regional or district offices of the organization. Private foundations remain subject to the present-law disclosure requirements.

Annual information returns of tax-exempt organizations continue to be disclosable to the public through requests to the IRS. The bill does not modify the requirements for filing returns.

The provision is effective for annual returns for years beginning after December 31, 1986.

Exemption application.—The House bill provides that a tax-exempt organization must make a copy of its exemption application, and the determination of exempt status, available for public inspection at the organization's principal office (and at certain regional or district offices).

Penalty.—Any person under a duty to comply with the inspection provisions who, without reasonable cause, fails to make annual information returns or exemption applications available for public inspection is subject to a penalty of $10 for each day the disclosure requirement was not satisfied. A maximum penalty of $5,000 applies for all failures to disclose any one annual information return. (There is no maximum penalty for failures to disclose any one exemption application.) Additional penalties apply if the failure to permit public inspection was willful.

The provisions are effective on or after the date of enactment, unless the exemption application was submitted to the IRS on or before July 15, 1987, and the organization does not possess a copy of such application.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, with a modification that the provision with respect to inspection of exemption applications applies 30 days after the date of enactment.

3. Additional information on annual information returns of section 501(c)(3) organizations

Present law

Except for churches and certain other organizations, any tax-exempt organization must file an annual information return with the IRS, setting forth the organization's items of gross income, receipts, and disbursements, plus certain other information related to the administration of the tax law.

A tax-exempt charitable organization described in section 501(c)(3) must also provide certain additional information relating to contributions received by the organization and compensation paid to its employees.

A tax-exempt organization which, without reasonable cause, fails to file a required annual information return is subject to a penalty of $10 a day for each day the failure continues, with a maximum penalty of $5,000 with regard to any one return. In addition, the organization's managers are subject to a similar penalty if, without reasonable cause, they refuse to file the return after demand from the IRS.

House bill

The House bill requires tax-exempt charitable organizations described in section 501(c)(3) to include in their annual returns information about direct and indirect transactions or relationships between such organizations and other tax-exempt organizations not described in section 501(c)(3)—e.g., certain lobbying groups—or political organizations described in section 527.

The IRS may issue regulations or forms requiring the furnishing of any such information for purposes of preventing diversion of funds from a charitable organization's exempt purpose or misallocation of revenues or expenses between organizations.

The House bill expands the scope of the penalty provisions to apply to cases where a tax-exempt organization files an annual information return but, without reasonable cause, fails to furnish on the return any required information, or furnishes incorrect information. The maximum penalty imposed on an organization with respect to one return may not exceed the lesser of $5,000 or five percent of the organization's gross receipts for the year.

The additional information must be furnished on annual returns for years beginning after December 31, 1987. The penalty for failing to provide required or correct information applies to returns for years beginning after December 31, 1986.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

4. Required disclosure that certain information or services sold by tax-exempt organizations are available free from the Federal Government

Present law

There is no tax penalty under present law if a tax-exempt organization selling certain information or services to the public fails to disclose that such information or services could be obtained free (or for nominal charge) directly from the Federal Government.

House bill

The House bill imposes a penalty on a tax-exempt organization (including a sec. 527(e) political organization) that sells to individuals certain information or routine services that could be readily obtained free of charge (or for a nominal charge) from the Federal Government and fails to make an express statement (in a conspicuous and easily recognizable format) that the information or services can be so obtained if such failure is due to intentional disregard of the disclosure requirement. Such an intentional failure subjects the organization to a penalty equal to the greater of (1) $1,000 for each day the failure occurred or (2) 50 percent of the aggregate cost of solicitations made by the organization that failed to include the required disclosure.

The provision is effective for solicitations made after December 31, 1987.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with a modification that the provision is effective for solicitations made after January 31, 1988.

B. POLITICAL CAMPAIGN ACTIVITIES AND LOBBYING ACTIVITIES OF SECTION 501(C)(3) ORGANIZATIONS

1. Clarification of prohibited political campaign activities

Present law

An organization does not qualify for tax-exempt status as a charitable organization under section 501(c)(3), and is not eligible to receive tax-deductible charitable contributions, unless no substantial part of its activities is carrying on propaganda or otherwise attempting to influence legislation, and unless the organization does not participate in, or intervene in, any political campaign on behalf of a candidate for public office. Treasury regulations interpret the prohibition on political campaign activities to prohibit any such activities either on behalf of or in opposition to any candidate for public office.

House bill

The House bill clarifies that the statutory provision disqualifying organizations that engage in political campaign activities from tax-exempt status under section 501(c)(3), and from eligibility to receive tax-deductible charitable contributions, applies with respect to campaign activities in opposition to, as well as on behalf of, a candidate for public office.

The statutory clarification applies with respect to activities occurring after the date of enactment. (Treasury regulations also apply the same rule with respect to prior activities.)

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

2. Status of organization after loss of exemption under section 501(c)(3) because of political campaign activities

Present law

Present law provides that a charitable organization that loses its tax-exempt status under section 501(c)(3) because of its lobbying activities may not be treated thereafter as a tax-exempt social welfare organization under section 501(c)(4). If a charitable organization loses its tax-exempt status under section 501(c)(3) on account of prohibited political campaign activities, the organization may be eligible to be automatically reclassified as tax-exempt under section 501(c)(4).

House bill

The House bill provides that an organization that ceases to qualify for tax-exempt status under section 501(c)(3) by reason of participating or intervening in a political campaign on behalf of, or in opposition to, a candidate for public office cannot thereafter qualify as a tax-exempt organization described in section 501(c)(4). The provision applies with respect to activities occurring after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

3. Excise taxes on political expenditures of charitable organizations

Present law

A private foundation described in section 501(c)(3) (but not a public charity described in that section) is subject to an excise tax equal to ten percent of any expenditure to influence the outcome of any specific public election or for any other noncharitable purpose (sec. 4945). An additional excise tax equal to 100 percent of the political expenditure is imposed on the foundation if the expenditure is not "corrected" (meaning that the foundation must recover the expenditure to the extent possible and establish safeguards to prevent such expenditures in the future).

If a private foundation is liable for the excise tax, an excise tax equal to 2½ percent of the expenditure (not to exceed $5,000 per expenditure) is imposed on any manager who, without reasonable cause, agreed to the expenditure knowing that it was a political expenditure. An additional excise tax equal to 50 percent of the expenditure (not exceeding $10,000 per expenditure) is imposed on a foundation manager who refuses to agree to correction of the expenditure.

Any charitable organization (including a private foundation) ceases to qualify for tax-exempt status under section 501(c)(3), or for eligibility to receive tax-deductible charitable contributions, if it participates or intervenes in any political campaign for or against a candidate for public office.

House bill

The House bill extends the penalty tax structure applicable under present law to private foundations so that if any charitable organization described in section 501(c)(3) makes a political expenditure (as defined below), the organization is subject to an excise tax equal to ten percent of the amount of the expenditure. An additional excise tax equal to 100 percent of the political expenditure is imposed on the organization if the expenditure is not "corrected" (meaning that the organization must recover the expenditure to the extent possible and establish safeguards to prevent future political expenditures).

Under the bill, an excise tax equal to 2½ percent of the expenditure (not to exceed $5,000 per expenditure) is imposed on any manager of the organization who, without reasonable cause, agreed to the expenditure knowing that it was a political expenditure. (As under the present-law excise taxes, the IRS has the burden of proof as to whether the manager knowingly participated in the political expenditures.) An additional excise tax equal to 50 percent of the political expenditure (not exceeding $10,000 per expenditure) is imposed on any manager who refuses to agree to correction of the expenditure.

In general, "political expenditure" is defined as any expense of participating or intervening in a political campaign for or against a candidate for public office. The House bill also provides that solely in the case of an organization formed or availed of substantially for purposes of promoting the candidacy or potential candidacy of an individual for public office, the term "political expenditure" includes, for purposes of the excise tax, certain types of expenditures (such as travel expenses of such individual) specified in the bill.

The adoption of the excise tax sanction does not modify the present-law rule that an organization is not tax-exempt under section 501(c)(3), or eligible to receive tax-deductible charitable contributions, if the organization engages in any political campaign activities.

The provisions apply for taxable years beginning after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with the modifications described below.

The conference agreement provides that the Internal Revenue Service is not to assess, or is to abate or refund, any initial (first-tier) excise tax on political expenditures if the organization or manager establishes to the satisfaction of the IRS that (1) the political expenditure was not willful and flagrant and (2) that the political expenditure was corrected (meaning that the expenditure is recovered to the extent possible and safeguards are established to prevent future political expenditures).

The conference agreement includes modifications to the House bill provision that enumerates certain expenditures as political expenditures for purposes of the excise tax in the case of an organization that is formed, or effectively controlled by a candidate or prospective candidate which organization is availed of, primarily for purposes of promoting the candidacy (or prospective candidacy) of an individual for public office. The enumerated expenditures specified in the modified provision are (1) amounts paid or incurred to such individual for speeches or other services; (2) travel expenses of such individual; (3) expenses of conducting polls, surveys, or other studies, or preparing papers or other materials, for use by such individual; (4) expenses of advertising, publicity, and fundraising for such individual; and (5) any other expense which has the primary effect of promoting public recognition, or otherwise primarily accruing to the benefit, of such individual.

The fifth category includes, for example, expenditures for voter registration, voter turnout, or voter education activities that under present law constitute participation or intervention in any political campaign on behalf of or in opposition to any candidate for public office—i.e., that under present law constitute political campaign activities that are inconsistent with tax-exempt status under section 501(c)(3) and with eligibility to receive tax-deductible charitable contributions under section 170(c)(2). Conversely, the fifth category does not include (and the excise tax does not apply to) expenditures for voter registration, voter turnout, or voter education that under present law do not constitute participation or intervention in any political campaign on behalf of or in opposition to any candidate for public office—i.e., that under present law constitute activities that are consistent with tax-exempt status under section 501(c)(3) and with eligibility to receive tax-deductible charitable contributions under section 170(c)(2). Thus, the conference agreement does not in any way change the present-law rules as to the types of voter registration, voter turnout, and voter education activities in which a charitable organization may engage consistent with tax-exempt status under section 501(c)(3) and eligibility to receive tax-deductible charitable contributions under section 170(c). (The special rules in section 4945(f) applicable to voter registration activities of private foundations continue to apply only to private foundations.) For example, neutral voter education activities as described in Rev. Rul. 78-248, 1978-1 C.B. 154, continue to constitute activities that are consistent with status as a tax-exempt charitable organization, and do not result in imposition of the excise tax.

As noted above, the conference agreement modifies the House bill provision enumerating certain expenditures as political expenditures for purposes of the excise tax, so that the provision applies only in the case of an organization formed, or effectively controlled by a candidate or prospective candidate which organization is availed of, primarily for purposes of promoting the candidacy (or prospective candidacy) of an individual for public office. The conferees intend that, for purposes of this provision, an organization is to be considered as effectively controlled by a candidate or prospective candidate only if the individual has a continuing, substantial involvement in the day-to-day operations or management of the organization. An organization is not to be considered as effectively controlled by a candidate or a prospective candidate merely because it is affiliated with such candidate, or merely because the candidate knows the directors, officers, or employees of the organization. Likewise, the effectively controlled test is not met merely because the organization carries on its research, study, or other educational activities with respect to subject matter or issues in which the individual is interested or with which the individual is associated.

The conferees intend that the determination of whether the primary purposes of an organization described in the provision are promoting the candidacy or prospective candidacy of an individual for public office is to be made on the basis of all relevant facts and circumstances. The factors to be considered include whether the surveys, studies, materials, etc. prepared by the organization are made available only to one individual (the candidate) or are made available to the general public; and whether the organization pays for speeches and travel expenses for only one individual, or for speeches or travel expenses of several persons. The fact that a candidate or prospective candidate utilizes studies, papers, materials, etc. prepared by the organization (for example, in speeches by the individual) is not to be considered as a factor indicating that the organization has a purpose of promoting the candidacy or prospective candidacy of such individual where such studies, papers, materials, etc. are not made available only to that individual.

4. Additional enforcement authority in the case of flagrant political expenditures by charitable organizations

Present law

Under present law, the IRS does not have authority to make immediate tax assessments or to seek a court injunction against continuing political expenditures of a charitable organization even if the organization is flagrantly violating the prohibition on any political campaign activities. The IRS has such enforcement authority to remedy other violations of the tax law.

House bill

The House bill authorizes the IRS to make an immediate determination and assessment of income tax, or of the excise tax on political expenditures, for the current or preceding taxable year of a charitable organization described in section 501(c)(3) if the IRS finds that (1) the organization has made political expenditures, and (2) such expenditures constitute a flagrant violation of the prohibition against making political expenditures.

The IRS also is given authority to seek an injunction from a Federal district court prohibiting a charitable organization from further making political expenditures. The injunction action may be instituted only if the IRS has notified the organization of its intention to seek an injunction if the making of political expenditures does not immediately cease, and only if the Commissioner personally determines that (1) the organization has flagrantly participated or intervened in a political campaign, and (2) injunctive relief is appropriate to prevent future political expenditures.

The provisions are effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

5. Excise tax on disqualifying lobbying expenditures on certain charitable organizations

Present law

A tax-exempt private foundation described in section 501(c)(3) is subject to an excise tax equal to ten percent of any expenditure to carry on propaganda or otherwise to attempt to influence legislation, or for any other noncharitable purposes (sec. 4945). If the foundation is liable for the excise tax, any manager of the foundation who, without reasonable cause, agreed to making the expenditure knowing it was a taxable expenditure is subject to an excise tax equal to 2½ percent of the expenditure (not exceeding $5,000 per expenditure).

Certain public charities described in section 501(c)(3) may elect to have the amount of permitted lobbying expenditures they may make measured under the arithmetical tests set forth in section 501(h). If lobbying expenditures exceed the allowable amounts under that section, an excise tax is imposed on the organization equal to 25 percent of the excess lobbying expenditures. If the electing organization's lobbying expenditures normally are more than 150 percent of the allowable amounts, the organization is disqualified from tax-exempt status.

Except where section 501(h) applies, any charitable organization (including a private foundation) ceases to qualify for tax-exempt status, or eligibility to receive tax-deductible charitable contributions, if more than an insubstantial part of its activities consists of lobbying.

House bill

The House bill imposes an excise tax equal to five percent of the lobbying expenditures of certain charitable organizations if (and only if) the organization ceases to qualify for tax-exempt status under section 501(c)(3) by engaging in more than an insubstantial amount of lobbying activities. The tax does not apply to (1) charitable organizations that have elected to be subject to the lobbying limitations of section 501(h), (2) churches or certain church-related organizations that are not eligible to elect the section 501(h) rules, or (3) private foundations (which are subject to the section 4945 excise tax on lobbying activities).

If an organization whose exempt status has ceased is liable for the excise tax, any manager of the organization who, without reasonable cause, agreed to making the lobbying expenditures knowing that the expenditures could result in revocation of the organization's tax-exempt status is subject to a tax equal to five percent of such lobbying expenditures. As under the present-law excise taxes, the IRS has the burden of proof as to whether the manager knowingly participated in the lobbying expenditures.

The provisions are effective for taxable years beginning after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with the following modification relating to a manager's liability for the tax. Under the conference agreement, if an organization whose exempt status has been revoked is liable for the new excise tax on lobbying expenditures, a tax equal to five percent of such lobbying expenditures is imposed on any manager of the organization who agreed to the making of the expenditures, knowing that such lobbying expenditures were likely to result in revocation of the organization's tax-exempt status, unless the manager's agreement was not willful and was due to reasonable cause. The burden of proof as to whether the manager knowingly participated in the lobbying expenditures is on the Internal Revenue Service. The fact that the excise tax is imposed on an organization does not itself establish that any manager of the organization is subject to the excise tax.

The reasonable cause exception to the tax applicable to managers is to be applied in the same manner as the present-law reasonable cause exception to the excise tax liability of managers of a private foundation under section 4945 (see Treas. Reg. sec. 53.4945-1). Thus, a manager is liable for the excise tax under the conference agreement only if the IRS shows that, in agreeing to the making of the lobbying expenditures, the manager knew that such expenditures constituted lobbying expenditures and knew that as a result of such expenditures the organization was likely to lose its tax-exempt status under section 501(c)(3), and only if the manager failed to obtain an opinion of counsel concerning the expenditures that would protect the manager under the reasonable cause exception.

APPENDIX—ESTIMATED BUDGET EFFECTS OF REVENUE PROVISIONS OF CONFERENCE AGREEMENT—FISCAL YEARS 1988–90

[Millions of dollars]

Item	1988	1989	1990	1988–90
PART 1.—REVENUE PROVISIONS				
I. Individual Tax Provisions:				
A. Income Tax Provisions:				
1. Child and dependent care credit: Deny credit for overnight camp expenses	11	106	112	229
2. Limit interest deduction: Home equity debt in excess of acquisition debt capped at $100,000; total for qualified residence debt capped at $1 million	8	31	54	93
3. One-year delay in application of 2% floor to indirect deductions through regulated investment companies	−239			−239
B. Employee Benefit Provisions: Modify definition of active participant for IRA rules	(1)	(1)	(1)	(1)
II. Business Tax Provisions:				
A. Accounting Provisions:				
1. Repeal vacation pay reserve	614	885	1,639	3,138
2. Repeal completed contract method	417	773	975	2,165
3. Require capitalization of pension past service liability	91	153	173	417
4. Repeal installment method for dealers	1,593	2,750	1,942	6,285
5. Repeal cash method of accounting for farms with receipts over $25 million	27	42	45	114
6. Changes in required taxable years for partnerships, S corporations, and personal service corporations	31	(1)	3	34
B. Partnership Provisions:				
1. Portfolio income	77	127	170	374
2. Other publicly-traded partnership provisions	22	42	60	124
3. Treatment of tax-exempt partners	28	97	111	236
4. Study of publicly-traded partnerships				
C. Corporate Provisions:				
1. Modify computation of earnings and profits for intercorporate dividends and basic adjustments (overrule Woods Investment Company case)	34	208	450	692
2. Denial of graduated rates for personal service corporations	75	125	140	340
3. Dividend received deduction to 70%	219	381	426	1,026
4. Reduction of tax avoidance in certain corporate dispositions	37	94	273	404
5. Greenmail and hostile corporate takeovers	(1)	(1)	(1)	(1)
6. Limitations on net operating loss carryforwards of corporations following worthless securities deduction by shareholders	5	8	9	22
7. Tax loss mergers and benefit acquisitions	26	44	48	118
8. LIFO recapture on conversion from C corporation to S corporation	58	129	185	372
9. Regulated Investment Companies capital gains distribution	240	12	15	267
D. Pensions: Modify funding rules [2]	679	1,502	992	3,173
E. Foreign Tax Provisions: Treatment of South African income	20	23	14	57
F. Insurance Provisions:				
1. Interest rate used in computing reserves for life insurance and annuity contracts	43	154	208	405
2. Treatment of investment income of foreign insurance companies	11	27	39	77
3. Minimum tax treatment of mutual life insurance companies	25	57	61	143
III. Estimated Tax Provisions	806	117	79	1,002
IV. Estate and Gift Taxes:				
1. Freeze estate and gift rates at 55%	21	176	232	429
2. Modify rates and unified credit	2	23	31	56
3. Valuation of property (estate tax freezes & minority discount)	6	46	57	109
4. ESOP estate tax deduction	1,226	1,553	1,862	4,641
V. Excise Taxes:				
1. Telephone tax: 3-year extension	1,324	2,266	2,472	6,062
2. Collect diesel fuel and special motor fuels taxes on sales to retailer	215	230	200	645
3. Extension of termination date for coal excise tax rate				
VI. Other Revenue—Increase Provisions:				
A. Targeted Jobs Tax Credit	4	2	2	7
B. Illegal Federal Irrigation Subsidies as Gross Income	(1)	(1)	(1)	1
C. Compliance Provisions:				
1. Escheat of refunds	10	10	10	30
2. IRS funding				
D. Tax-Exempt Bond Provisions:				
1. Limitation on issuance of tax-exempt bonds to acquire existing output facilities	9	70	162	241
2. Limitation on issuance of tax-exempt bonds by Indian tribes	6	18	29	53
VII. Employment Taxes (Title IX):				
1. Railroad retirement taxes	144	182	183	509
2. FUTA tax: 3-year extension	715	1,009	1,033	2,757
3. FICA taxes:				
a. Expand employer share of FICA tax to include all cash tips	184	281	302	767
b. Expand FICA tax to inactive duty reservists, certain agricultural employees, family members, and group-term life insurance includible in wages	187	255	275	717
VIII. Vaccine Compensation Tax and Trust Fund (Title IX) [3]	67	89	−5	151
Subtotal: Part 1.—Revenue Provisions	9,078	14,097	15,068	38,243
PART 2.—USER FEES (Title IX)				
I. Internal Revenue Service	46	60	60	166
II. Extensions and increases in certain Alcohol, Tobacco, and Firearms occupational taxes	167	106	106	379
III. Customs Service	122	152	591	865
Subtotal: Part 2.—User Fees	335	318	757	1,410
Grand Total	9,413	14,415	15,825	39,653

[1] Gain of less than $500,000.
[2] Estimates represent the net effects of full-funding rules and underfunding rules.
[3] Estimate net of outlay amounts.

From the Committee on the Budget, for consideration of the House bill (except Title X), and the Senate amendment (except subtitle B of Title IV), and modifications committed to conference:

William H. Gray III,
Butler Derrick,
Martin Frost,
Ed Jenkins,
Pat Williams,
James L. Oberstar,
William F. Goodling,

From the Committee on the Budget, for consideration of Title X of the House bill, and subtitle B of Title IV of the Senate amendment, and modifications committed to conference:

Ed Jenkins,

From the Committee on Agriculture, for consideration of Title I and section 5003 of the House bill, and Title VIII and sections 2101 through 2113, 2301, 3001, and 9005 of the Senate amendment, and modifications committed to conference:

de la Garza,
Ed Jones,
Charlie Rose,
Jerry Huckaby,
Dan Glickman,
Charlie Stenholm,
Leon E. Panetta,
Ed Madigan,
Arlan Stangeland,
Robert F. Smith,
Tom Lewis,
Wally Herger,

From the Committee on Armed Services, for consideration of section 5001 of the Senate amendment, and modifications committed to conference:

Les Aspin,
Beverly Byron,
William L. Dickinson,

From the Committee on Banking, Finance and Urban Affairs, for consideration of Title II of the House bill, and sections 9006, 9007, 9010, and 9012 of the Senate amendment, and modifications committed to conference:

Henry Gonzalez,
Frank Annunzio,
Mary Rose Oakar,

Robert Garcia,

From the Committee on Banking, Finance, and Urban Affairs, for consideration of Title X of the Senate amendment, and modifications committed to conference:

Fernand St Germain,
Mary Rose Oakar,

From the Committee on Education and Labor, for consideration of Title III and subtitle E and section 9602 of Title IX of the House bill, and Part VI of Title IV, Title VI, and sections 4111, 4112, and 9008 of the Senate amendment, and modifications committed to conference:

Augustus F. Hawkins,
(except for the pension provisions)
William D. Ford,
(except for the pension provisions)
Joseph M. Gaydos,
(except for the pension provisions)
William L. Clay,
(except for the pension provisions)
Pat Williams,
(except for the pension provisions)
Dale E. Kildee,
(except for the pension provisions)
Major R. Owens,
(except for the pension provisions)
James M. Jeffords,
William F. Goodling,
Tom Coleman,
Marge Roukema,

From the Committee on the Budget, for consideration of Title III and subtitle E of Title IX of the House bill, and part VI of subtitle B of title IV and subtitle A of Title VI of the Senate amendment:

Delbert Latta,
Connie Mack,
Denny Smith,

From the Committee on Energy and Commerce, for consideration of subtitles A, B, and C of Title IV, parts 2 through 4 of subtitle C of Title IX, and sections 1052 and 9602 of the House bill, and subparts II through V of part A, subparts I (except sections 4086 and 4091) and II of part B of subtitle A of Title IV and sections 4001(q), 4002(b), 4002(c), 4051, 4111 through 4113, 9010, and 9011 of the Senate amendment, and modifications committed to conference:

John D. Dingell,
Henry A. Waxman,
James H. Scheuer,
Cardiss Collins,
Mike Synar,
Ron Wyden,
Jim Slattery,
Bob Whittaker,
(only for the Medicaid provisions)
Tom Tauke,
(only for the Medicaid provisions)

From the Committee on Energy and Commerce, for consideration of sections 4301, 5001, and 6201 of the House bill, and subtitle A of Title II and Title III (except sections 3001 and 3003) of the Senate amendment, and modifications committed to conference:

John D. Dingell,
Philip R. Sharp,
Al Swift,
Mickey Leland,
Jim Cooper,
Jim Slattery,
Norman F. Lent,
Carlos Moorhead,
Bill Dannemeyer,
(only for section 6201 of the House bill)
Jack Fields,

From the Committee on Energy and Commerce, for consideration of section 9033 of the House bill, and section 4583 of the Senate amendment, and modifications committed to conference:

John D. Dingell,
Tom Luken,
James J. Florio,
Billy Tauzin,
Gerry Sikorski,
Rick Boucher,
Jim Slattery,
Norman F. Lent,
Bob Whittaker,
Tom Tauke,
Mike Bilirakis,

From the Committee on Interior and Insular Affairs, for consideration of sections 4301 and 5001 of the House bill, and sections 2001 through 2009 and 3010 of the Senate amendment, and modifications committed to conference:

Mo Udall,
Geo Miller,
Austin J. Murphy,
Bruce F. Vento,
Ed Markey,
(only for purposes of NRC user fees)
Nick Rahall,
(only for purposes of NRC user fees)
Don Young,
Manuel Lujan, Jr.,
Robert J. Lagomarsino,
Ron Marlenee,

From the Committee on Interior and Insular Affairs, for consideration of sections 5002 through 5004 of the House bill, and sections 2101 through 2113 and 9009 of the Senate amendment, and modifications committed to conference:

Mo Udall,
George Miller,
Philip R. Sharp,
Ed Markey,
Austin J. Murphy,
Nick Rahall,
Don Young,
Manuel Lujan, Jr.,
Robert J. Lagomarsino,
Ron Marlenee,

From the Committee on Interior and Insular Affairs, for consideration of section 5005 of the House bill, and sections 2201 through 2203 and 2301 of the Senate amendment, and modifications committed to conference:

Mo Udall,
Geo Miller,
Philip R. Sharp,
Ed Markey,
Sam Gejdenson,
Bruce F. Vento,
Don Young,
Manuel Lujan, Jr.,
Robert J. Lagomarsino,
Ron Marlenee,

From the Committee on the Judiciary, for consideration of the bankruptcy provisions contained in sections 9432 and 9433 of the House bill, and sections 4553(e), 4558, and 4559 of the Senate amendment, and modifications committed to conference:

Hamilton Fish, Jr.,
Bill Dannemeyer,
Carlos J. Moorhead,
Henry J. Hyde,

From the Committee on Merchant Marine and Fisheries, for consideration of Title VI of the House bill, and sections 1002, 2002 (insofar as that section would add a new section 409 (c) and (d) to the Nuclear Waste Policy Act of 1982), 2008, and 3001 of the Senate amendment, and modifications committed to conference:

Walter B. Jones,
Gerry E. Studds,
Mike Lowry,
Earl Hutto,
Bob Davis,
Don Young,
(except for sections 2002 and 2008 of the Senate amendment)
Norman F. Lent,
(except for sections 2002, 2008, and 3001 of the Senate amendment)
Norman D. Shumway,
Bill Hughes,
(solely for section 3001 of the Senate amendment)

From the Committee on Post Office and Civil Service, for consideration of Title VII of the House bill, and Title V (except section 5002) of the Senate amendment, and modifications committed to conference:

William D. Ford,
Mickey Leland,
Gary L. Ackerman,
Gene Taylor,
Frank Horton,

From the Committee on Public Works and Transportation only for consideration of subtitle A of Title VI of the House bill:

James J. Howard,
Robert A. Roe,
Norman Y. Mineta,
James L. Oberstar,
Henry Nowak,
Nick Rahall,
John Paul Hammerschmidt,
Bud Shuster,
Arlan Stangeland,
Newt Gingrich,

From the Committee on Government Operations, for consideration of sections 5002 and 9003 of the Senate amendment, and modifications committed to conference:

Jack Brooks,
John Conyers,
Cardiss Collins,
Glenn English,
Henry A. Waxman,
Ted Weiss,
Frank Horton,
Robert A. Walker,
William F. Clinger,
Al McCandless,

From the Committee on Science, Space, and Technology, for consideration of sections 2002 (insofar as that section would add new sections 403(i) and 410 to the Nuclear Waste Policy Act of 1982), 2006, and 2008 of the Senate amendment, and modifications committed to conference:

Robert A. Roe,
George E. Brown, Jr.,
James H. Scheuer,
Tim Valentine,
Jim Chapman,
Sid Morrison,
Lamar Smith,
Ernest Konnyu,

From the Committee on Veterans' Affairs, for consideration of Title VIII of the House bill, and Title VII of the Senate amendment, and modifications committed to conference:

G.V. Montgomery,
Marcy Kaptur,
Gerald B.H. Solomon,

From the Committee on Ways and Means, for consideration of Title III, subtitle A of Title IV, and Title IX of the House bill, and subtitle A of Title IV (except subpart V of Part A and Subpart II of Part B) and subtitle A of Title VI and section 8309 of the Senate amendment, and modifications committed to conference:

Dan Rostenkowski,
Sam M. Gibbons,
J.J. Pickle,
Charles B. Rangel,
Pete Stark,
Andrew Jacobs, Jr.,
Thomas J. Downey,
Bill Gradison,
Bill Frenzel,
(only for the pension provisions)
Richard T. Schulze,
(only for the pension provisions)

From the Committee on Ways and Means, for consideration of Title X of the House bill, and subtitle B of Title IV of the Senate amendment, and modifications committed to conference:

Dan Rostenkowski,
Sam M. Gibbons,
J.J. Pickle,
Charles B. Rangel,
Pete Stark,
Andrew Jacobs, Jr.,
Thomas J. Downey,

From the Committee on Ways and Means, for consideration of Title X of the Senate amendment, and modifications committed to conference:

Dan Rostenkowski,
Thomas J. Downey,
John J. Duncan,

As additional conferees, for consideration of the House bill (except Title X), and the Senate amendment (except subtitle B of Title IV), and modifications committed to conference:

Thomas S. Foley,
Dick Cheney,
Managers on the Part of the House.

From the Committee on the Budget:

Lawton Chiles,
Ernest F. Hollings,
J. Bennett Johnston,
Jim Sasser,
Don Riegle,
J.J. Exon,
Frank R. Lautenberg,
Pete V. Domenici,
Rudy Boschwitz,
Bob Dole,

From the Committee on Agriculture, Nutrition, and Forestry:

Pat Leahy,
John Melcher,
David Pryor,
Richard G. Lugar,
Thad Cochran,

From the Committee on Armed Services:

Sam Nunn,
John Glenn,

From the Committee on Banking, Housing, and Urban Affairs:

William Proxmire,
Alan Cranston,
Paul Sarbanes,

From the Committee on Commerce, Science, and Transportation:

Fritz Hollings,
Daniel K. Inouye,
Wendell H. Ford,
Jack Danforth,

From the Committee on Energy and Natural Resources:

J. Bennett Johnston,
Dale Bumpers,
Wendell Ford,
John Melcher,
Jeff Bingaman,
Tim Wirth,
Don Nickles,

From the Committee on Environment and Public Works:

Quentin N. Burdick,
George Mitchell,
Max Baucus,
John Breaux,
Robert T. Stafford,
John H. Chafee,
Dave Durenberger,

From the Committee on Finance:

Lloyd Bentsen,
Spark M. Matsunaga,
Daniel Patrick Moynihan,
Max Baucus,
David L. Boren,
Bill Bradley,
George Mitchell,
Bob Packwood,
John C. Danforth,
John H. Chafee,
John Heinz,

From the Committee on Governmental Affairs:

John Glenn,
Lawton Chiles,
Jim Sasser,
David Pryor,
Ted Stevens,
(except I do not concur with the budget reduction allocations pursuant to the Summit agreement)
Warren B. Rudman,

From the Committee on Labor and Human Resources:

Ted Kennedy,
Claiborne Pell,
Paul Simon,
Orrin Hatch,
Robert T. Stafford,
Dan Quayle,

From the Committee on Veterans' Affairs:

Alan Cranston,
Spark M. Matsunaga,
Frank H. Murkowski,
Managers on the Part of the Senate.

Mr. GRAY of Pennsylvania. Mr. Speaker, pursuant to the previous order of the House today, I call up the conference report on the bill (H.R. 3545) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1988.

The Clerk read the title of the bill.

The SPEAKER. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER. The gentleman from Pennsylvania [Mr. Gray] will be recognized for 30 minutes and the gentleman from Ohio [Mr. Latta] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. Gray].

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 3545, the Omnibus Budget Reconciliation Act of 1987.

This conference report is one element of the legislative package necessary to achieve the level of deficit reduction agreed to in the budget summit. The budget summit accord defined the broad shape of this package. It was signed off on by the leaders of both parties, in both Chambers, and by the administration.

□ 2045

The summit agreement called for deficit reductions of $30.2 billion in 1988, and $45.9 billion in 1989. It established deficit reduction targets for defense and nondefense discretionary spending, revenues, entitlements, and other direct spending programs. These savings were to be achieved through two pieces of legislation: the reconciliation bill and the continuing resolution.

During the reconciliation process, authorizing committees in both Houses recommended changes in laws under their jurisdiction that would reduce Federal spending by the amount specified by the budget summit. In addition, the Ways and Means Committee and its Senate counterpart recommended legislation to increase revenues. Together, these actions carry out the intent of the November 20 agreement.

The measure before you will reduce the deficit by about $17.6 billion in fiscal year 1988 and by $22 billion in fiscal year 1989. It achieves these savings in part by modifying agricultural price support programs, Federal credit programs, health programs, and veterans' programs, and also by reforming private pension insurance; and it raises revenues in ways that make our Tax Code more progressive, extending the process of tax reform we began last year.

Mr. Speaker, many in this body and the other body would have liked the reductions done differently. Some would have liked more in the way of revenues. Some would have liked no new revenues. Some would have liked more in the way of reductions in defense. Others would perhaps like greater increases in defense. Some would have liked more reductions in domestic programs. Others would have liked more increases in domestic programs.

Some would have liked reform in entitlements. Others would have liked nothing to have happened in the entitlement area.

There are, Mr. Speaker, 535 Members of Congress; and I might add, there are probably 535 deficit reduction plans. However, my friends and colleagues, we can only implement one, and what the summit attempted to do was lay out the targets for that one, that one that we can bipartisanly implement. For what good is it to have our own favorite plan, but cannot pass it and have it signed into law by the President and avoid the terrible across-the-board cuts of sequestration?

By passing this reconciliation bill, the savings we will achieve will be the first step in avoiding the terrible across-the-board cuts of sequestration.

We can reduce the deficit by $17.6 billion for fiscal year 1988, and $21.9 billion for fiscal year 1989, with the passage of this reconciliation bill.

Later tonight we will be able to vote on a continuing resolution, appropriated spending, our second step to achieve the summit savings. Taken together, step one and step two, we will be able to achieve the targets of $32 billion for fiscal year 1988 and another $45 billion for fiscal year 1989.

Mr. Speaker, it is time for us to act to reduce the deficits. The choices are not easy. There is always some pain and one of us will be completely satisfied, but I urge you to remember tonight when you vote on this reconciliation package that it is the one package that can be implemented, signed into law, and receive bipartisan support.

Mr. Speaker, I urge acceptance of the Reconciliation Act for 1987.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say at the outset, had I been putting this package together, it would not have been put together like it is. I think it is weighted too heavily on the revenue side, and not heavily enough on the reduction side.

In every poll I have seen, the American people have said, "We want spending reductions, not tax increases."

As a matter of fact, in my district, they went better than 2 to 1 for spending reductions, rather than tax increases.

Well, I know this reconciliation bill is going to pass and we are going to raise those taxes. I think we ought to examine the package before we pass it so that we will be able to answer some of the questions back home that might arise.

Yes, this is a tiny, tiny step, toward deficit reduction, but name me one single program out of $1 trillion budget that is being terminated.

□ 2100

There is not one single program. Can my colleagues tell me what we are going to do with this tremendous deficit? We have it on a declining stage but by not terminating any programs it has put us in the deficit position that we are in.

Let us not kid ourselves. We have 9 billion dollars' worth of hard taxes in this bill, $2 billion more being raised by IRS compliance and user fees; so we have $11 billion in new taxes.

Mr. Speaker, there are asset sales of $5 billion.

What are my colleagues going to do with the money? What are we going to do with the money? I have been around this Congress long enough to know that whenever we get our hands on some more dough we are going to spend it. Already they are conjuring up new programs and new ways to spend money.

Is that the type of deficit reduction that is going to make the markets stand on their head? I do not think so. But there are a couple of cuts. They already mentioned Medicare, $2 billion. They even went further than the summit on reductions in the farm program. They called for $900 million from the summit, and they got $997 million in reductions for agriculture.

But where do my colleagues go from there? Guaranteed student loan balances, $250 million. The VA loan guarantee, $800 million. Defense, $5 billion. They came up with $30.2 billion in reductions, including those new taxes that my colleagues can put their hands on, so they can spend more money.

Let me tell my colleagues what has happened in this legislation. There will be $53 billion more revenue in fiscal year 1988 to spend. Even after coming up with those so-called reductions, we are going to have $35 billion more spending in the budget in 1988 than in 1987. Is that what the American people want?

The American people want something that will do the job. One thing that I must commend the tax-writing committee on is they adhered strictly to what the administration requested and they drew the line and said that we will not accept any change in the rates that are going to be given the American people in fiscal year 1988.

Second, that we will not accept any changes in indexation which is supposed to take place in fiscal year 1988. They knew the administration meant business on that and they did not dabble with it.

But there are a lot of other taxes that they did although there was bipartisan cooperation in the summit, it was lacking in the conferences when it came to implementing the summit agreement.

Mr. Speaker, I visited some of those conferences and I did not find too many of them where there was any bipartisanship being shown.

Mr. DAUB. Mr. Speaker, will the gentleman yield?

Mr. LATTA. Mr. Speaker, I yield to the gentleman from Nebraska.

Mr. DAUB. Just briefly, is the gentleman from Ohio saying that the same thing happened in the conference subcommittees or working groups to isolate the Members of the minority from being able to participate as happened in the Committee on Ways and Means' markup on taxes?

Mr. LATTA. Mr. Speaker, I say to the gentleman from Nebraska that he was there.

Mr. DAUB. Mr. Speaker, I thank the gentleman for yielding.

Mr. LATTA. Discretionary and mandatory spending will increase by nearly 4 percent over last year. Interest payments will increase by $10 billion over fiscal year 1987.

Does that tell my colleagues something? Have we got some spending reductions that really count when the interest costs go up $10 billion? That is a 7-percent increase making it one of the largest areas of growth in the entire budget.

Mr. Speaker, let me say that defense spending was $282 billion in fiscal year 1987 and under this proposal they will receive a 1-percent increase to $285.4 billion. Nondefense spending fares better. It will rise by 3.5 percent from $171 billion in 1987 to $176.8 billion under the summit agreement.

Let me ask my colleagues, out of the $176 billion of nondefense discretionary spending could not have come up with more than $2.6 billion in savings?

Mr. Speaker, there are other speakers who would like to address themselves to this very important matter, so I will reserve the balance of my time.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. Mr. Speaker, I want to thank the gentleman from Ohio [Mr. LATTA], my colleague of some 29 years, for all his hard work during the conference. I concur with his observation that if I had written this conference report, it would be a lot different from the report before us.

Mr. Speaker, none of us got all that we wanted. As a matter of fact, there are many people who may be disappointed in the way this conference report is written. I share that disappointment with my colleague, the gentleman from Ohio [Mr. LATTA]. However, the conference report reflects a good and fair compromise on the part of all of us, and deserves to be supported by this Chamber.

Mr. Speaker, titles IV, IX, and X of the conference report contain the Committee on Ways and Means' portions of the bill. The committee's conferees had to negotiate a revenue agreement, a reduction in Medicare spending and a number of changes in our income security programs. The agreement that we have brought back to the House is fair, responsible and deserving of this Chamber's support.

The conference agreement raises $9 billion in revenue in fiscal year 1988 and $14 billion in fiscal year 1989. We have met the target of the budget summit agreement by combining the best provisions of the House and Senate bills.

Many of the provisions extend the principles of tax reform. Although all taxpayers make a contribution in this package, most of the revenues are raised through reform measures to assure that upper income individuals and corporations are paying their fair share of taxes.

Also, much needed simplication was achieved for nondealer taxpayers who use the installment method. The conference agreement also clarifies that the installment sales rules do not apply to certain sales by a manufacturer to a dealer under an exception adopted as part of the Tax Reform Act of 1986, so that this exception applies to all taxpayers that qualify under the statutory terms of the exception. It was the intent under the 1986 Act to permit taxpayers to qualify under the exception because this type of arrangement sufficiently resembles a consignment arrangement to warrant an exception from the general rule.

Further, I would like to clarify for the record the scope of the provision in the bill treating certain publicly traded partnerships as corporations as it applies to a specific partnership. The partnership that I am concerned about primarily engages in the purchase, transporation, storage, distribution, and retail and wholesale marketing of liquefied petroleum gas—primarily propane—and other oil and gas products. These products are transported in trucks and rail cars owned or leased by the partnership and by third party pipelines with which the partnership makes arrangements for transportation. It is my understanding that the income derived by the partnership from these activities would be included within the definition of passive-type qualifying income.

In addition, under the X, certain companies would be limited in the use of built-in gains. This provision is effective for stock disposed of after December 15, 1987, except that the amendment shall not apply in the case of dispositions pursuant to certain actions, including a letter of intent or preliminary agreement on or before December 15, 1987. It is my understanding that a comprehensive five-page letter listing the principal terms of a transaction and offering to enter into the transaction, which was accepted orally before December 15, 1987, would constitute a letter of intent under this language. While the price was established in the letter of intent, it may be adjusted to reflect the passage of time and to take into account certain other cost adjustments.

I sincerely regret that the conference report does not contain the technical corrections title of the House bill. The technical corrections title resulted in a modest revenue loss. In the economic budget summit, the administration objected to any revenue losing provisions. Consequently, technical corrections had to be dropped.

Passage of a technical corrections bill is needed to provide guidance and certainty for taxpayers and tax practitioners. I want to emphasize my personal commitment to the passage of technical corrections bill. I want to assure my colleagues that the Committee on Ways and Means will consider a technical corrections bill at the earliest opportunity in 2d session of the 100th Congress.

In the Medicare area, the conference report achieves deficit reduction of $2 billion in fiscal year 1988. The Medicare package is a balance. We took great care to distribute the cuts among institutions and providers based on their ability to absorb reductions.

The Medicare reductions were very difficult to achieve. For several years in a row, our marching orders have been the same—cut Medicare spending. We've been able to do that so far. But our success this year and in previous years will make future reductions extremely difficult to achieve.

In addition to the revenue and Medicare portions of the bill, we have adopted important reforms to improve the solvency of private pension plans as well as modest improvements in our income security programs.

Mr. Speaker, the Committee on Ways and Means conferees and our Senate counterparts engaged in tough but fair bargaining over the past several days. The result is a fair compromise. Neither side got everything it wanted, but neither side expected to.

I want to thank the House conferees for their hard work. I also want to commend Senator **Bentsen** and his colleagues for the manner in which they approached the negotiations. They fought for their provisions without losing sight of our common goal—a conference agreement that achieved real deficit reduction in a fair and reasonable way.

I particularly want to commend the leadership of the chairman of the house Budget Committee, our colleague, **Bill Gray**, for his patience and dedication in achieving this conference agreement.

I urge my colleagues to vote for the conference report.

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. Mr. Speaker, I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, I want to thank the gentleman from Illinois [Mr. **Rostenkowski**] for yielding me this time.

Mr. Speaker, a matter of concern relating to the floor/offset arrangements in title IX of H.R. 3545 has come to my attention. This provision permits companies with floor/offset plans established prior to December 17, 1987, to be grandfathered for purposes of investments in employer securities, according to your staff of Ways and Means, the term "established" means that a floor/offset arrangement would have been deemed to be established, if the plan forming the arrangement has been adopted, executed, and communicated to employees. And furthermore, this arrangement has been approved by the Internal Revenue Service prior to December 17, 1987. I am grateful for this interpretation because it assures a plan of a financial institution in my district will issue stocks to its employees beginning in January or February of 1988. Thank you for your cooperation.

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Mr. LATTA. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. **Green**].

Mr. GREEN. Mr. Speaker, the reconciliation bill we are considering contains a provision orginated by my colleague from New York, Mr. **Rangel**, which bars enforcement of a proposed regulation which would drastically reduce aid to New York City under the welfare program for households requiring emergency shelter. I had worked closely with my colleague from New York on this matter, since at this stage of the session that provision might have gone either in the reconciliation bill or the continuing resolution.

At the same time, I want to make clear to the Koch administration that my participation in this effort has been conditioned on the commitment that the Koch administration has made to Mr. **Rangel** and me that it would act to phase out the use of "welfare hotels" over a 5-year period. The welfare hotels have been a disaster. The commercial neighborhood in which they are located has little in the way of facilities for families. School truancy is rampant. Drug dealing is blatant. The atmosphere of violence and crime makes these facilities untenable as a location for raising families.

While it is plain that the city has no housing resources today to which to move the unfortunate families that are housed in those welfare hotels, the city must accelerate its pace of housing development. It is notable that the continuing resolution we are also acting on contains a provision included at my behest which extends for yet another year the time for the city to start construction of housing units awarded in 1984 and required then to be started in 2 years. This is the second year I have had to ask my colleagues for such action! The city's program to use Federal Community Development Block Grant funds to rehabilitate housing it has acquired for nonpayment of taxes is similarly behind schedule.

In short, the city's congressional delegation is doing its part. It is time for the Koch administration to carry its part of the load.

Mr. LATTA. Mr. Speaker, I yield 2 minutes and 15 seconds to the gentleman from Missouri [Mr. BUECHNER].

Mr. BUECHNER. Mr. Speaker, I have a card on my desk that says "it's a good thing Government doesn't run Christmas, there would be too many sheep and too few wise men."

We are getting close to Christmas. But if one were to watch in the next few days "A Christmas Carol," one would find that Morley is taking Scrooge around to visit Christmas present, Christmas past, and Christmas future.

What we are doing here today I hope does not just indicate futility present. Back in October we were given basically a shock wave that said let us do something about the spending habits of the United States. The markets throughout the world said do something, Congress, and everybody talked a lot about what we were going to do. We were like Scrooge. We were drug out of bed and we were taken to someplace we did not want to go. We were made to look into the past and see what we did not want to see. The past was too much spending, and not a good approach towards the fiscal responsibility of this country.

Now we are here today at deficit present, and we have come up, and I admit that everybody worked hard, and what they worked hard to achieve was not what the American public nor do I think what the market expected. Yes, we have come up with something, we are as the cartoon showed, divers, and we have dove, and we are going to get a 1, a 1½, and a 2. We are not going to get a 9 or 10, and the reason is we did not have the guts. We had the opportunity but we did not take advantage of it. We fell back into Christmas past.

The question is next week, not this week because we are given the benefit of Christmas, the market will be down, people will be taking a little time off, and so we are given a little grace period. But in the Christmas future, the deficit future, the question will be is what we are going to do today worth what the reverberations will be? I say no.

As I listen to people say the markets are watching what we are doing, I would suggest the markets would be better off splitting open the Christmas goose and reading the entrails.

Mr. Speaker, I just would like to say about this budget, bah, humbug.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. PEPPER], chairman of the Rules Committee.

Mr. PEPPER. Mr. Speaker, many of us observe with the keenest regret another cut in Medicare, $1.9 billion more cut again from Medicare. We have increased the amount that the elderly have to pay with the catastrophic bill we passed some time ago.

Every time there is a spending cut they always include Medicare, and many of us with deep sincerity are going to have to say from now on we are going to oppose these Medicare cuts. And we hope that next year even we may make some corrections in what we are doing now.

I sympathize with our colleagues and our leadership. I know they have done the best they could. But hereafter, no matter who demands it, let us not make any more cuts in Medicare, and let us try to correct some of those we are having to make now.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Speaker, I would like to engage in a colloquy with the gentleman from Texas [Mr. PICKLE].

The conference agreement narrowed the ability of a pension plan sponsor to transfer his pension plan obligations to the PBGC by the mere filing of a bankruptcy petition under chapter 11. Under the conference agreement a bankruptcy court judge will not allow a distress termination of a pension plan unless he determines that the company is unable to pay its debts pursuant to a plan of reorganization and continue in business outside of chapter 11.

Furthermore, a pension plan termination would be allowed only if it otherwise would force the sponsor into liquidation; and where, for example, the court had found that the sponsor had made meaningful sacrifices, such as in its pay package agreements. In addition, the conference agreement intends to treat all parties equally; that is, no specific company is meant to be advantaged or treated differently by this provision as compared to all other companies.

Mr. PICKLE. If the gentleman will yield, Mr. Speaker, yes, the gentleman has stated correctly what we conferees intended.

Mr. SCHULZE. Mr. Speaker, it was my privilege to be a conferee on the provisions in H.R. 3545 concerning the Pension Benefit Guarantee Corporation and pension reform issues.

I would like to enlighten my colleagues on an important but complex provision concerning the distress termination of pension plans.

The conference agreement narrowed the ability of a pension plan sponsor, under current law, to transfer his pension plan obligations to the PBGC by the mere filing of a bankruptcy petition under chapter 11. Under the conference agreement a bankruptcy court judge will not allow a distress termination of a pension plan unless he determines that the company is unable to pay its debts pursuant to a plan of reorganization and continue in business outside of chapter 11.

Furthermore, a pension plan termination would be allowed only if it otherwise would force the sponsor into liquidation; and where, for example, the court had found that the sponsor had made meaningful sacrifices, such as in its pay package agreements. In addition, the conference agreement intends to treat all parties equally; that is, no specific company is meant to be advantaged or treated differently by this provision as compared to all other companies.

Mr. Speaker, I trust the bankruptcy courts will apply this new provision in the way which the conferees intended. I hope my statement will be helpful my colleagues and the bankruptcy bar.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I rise in opposition to the conference agreement.

As a conferee on the pension provisions, I object both to the procedure that has been followed and the substance of the provisions before us.

The agreement was arrived at without even one meeting of all the conferees. In fact, the agreement was put together by the administration and the Tax Committees without consultation with the Labor Committees. Instead of the House sending an offer to the other body or vice versa, our subconference was unique. Operating in closed caucuses, the Committee on Ways and Means simply negotiated on its own deal with the Senate Finance Committee and expected the Labor Committees to defer to this agreement. Our bipartisan counteroffer was quickly rejected and it was made clear to us that our views were to be ignored.

I have served in this body long enough to know that conferences are not as structured and formal as our rules would suggest. But the procedure followed with respect to these issues does not comport with the spirit of the rules and the appropriate degree of respect and cooperation between committees of this body. It is my understanding that members of the Committee on the Judiciary who were conferees for a portion of the bill were also excluded. For one committee to deliberately exclude the conferees of another committee from participation in the discussion and resolution of subconference issues is inappropriate.

Pension issues are extremely complicated and technical in nature. Members clearly are not able to resolve the many technical issues that ultimately go into a final package. The Members should, however, get together to at least discuss major policy issues. But a procedure in which conferees of different committees with different points of view are in essence precluded from sitting down together in the same room to discuss openly their policy concerns is not a very good way to legislate. This is particularly true when much of the subject matter involved—title I and title IV of ERISA—is solely within the jurisdiction of the Committee on Education and Labor, whose members were excluded from the Tax Committees deliberations.

Because of the complicated issues involved and the limited time we had to resolve them, I urged my colleague, Congressman PICKLE, chairman of the Oversight Subcommittee of the Ways and Means Committee, to agree to defer action on reforms until next year, while moving forward on only on the premium portion of the package, since that was essential to meet our reconciliation targets. My request had strong bipartisan support on both the Education and Labor and Senate Labor Committee. Obviously he refused. I feel as strongly as he does that reforms are necessary; I simply do not believe we should move so hastily into uncharted waters.

In addition to my procedural concerns, I believe that the provisions before us today relating to the termination and funding of defined plans are deficient. With respect to underfunded pension plans, the conferees have gone too far. With respect to overfunded pension plans, the conferees have not gone far enough. As a result, the long-term benefit security of all participants and beneficiaries is still in jeopardy and we have lost an opportunity to work together to fashion retirement income policy that moves us forward, not backward.

We are in the midst of a crisis of confidence in the long-term stability of the private pension system. In recent years, major companies have terminated their pension plans—some that were seriously underfunded; some that were substantially overfunded. In both types of terminations, worker and retiree security are jeopardized and both types of terminations are cause for serious concern.

Terminations of underfunded pension plans, particularly those in the steel industry, have dramatically increased the financial deficit of the Pension Benefit Guaranty Corporation [PBGC]. Unfortunately, however, Members of Congress are being asked today to increase substantially the premium paid by plans covered under the PBGC Program and make major changes to the Employee Retirement Income Security Act of 1974 [ERISA], without an adequate opportunity to examine carefully the long-term economic and industrial effects that these changes might have on both workers and businesses.

Concern for reducing the country's budget deficit by shoring up the PBGC is what is driving the pension provisions in this conference report. In order to meet the revenue targets adopted by the participants in the recent budget summit, Congress must hike the PBGC premium. In addition, each of the four committees with authority over the premium—in this body, the Committees on Education and Labor and Ways and Means and, in the other body, Committees on Labor and Human Resources and Finance—adopted provisions that also included substantive reforms to the overall pension plan termination and funding structure. Even though each proposal was intended to strengthen benefit security for workers generally, in some instances, protecting, the PBGC had priority, even though such a course would ultimately be detrimental to worker and retiree interests.

That thinking is represented by the provisions before us today. This conference agreement says, to paraphrase a familiar saying, what's good for the PBGC is good for American workers and retirees. I do not necessarily agree.

In balancing the respective interests of workers, retirees, employers, and the PBGC, one obvious, but often overlooked, fact must be remembered: The purpose of our pension laws and the substantial tax benefits that are conferred on employer-sponsored pension plans is to assure that people get the pensions that they have been promised and earned.

I strongly support the premise that employers should be fully responsible for providing the promised and earned benefits. In recent months, however, this premise has become a rallying cry for those who would dramatically restructure the pension system by making the minimum funding standards and other rules so tough that, in the future, defined benefit pension plans would be restricted to only employees of the richest and the strongest in corporate America—those for whom a major concern is often how best to minimize their corporate tax liability by maximizing their tax deductions though funding their pension plans as quickly as possible.

Pension professionals believe that for most workers defined benefit plans offer a more stable and targeted source of retirement income. On the other hand, for most employers, defined contribution plans offer a simpler, more manageable method of providing benefits. An employer can control its pension costs by limiting its contributions to a fixed amount; it can ignore many of the more complicated and administratively cumbersome pension rules that apply to defined benefit plans; and it can avoid entirely and worries about the PBGC and everescalating premiums—defined contribution plans are not covered under the PBGC Program.

Notwithstanding the obvious appeal a defined contribution plan has to an employer, many employers have chosen to sponsor defined benefit plans because they believe that these plans are good for their workers. Congress should reward these employers, not punish them for this decision. These employers are often in industries that are lobor-intensive and their plans have been in existence for many years. Some have been the product of collective bargaining. As we look at the current crop of defined benefit plan sponsors and the relative financial conditions of their plans, we realize that these sponsors are not a homogeneous lot.

Much has been written about the sorry condition of pension plans in the steel industry. Yet not all the steel plans are in terrible shape. Some steel companies have responsibility funded their pension plans. Over the years, management in these companies has channeled corporate assets into the pension plans so that benefit promises could be kept. Instead of contributing the minimum possible without violating the law, they have given a high priority to funding the plans. Today these plans are well funded.

Other steel companies obviously have had other priorities for the use of corporate assets. LTV Corp. is perhaps the most prominent example of management that has chosen to put its money elsewhere and now expects to have others pay for the pension benefits it promised.

We should not reward management for poor management choices by blessing a competitive advantage that they have achieved, not by hard work or dedication, but by taking advantage of the looseness in the current Federal bankruptcy law to exploit their workers and the Federal pension termination insurance system. On the other hand, recognizing that some companies are in financial difficulty today, the effect of the new funding rules should not be substantial that companies with underfunded pension plans are forced into either bankruptcy or a premature plan termination. Finally, workers and retirees should not be punished when their company behaves irresponsibly by being denied the opportunity to continue to earn pension benefits under their original plan or any other replacement arrangement designed to make them whole.

We must carefully balance, however, the need to protect the PBGC by tightening the termination and funding rules for underfunded plans against the need to protect workers by assuring that any new funding or premium obligations are not so rapidly implemented or burdensome that employers will be forced to abandon defined benefit plans. Although reform may be necessary, its cost is too high if sponsorship of defined benefit plans becomes a luxury available only to the richest and strongest in corporate America—the defense contractors, the multinationals, the formerly regulated industries, the oil companies. Black Monday showed us once again that over the long haul, workers' pensions are more secure in defined benefit plans.

Fully funded pension plans pose the least risk to workers, retirees, and the PBGC. But defined benefit plans are not designed to be fully funded at all times. One of the reasons defined benefit plans are appealing to employers is that the plan can be funded over a long period of time in relatively level annual installments. During the early years, employers generally contribute more than necessary to pay benefits earned by their workers. In the later years, when workers have earned substantial benefits and plan liabilities are thus increased, the employer does not face sharply escalating contributions, since it can reap the benefit of the earnings on the money already contributed.

In the case of overfunded plans, employers may have wanted to achieve significant tax savings by contributing as much as possible under the current deductible limits to the plan. These conservative assumptions, coupled with the high interest rates and the unprecedented stock market boom that recently ended, boosted plan assets substantially beyond what was necessary to pay termination liabilities were the plan to terminate prematurely. As a result, since 1980, more than 1,400 companies—including United Airlines, Union Carbide, Firestone, Occidental Petroleum, and Exxon—have taken advantage of this tax-favored funding flexibility to siphon off more than $16 billion of so-called excess assets by prematurely terminating their defined benefit plans. On an ongoing basis, these assets were not excess at all, but the law permits a company, under certain circumstances, to recoup assets above the plan's liability at the moment when the plan terminates.

Many large and influential employers with overfunded pension plans have argued that Congress should ignore the problems of overfunded plans and concentrate on underfunded plans. Although their arguments are, at best, self-serving, the pension provisions in the conference report before us today largely ignores the serious threat to benefit security for workers and retirees resulting from overfunded plan terminations. Even though the administration's own reform proposal recognized that current law governing overfunded plans is inadequate and recommended long-overdue changes that would, to some extent, protect workers from sham terminations designed to weaken benefit security, the issue has not been addressed in this conference agreement. The legislation proposals of the House and Senate Labor Committees not only embodies these administration proposals but also recognized that the premature termination of a pension plan often results in real long-term benefit loss for workers, even though they may receive their nominal benefits as of the termination date of the plan.

Under ERISA, the assets of the pension plan belong to workers and retirees and must be used for their exclusive benefit. When the plan terminates, however, under certain circumstances, the employer may claim surplus assets; thus employers argue that the money belongs to them. Many of my colleagues share my belief that this interpretation is wrong. We believe that pensions are deferred wages and that once the money is contributed to the pension trust, it should never revert to the employer.

Corporations enjoy substantial tax benefits when they establish pension plans. These plans represent wages foregone for future pensions. They are not corporate piggy banks, to be used to sock away money until managment needs cash for some other purpose—to ward off a takeover, to find a captive market for corporate stock, to modernize a plant, to fund capital improvements, to pay shareholder dividends, or to boost corporate balance sheet earnings. Regardless of how worthy the corporate purpose is, one simple fact remains: The money was originally contributed to pay the pensions of covered participants.

I realize that others, including the administration, do not share this point of view. The Labor Committee proposals reflected a modest attempt to effectuate a clarification in the law by explicitly requiring a sharing of assets above those necessary to pay termination liability between the employer and workers and retirees. Some have scornfully characterized this reallocation of a portion of the surplus for workers and retirees as a "gift".

On the contrary, current law provides a substantial incentive for employers to terminate their plans prematurely in order to provide a "gift" for themselves. If the plan continued, workers who stayed with the employer would be entitled to the projected benefits assumed by the employer when the plan was being funded through tax-deductible contributions, and surplus assets would appear. Instead, employers are encouraged to overfund plans and prematurely terminate them in order to be rewarded with a gift. If projected benefits are real enough to permit the employer to fund for them, then that is what companies ought to be paying when plans terminate.

Employers argue that they've only promised nominal benefits and that the nature of a defined benefit plan is such that the employer's only responsibility is to pay that nominal benefit. If the plan is overfunded and assets exceed the amount necessary to pay that benefit, they argue, employers should be able to keep the excess. But if the plan is underfunded, does the worker get his or her full benefit? Usually not. In fact, the Executive Director of the PBGC has been publicly quoted as saying that it is necessary for workers and retirees to feel pain of benefit loss when their underfunded pension plan terminates. She argues that unless they do suffer losses, they will not care whether their employer dumps liabilities on PBGC or not.

Many of us believe that if workers have to share the pain when an underfunded plan terminates, they have the right to share the gain if an overfunded plan terminates. Since the funded status of the plan is beyond their control, why should they play the game of "heads I win, tails you lose"? As long as there is no guarantee that benefits will not be lost when a defined benefit plan terminates, requiring a sharing of any surplus in an overfunded plan is the least Congress can do to restore some degree of fairness to the system. It is regrettable that in its rush to rescue the PBGC and rush to adjournment, Congress has run out of time to deal with another important threat to benefit security. By failing to address the issue of overfunded plans in this legislation, Congress has protected those greedy companies whose only concern is access to surplus assets. I am sorry that the members of the Tax Committees apparently do not yet have the holiday spirit. If they did, they would have insisted that employers share the gift they receive when they terminate an overfunded pension plan with workers and retirees.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Wisconsin [Mr. Moody].

Mr. MOODY. Mr. Speaker, first I want to commend the House conferees for a very excellent job on this bill under some extremely trying and difficult conditions.

Many this evening are focusing on what the bill does not do. I would like to just focus a minute on what the bill does do.

First of all, it closes a number of loopholes. It closes the number of preferences that are unwarranted in both personal tax and corporate income tax. It discourages hostile takeovers through special tax changes that make those less advantageous, and finally and most importantly, it virtually closes one of the most egregious abuses in the tax code; namely, the so-called completed contract abuse whereby contractors, particularly defense contractors, can virtually avoid all tax payments by simply rolling over the length of the contract. That is virtually eliminated now.

I hope my colleagues will vote for this bill.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. Frenzel].

Mr. FRENZEL. Mr. Speaker, I voted against H.R. 3545 in committee. I voted against it when it passed the House. Notwithstanding obvious improvements, I shall vote against the conference report tonight.

The tax portion is an ugly, mean-spirited bill, hatched in the darkness of a closed Democrat Caucus of Ways and Means members. It was not improved when it was brought to the House. In fact, it was so unpopular it had to be handled under restricted debate and a no-amendment procedure. When it arrived at the Senate, it had been subjected to little debate and no amendments.

Small wonder that the Senate chewed it up, and spit it out. And because the Senate got as much as it gave in conference, H.R. 3545 is immeasurably improved. But, it is still fatally flawed both in concept, and in detail.

The flawed concept is that the taxes in this bill were supposed to buy spending cuts. The bitter truth is that for the next 2 years, the deficit reduction achieved by new taxes, fees and premiums far outweigh the miniscule spending cuts in this bill and in the continuing resolution.

I am not a supporter of new taxes. New taxes are not necessary. The required deficit reduction can be achieved purely through spending cuts. As long as the majority in this House insists on more taxes, I would be willing to surrender some taxes for substantial, permanent spending cuts. For instance, a ratio of 2 or 3 to 1, where $10 billion of new taxes is matched by $20 to $30 billion in spending cuts would make sense. This bill contains a less than 1-1 ratio, and, therefore, is merely a tax bill in the guise of deficit reduction.

A second conceptual flaw is the alleged $30 billion total in deficit reduction. That is grossly inadequate. After the floating baseline was raised by the retriggering of Gramm-Rudman-Hollings, the $30 billion reduction won't reduce anything. If it can be achieved, the deficit will actually rise.

The net, net, net of the economic summit, and of this bill and its companion continuing resolution, is that huge new taxes were traded off for a few billion in extra defense spending. The administration sold its no-tax policy too cheap. It got a mess of pottage, but almost no spending cuts.

In detail, the bill retains some bad policy. Two very special interests: First, 2 large chicken-producing families; and second, the power consumers of Long Island received enormous tax preferences simply because they had advocates on the Ways and Means Committee. In the former case, that of the Tyson and Perdue families, the cost to other taxpayers is about $100 million. In the latter case, ordinary taxpayers will pony up an additional $1½ billion to make up for the cozy deal to Long Island.

At a time when the Government is looking for additional revenues, it should not be giving the taxpayers money to special friends of committee members.

To find new money, this bill extends the temporary FUTA tax long after the unemployment compensation program it was supposed to finance, have been paid off, and expired. It increases estate taxes. It repeals vacation pay reserves, and expands FICA taxes to cash tips.

In total, that package is not good, but not so bad it could not be tolerated if the spending package were responsible. Standing by itself, in what is essentially a tax bill, it is not worthy of passage.

In evaluating the spending reductions in this bill, one finds too many instances of spending deferrals masquerading as spending cuts. In the Medicare section, the prompt pay provision is actually a slow pay provision which claims reductions by merely slowing down payments. The liability of Government remains unchanged. In the Post Office and Civil Service section, lump-sum retirement payments are slowed, and claimed as savings, when in truth the Government's liabilities remain the same. The estimated-tax payment speed-up has the same effect on the revenue side.

These inglorious examples demonstrate the fact that this grand compromise, the fruit of economic summit, will not even achieve the feeble deficit reduction promised at that summit. An inadequate plan, inadequately executed, spells disaster. H.R. 3545 and its companion CR are the pathway to disaster.

I ought to say a word about the continuing resolution here. When these two pieces of legislation are finished, and if the targets are achieved—a very unlikely prospect—the national deficit will still increase by more than $10 billion.

It may confound normal practitioners of mathematics to find that a $30 billion deficit reduction results in a higher deficit. That is the beauty of creative budgeting. And this House is the epicenter of creative budgeting. It has been cutting deficits for years without noticeable effect.

The stark fact remains that after passage of our tax and spending bills, the deficit will increase. Worse, spending will increase $60 billion, up about 6 percent.

That means we have cut nothing. We have spent out new taxes. And we are left with higher deficits and higher spending.

Looking at these two tax and spending bills, any serious observer would be forced to conclude that 1987 was a wasted year in Congress. Congress, and the executive branch, have been tested, and found wanting.

That is not a happy feeling for this participant, and just as surely, it is an unhappy prospect for the people of the Republic.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I will vote with some reluctance for this report. I am particularly unhappy about what the Senate did to our high-level nuclear waste disposal program set-up 5 years ago. They butchered it, they made it unworkable, and we went along most reluctantly, but despite that I will vote for the conference report.

Mr. Speaker, it was just 5 years ago yesterday we passed the Nuclear Waste Policy Act of 1982, which this conference report amends. When the President signed the 1982 law, he called it "a milestone for progress and the ability of our democratic system to resolve a sophisticated and divisive issue." It was.

We had confronted the difficult and politically sensitive problem of safely disposing of highly radioactive nuclear waste and were confident we had succeeded. We had kept politics out of the serious business of siting nuclear waste repositories. We created a principled process for finding the safest, most sensible places to bury these dangerous wastes. We were confident that while no State wanted a nuclear waste repository, the States ultimately chosen would accept the outcome because the selection process would have been fair and technically credible.

Today, just 5 years later, this great program is in ruins. To help a few office seekers in the last election, the administration killed the eastern repository program, shattering the delicate regional balance at the heart of the 1982 act. Since then the Western States have felt they are being treated unfairly, and they no longer trust the technical integrity of the Department of Energy's siting decisions.

Title V of the conference report attempts to put the program back on track. It adopts a different course than I would have chosen. I would have established a commission to investigate what went wrong and to recommend corrective measures to Congress. I introduced legislation (H.R. 2967) toward that end, which the Interior Committee has reported.

The other body took a different tack. Instead of asking experts to tell us where the program went wrong and how to fix it, the Senate bill seeks to streamline and accelerate the site selection process. Instead of a thorough, comparative analysis of several sites, the Senate bill focuses all of our efforts on a single site. The other body then attached this scheme not only to the budget reconciliation bill but to the energy and water appropriations as well.

Regardless of the merits of the Senate's nuclear waste proposals, the procedural course adopted by the other body is regrettable. It has circumvented the authorizing committees of the House. It has deprived House members of the chance to be heard, to offer amendments, and to have a role in shaping this important legislation. We are left with a single up-or-down vote and even that on an unwieldy omnibus reconciliation bill of which the nuclear waste provisions are only a small part.

With the help of the Speaker, the chairman of the Appropriations Committee, and the chairman of the Energy and Water Appropriations Subcommittee, Chairman DINGELL, Mr. SHARP, and I were unable to persuade the other body to address this issue in the reconciliation bill rather than the continuing resolution. That has enabled conferees from the House authorizing committees to participate in the subconference on this issue where we were able to work out a substitute to the Senate bill.

Despite my misgivings about the procedure involved and abandoning some of the principles of the 1982 law, I support the conference report. For all its defects, the conference substitute provides certain advantages over existing law.

First, the conference substitute focuses the siting effort on a single site in Nevada, ending consideration of sites in Washington and Texas. I would have preferred to see the experts pick the site after further study instead of Congress making the decision before the facts are in, but this course has some appeal. It should result in significant cost savings—perhaps as much as $4 billion according to the Senate conferees. In addition, it will spare the citizens of Texas and Washington the anxiety and turmoil that continuation of the current program would cause.

Second, the conference substitute defers consideration of a second repository for at least 20 years, when the need for it can be assessed more accurately.

Third, while the conference substitute authorizes a monitored retrievable storage [MRS] facility, it conditions the construction and operation of such a facility. The protections written into the conference substitute help ensure that any MRS facility will not become a de facto permanent storage facility.

Fourth, the conference substitute greatly increases the compensation and rewards Nevada will receive for hosting a repository and another State or Indian tribe can receive for hosting an MRS facility. The conference substitute provides Nevada the choice of either increased impact mitigation assistance payments or generous annual payments under a benefits agreement. The substitute also increases grants-equal-to-tax payments and gives Nevada special consideration in siting Federal research projects.

Moreover, the conference substitute incorporates two major provisions contained in the nuclear waste bill reported by the Interior Committee, H.R. 2967. One of these establishes a technical review board to provide expert advice to the Department of Energy on nuclear waste matters. The other appoints a special negotiator to find a State or tribe willing to volunteer to host a nuclear waste repository or MRS facility at a technically qualified site. The negotiator has authority to negotiate a benefits package and other terms and terms and conditions acceptable to the state. Any agreement negotiated by the negotiator must be approved by the Congress, which would need to enact appropriate implementing legislation.

Mr. Speaker, a lot of people are saying that with this measure we have decided to "put the waste in Nevada." We do no such thing. By this legislation we single out Nevada for a thorough—and remarkably expensive—evaluation of its suitability to be the host site. Let everybody understand that should that evaluation reveal Nevada's unsuitability as a site for the permanent repository, that's it; the program ceases and it will be up to the Congress to decide what to do next. That is the thrust of the Senate's approach, one we conceded to and one I can live with. I would have preferred, however, the more balanced multiple site review of my own bill, a review better constructed in the long run to yield a suitable site.

I doubt any one will point to this bill as a noble example of our democratic system's ability to resolve sensitive technical issues. Selection of Nevada in this fashion represents a break with the principle of the 1982 act that Congress would stay out of the selection process. Nonetheless, the conference substitute reflects the political realities forced upon us by the administration's bungled implementation of the 1982 act. And perhaps the negotiator appointed under the substitute may yet negotiate an arrangement that will make siting the repository either in Nevada or elsewhere acceptable to the host State. For these reasons, I support the conference report.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, as chairman of the subcommittee on Energy and Power, I would like to make some brief remarks on these important provisions.

The redirection of the nuclear waste program under this bill is not my first preference. In fact, I strongly believe that the expedited procedures of the Reconciliation Act should not have been used for this important matter, the results of which will affect us for many generations.

However, I believe that the House conferees have made significant improvements in the Senate bill that will provide for substantial environmental protections and ensure public participation. Furthermore, the conference report establishes important preconditions on the construction of a temporary storage site and will result in a substantial reduction of costs for the permanent site, compared to both the current program and the Senate bill.

When the Nuclear Waste Policy Act was adopted by Congress in 1982, we all were optimistic that this carefully balanced approach to resolving the Nation's nuclear waste disposal problem would work. It is a shame that, in addition to the inevitable difficulties which locating a repository involves, the Department of Energy's implementation of the program became politicized to the point it did. This politicization fatally undermined the program's credibility, and has necessitated the passage of new legislation to get the program back on track.

In this atmosphere of shattered confidence and mistrust, it has been difficult to craft new legislation to redirect the Nuclear Waste Program. While I support the nuclear waste provisions included in the reconciliation package as the best that could be achieved, they do not fully embody my preferences as to how the program should be restored. In fact, I would have strongly preferred that the House be allowed to consider this matter under normal legislative procedures, without the pressures imposed by the press of other important matters so late in the year.

Despite these reservations, however, in the final analysis I believe that this bill moves the Nation forward on a direct and narrow path to develop the capacity to safely dispose of its high level nuclear waste. If subsequent events prove this path to have been ill-chosen, future Congresses will have to back up and choose again.

The legislation makes several fundamental changes to the 1982 Act. The most dramatic change is to focus the Department of Energy's efforts to develop a permanent repository on a single site in Nevada, and to completely terminate efforts at the two other Western sites previously nominated.

Similarly, we have abandoned the search for a second repository in the East, which has become so controversial as to grind to a halt altogether.

While the straightforward designation of Nevada as the sole site under consideration for a deep geologic repository is disturbing to many of us, it has the virtue of cutting through the pretense under some legislative proposals that any genuine consideration of other sites would occur. This streamlining also has the advantage of potentially reducing the anticipated cost of the overall program by billions of dollars.

As a consequence of this decision to focus the permanent repository search solely on Nevada, it is especially important that we provide protections to ensure the technical adequacy of the Nevada site. The bill establishes a technical review board outside the Department to provide scientific peer review of the future characterization of the Nevada site. This should help avoid a repetition of problems under the current program, under which congressional oversight and public confidence in the Department of Energy's technical work have been undermined by the lack of any continuous, independent technical analysis.

The bill also provides that, if for any reason the Nevada site does not prove to be an appropriate choice, all work at the site will halt and necessary reclamation will take place. If this occurs, the ball will once again be back in Congress' court.

The bill also authorizes, but does not require, the Department of Energy to construct one monitored retrievable storage facility [MRS], subject to several explicit conditions. The question of whether to build an MRS, and what purpose such a facility would serve in the overall waste program, has been a central controversy in our considerations. The bill represents a compromise among various preferences regarding an MRS, which is reflected in the following limitations.

First the bill establishes an MRS Study Commission to report to Congress on June 1, 1989, on the need for and role of an MRS. Thereafter, the Department may begin a survey of potential sites, but the selection of sites in Tennessee has been annulled and would have no effect on the survey. The construction of an MRS, if any, is linked closely at several points to progress in the construction of the repository. These links are designed to ensure that construction of an MRS does not undermine or in any way become a substitute for the permanent deep geologic repository. Accordingly, no MRS site selection can be made until characterization of the Nevada site is completed. The Department cannot construct the MRS until construction of the Nevada respository has begun. No more than 10,000 metric tons of spent fuel may be accepted at the MRS until the Nevada repository goes into operation, and no more than 15,000 metric tons may ever be stored at the facility. Finally, if construction of the Nevada repository is halted for any period of time, further construction of the MRS, or acceptance of fuel at the MRS, must also be halted during that period.

I deeply regret the circumstances surrounding the current program which resulted in the Congress having to revisit and, to a large extent, rewrite the 1982 Act. It had provided for a well balanced program which could and should have worked. I also have strong reservations about the legislative process which produced this bill, by which the full House was not able to consider so important a national program in a deliberate manner.

Nonetheless, I am satisfied that we have crafted the best compromise possible under these difficult circumstances. I wish to commend Chairman DINGELL and Chairman UDALL for their leadership on this legislation, along with subcommittee ranking minority members CARLOS MOORHEAD and MANUEL LUJAN, and the many dedicated House conferees who labored long and hard, particularly BUTLER DERRICK, AL SWIFT, and JIM COOPER. Most importantly, I believe the bill preserves, and to some extent may improve, the mechanisms to ensure the scientific and environmental integrity of the program. It is my sincere hope that with the redirection provided by this bill, the Nation will at last be able to resolve the nuclear waste disposal problem.

I would like to comment in more detail about specific provisions of the bill. Section 5011 requires the Secretary to phase out his activities at Hanford and Deaf Smith over a 90-day period and then terminate all site specific work at those sites. Those two sites then become like all other sites in the country. They are not backup sites, as they were in the Senate bill. The act, as amended, provides for no backup sites. Should the Yucca Mountain site prove unsuitable, Congress would have to determine what step should be taken.

Similarly, all references to the second repository program, which had focused upon eastern crystalline rock, have also been removed from the act, except for a study of need to be completed 20 years from now.

The conference substitute includes an authorization for the MRS. The cornerstone of the House agreement to authorize the MRS was the decision to tie its development to progress on the repository. Development of an MRS facility is at the discretion of the Secretary. If he decides that an MRS facility is unneeded or too costly, he need not construct it. However, if he does choose to proceed on the MRS, it must be built in accordance with the procedures in the act.

No work on an MRS may be conducted for the next 18 months. During this period a 3-member MRS Commission will study whether an MRS is needed. After that period, the Secretary is authorized to commence a site survey, assuming he is provided an appropriation for such discretionary activity.

The new section 145 of the act provides that the Secretary may only select a site for the MRS if he has determined that it is the most suitable site from among those that he surveyed under the new section 144.

The Secretary must notify a site not less than 6 months prior to the date he intends to select the site. The Secretary must also hold at least one hearing in the vicinity of the site before selecting the site. The entire Nuclear Waste Policy Act is predicated on public participation, and it is assumed that the Secretary will take every effort to inform the local community and solicit their views throughout the site selection process. The Congress is unlikely to appropriate funds for the MRS if there is little evidence that the public has been fully involved in the site selection process.

The new section 148(c) which is drawn from the old section 141 of the act, makes clear that any MRS is subject to licensing under section 202(3) of the Energy Reorganization Act. This is also clarified in the new section 405(b) of the bill relating to the Negotiator. If the negotiator develops an agreement for the MRS, that agreement must be ratified by further legislation, and section 406 permits the agreement to include further terms and conditions. For example, the host State might insist that deliveries are made to the MRS in accordance with a certain schedule, or be limited to a certain amount. In any event, an MRS facility, whether developed under section 145, or by the Negotiator, or under a benefits agreement is subject to licensing both under this act and section 202(3) of the Energy Reorganization Act. This point is also made in the amended section 114(f) of the NWPA, which states that nothing in this act shall be construed to amend or otherwise detract from the licensing requirements of the Nuclear Regulatory Commission established under the Energy Reorganization Act.

The House conferees believed strongly that the construction of any MRS should be tied closely to the progress on the construction of the repository. Therefore, a site for the MRS cannot be selected until a site for the repository has been chosen after full site characterization work at the repository site has been completed. Furthermore, construction of the MRS cannot commence until the Secretary has received a license to begin construction of the repository. The license to construct the MRS must prohibit construction during any period in which the construction of the repository is halted. This prohibition will ensure that the MRS construction does not progress during periods that the repository program is not progressing, thus ensuring that the two programs proceed simultaneously. While this restriction may appear to harshly limit the MRS construction, this was the desire of the conferees, because of our strong concern that progress in both programs be closely linked. The purpose of the MRS will be to package and handle waste for the repository, not to substitute for the repository. Therefore, there is no need to develop the MRS unless there will also be a repository in place.

The technical review panel established in the new title V of the act is identical to the panel established in H.R. 2967, as reported by the House Committee on Interior and Insular Affairs. The explanation of the panel's purposes and operation is set forth in that committee's report. As the author of that provision, I am pleased that it was included in the bill, rather than the panel established in the Senate bill. The panel will have full authority to review the technical and scientific validity of all activities of the Secretary undertaken under the NWPA. This includes all of the authorities granted under the amendments being adopted today. The panel is given very strong powers to obtain information from the Department. Of course, laws such as the Privacy Act which prohibit disclosure of information in certain circumstances would apply. It should be remembered that the panel is created as an establishment in the executive branch, and that its value can only be achieved if the Secretary makes all information available on a timely basis. The provision relating to draft documents makes clear that the Secretary may not refuse to provide documents with the excuse that they are merely drafts. The board's effectiveness is dependent upon its ability to affect actions of the Secretary while they are happening, and not just after the fact.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi [Mr. MONTGOMERY], the distinguished chairman of the Veterans' Affairs Committee.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, as a member of the subconference on the nuclear waste provisions of the Omnibus Budget Reconciliation Act, I rise to express my strong opposition to the agreement reached on this matter. While the House conferees worked diligently to craft a sensible policy, the time constraints we faced and the inclusion of the Senate language in both this bill and the continuing resolution forced compromises that I believe are both unwise and unsafe.

There is no problem as grave as finding solutions to the disposal of high-level radioactive waste. The need to do so in the safest and most responsible fashion is obvious—the failure to do so will subject future generations to possible lethal exposure for tens of thousands of years to come.

It is for that reason that decisions regarding our Nation's high level nuclear waste policy should be made only in the most reasoned and deliberate manner. Rushing to judgment on these questions, refusing to take the time necessary for adequate review and consideration, may result in tragic errors that will further damage the credibility of an already bankrupt nuclear waste program and will jeopardize, if not destroy, any movement toward a permanent solution.

Five years ago, I stood on the House floor to protest the procedures under which the Nuclear Waste Policy Act was considered. In 1982, we were confronted with a take-it-or-leave-it choice—accept a Senate bill without the benefit of a House-Senate conference committee or delay for as little as a day so that there would be some chance to make modifications. Our failure to take the time necessary to make those modifications then contributed to the problems we are facing now.

Today, we are once again being asked to act on legislation which has been crafted under extreme time pressures and which once again shortcircuits the legislative process. In 1987, only one of the committees with jurisdiction has acted on this legislation. The full House has not been given a chance to debate or amend provisions that will have profound effects on individual States and the Nation. After a 4-day conference, we are presented with a proposal that differs dramatically from both the Interior Committee-reported bill, H.R. 2967 and the Nuclear Waste Policy Act of 1982. Yet, full consideration of that policy shift will be impossible because of its inclusion in the Omnibus Budget Reconciliation Act.

This proposal deserves that consideration since it contains two major approaches that, I believe, threaten the search for a safe and environmentally sound permanent solution to nuclear waste disposal. It represents a high-risk gamble that, if unsuccessful, will require us to go back to the very beginning of the nuclear waste decisionmaking process, as high-level nuclear waste continues to pile up.

CLOSING THE DOOR TO THE PERMANENT REPOSITORY

The Nuclear Waste Policy Act of 1982 established procedures to select a permanent repository. Decisions and site selection were to be based on the soundest scientific footing, after full-scale review of all available data on safety, environmental and public health concerns.

Few could argue this goal has been met. Decisions were guided by politics and not scientific facts. In some instances, the Department of Energy simply ignored data on the environmental problems involved in some sites. In others, it "cooked the books" to gain the outcomes it wanted. Methodologies were manipulated in order to get the desired results. The lack of scientific rationale was noted not just by Congress or the affected States but by other Federal agencies. The Environmental Protection Agency and the Department of Interior said decisions were not supported by the data and that some baseline information was missing altogether. Even the Nuclear Regulatory Commission agreed that decisions were not supported by the existing data. In short, over the past years, the evidence has mounted that DOE repeatedly put politics first and safety last.

The end result has been the selection of three sites, each of which has been criticized as being unsafe or inappropriate for varying reasons. H.R. 2967 took those criticisms into account and established a Commission to review past DOE activities. The Commission report would then be available to Congress to make any needed changes in the nuclear waste program.

The conference agreement differs dramatically from that sound approach. It ignores the past criticisms of the first round site selection process. It ignores the recommendation of the Office of Technology Assessment that four, not just three sites, be considered in order to "substantially increase the level of confidence" that a permanent repository will be found. Instead, it restricts future repository activity to the Yucca Mountain site in Nevada. If this site proves unsound, which is quite possible given indications of earthquake and volcanic activity in the area, we will be left without a nuclear waste disposal program of any kind. As Nevada goes, so goes our Nation's nuclear waste policy.

OPENING THE DOOR TO THE MRS

While limiting options regarding the first round repository, the conference agreement contains, for the first time, a congressional authorization for construction of a monitored retrievable storage [MRS] facility. Rather than providing permanent storage, the MRS would be designed as a temporary facility, a glorified depot that would accept waste, repackage it, and store it until it is moved to a permanent site. Unfortunately, if the permanent repository is never built, the MRS will become a substitute—an above-ground facility that allows high-level waste to remain available for generations.

The conferees have sought to provide some protections to guard against the MRS becoming the de facto repository. The stated goal is to have the MRS move in lockstep with the permanent repository, so that we do not end up with an MRS and no permanent storage facility. Unfortunately, those protections fall far short of a guarantee. One example, perhaps, will suffice to explain the inherent dangers in this approach.

Under the conference agreement, the NRC is prohibited from granting a construction authorization for the MRS until it grants such an authorization for the permanent repository. If, later, problems arise surrounding the repository which halt construction, construction on the MRS would similarly cease. This approach ignores several possibilities. First, because construction of the MRS will take significantly less time than construction of the repository, the MRS could be close to completion before work ceases on the repository. In that instance, Congress would be likely to allow the completion of the MRS, particularly since at that point it will be the only storage facility available in the short term and since billions of dollars in investments will already have been made. Second, it is possible that the MRS could be fully completed and even accepting waste before repository problems arise. Once again, there is the possibility that the MRS could be completed in advance and in the absence of a first round repository.

Because of those problems and because I believe that the real dangers of the Nevada site are not likely to become known until actual site work begins, the MRS construction authorization should have been made contingent upon the NRC's approval of an application to accept waste at the first round repository. That approach would have ensured that the MRS does not become a repository substitute.

Even with that protection in place, even with limitations on the size of the MRS and the protections of environmental and public review, I do not believe that Congress should grant prior authorization of an MRS. In fact, granting such authorization without full-scale review of a specific project proposal was considered and rejected in H.R. 2967 as reported by the Committee on Interior and Insular Affairs. The reasons for that rejection still hold: committing $3 billion investment to a project whose design, site and purpose is as yet unknown is unsound and irresponsible policy.

Moreover, the construction authorization contained in the conference agreement prejudges an issue which Congress has neither debated nor resolved: the appropriateness of an MRS approach.

In fact, the major question is whether an MRS is a necessary component in the nuclear waste program. The DOE has agreed with independent experts that the MRS is not necessary for storage capacity considerations. An independent study by a Tennessee panel in fact concluded that increased burnup and at-reactor rod consolidation could reduce residual spent fuel volumes by at least 50 percent. Similarly, the study found that at-reactor transportation improvements could provide the same protections which DOE says would be gained through the MRS. In fact, because of the increased transportation miles and the additional risk of occupational exposure through multiple handling of wastes, the MRS proposal will actually increase rather than decrease safety risks.

Others have also raised the question of whether a multibillion dollar MRS facility is needed. A 1987 report by the General Accounting Office, prepared at the request of the Committee on Interior and Insular Affairs and the Committee on Energy and Commerce, concluded that many outstanding issues have yet to be resolved. That report, "DOE Should Provide More Information on Monitored Retrievable Storage," found that DOE's pending proposal failed to thoroughly investigate alternatives to an MRS facility. It recommended that Congress demand additional data before reaching a decision on the wisdom of the MRS. In light of that report, the conferees' decision to authorize construction of a future and unspecified facility is even more disturbing.

CONCLUSION

In conclusion, I believe that the two major policy changes incorporated in the conference agreement are the poison pills that will undermine the goal of achieving a safe, permanent repository. By pinning the future of this program on the hope that the Yucca Mountain site will meet all the requirements necessary for safe disposal, it almost guarantees that the nuclear waste disposal question will remain unresolved and unsolved for years to come. And by opening the door for construction of an MRS, it paves the way for acceptance of short-term storage as a substitute for a permanent solution.

Mr. MONTGOMERY. Mr. Speaker, I rise in support of the agreement that has been reached between the House and Senate on the reconciliation measure.

I am pleased to report that the Committees on Veterans' Affairs reported their agreement early and I want to thank the distinguished ranking minority member of our committee, Mr. SOLOMON, the distinguished chairman of the Senate Committee, Mr. CRANSTON, and the very able ranking minority member, Mr. MURKOWSKI, for their cooperation in resolving the differences between the House and Senate-passed bills.

I also want to thank the distinguished gentlelady from Ohio, chairwoman of our Subcommittee on Housing and Memorial Affairs, Ms. KAPTUR, for her leadership and for her cooperation in working out this agreement with the Senate. Our committees have complied with the instructions given us by the House and Senate and I am pleased to report that we have met our target as follows:

First. The loan origination fee paid by veterans for VA home loans would be extended for 2 years (through September 30, 1989). This would increase revenues by $165 million during the current fiscal year and another $221 million in fiscal year 1989.

Second. The Deficit Reduction Act of 1984 limited the number of foreclosed properties on which VA financing can be offered to no more than 75 percent of the properties sold in any fiscal year. As part of our efforts to meet our targets, this limit will be changed to a maximum of 65 percent for 3 years; the minimum percentage of properties sold with VA financing would be changed from 60 to 50 percent. In other words, we are proposing to increase the proportion of acquired properties which the Veterans' Administration is required to sell on a cash rather than vendee-loan basis. This provision would save $76 million in outlays over the next 3 years.

Third. The budget summit agreement calls for the repeal of section 2 of Public Law 100-136 which, in effect, requires the VA to sell its loan assets with recourse, or without recourse but only if the amount received is equal to an amount which is not less than the unpaid balance of such loan. Earlier this year, without consulting the House and Senate Veterans' Affairs Committees, the Office of Management and Budget and the Congressional Budget Office changed the method of accounting for vendee-loan notes sold with recourse by the Veterans' Administration. Our committee expressed its opposition to this change in policy and H.R. 2672, which passed the House, expressed the sense of the Congress that the Congressional Budget Office should reverse its decision and that any change in the assets sales policy of the Veterans' Administration should not be considered in future budget resolutions as a means of achieving deficit reduction. Subsequently, the Congress passed S. 1691 prohibiting sales without recourse.

I continue to hold the view that selling VA loans without recourse is not going to save the Government anything in the long run, thus making no contribution to reducing the Federal debt. However, in order to attain the "savings" during the next 2 years agreed to in the budget summit, the conference agreement reached between the House and Senate would eliminate the restriction on without-recourse sales and would permit the Veterans' Administration to sell vendee-loan notes either with or without recourse for 2 years, depending on the Administrator of Veterans' Affairs determination as to which basis would be in the best interest of the effective functioning of the loan guaranty program. This would supposedly result in "savings" of $680 million in budget authority and $611 million in outlays in fiscal year 1988 and $680 million in budget authority and $603 million in outlays in fiscal year 1989.

In summary, Mr. Speaker, the agreement reached on reconciliation between the Veterans' Affairs Committees would result in total savings of $1.8 billion in budget authority and $1.7 billion in outlays during the next 2 fiscal years. It should be noted, Mr. Speaker, that the conferees of our two committees are distressed that their ability to consider and recommend legislation with regard to the policy of selling vendee-loan notes with or without recourse has been diminished by scorekeeping policies recently adopted by the Congressional Budget Office and the Office of Management and Budget, and as chairman of the House committee, I would urge the head of these offices to check with the appropriate committees of jurisdiction before making decisions such as this in the future.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Speaker, first of all I want to commend all of the conferees for the tremendous work they put into putting together this package. I know not everyone is happy with it.

It is with mixed emotions that I cast my vote today in favor of this reconciliation legislation. I have made it very clear that we must have progress on deficit reduction legislation. While the budget summit agreement should have made more spending cuts and called for less than $9 billion in revenue increases, at least we have a consensus that will replace the Gramm-Rudman sequestration cuts. As I said when I voted for this controversial bill 2 months ago, the most important thing is that we put partisan politics aside and get on with reducing the deficit. Therefore, I will support this measure.

The tax provisions of this legislation are, as expected, more acceptable to all parties than those approved by the House in October. While most of these provisions were contained in the House-passed bill, a few of the more objectionable ones were dropped and several others modified. This package has been approved by the White House. Regarding the dairy industry, I would have preferred the House position of no assessment on producers in view of the large contribution that the dairy program has made to deficit reduction over the past few years. However, I reluctantly support the 2.5 cent per hundredweight assessment for 1988 only. I hope my colleagues will take notice of this additional contribution by dairy farmers to deficit reduction. Having said all this, let me discuss these provisions in greater detail.

The reconciliation tax package raises revenue without violating the spirit of the 1986 tax reform bill. Most individual taxpayers will not feel the bite of the $9 billion tax-increase package; its effects will be felt most by higher-income taxpayers. For example, estates with assets of more than $3 million will continue to be subject to the maximum estate tax rate 55 percent; the scheduled rate decrease (to 50 percent) has been postponed for 5 years. In addition, taxpayers who have mortgage indebtedness of more than $1 million will not be able to deduct interest attributable to the principal amount in excess of $1 million. In my view, the burden of this new mortgage interest limitation is outweighed by the new flexibility allowed for home equity loans. Current law does not allow for deductibility of home equity interest on a principal amount that exceeds the taxpayer's basis in the property unless the indebtedness is used for improvements, or for medical or educational expenses. This bill removes those restrictions. It allows for deduction of interest on home equity indebtedness up to $100,000, with no requirements as to how the home equity loan proceeds are to be spent.

More of the revenue burden will be shouldered by corporations, but many of the corporate provisions simply close loopholes. For example, the bill also overrules a controversial Tax Court decision which allowed the corporations to understate gain realized upon the disposition of a subsidiary.

A substantial chunk, over $2 billion, of the $9 billion in revenues is raised by the extension of two taxes due to expire at the end of 1987: the 3-percent telephone excise tax and the temporary FUTA tax component of 0.2 percent. Extension of these taxes can be justified on no basis other than the Federal revenue need. Excise taxes like that on telephone service are regressive; they consume a higher portion of income of low-income taxpayers than of wealthy taxpayers. Moreover, telephone service is virtually a necessity. In addition, the supposedly temporary FUTA tax has served its purpose—to repay advances from general revenues to the Extended Unemployment Compensation Account. Extension of this tax converts it from a special-purpose tax to a revenue-raiser, and I see no reason why employers should have to carry an extra burden in our efforts to reduce the budget deficit. Despite the disadvantages of these two taxes, Congress appears unwilling to eliminate taxes to which taxpayers have become accustomed—no matter how unfair—and replace them with fairer revenue-raising measures.

The reconciliation conference agreement avoids many of the controversial proposals that had been included in the House-passed bill. There are no changes in the corporate minimum tax. Present law was retained for section 1031 like-kind exchanges of real estate. No limitation has been placed on the taxable benefit option under cafeteria plans. And while the bill imposes an excise tax on "greenmail," it does not incorporate other special—and controversial proposals for hostile corporate takeovers.

The conference was able to avoid controversial proposals partly because of its ground rule that the package would contain no revenue-losing provisions. This ground rule meant that technical corrections to the 1986 Tax Reform Act, which had been included as part of the House-passed tax package, had to be dropped from the reconciliation package. The technical corrections package contained many needed changes to last year's bill, including provisions that would have exempted writers from the uniform capitalization rules and allowed partnerships, S Corporations, and personal service corporations to adopt taxable years other than the calendar year if they made enhanced estimated tax payments. Many proposed technical corrections will cost the Government money, and if we are subsequently to enact these tax law changes, we will again have to look for offsetting sources of revenue. In addition, one of the major revenue-raising features of this package—the acceleration of the collection of corporate estimated tax payments—will result in only a temporary increase in revenues. Thus, this revenue package offers only a temporary palliative to our deficit problems. Congress will soon again have to confront the issue of budget cuts and increased revenues.

Mr. Speaker, the reconciliation bill also contains a 2.5-cent assessment on dairy producers in order to meet dairy's savings under the "budget summit" agreement.

Without this budget agreement, dairy farmers would have been faced with a catastrophic price cut of over $1. This could have cost the average Vermont dairy farmer as much as $10,000. Even under the provisions of my legislation to substitute assessments for price cuts, Vermont dairy farmers would have lost an average of $850 in 1988 under the Gramm-Rudman alternative. These startling figures are included to point how important it was that we did what we are paid to do—put in place a deficit reduction accord to replace the Gramm-Rudman cuts.

The House Agriculture Committee, in its reconciliation package, required no assessments on dairy producers. And while I would have preferred the House version, I believe that the Senate's 2.5-cent assessment for calendar year 1988 is an acceptable compromise. This will mean an average contribution of $20 million per year over the 2-year term of the agreement. This is appropriate under the so-called "2-percent solution."

Dairy farmers did not ask to be exempt from our deficit reduction efforts. However, three points need to be made. First, we should not ignore past contributions from dairy farmers. Thanks to the 1985 farm bill, the cost of the dairy program has been reduced from $2.3 billion in 1986 to a projected $1.1 billion in 1988. I challenge any of my colleagues to name any program that has been reduced by more than 50 percent in just 2 years.

Furthermore, of the $1.1 billion in projected costs for 1988, over $500 million will be used for "protected" nutrition programs such as school lunch, child nutrition and elderly feeding. Another $400 million in surplus Government purchases will be used for the homeless, through the TEFAP Program, and foreign food aid, through the Public Law 480 program. Thus, the true cost of the dairy program has been cut to just $250 million.

Finally, the dairy program is now at the surplus level designed to provide price stability to consumers and adequate regional supplies. Cuts beyond this level could have serious consequences for consumers.

Dairy farmers have been in the forefront of efforts to reduce the Federal deficit. I hope that budget cutters will consider this fact when calculating required savings from the dairy program in future "budget summits."

As my colleagues know, the Committee on Education and Labor was required to increase revenues to the Pension Benefit Guaranty Corporation, or PBGC, by $400 million both this year and next. I am pleased that we have been able to do that, as well as make a number of substantive changes that should improve the soundness of the single-employer pension system. We have made a fundamental change in the financing of the PBGC by moving to a risk-related premium structure. Overall, I think we have limited the exposure of the PBGC and have enhanced the benefit security of participants in ongoing pension plans.

While I think these are positive changes, I think all of my colleagues share my concern about the process. The changes we are making could have a substantial impact on the retirement security of millions of Americans, as well as the financial health of thousands of companies across our country. It should come as no surprise that many of the companies in financial distress have poorly funded pension plans. We have to be careful to strike a balance between improving the funding of those plans and maintaining the overall financial health of the plan's sponsors.

I hope we have been able to do that, but I do not think we should now forget about the issues addressed by this legislation. Given the time constraints under which we operated, I would guess that there are problems left unresolved as well as some that may have been inadvertently created. Moreover, I think that there are some issues not addressed by these provisions which must be addressed.

For example, the conferees were unable to reach agreement on a proposal that some of my colleagues and I have been working on dealing with pension portability. I appreciate the strong support of many of the conferees from both bodies for this proposal, and am pleased that Congressman PICKLE has agreed to quickly consider and act upon this proposal next year. I also appreciate the assistance of the administration in crafting a package that it finds acceptable.

On this and the many other pension issues, I hope that our committees can work together in a thoughtful and cooperative manner, one that was made very difficult within the context of reconciliation.

The other major issue for the Committee on Education and Labor concerns higher education. This provision would recapture $250 million in excess State guaranty agency cash reserves under the GSL Program. It is a reasonable and reasoned compromise, especially in view of what the other options are. I support this provision albeit with some concern for its outcome. The Guaranteed Student Loan Program's State guaranty agency reserves under the provisions of this bill will be reduced according to five guidelines suggested in a recent GAO report.

While my State of Vermont would not be adversely affected, I am concerned with the viability of other State guaranty agencies. I have little doubt that the action we take today may result in litigation. However, an appeal process has been included in the legislation to allow the Secretary to grant a waiver if recovering the funds required under this bill would compel a State agency to violate contractual obligations or render the agency inadequate for continued operation. It is my hope that the GSL system will avoid long-term consequences because of these provisions.

While the agreement isn't perfect, one must keep in mind what the cost would be if Gramm-Rudman sequestion is not repealed. Under Gramm-Rudman, the students and the lenders have to shoulder the burden of $25 million in loan origination fees for students and special allowances for lenders. The reconciliation bill before us contributes 10 times more to the deficit reduction effort without affecting student costs.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I rise to commend my colleagues who served on the conference committee for correcting an inequity in current Medicare reimbursement policy which discriminates against 51 rural hospitals throughout the country. Of these hospitals, 15 are situated in Michigan and one, Pennock Hospital of Hastings, MI, is a quality health care provider that serves thousands of my constituents and of those of my colleagues PAUL HENRY.

These 51 hospitals have at least three things in common. First, they all are located in rural counties. Second, they are all in close proximity to metropolitan areas which forces them to compete in highly competitive urban environments for patients and health care professionals. Third, they are all being clobbered financially since Medicare makes higher payments to hospitals in urban areas than in rural counties.

In fiscal year 1987, the rural/urban payment differential is about 17 percent per Medicare-covered treatment—a differential which can mean $1,000 or more in some cases. If current policy were allowed to remain in effect, many of these 51 hospitals would have to shut down, thereby eliminating a vital source of local employment and force many patients to travel much further for local acute health care.

Indeed, this reconciliation bill will make October 1, 1988, a very happy day for the employees and patients of these hospitals. The first Saturday in October will be the day these 51 hospitals are reclassified to receive the high urban reimbursement rate under the budget reconciliation agreement we have before us. Although many of us would have liked to have seen this reclassification provision take effect immediately, it is still clear that the passage of the fiscal year 1989 effective date will greatly strengthen the financial positions of these 51 hospitals and could possibly spell the difference between survival or bankruptcy for some of them.

I urge my colleagues to support this revenue-neutral provision of the budget reconciliation bill which represents a giant step towards justice within Medicare's hospital reimbursement policy.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Speaker, the reconciliation package that we are considering today contains a direct attack on local municipalities. The conference committee has stripped our cities and towns of an important negotiating tool by limiting their use of tax-exempt bonds. This asault on our local communities will strike the hardest at our citizens who have the least; hardworking men and women who pay their taxes, sacrifice for their families, and have no choice but to pay skyrocketing utility bills. By taking the wild card of possible municipalization out the hands of your local government and giving it to your local utility company, the Ways and Means Committee has dealt us all a bad hand.

It is with deep disappointment that I must inform my colleagues that I may have to oppose the reconciliation bill. Make no mistake, Mr. Speaker, I am aware that without this bill we will have sequestration. I am also aware that there are many good provisions in this bill. But the provision which restricts local communities

From using tax-exempt bonds to purchase utility facilities is not something that I could support. I am adamantly opposed to this provision. It was my hope that the House would recede to the Senate during conference and that municipalities use of tax-exempt financing to acquire electric utility assets would not be infringed upon, but this was not to be the case.

While this provision will have a negative effect upon every community in the Nation, Chicago will be particularly hard hit. Strangely enough, it appears that this may have been the primary purpose of the chairman of the Ways and Means Committee. The city of Chicago is considering municipalization. In 1991, the city's franchise agreement with Commonwealth Edison will expire. As to why the chairman of the Ways and Means Committee chose to use this time and this method to weaken our city's bargaining position, I do not know. I know that he has claimed that he is concerned about the loss of revenue. That may be true, but this provision does not solve that problem. For the city of Chicago, municipalization was merely a possibility, and therefore, only a possible revenue loss for the Federal Government. At the same time, municipalization of the Long Island Light Co.—which got the only exemption from this legislation—is virtually a certainty. It is also a much larger revenue loss for the Government. I say this not as a criticism of New York's elected officials who are exercising their prerogatives, but rather as a criticism of the legislation which is taking those rights away from the rest of us.

It is my belief that this should not—and it is my hope that it will not—stop Chicago's consideration of municipalization. Although the costs of municipalization will be higher because of the Ways and Means Committee action, for the sake of Chicago energy consumers, the city needs to proceed to examine all possible alternatives.

I strenuously opposed this proposal. It was added without the normal due process, without notice or hearings and was hidden in a package of proposals that many Members opposed or were unaware of.

This provision could have a negative effect on this country's energy policy. I want my collegues to know that many local communities have franchise agreements that will expire in the next few years. In 1991, the franchise agreement in south Tucson, AZ, will expire. In 1997, Coral Gables, FL and Maywood, IL. In 1996, there will be expirations in Elmhurst, IL, and Biloxi, MS. In 1988, West Palm Beach, FL, and Topeka, KS. In 1987, Bismarck, ND, and Shreveport, LA. If you think your hometown is exempt, you had better think again.

Mr. Speaker, I was fortunate to work with many fine public-spirited individuals and organizations on this issue during the last few weeks. While I cannot name them all at this time, I cannot thank them enough for their assistance and dedication to the highest calling of public service. We may have lost this battle, but we shall not lose this cause.

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Mr. LATTA. Mr. Speaker, I yield one minute to the gentleman from Oregon [Mr. DENNY SMITH].

Mr. DENNY SMITH. Mr. Speaker, somebody said earlier that you have to keep in mind what your goal is. When I came to this Congress 7 years ago, I was interested in seeing the budget balanced. The budget process that we have seen so warped this year is going to spend $70 billion more. A great deal of new revenues are going to be raised.

There is no excuse for the way this House operates. There is no reason to see a continuing resolution that adds spending. What we should do is be more interested in the national interest than in the National Airport and try to get back to where every one of the appropriation bills is brought through here. Both bodies have handled 10 of those bills. There is no reason not to have the Appropriations Committee go back and bring those bills forward and bring the conference reports back and complete the business of the House as it should be.

Mr. Speaker, I am going to vote against this bill and against the continuing resolution. I think it is an abomination.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Speaker, I rise to speak on the reconciliation conference report's provisions concerning nuclear waste.

These provisions are the result of a week of intense negotiations between House and Senate conferees. I was honored to be a conferee, and to participate in the debate. I thank Chairman JOHN DINGELL for that privilege, and I thank both Chairman DINGELL and Chairman UDALL for the patience and the kindness that they extended to me during the talks. I was the only person from either Nevada or Tennessee, two States directly impacted by past DOE actions, to have a vote in the conference.

My primary concern during the conference was defeating the Department of Energy's ill-conceived plans to locate a monitored retrievable storage [MRS] facility near Oak Ridge, TN. But my concern was not the selfish one of wishing the nuclear waste on someone else; my concern was that the MRS is a potential $3 billion waste of money that is not needed by any State, and that may become our Nation's permanent repository, despite the claims of DOE.

Mr. Speaker, I wish that I could claim complete victory. The victory I claim is only bittersweet.

Our positive accomplishments include accelerating the push to locate a permanent repository in Nevada, or in whatever State may volunteer to take it if Congress approves a sufficient inducement package. This push, if successful, will decrease the pressure to build an MRS that could become a permanent repository.

We also rejected most of the Senate's initial MRS position, a position that exceeded even DOE's recommendations this spring for an MRS. Senator JOHNSTON advocated, not an MRS, but a super MRS with no size limits nor any relationship to the permanent repository. Although he allowed for an MRS Study Commission, Senator JOHNSTON apparently intended to let the Secretary of DOE locate one of these super MRS's before the Commission even had a chance to complete its work.

The one part of the Johnston MRS plan that was positive, and that we did retain, was the nullification of the Oak Ridge and all the Tennessee sites that DOE had recommended for an MRS facility. DOE will not be able to give these sites any preference by reason of their previous selection. I interpret this to mean that DOE must go back to the drawing board, and throw out all of its previous siting work regarding an MRS. All of DOE's assumptions that resulted in siting of an MRS in Tennessee are to be reexamined as well; it is not enough to merely redo DOE's conclusions. The intention of the conferees is to restore credibility to the siting process, not xerox or Scotch tape together some new site selections. DOE must start from scratch, otherwise it will arguably be giving one of the Tennessee sites a preference if it is ultimately chosen again.

There are several negative features to our compromise. I strongly preferred that no MRS be authorized, anywhere. Failing this, I preferred that the MRS concept be thoroughly studied so that all Congressmen would have sufficient information on which to make an informed decision before Congress made even a conditional authorization. The GAO concluded this summer that Congress lacked sufficient information on the MRS issue and that DOE had failed to examine alternatives. Congressman Udall's approach in H.R. 2967 could have supplied us with that needed information.

What we ended up with is this: Within 30 days after passage of the legislation, a real MRS Study Commission will be appointed to tell us whether there is a need for an MRS. The Commission will have a year and a half to make its findings. At that point the Secretary of DOE will have discretion to oppose an MRS, regardless of the findings of the Commission. He has the power to veto an MRS. In no case can site selection work begin until the Commission has completed its work. And no MRS site can be selected until an acceptable site for the permanent repository has been selected. Should progress cease at the permanent repository, progress at the MRS site must also cease. This linkage is continued at the construction phases of each facility, and at the waste acceptance stages. This linkage is absolutely fundamental to the compromise package; without it there is no compromise.

What goes unsaid in the above paragraph is that the MRS is conditionally authorized with the passage of this legislation. This fact enables both sides to claim victory. But it is important to realize the strength of those conditions, because without them, true authorization may never occur. It is also important to realize that the Johnston super MRS was not even conditionally authorized, it has been rejected. The agreement provides only for a strictly limited, small-sized MRS that is, at most, designed to be a supplement to a repository, not a replacement.

I dwell on these points to make it clear what was done. There was considerable discussion in conference about what the intent of the conferees had been in 1982, when the Nuclear Waste Policy Act was developed. Although only a study of the possibility of an MRS was considered in that legislation, Senator JOHNSTON tried to give the impression in 1987 that something more had been contemplated. Perhaps it was, by him. But the language of the statute did not mention anything more. Neither does the language of this statute. There are no secret clauses guaranteeing authorization. There are strict and explicit conditions, that must be strictly interpreted and applied. I anticipate that proponents of MRS—who seem to love the concept, but still don't love the thought of it being in their own State—will try over the years to nibble away at these conditions. I hope that Congressmen and courts will protect our compromise from such manipulation.

This is a compromise that will be examined, and pondered, for years to come. I would be the last to claim that it is Solomonic. But it was the best that we could get in the time allowed. Although a floor fight was a possibility, the feeling of most Members was that it would be hard to focus the attention of the House and Senate on provisions that seem very theoretical and technical if their state is not directly affected. It is especially difficult to do so this close to the Christmas holidays. In a floor fight, we could either have prevented any MRS authorization, or the original Johnston approach could have prevailed, namely authorization within a year or so. Rather than risk such an all or nothing outcome, it was the feeling of most conferees that it was better to accept a negotiated solution, however difficult to police the compromise.

Since it is the opinion of most of the conferees that an MRS is not needed now, and may not be needed ever, and that we will study the facts of the matter, I decided reluctantly to sign the conference report, and to vote for the reconciliation bill. I still do not support the specific provisions of the report. My vote is also a sign of my respect and appreciation for chairmen DINGELL and UDALL, who could easily have ignored or turned against a junior Member like me, and against a small State like Tennessee. Instead, they stood against an MRS as long as they possibly could, and they did everything within their power to make sure that past DOE decisions regarding Tennessee were voided, and that any future ones would be fair. Although these chairmen were once counseled by staff to give up the fight as far as Tennessee was concerned, they rejected that advice. It would have been easy for them to accept; Tennesseans should be thankful that these are principled men who did not yield to such temptation.

Mr. Speaker, despite the above concerns, I reluctantly urge passage of the $30 billion reconciliation conference report.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. DINGELL], the Chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, I rise to engage the distinguished chairman of the Budget Committee, the gentleman from Pennsylvania [Mr. GRAY] in a colloquy concerning the provision of this conference report that will restore all funds sequestered under Gramm-Rudman.

Despite the clear intent of Congress that all railroad retirement benefits be exempt from sequestration under Gramm-Rudman, the President's November 20, 1987, order incorrectly required the sequestration of the supplemental annuity portion of those benefits. Retirement checks have already been reduced as a result of this incorrect sequestration.

Because the supplemental railroad retirement annuity has been cut by sequestration, there appears to be some uncertainty as to the effect that today's legislation today will have with respect to that annuity. Would the gentleman from Pennsylvania confirm that the meaning and intent of this legislation is to restore to recipients of the supplemental railroad retirement annuity the funds incorrectly withheld from them as a result of the November 20 sequestration order?

Mr. GRAY of Pennsylvania. Mr. Speaker, if the gentleman will yield, the gentleman from Michigan is correct. The meaning and intent of the restoration provision in this reconciliation bill is to make the recipients of the supplemental annuity whole and to place them in the position they would have been in had it not been for the sequestration order with respect to that category of benefits.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, yesterday evening I brought to the attention of my colleagues the fact that this Member from California was privileged to serve as one of the conferees on the Health and Environment Subcommittee that dealt with Medicaid and also Medicare, part B. I outlined the difference between the Senate version and the House version, and I want to share with my colleagues what is in the reconciliation package, and that is one of the reasons why I intend to vote against it.

One would think that a reconciliation bill designed to reduce spending would do that. It should not be used as a vehicle for new programs that have never seen the light of day as a part of the authorization process. But that is exactly what is in this bill; namely, we are proposing to add roughly $800 million over the next 3 years of new programs in Medicaid. That is the money the Federal Government will spend. Bear in mind that the States have to match that by 50 percent, so this will result in an increase in spending for Medicaid across this country by States of a similar amount. I do not think that is what we should be doing in the reconciliation process in any way at all.

To my colleague, the gentleman from Florida [Mr. PEPPER], who observed, "Let's not beat up on Medicare," let me say that the gentleman will be comforted to know that no beneficiary under Medicare in America is going to get less in any way at all. In fact, some will get more. The way the savings have been achieved is that we are beating up on the providers, the health care providers, the doctors, the laboratories, and the other persons providing the services to the Medicare beneficiaries by reducing the money they are going to get for the same services. That is how we are getting these claimed services.

The House is spending as if it could give away cookies from a bottomless, inexhaustible "cookie jar." But the cookie jar is empty. Not only empty, it's gone; the shelf on which it sits has been dismantled; the building where the shelf was has been razed; and Japanese construction equipment is being brought in to excavate the site.

Not only did the subconference spend too much money, where it did try to save, it did so in a totally inappropriate manner. Medicare savings were achieved by decreasing payments to providers. These providers will have no choice but to recoup their losses by charging more to their non-Medicare patients—many of whom are least able to bear increased costs. I, for one, find this intensifying warfare against the middle class particularly repugnant.

Mr. Speaker, the last time the Government ran a surplus was in 1969, some 19 years ago. If we ever hope to see a balanced budget in our lifetime, we should not lose sight of fundamentals. Ladies and gentlemen, the essence of a reconciliation bill should be to save, not spend the taxpayers' dollars.

I refused to sign the conference report, and I intend to vote against it. I urge my colleagues to also vote "No."

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Speaker, I commend the Members who have worked on this bill. They have made some big improvements on the bill that passed in November. Defense is treated better, and there are less odious taxes in that bill. It does get rid of some pork barrel tax breaks that were in the other bill.

Having said that, the rest I have to oppose. There is still a lot of smoke and mirrors here. There are one-time savings and asset sales and fees which may or may not come to pass. It also does not reduce the spending as it should to that level permanently. It keeps the spending levels artificially high.

It adds a lot of legislation in a reconciliation bill. For one thing, it adds a National Economic Commission for Comprehensive Study. We have a Joint Economic Committee, two Budget Committees, two Appropriations Committees, a Ways and Means and Finance Committee, and a Congressional Budget Office. We do not need another Joint Economic Commission or National Economic Commission. That failed on its own merits.

It also adds the nuclear waste repository language which has never been studied by this House and has never come before the committee. It selects Nevada, which has very little clout. It selects the routes through the northern part of the area. It puts $10 million of new spending in the budget. We ought to have a right to vote on that.

Let me say also that we should have cut down to $108 billion this year. That was the original Gramm-Rudman proposal, or at least a fourth of what remains, and that would have been at least $36 billion. Instead, we are carrying it at $23 billion, and frankly I think it is a sham. We are not doing anywhere near what we were supposed to do, and I believe this issue should be soundly rejected.

Mr. Speaker, I agree with some of my colleagues on the other side of the aisle that it does not treat Medicare properly and does not treat national student loans properly. I think a cut across the board would be nicer and fairer for all concerned.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, let me say that I cannot stand in this well and commend our leadership, whether it be at the White House or whether it be in this body or the other body, for what they have brought forth. I think it is inadequate, and it is inadequate because there are significant process institutional problems with what we are dealing with. We have been here for 11 months. We have dealt with it in the context of that problem, the institutional problem that is involved, but we never confronted that. Now that we are here at the 11th hour of the 12th month, we must make choices. I have to consider what my alternatives are. I do not like them. I do not like this bill, but I like less the alternatives of government by paralysis, and, therefore, however reluctantly, I am compelled to vote for this bill. But I suggest to my colleagues that we do not deserve the excuse of going through the 2d session of the 100th Congress of the United States without addressing ourselves to the dismal process by which we bring forth such a product.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, my State in the last few days has experienced something that no small State should experience. This bill, which was supposed to raise taxes and to cut expenses, has been used as a vehicle by the other House to place a nuclear repository in our State.

Our delegation has fought together. The gentlewoman from Nevada [Mrs. VUCANOVICH] and myself and the junior Senator from our State have fought vigorously to oppose this. It is not right that it is placed in this bill. It has made a bad bill an even worse bill. It is one that none of us wanted to support, but we thought we had to support it because of the needs, because of the Gramm-Rudman-Hollings cuts.

Now we ask the Members to look over carefully what is being done. A small State, with four congressional representatives, has been put upon by a stronger delegation. The senior Senator from the State of Louisiana has had his way. The Nuclear Waste Policy Act will be shredded and will be replaced not with scientific analysis but, rather, with congressional fiat.

Nevada does not produce any nuclear waste. They explode A-bombs in our area, and hydrogen bombs. We certainly carry our share of the national defense budget, and we have carried this load from the 1950's to the present. We have no reactor, we have no nuclear powerplants, but yet we are asked now to take all the nuclear waste from all over the country. Many of the Members had better look at those routes that are being placed upon us. As the gentleman from Utah [Mr. NIELSON] said, these routes are going to come right through Missouri, Kansas, Arizona, New Mexico, and all the Western States and many of the Southern States. Thousands of truckloads of nuclear high-level radioactive waste will be delivered through your States. We do not think it is right that the big delegations should attack our small State.

Mr. Speaker, we ask for fairness in this bill, and I ask that everyone here consider that when they vote "no" on this bill.

Mr. Speaker, these last few days I have watched this body, in a bipartisan spirit, choose to dump it's nuclear waste program in my State. Nevada does not produce high level nuclear waste, nor do we have any nuclear reactors. Yet, because we are a small State, with a small congressional delegation, we have been run over.

Nevada's House delegation has fought shoulder to shoulder to bring sense to this body. My friend and colleague, Congresswoman BARBARA VUCANOVICH has worked long and hard to keep nuclear waste out of Nevada.

In the other body, Senator HARRY REID, led a long filibuster to try to prevent what is happening here today.

But today, the senior Senator from Louisiana has had his way. The Nuclear Waste Policy Act, will be shredded, and will be replaced, not with scientific analysis, but rather with congressional fiat.

The senior Senator from Louisiana broke the filibuster, but not Nevada's will.

Gov. Richard Bryan has vowed to fight this decision in the courts, and if all the telephone calls his office is receiving is any indication, he will not lack support from Nevada's citizens.

This is my first year of my first term, and until this week I was proud to say that I had learned a great deal. Now, I am not so proud of some of the things I have learned. When I came here many a senior Member gave me sage advice about keeping my word. During orientation I was told that Congress works on our word. That all the rules in the world could not make this House work, if we could not keep our word. It is enough to say that I have learned a different lesson this last week.

I have learned, and my State has yet to learn the ways of Washington. Back home, they ask: if we must take the dump, where is *receive, review and certify for payment the applications for said grants.*

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $5,707,000, of which $2,000,000 is for regional offices and $700,000 is for civil rights monitoring activities: Provided, That not to exceed $20,000 may be used to employ consultants: Provided further, That not to exceed $185,000 may be used to employ temporary or special needs appointees: Provided further, That none of the funds shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service, exclusive of one special assistant for each Commissioner whose compensation shall not exceed the equivalent of 150 billable days at the daily rate of a level 11 salary under the General Schedule: Provided further, That not to exceed $40,000 shall be available for new, continuing or modifications of contracts for performance of mission-related external services: Provided further, That none of the funds shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairman who is permitted 125 billable days: Provided further, That the General Accounting Office shall perform a mid-year audit of the Commission to determine compliance with this section and shall report its findings to the Appropriations Committees of the Senate and House of Representatives by June 1, 1988.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94–304, $701,000, to remain available until expended: Provided, That not to exceed $6,000 of such amount shall be available for official reception and representation expenses.

COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Commission for the Study of International Migration and Cooperative Economic Development as authorized by title VI of Public Law 99–603, $870,000, to remain available until expended.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621–634), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $20,000,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended, and sections 6 and 14 of the Age Discrimination in Employment Act; $179,812,000: Provided, That the final rule regarding unsupervised waivers under the Age Discrimination in Employment Act, issued by the Commission on August 27, 1987 (29 CFR sections 1627.16(c)(1)–(3)), shall not have effect during fiscal year 1988: Provided further, That none of the funds may be obligated or expended by the Commission to give effect to any policy or practice pertaining to unsupervised waivers under the Age Discrimination in Employment Act.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901–02); not to exceed $300,000 for land and structures; not to exceed $300,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed ten) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $99,613,000, of which not to exceed $300,000 of the foregoing amount shall remain available until September 30, 1989, for research and policy studies: Provided, That none of the funds appropriated by this Act shall be used to repeal, to retroactively apply changes in, or to continue a reexamination of, the policies of the Federal Communications Commission with respect to comparative licensing, distress sales and tax certificates granted under 26 U.S.C. 1071, to expand minority and women ownership of broadcasting licenses, including those established in Statement of Policy on Minority Ownership of Broadcast Facilities, 68 F.C.C. 2d 979 and 69 F.C.C. 2d 1591, as amended 52 R.R. 2d 1313 (1982) and Mid-Florida Television Corp., 60 F.C.C. 2d 607 Rev. Bd. (1978), which were effective prior to September 12, 1986, other than to close MM Docket No. 86–484 with a reinstatement of prior policy and a lifting of suspension of any sales, licenses, applications, or proceedings, which were suspended pending the conclusion of the inquiry: Provided further, That none of the funds appropriated to the Federal Communications Commission by this Act may be used to diminish the number of VHF channel assignments reserved for noncommercial educational television stations in the Television Table of Assignments (section 73.606 of title 47, Code of Federal Regulations): Provided further, That none of the funds appropriated by this Act or any other Act may be used to repeal, to retroactively apply changes in, or to begin or continue a re-examination of the rules of the Federal Communications Commission with respect to the common ownership of a daily newspaper and a television station where the grade A contour of the television station encompasses the entire community in which the newspaper is published, or to extend the time period of current grants of temporary waivers to achieve compliance with such rules: Provided further, That no funds appropriated to the Federal Communications Commission shall be used prior to March 22, 1988 to accept or grant any applications to construct or operate cellular systems in rural service areas.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–02; $13,585,000: Provided, That not to exceed $1,500 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; the sum of $66,243,000: Provided, That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96–252; 94 Stat. 374).

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $34,750,000.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94–118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,200,000, to remain available until expended; and an amount of Japanese currency not to exceed the equivalent of $1,700,000 based on exchange rates at the time of payment of such amounts, to remain available until expended: Provided, That not to exceed a total of $3,500 of such amounts shall be available for official reception and representation expenses.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $305,500,000 of which $261,294,000 is for basic field programs, $7,022,000 is for Native American programs, $9,698,000 is for migrant programs, $1,100,000 is for law school clinics, $1,000,000 is for supplemental field programs, $624,000 is for regional training centers, $7,228,000 is for national support, $7,843,000 is for State support, $865,000 is for the Clearinghouse, $510,000 is for computer assisted legal research regional centers, and $8,316,000 is for Corporation management and administration: Provided, That none of the funds appropriated in this paragraph shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of Public Law 99–180 and section 112 of Public Law 99–190: Provided further, That the funds distributed to each grantee funded in fiscal year 1988 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1988 at not less than 1 per centum more than the annual level at which each grantee and contractor was funded in fiscal year 1987 or $8.30 per poor person within its geographical area under the 1980 Census, whichever is greater; and

(2) each such grantee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under the first priority above, falls below $14.56 per poor person within its geographical area under the 1980 census:

Provided further, That if funds become available because a national support center has been defunded or denied refunding pursuant to section 1011(2) of the Legal Serv-

ices Corporation Act, as amended by this Act, such funds may be transferred to basic field programs, to be distributed in the manner specified by this paragraph, if the Appropriations Committees of both Houses of Congress have been notified pursuant to section 608 of this Act: Provided further, That the Corporation shall utilize the same formula for distribution of fiscal year 1988 migrant funds as was used in fiscal year 1987: Provided further, That none of the funds appropriated by this Act or prior Acts may be used by an officer, board member, employee or consultant of the Corporation to implement or enforce provisions in the regulation regarding legislative and administrative advocacy and training (Part 1612, 52 FR 28434 (July 29, 1987)) which impose restrictions on private funds received by a recipient for the provision of legal assistance except to the extent that such restrictions are explicitly authorized by sections 1007 (a)(5), (b)(6), (b)(7), and 1010(c) of the LSC Act: Provided further, That the Corporation shall not impose requirements on governing bodies of recipients that are additional to, or more restrictive than, the provisions of Public Law 99-180 and section 1007(c) of the Legal Services Corporation Act including, but not limited to (1) the procedures of appointment, including the political affiliation and the length of terms of, board members and (2) the size, quorum requirements, and committee operations of such governing bodies.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $953,000.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $15,229,000, of which $1,000,000 shall remain available until expended: Provided, That not to exceed $69,000 shall be available for official reception and representation expenses.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $9,000 for official reception and representation expenses, $135,221,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Association of Securities Commissioners.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of the Small Business Administration, including hire of passenger motor vehicles and not to exceed $2,500 for official reception and representation expenses $175,832,000; and for grants for performance in fiscal year 1988 or fiscal year 1989 for Small Business Development Centers as authorized by section 21(a) of the Small Business Act, as amended, $40,000,000: Provided, That not more than $350,000 of this amount shall be made available to pay the expenses of the National Small Business Development Center Advisory Board and to reimburse centers for participating in evaluations as provided in section 20(a) of such Act, and to maintain a clearinghouse as provided in section 21(g)(2) of such Act: Provided further, That none of the funds appropriated or made available by this Act or otherwise appropriated or made available to the Small Business Administration shall be used to adopt, implement, or enforce any rule or regulation with respect to the Small Business Development Center program authorized by section 21 of the Small Business Act, as amended (15 U.S.C. 648) nor may any of such funds be used to impose any restrictions, conditions or limitations on such program whether by standard operating procedure, audit guidelines or otherwise, unless such restrictions, conditions or limitations were in effect on October 1, 1987, unless specifically approved by the Committees on Appropriations under reprogramming procedures; nor may any of such funds be used to restrict in any way the right of association of participants in such program: Provided further, That the staffing levels at the Small Business Administration District Office, Clarksburg, West Virginia and the Small Business Administration Branch Office, Charleston, West Virginia, shall be maintained at the same levels that were in place as of August 30, 1987. In addition, $88,228,000 for disaster loan-making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster Loan Fund".

None of the funds made available under this joint resolution or any subsequent appropriations act for fiscal year 1988 for the Small Business Administration shall be used to promulgate final regulations adjusting numerical size standards as required by section 921 (f) and (h) of Public Law 99-661 and section 921 (f) and (h) of Public Law 99-591 prior to May 31, 1988.

REVOLVING FUNDS

The Small Business Administration is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to its revolving funds, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for the "Disaster Loan Fund", the "Business Loan and Investment Fund", the "Lease Guarantees Revolving Fund", the "Pollution Control Equipment Contract Guarantees Revolving Fund", and the "Surety Bond Guarantees Revolving Fund".

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business Loan and Investment Fund", $91,000,000, to remain available without fiscal year limitation; and for additional capital for new direct loan obligations to be incurred by the "Business Loan and Investment Fund", $85,000,000, to remain available without fiscal year limitation.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $9,497,000, to remain available without fiscal year limitation.

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND

For additional capital for the "Pollution control equipment contract guarantee revolving fund" authorized by the Small Business Investment Act, as amended, $13,656,000, to remain available without fiscal year limitation.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by Public Law 98-620, $10,980,000, to remain available until expended.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by Reorganization Plan No. 2 of 1977, the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), to carry out international communication, educational and cultural activities, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $270,000, of which $250,000 is to facilitate United States participation in international expositions abroad); expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928 and 22 U.S.C. 287e-1; and entertainment, including official receptions, within the United States, not to exceed $20,000; $620,347,000, none of which shall be restricted from use for the purposes appropriated herein and of which $36,900,000 shall be available for the Television and Film Service: Provided, That not to exceed $1,070,000 may be used for representation abroad: Provided further, That not to exceed $14,557,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: Provided further, That not to exceed $500,000 shall remain available until expended, for expenses (including those authorized by the Foreign Service Act of 1980) and equipment necessary for maintenance and operation of such data processing and administrative services as the Director determines may be performed advantageously and more economically as central services: Provided further, That not to exceed $3,650,000 may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion picture, and television programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended: Provided further, That the funds appropriated by this paragraph shall be available, notwithstanding section 201(2) and 204 of H.R. 1777 (the Foreign Relations Authorization Act, fiscal years 1988 and 1989) whenever it or alternative authorization legislation is enacted and notwithstanding section 701 of the United States Information and Educational Exchange Act of 1948, as amended.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

Notwithstanding section 301(a)(1) through (7) of H.R. 1777 (the Foreign Relations Authorization Act, fiscal years 1988 and 1989), for expenses of Fulbright, International Visitor, Humphrey Fellowship and Congress-Bundestag Exchange Programs, as authorized by Reorganization Plan No. 2 of 1977 and the Mutual Educational and Cultural

Exchange Act, as amended (22 U.S.C. 2451 et seq.), $142,310,000: Provided, That not less than $540,000 shall be made available to the Institute for Representative Government for a pilot program for exchanges of persons and other exchange-related activities with legislators and legislatures of developing democracies: Provided further, That not less than $2,000,000 shall be made available for a grant to the Oregon Historical Society to assist in the establishment of the North Pacific Research Center in Portland, Oregon. For the Private Sector Exchange Programs, $7,730,000 of which $500,000 shall be available only for the Seattle Goodwill Games Organizing Committee for Cultural Exchange and other exchange-related activities associated with the 1990 Goodwill Games to be held in Seattle, Washington.

RADIO BROADCASTING TO CUBA

For an additional amount, necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act (providing for the Radio Marti program or Cuba Service of the Voice of America), including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception, $12,759,000, to remain available until expended, of which not to exceed $100,000 shall be available for the Advisory Board on Radio Broadcasting to Cuba for a feasibility study on television broadcasting to Cuba.

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to any appropriate recipient in the State of Hawaii, $20,000,000: Provided, That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the highest rate authorized in the General Schedule of the Classification Act of 1949, as amended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $16,875,000.

ADMINISTRATIVE PROVISION—UNITED STATES INFORMATION AGENCY

The United States Information Agency and the Voice of America shall pursue all relevant information relating to the availability of transmitters and antennas, spare parts, and other technical equipment to determine whether such items can be procured at reasonable prices and in a timely manner under all foreseeable circumstances. The agency and the Voice of America shall purchase American-manufactured equipment and materials to the fullest extent reasonably possible under the law in carrying out the facilities modernization program. This provision shall apply to all funds which are obligated for the facilities modernization program during fiscal year 1988. Where a foreign bidder receives any governmental subsidy, the price bid of each foreign bidder shall be increased by the amount of that subsidy as determined by the Department of Commerce for purposes of this procurement.

GENERAL PROVISIONS—RELATED AGENCIES

Funds appropriated to the United States Information Agency for radio construction and to the Board for International Broadcasting for facility modernization, including for both agencies balances available from prior years, may be transferred between the two agencies to meet priority broadcasting facility improvement needs as mutually agreed to by the Director of the United States Information Agency and the Chairman of the Board for International Broadcasting: Provided, That such transfers will be subject to the approval of the Committees on Appropriations of the House of Representatives and the United States Senate pursuant to the reprogramming provisions of section 608 of this Act.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. None of the funds appropriated in titles II and V of this Act may be used for any activity to alter the per se prohibition on resale price maintenance in effect under Federal antitrust laws: Provided, That nothing in this provision shall prohibit any employee of a department or agency for which funds are provided in titles II and V of this Act from presenting testimony on this matter before appropriate committees of the House and Senate.

SEC. 606. None of the funds appropriated by this Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion.

SEC. 607. No funds appropriated under this Act may be used to procure any item or service from a foreign entity which engages, directly or indirectly, in activities which, if it were a United States person, would violate section 8 of the Export Administration Act of 1979 (50 U.S.C. Appendix, section 2401 et seq.)

SEC. 608. (a) None of the funds provided under this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $250,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 609. No funds appropriated under this Act may be used to sell direct loans which are held by the Small Business Administration or any loan guaranty or debenture guaranty made by the Small Business Administration under the authority contained in the Small Business Investment Act of 1958, and which was held by the Federal Financing Bank on September 30, 1987.

SEC. 610. (a) Unless specifically permitted by subsequently enacted legislation, none of the funds appropriated or made available by this Act to the Small Business Administration may be used—

(1) to impose a user fee in connection with a Small Business Administration program or service for which no user fee was in effect on September 1, 1987, or

(2) to increase a user fee which was in effect in connection with such a program or service on such date.

TITLE VII—CUBAN POLITICAL PRISONERS AND IMMIGRANTS

SEC. 701. This title may be cited as "Cuban Political Prisoners and Immigrants".

SEC. 702. (a) PROCESSING OF CERTAIN CUBAN POLITICAL PRISONERS AS REFUGEES.—In light of the announcement of the Government of Cuba on November 20, 1987, that it would reimplement immediately the agreement of December 14, 1984, establishing normal migration procedures between the United States and Cuba, on and after the date of enactment of this Act, consular officer of the Department of State and appropriate officers of the Immigration and Naturalization Service shall, in accordance with the procedures applicable to such cases in other countries, process any application for admission to the United States as a refugee from any Cuban national who was imprisoned for political reasons by the Government of Cuba on or after January 1, 1959, without regard to the duration of such imprisonment, except as may be necessary to reassure the orderly process of available applicants.

(b) PROCESSING OF IMMIGRANT VISA APPLICATIONS OF CUBAN NATIONALS IN THIRD COUNTRIES.—Notwithstanding section 212(f) and section 243(g) of the Immigration and Nationality Act, on and after the date of the enactment of this Act, consular officers of the Department of State shall process immigrant visa applications by nationals of Cuba located in third countries on the same basis as immigrant visa applications by nationals of other countries.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "process" means the acceptance and review of applications and the preparation of necessary documents and the making of appropriate determinations with respect to such applications.

(2) The term "refugee" has the meaning given such term in section 101(a)(42) of the Immigration and Nationality Act.

TITLE VIII—INDOCHINESE REFUGEE RESETTLEMENT AND PROTECTION ACT OF 1987

SEC. 801. This title may be cited as the "Indochinese Refugee Resettlement and Protection Act of 1987".

SEC. 802. (a) FINDINGS.—It is the sense of the Congress that—

(1) the continued occupation of Cambodia by Vietnam and the oppressive conditions within Vietnam, Cambodia, and Laos have led to a steady flight of persons from those countries, and the likelihood for the safe repatriation of the hundreds of thousands of refugees in the region's camps is negligible for the foreseeable future;

(2) the United States has already played a major role in responding to the Indochinese refugee problem by accepting approximately 850,000 Indochinese refugees into the United States since 1975 and has a continued interest in persons who have fled and continue to flee the countries of Cambodia, Laos, and Vietnam;

(3) Hong Kong, Indonesia, Malaysia, Singapore, the Philippines, and Thailand have been the front line countries bearing tremendous burdens caused by the flight of these persons;

(4) all members of the international community bear a share of the responsibility for the deterioration in the refugee first asylum situation in Southeast Asia because of slow and limited procedures, failure to implement effective policies for the region's "long-stayer" populations, failure to monitor adequately refugee protection and screening programs, particularly along the Thai-Cambodian and Thai-Laotian borders, and the instability of the Orderly Departure Program (ODP) from Vietnam which has served as the only safe, legal means of departure from Vietnam for refugees, including Amerasians and long-held "reeducation camp" prisoners;

(5) the Government of Thailand should be complimented for allowing the United States to process ration card holders in Khao I Dang and potentially qualified immigrants in Site 2 and in Khao I Dang;

(6) given the serious protection problem in Southeast Asian first asylum countries and the need to preserve first asylum in the region, the United States should continue its commitment to an ongoing, generous admission and protection program for Indochinese refugees, including urgently needed educational programs for refugees along the Thai-Cambodian and Thai-Laotian borders, until the underlying causes of refugee flight are addressed and resolved;

(7) the executive branch should seek adequate funding levels to meet United States policy objectives to ensure the well-being of Indochinese refugees in first asylum, and to process 29,500 Indochinese refugees within the overall refugee admissions level of 68,000 as determined by the President; and

(8) the Government of Thailand should be complimented for the progress that has been made in implementing an effective antipiracy program.

(b) RECOMMENDATIONS.—The Congress finds and recommends the following with respect to Indochinese refugees:

(1) The Secretary of State should urge the Government of Thailand to allow full access by highland refugees to the Lao Screening Program, regardless of the method of their arrival or the circumstances of their apprehension, and should intensify its efforts to persuade the Government of Laos to accept the safe return of persons rejected under the Lao Screening Program.

(2) Refugee protection and monitoring activities should be expanded along the Thai-Laotian border in an effort to identify and report on incidents of refugees forcibly repatriated into Laos.

(3) The Secretary of State should urge the Government of Thailand to address immediately the problems of protection associated with the Khmer along the Thai-Cambodian border. The Government of Thailand, along with appropriate international relief agencies, should develop and implement a plan to provide for greater security and protection for the Khmer at the Thai border.

(4) The international community should increase its efforts to assure that Indochinese refugee camps are protected, that refugees have access to a free market at Site 2, and that international observers and relief personnel are present on a 24-hour-a-day basis at Site 2 and any other camp where it is deemed necessary.

(5) The Secretary of State should make every effort to identify each person at Site 2 who may qualify for admission to the United States as an immigrant and for humanitarian parole.

(6) The United Nations High Commissioner for Refugees should be pressed to upgrade staff presence and the level of advocacy to revive the international commitment with regard to the problems facing Indochinese refugees in the region, and to pursue voluntary repatriation possibilities in cases where monitoring is available and the safety of the refugees is assured.

(c) ALLOCATIONS OF REFUGEE ADMISSIONS.—Given the existing connection between ongoing resettlement and the preservation of first asylum, the United States and the United Nations High Commissioner for Refugees should redouble efforts to assure a stable and secure environment for refugees while dialog is pursued on other long-range solutions, it is the sense of the Senate that—

(1) within the worldwide refugee admissions ceiling determined by the President, the President should allocate—

(A) at least 28,000 admissions from East Asia, first-asylum camps,

(B) at least 8,500 admissions for the Orderly Departure Program, for each of the fiscal years 1988, 1989, and 1990; and

(2) within the allocation made by the President for the Orderly Departure Program from Vietnam pursuant to paragraph (1)(B), admissions allocated in a fiscal year under priorities II and III of the program (as defined in the Department of State Bureau for Refugee Programs worldwide processing priorities) and the number of admissions allocated for Amerasians and their immediate family members under priority I, should be generous.

(d) INTERNATIONAL SOLUTIONS TO REFUGEE PROBLEMS.—It is the sense of the Congress that—

(1) renewed international efforts must be taken to address the problem of Indochinese refugees who have lived in camps for 3 years or longer; and

(2) the Secretary of State should urge the United Nations High Commissioner for Refugees to organize immediately an international conference to address the problems of Indochinese refugees.

SEC. 803. REPORTING REQUIREMENT.—The President shall submit a report to Congress within 180 days after the date of the enactment of this Act on the respective roles of the Immigration and Naturalization Service and the Department of State in the refugee program with recommendations for improving the effectiveness and efficiency of the program.

SEC. 804. FINDINGS AND DECLARATIONS.—The Congress makes the following findings and declarations:

(a) Thousands of children in the Socialist Republic of Vietnam were fathered by American civilians and military personnel.

(b) It has been reported that many of these Amerasian children are ineligible for ration cards and often beg in the streets, peddle black market wares, or prostitute themselves.

(c) The mothers of Amerasian children in Vietnam are not eligible for government jobs or employment in government enterprises and many are estranged from their families and are destitute.

(d) Amerasian children and their families have undisputed ties to the United States and are of particular humanitarian concern to the United States.

(e) The United States has a longstanding and very strong commitment to receive the Amerasian children in Vietnam, if they desire to come to the United States.

TITLE IX—ADJUSTMENT TO LAWFUL RESIDENT STATUS OF CERTAIN NATIONALS OF COUNTRIES FOR WHICH EXTENDED VOLUNTARY DEPARTURE HAS BEEN MADE AVAILABLE

SEC. 901. This title may be cited as "Adjustment to Lawful Resident Status of Certain Nationals of Countries for Which Extended Voluntary Departure Has Been Made Available".

SEC. 902. (a) ADJUSTMENT OF STATUS.—The status of any alien who is a national of a foreign country the nationals of which were provided (or allowed to continue in) "extended voluntary departure" by the Attorney General on the basis of a nationality group determination at any time during the 5-year period ending on November 1, 1987, shall be adjusted by the Attorney General to that of an alien lawfully admitted for temporary residence if the alien—

(1) applies for such adjustment within two years after the date of the enactment of this Act;

(2) establishes that (A) the alien entered the United States before July 21, 1984, and (B) has resided continuously in the United States since such date and through the date of the enactment of this Act;

(3) establishes continuous physical presence in the United States (other than brief, casual, and innocent absences) since the date of the enactment of this Act;

(4) in the case of an alien who entered the United States as a nonimmigrant before July 21, 1984, establishes that (A) the alien's period of authorized stay as a nonimmigrant expired not later than six months after such date through the passage of time or (B) the alien applied for asylum before July 21, 1984; and

(5) meets the requirements of section 245A(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1255a(a)(4)).

The Attorney General shall provide for the acceptance and processing of applications under this subsection by not later than 90 days after the date of the enactment of this Act.

(b) STATUS AND ADJUSTMENT OF STATUS.—The provisions of subsections (b), (c)(6), (d), (f), (g), (h), and (i) of section 245A of the Immigration and Nationality Act (8 U.S.C. 1255a) shall apply to aliens provided temporary residence under subsection (a) in the same manner as they apply to aliens provided lawful temporary residence status under section 245A(a) of such Act.

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1988".

And the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(b) Such amounts as may be necessary for programs, projects or activities provided for in the Department of Defense Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Making appropriations for the Department of Defense for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $23,427,732,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $17,971,297,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $5,478,266,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $19,583,118,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3021, and 3038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $2,239,365,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,496,522,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $292,209,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8021, and 8038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $608,345,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3021, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $3,196,386,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 265, 8021, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty, or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $976,939,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $17,923,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $20,853,205,000: Provided, That of the funds appropriated herein, $150,000 shall be available only to reimburse We The People 200, Incorporated, for expenses related to the celebration of the Bicentennial of the Constitution.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $3,886,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $23,601,462,000: Provided, That from the amounts of this appropriation for the alteration, overhaul and repair of naval vessels and aircraft, funds shall be available to acquire the alteration, overhaul and repair by competition between public and private shipyards and air rework facilities. The Navy shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private shipyards and air rework facilities. Competitions shall not be subject to section 502 of the Department of Defense Authorization Act, 1981, as amended, section 307 of the Department of Defense Authorization Act, 1985, or Office of Management and Budget Circular A-76: Provided further, That funds appropriated or made available *in this Act shall be obligated and expended to restore the facilities, activities and personnel levels, including specifically the medical facilities, activities and personnel levels, at the Memphis Naval Complex, Millington, Tennessee, to the fiscal year 1984 levels: Provided further, That in fiscal year 1988, of the amounts from this appropriation for the alteration, overhaul and repair of naval vessels and aircraft, funds shall be available for the performance of the New Threat Upgrade program on one such vessel in the Philadelphia Naval Shipyard: Provided further, That contracting to private shipyards for the New Threat Upgrade overhaul program shall utilize full and open competition among shipyards qualified for overhaul work: Provided further, That not less than $540,000 shall be available only to operate the Naval Investigative Service Regional Office in New Orleans, Louisiana.*

Operation and Maintenance, Marine Corps

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $1,819,188,000.

Operation and Maintenance, Air Force

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $6,775,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $19,661,448,000, of which $22,000,000 shall be available only to operate a C-130E unit at McChord Air Force Base, Washington.

Operation and Maintenance, Defense Agencies

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $7,112,951,000, of which not to exceed $10,789,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: Provided, That $900,000 is available to the Office of Economic Adjustment for making community planning assistance grants pursuant to section 2391 of title 10, United States Code, and joint community/military planning assistance grants for mitigation of operational impacts from encroachment: Provided further, That of the amounts appropriated herein, $53,375 shall be available only to operate the procurement outreach center in North Platte, Nebraska: Provided further, That $100,000 shall be made available for payment to the National Academy of Sciences for participation in the "Study of the Impact of National Security Controls on International Technology Transfer": Provided further, That $9,000,000 shall be made available to the General Services Administration for carrying out the provisions of section 2 under the heading "National Defense Stockpile Transaction Fund" as set forth in section 101(m) of this joint resolution.

Operation and Maintenance, Army Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $857,540,000.

Operation and Maintenance, Navy Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $929,896,000.

Operation and Maintenance, Marine Corps Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $69,500,000.

Operation and Maintenance, Air Force Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,000,981,000.

Operation and Maintenance, Army National Guard

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $1,856,542,000.

Operation and Maintenance, Air National Guard

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; $1,958,063,000.

National Board for the Promotion of Rifle Practice, Army

For the necessary expenses and personnel services (other than pay and non-travel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the national matches) in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; the conduct of the national matches; the issuance of ammunition under the authority of title 10, United States Code, sections 4308 and 4311; the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; and the payment to competitors at national matches under section 4312 of title 10, United States Code, of subsistence and travel allowances in excess of the amounts provided under section 4313 of title 10, United States Code; not to exceed $4,099,000, of which not to exceed $7,500 shall be available for incidental expenses of the National Board.

Claims, Defense

For payment, not otherwise provided for, of claims authorized by law to be paid by the Department of Defense (except for civil functions), including claims for damages arising under training contracts with carriers, and repayment of amounts determined by the Secretary concerned, or officers designated by him, to have been erroneously collected from military and civilian personnel of the Department of Defense, or from States, territories, or the District of Columbia, or members of the National Guard units thereof; $193,574,000.

Court of Military Appeals, Defense

For salaries and expenses necessary for the United States Court of Military Appeals; $3,241,000, and not to exceed $1,500 can be used for official representation purposes.

Environmental Restoration, Defense

(including transfer of funds)

For the Department of Defense; $402,800,000, to remain available until transferred: Provided, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, research and development associated with hazardous wastes and removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense as the Secretary may designate, to be merged with and to be available for the same purposes and for the same time period as the appropriations of funds to which transferred: Provided further, That upon a determination that all or part of the funds transferred pursuant to this provision are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Humanitarian Assistance

For transportation for humanitarian relief for refugees of Afghanistan, acquisition and shipment of transportation assets *to assist in the distribution of such relief, and for transportation and distribution of humanitarian and excess nonlethal supplies for worldwide humanitarian relief, as authorized by law; $13,000,000, to remain available for obligation until September 30, 1989: Provided, That the Department of Defense shall notify the Committees on Appropriations and Armed Services of the Senate and House of Representatives 21 days prior to the shipment of humanitarian relief which is intended to be transported and distributed to countries not previously authorized by Congress.*

TITLE III

PROCUREMENT

Aircraft Procurement, Army

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,718,406,000, to remain available for obligation until September 30, 1990.

Missile Procurement, Army

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,332,237,000, to remain available for obligation until September 30, 1990: Provided, That funds may be obligated and expended for procurement and advance procurement of the Forward Area Air Defense Sysem, Line-of-Sight Forward-Heavy system without regard to the restrictions contained in section 111(d) of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100–180): Provided further, That with regard to programs, projects and activities funded by this appropriation, provisions of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100–180) which provide that funds appropriated pursuant to such Act shall be available only for specific programs, projects and activities in specific dollar amounts shall be effective, except as follows:

Army Tactical Missile System, $9,125,000.

Procurement of Weapons and Tracked Combat Vehicles, Army

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $3,207,187,000, to remain available for obligation until September 30, 1990.

Procurement of Ammunition, Army

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized in military construction authorization Acts or authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,273,592,000, to remain available for obligation until September 30, 1990.

Other Procurement, Army

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed 861 passenger motor vehicles, of which 398 shall be for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; as follows:

Tactical and support vehicles, $844,921,000;

Communications and electronics equipment, $3,177,739,000;

Other support equipment, $1,070,889,000;

In all: $5,093,549, to remain available for obligation until September 30, 1990: Provided, That $24,300,000 is available from the fiscal year 1986. Other Procurement, Army appropriation for light division field artillery tactical data systems shall be obligated for procurement of seven LFATDS sets for seven light divisions by April 1, 1988.

Aircraft Procurement, Navy

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $9,522,299,000, to remain available for obligation until September 30, 1990: Provided, That with regard to programs, projects and activities funded by this appropriation, provisions of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) which provide that funds appropriated pursuant to such Act shall be available only for specific programs, projects and activities in specific dollar amounts shall be effective, except as follows:

A-6E Program, $0;
EA-6B Program, $479,413,000;
F-14 A/D Program, $734,289,000;
F/A-18 Program, $2,388,710,000;
SH-60B Program, $125,000,000;
SH-60F Program, $294,346,000;
Long Range ASW Capable Aircraft Program, $0;
E-2C Program, $380,195,000;
A-6E Modification Series, $219,478,000;
H-53 Modification Series, $22,737,000;
H-2 Modification Series, $55,000,000;
P-3 Modification Series, $136,865,000;
S-3 Modification Series, $74,772,000;
ES-3 Modification Series, $80,000,000;
E-2 Modification Series, $39,639,000;
Common ECM equipment, $16,708,000;

Provided further, That notwithstanding section 111(e) of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) $609,917,000 is available for the procurement of 12 A-6F aircraft.

Weapons Procurement, Navy

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Poseidon, $181,000;
TRIDENT I, $6,986,000;
TRIDENT II, $2,041,331,000;
Support equipment and facilities, $194,000;
Tomahawk, $847,336,000;
AIM/RIM-7 F/M Sparrow, $79,000,000;
AIM-9L/M Sidewinder, $25,833,000;
AIM-54A/C Phoenix, $343,596,000;
AGM-84A Harpoon, $142,660,000;
AGM-88A HARM, $187,128,000;
SM-2 MR, $583,098,000;
RAM, $44,931,000;
Stinger, $17,765,000;
Sidearm, $25,381,000;
Hellfire, $44,154,000;
Laser Maverick, $263,200,000;
IIR Maverick, $60,000,000;
Penguin, $3,455,000;
Aerial targets, $104,104,000;
Drones and decoys, $24,767,000;
Other missile support, $19,157,000;
Modification of missiles, $15,513,000;
Support equipment and facilities, $152,407,000;
Ordnance support equipment, $218,436,000;
MK-48 ADCAP torpedo program, $243,444,000;
MK-50 advance lightweight torpedo program, $108,402,000;
MK-30 mobile target program, $31,495,000;
Antisubmarine rocket (ASROC) program, $9,522,000;
Modification of torpedoes, $42,190,000;

Torpedo support equipment program, $53,986,000;

MK-15 close-in weapons system program, $28,023,000;

25mm gun mount, $4,091,000;

Small arms and weapons, $9,568,000;

Modification of guns and gun mounts, $57,589,000;

Guns and gun mounts support equipment program, $1,068,000;

Spares and repair parts, $127,028,000;

In all: $5,967,019,000, to remain available for obligation until September 30, 1990: Provided, That none of the funds provided herein may be used for a multiyear procurement contract of the Harpoon missile system: Provided further, That with regard to programs, projects and activities funded by this appropriation, provisions of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) which provide that funds appropriated pursuant to such Act shall be available only for specific programs, projects and activities in specific dollar amounts shall be effective, except as follows:

Trident II missile, $2,041,331,000.

Shipbuilding and Conversion, Navy

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

TRIDENT ballistic missile submarine program, $1,260,800,000;

CVN nuclear aircraft carrier program, $6,325,000,000;

SSN-688 attack submarine program, $1,676,900,000;

SSN-21 attack submarine program, $257,600,000;

Aircraft carrier service life extension program, $729,755,000;

CG-47 cruiser program, $4,127,000,000;

DDG-51 destroyer program, $5,500,000;

Provided, That contracts awarded for any DDG-51 class destroyers in fiscal year 1989 shall be made on the basis of a full and open competition among all technically qualified bidders regardless of prior contractual experience for construction of DDG-51 destroyers. More than two shipyards may not be utilized for this purpose unless the Secretary of the Navy certifies that the Five Year Defense Plan is sufficient to support cost effective construction at more than two shipyards;

LHD-1 amphibious assault ship program, $752,900,000;

LSD-41 cargo variant ship program, $258,000,000;

T-AO fleet oiler program, $256,400,000;

AO conversion program, $44,100,000;

Strategic sealift program, $43,400,000;

T-ACS auxiliary crane ship program, $53,100,000;

LCAC landing craft air cushion program, $36,500,000;

For craft, outfitting, and post delivery, $328,400,000;

In all: $16,155,355,000, to remain available for obligation until September 30, 1992: Provided, That additional obligations may be incurred after September 30, 1992, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction; and each Shipbuilding and Conversion, Navy, appropriation that is currently available for such obligations may also hereafter be so obligated after the date of its expiration: Provided further, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: Provided further, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards.

Other Procurement, Navy

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance and ammunition (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 861 passenger motor vehicles of which 717 shall be for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Ship support equipment, $812,891,000;

Communications and electronics equipment, $1,656,886,000;

Aviation support equipment, $674,615,000;

Ordnance support equipment, $829,037,000;

Civil engineering support equipment, $94,215,000;

Supply support equipment, $109,194,000;

Personnel and command support equipment, $416,823,000;

Spares and repair parts, $278,800,000;

In all: $4,872,461,000, to remain available for obligation until September 30, 1990.

Coastal Defense Augmentation

For the augmentation of United States Coast Guard inventories to meet national security requirements; $20,000,000, to remain available until expended: Provided, That these funds shall be for the procurement by the Department of Defense of vessels, aircraft, and equipment and for modernization of existing Coast Guard assets, which assets are to be made available to the Coast Guard for operation and maintenance.

Procurement, Marine Corps

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including purchase of not to exceed 153 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; $1,295,599,000, to remain available for obligation until September 30, 1990.

Aircraft Procurement, Air Force

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $12,956,827,000, to remain available for obligation until September 30, 1990: Provided, That none of the funds available to the Air Force may be obligated on B-1B bomber production contracts if such contracts would cause the production portion of the Air Force's $20,500,000,000 estimate for the B-1B bomber baseline costs expressed in fiscal year 1981 constant dollars to be exceeded.

Missile Procurement, Air Force

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $7,290,771,000, to remain available for obligation until September 30, 1990.

Other Procurement, Air Force

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; for the purchase of not to exceed 1,313 passenger motor vehicles of which 1,260 shall be for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, as follows:

Munitions and associated equipment, $603,331,000;

Vehicular equipment, $232,830,000;

Electronics and telecommunications equipment, including $36,100,000 to complete procurement of relay nodes (towers) for the Ground Wave Emergency Network Program, $1,937,906,000;

Other base maintenance and support equipment, $5,236,760,000;

In all: $8,010,827,000, to remain available for obligation until September 30, 1990.

National Guard and Reserve Equipment

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the re-

serve components of the Armed Forces, as follows:

Army Reserve, $85,000,000;
Navy Reserve, $258,800,000;
Marine Corps Reserve, $40,000,000;
Air Force Reserve, $202,100,000;
Army National Guard, $273,100,000;
Air National Guard, $341,000,000;

In all: $1,200,000,000, to remain available for obligation until September 30, 1990: Provided, That notwithstanding section 112(b) of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) $193,800,000 is available only for the procurement of six P-3 aircraft.

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 535 passenger motor vehicles of which 524 shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $1,266,263,000, to remain available for obligation until September 30, 1990.

DEFENSE PRODUCTION ACT PURCHASES

For purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093); $13,000,000, to remain available for obligation until September 30, 1990.

TITLE IV

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $4,687,513,000, to remain available for obligation until September 30, 1989: Provided, That $3,500,000 shall be available as a one-time appropriation to conduct nutrition research activities at the Pennington Biomedical Research Center: Provided further, That none of the funds provided by this Act for the fiscal year 1988 support of the AFATDS program office shall be available for obligation beyond April 1, 1988 unless the LFATDS procurement contract has been executed: Provided further, That with regard to programs, projects and activities funded by this appropriation, provisions of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) which provide that funds appropriated pursuant to such Act shall be available only for specific programs, projects and activities in specific dollar amounts shall be effective, except as follows:

Army Tactical Missile System, $102,208,000;
Electronic Warfare Programs, $85,000,000.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $9,493,546,000, to remain available for obligation until September 30, 1989: Provided, That $112,899,000 shall be made available only for the Advanced Submarine Technology Program as described in section 211 of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) and not less than $90,000,000 of this amount is to be allocated to development of hull, mechanical, electrical, and non-nuclear propulsion systems: Provided further, That funds made available for the SSN-21 Combat System shall not be obligated or expended except for a system design which incorporates at least four units of the Enhanced Modular Signal Processor: Provided further, That $1,800,000 shall be made available for personnel and other expenses for the Institute for Technology Development, as a grant, for the National Center for Physical Acoustics: Provided further, That notwithstanding section 203(a) of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180), $111,023,000 of funds provided in this section may be obligated or expended for the purpose of configuring the A-6 aircraft in the F model configuration: Provided further, That with regard to programs, projects and activities funded by this appropriation, provisions of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) which provide that funds appropriated pursuant to such Act shall be available only for specific programs, projects and activities in specific dollar amounts shall be effective, except as follows: Trident II, $1,050,463,000; Electronic Warfare Programs, $198,691,000: Provided further, That not less than $2,100,000 shall be available only for the National Bone Marrow Donor Registry and of that amount, $200,000 shall be available only to integrate independent bone marrow donor centers into the National Registry.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $15,002,095,000, to remain available for obligation until September 30, 1989: Provided, That $91,500,000 of funds made available for the National Aerospace Plane (NASP) Program may not be obligated or expended until the Secretary of Defense certifies that the Department of Defense and the National Aeronautics and Space Administration (NASA) have negotiated revised funding arrangements for NASP development which significantly increase NASA investment as a percentage of total NASP research, development, test and evaluation costs: Provided further, That with regard to programs, projects and activities funded by this appropriation, provisions of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) which provide that funds appropriated pursuant to such Act shall be available only for specific programs, projects and activities in specific dollar amounts shall be effective, except as follows:

Pave Tiger, $0;
Industrial Preparedness, $85,000,000;
Electronic Warfare Programs, $179,800,000.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test, and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $7,631,825,000, to remain available for obligation until September 30, 1989: Provided, That such amounts as may be determined by the Secretary of Defense to have been available in other appropriations available to the Department of Defense during the current fiscal year or the following fiscal year, as appropriate, for programs related to advanced research may be transferred to and merged with either of the foregoing appropriations, as appropriate, to be available for the same purposes and time period as the appropriation to which transferred: Provided further, That during their period of availability, such amounts of the foregoing appropriations as may be determined by the Secretary of Defense may be transferred to carry out the purposes of advanced research to those appropriations for military functions under the Department of Defense which are being utilized for related programs to be merged with and to be available for the same time period as the appropriation to which transferred: Provided further, That $285,000,000 shall be made available only for the Defense Mapping Agency Exploitation Modernization Program: Provided further, That of the total amount available for obligation, $15,000,000 shall be made available only for the X-Ray Lithography Program: Provided further, That of the total amount available for obligation, $16,500,000 shall be made available through the Office of the Under Secretary of Defense for Acquisition only for bioenvironmental hazards research activities at universities, for associated facilities, and for other related purposes: Provided further, That of the total amount available for obligation, $7,000,000 shall be made available, as a grant, only for development of an engineering, sciences, and technology center to promote defense industry involvement in manpower training and education, for associated facilities, and for related purposes: Provided further, That of the total amount available for obligation, $5,000,000 is available only to complete a program begun in fiscal year 1986 for developing advanced semiconductor materials and devices, and to establish a program in parallel processing computing technology at that institution: Provided further, That of the total amount available for obligation, $25,000,000 shall be made available, as a grant, only to support a program of advanced compound and other semiconductor research, and related materials research at university centers of excellence for design and test of semiconductors, micro fabrication techniques (microfabritech/MARTECH), and materials technologies sciences (microfabritech/MARTECH): Provided further, That of the total amount available for obligation for the Strategic Technology Program, $19,040,000 shall be made available only for an innovative manufacturing technology initiative in the Strategic Computing Program of the Defense Advanced Research Projects Agency, of which $13,000,000 shall be made available only for *the Concurrent Design and Assembly Science and Technology Program: Provided further, That of the total amount available for obligation, $10,000,000 shall be made available only for a proposed Center for Compound Semiconductor Technology, at a major Department of Energy national weapons laboratory with a demonstrated expertise in both silicon and compound semiconductor microelectronics and possessing a state-of-the-art clean room and crystal growth facilities, to perform the materials processing and instrumentation studies necessary to develop compound semiconductor technology for high-speed optoelectronics: Provided further, That not more than 14 percent of funds made available in this Act for the University Research Initiative Program may be obligated or expended within any one State: Provided further, That of the total amount available for the Strategic Defense Initiative, not less than $150,000,000 may be obligated or expended only for the Advanced Launch System (ALS) Program under Air Force management, and that of the funds made available for the ALS Program, not less than $70,000,000 shall be transferred to the National Aeronautics and Space Administration only for ALS propulsion activities: Provided further, That the funds appropriated by this Act for any activities associated directly or indirectly with the Advanced Launch System or any ALS variant shall be subject to the terms and conditions of section 5 of chapter II of title I of Public Law 100-71 (Supplemental Appropriations Act, 1987): Provided further, That of the amount available for obligation, $25,000,000 is available only for the Joint Standoff Weapons Program and may not be obligated or expended until the Secretary of Defense reports to the Committees on Appropriations of the Senate and the House of Representatives which standoff weapons will be supported with the available funds: Provided further, That of the amount available for obligation, $50,291,000 is available only for the Joint Remotely Piloted Vehicles (RPV) Program and may not be obligated or expended until the Secretary of Defense submits to the Committees on Appropriations of the Senate and House of Representatives an updated RPV Master Plan fully explaining his decisions as to which RPVs will be supported with the available funds, and assessing the cooperation by the military services with efforts to coordinate RPV programs and to eliminate duplication within and among these programs: Provided further, That none of the funds provided for the activities of the Semiconductor Manufacturing Technology consortium known as "SEMATECH" may be obligated or expended until the Secretary of Defense has entered into a memorandum of understanding with SEMATECH governing the use of such funds for research, development, test, and evaluation activities in the field of semiconductor manufacturing technology, and the Secretary of Defense submits, no later than March 31, 1988, a report to the Committees on Appropriations of the Senate and House of Representatives containing a copy of this memorandum: Provided further, That with regard to programs, projects and activities funded by this appropriation, provisions of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) which provide that funds appropriated pursuant to such Act shall be available only for specific programs, projects and activities in specific dollar amounts shall be effective, except as follows:*

LightSat, $35,000,000;

University Research Initiatives, $85,000,000;

Bioenvironmental Hazards Research, $16,500,000;

High Temperature Superconductivity, $15,000,000.

DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Deputy Under Secretary of Defense, Developmental Test and Evaluation in the direction and supervision of developmental test and evaluation, including performance of joint developmental testing and evaluation; and administrative expenses in connection therewith; $182,116,000 to remain available for obligation until September 30, 1989.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; $70,221,000 to remain available for obligation until September 30, 1989.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

ARMY STOCK FUND

For the Army stock fund; $193,207,000.

NAVY STOCK FUND

For the Navy stock fund; $329,400,000.

AIR FORCE STOCK FUND

For the Air Force stock fund; $226,007,000.

DEFENSE STOCK FUND

For the Defense stock fund; $132,600,000.

TITLE VI

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986; $198,500,000, of which $97,000,000 shall remain available for obligation until September 30, 1988, $4,900,000 shall remain available for obligation until September 30, 1989, and $96,600,000 shall remain available for obligation until September 30, 1990.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $134,700,000.

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff; $23,057,000.

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 8002. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8003. During the current fiscal year, the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force, respectively, if they should deem it advantageous to the national defense, and if in their opinions the existing facilities of the Department of Defense are inadequate, are authorized to procure services in accordance with section 3109 of title 5, United States Code, under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty stations and return as may be authorized by law: Provided, That such contracts may be renewed annually.

SEC. 8004. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense.

SEC. 8005. The Secretary of Defense and each purchasing and contracting agency of the Department of Defense shall assist American small and minority-owned business to participate equitably in the furnishing of commodities and services financed with funds appropriated under this Act by increasing, to an optimum level, the resources and number of personnel jointly assigned to promoting both small and minority business involvement in purchases financed with funds appropriated herein, and by making available or causing to be made available to such businesses, information, as far in advance as possible, with respect to purchases proposed to be financed with funds appropriated under this Act, and by assisting small and minority business concerns to participate equitably as subcontractors on contracts financed with funds appropriated herein, and by otherwise advocating and providing small and minority business opportunities to participate in the furnishing of commodities and services financed with funds appropriated by this Act.

SEC. 8006. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8007. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more.

SEC. 8008. No part of any appropriation contained in this Act shall be available for expense of transportation, packing, crating, temporary storage, drayage, and unpacking of household goods and personal effects in any one shipment having a net weight in excess of eighteen thousand pounds.

SEC. 8009. No more than 20 per centum of the appropriations in this Act which are *limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: Provided, That this section shall not apply to obligations for support of active duty training of civilian components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army, or to the appropriations provided in this Act for Claims, Defense.*

SEC. 8010. During the current fiscal year, the agencies of the Department of Defense may accept the use of real property from foreign countries for the United States in accordance with mutual defense agreements or occupational arrangements and may accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge; and such agencies may use the same for the support of the United States forces in such areas without specific appropriation therefor.

In addition to the foregoing, agencies of the Department of Defense may accept real property, services, and commodities from foreign countries for the use of the United States in accordance with mutual defense agreements or occupational arrangements and such agencies may use the same for the support of the United States forces in such areas, without specific appropriations therefor: Provided, That except as provided in 10 U.S.C. 2690, the foregoing authority shall not be available for the conversion of heating plants from coal to oil or coal to natural gas at defense facilities in Europe: Provided further, That within thirty days after the end of each quarter the Secretary of Defense shall render to Congress and to the Office of Management and Budget a full report of such property, supplies, and commodities received during such quarter.

SEC. 8011. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $10,000 shall be available for the procurement of any article or item of food, clothing, tents, tarpaulins, covers, cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials, or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles or items of food, individual equipment, tents, tarpaulins, covers, or clothing or any form of cotton or other natural fiber products, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: Provided, That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: Provided further, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: Provided further, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations: Provided further, That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

SEC. 8012. During the current fiscal year, appropriations available to the Department of Defense for pay of civilian employees shall be available for uniforms, or allowances therefor, as authorized by section 5901 of title 5, United States Code.

SEC. 8013. Funds provided in this Act for legislative liaison activities of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense shall not exceed $14,362,000 for the current fiscal year: Provided, That this amount shall be available for apportionment to the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense as determined by the Secretary of Defense: Provided further, That costs for military retired pay accrual shall be included within this limitation.

SEC. 8014. Of the funds made available by this Act for the services of the Military Airlift Command, $100,000,000 shall be available only for procurement of commercial transportation service from carriers participating in the civil reserve air fleet program; and the Secretary of Defense shall utilize the services of such carriers which qualify as small businesses to the fullest extent found practicable: Provided, That the Secretary of Defense shall specify in such procurement, performance characteristics for aircraft to be used based upon modern aircraft operated by the civil reserve air fleet.

(TRANSFER OF FUNDS)

SEC. 8015. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $1,500,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: Provided further, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

(TRANSFER OF FUNDS)

SEC. 8016. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: Provided, That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8017. Except as provided in 10 U.S.C. 2690, none of the funds available to the Department of Defense shall be utilized for the conversion of heating plants from coal to oil or coal to natural gas at defense facilities in Europe.

SEC. 8018. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 days in advance to the Committees on Appropriations and Armed Services of the Senate and House of Representatives.

SEC. 8019. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

SEC. 8020. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions for section 1079(a) of title 10, United States Code, shall be available for reimbursement of any physician or other authorized individual provider of medical care in excess of the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished, as determined for physicians in accordance with section 1079(h) of title 10, United States Code.

SEC. 8021. No appropriation contained in this Act may be used to pay for the cost of public affairs activities of the Department of Defense in excess of $46,951,000: Provided, That costs for military retired pay accrual shall be included within this limitation.

SEC. 8022. None of the funds provided in this Act shall be available for the planning or execution of programs which utilize amounts credited to Department of Defense appropriations or funds pursuant to the provisions of section 37(a) of the Arms Export Control Act representing payment for the actual value of defense articles specified in section 21(a)(1)(A) of that Act: Provided, That such amounts shall be credited to the Special Defense Acquisition Fund, as authorized by law, or, to the extent not so credited shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31, United States Code.

SEC. 8023. No appropriation contained in this Act shall be available to fund any costs of a Senior Reserve Officers' Training Corps unit—except to complete training of personnel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1983, enrolled less than (a) seventeen students where the institution prescribes a four-year or a combination four- and two-year program; or (b) twelve students where the institution prescribes a two-year program: Provided, That, notwithstanding the foregoing limitation, funds shall be available to maintain one Senior Reserve Officers' Training Corps unit in each State and at each State-operated maritime academy: Provided further, That units under the consortium system shall be considered as a single unit for purposes of evaluation of productivity under this provision: Provided further, That enrollment standards contained in Department of Defense Directive 1215.8 for Senior Reserve Officers' Training Corps units, as revised during fiscal year 1981, may be used to determine compliance with this provision, in lieu of the standards cited above.

SEC. 8024. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1989.

SEC. 8025. None of the funds appropriated by this Act may be used to support more than 9,901 full-time and 2,603 part-time military personnel assigned to or used in the support of Morale, Welfare, and Recreation activities as described in Department of Defense Instruction 7000.12 and its enclosures, dated September 4, 1980.

SEC. 8026. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

SEC. 8027. None of the funds appropriated by this Act or heretofore appropriated by any other Act shall be obligated or expended for the payment of anticipatory possession compensation claims to the Federal Republic of Germany other than claims listed in the 1973 agreement (commonly referred to as the Global Agreement) between the United States and the Federal Republic of Germany.

SEC. 8028. During the current fiscal year, the Department of Defense may enter into contracts to recover indebtedness to the United States pursuant to section 3718 of title 31, United States Code.

SEC. 8029. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8030. None of the funds appropriated by this Act shall be available to provide medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents unless the Department of Defense is reimbursed for the costs of providing such care: Provided, That reimbursements for medical care covered by this section shall be credited to the appropriations against which charges have been made for providing such care, except that inpatient medical care may be provided in the United States without cost to military personnel and their dependents from a foreign country if comparable care is made available to a comparable number of United States military personnel in that foreign country.

SEC. 8031. None of the funds appropriated by this Act shall be obligated for the second career training program authorized by Public Law 96-347.

SEC. 8032. None of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses during the current fiscal year for the purposes of demilitarization of surplus nonautomatic firearms less than .50 caliber.

SEC. 8033. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: Provided, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: Provided further, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: Provided further, That no multiyear procurement contract can be terminated without 10 day prior notification to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate: Provided further, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement. Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

HEMTT (for two years);

High mobility multipurpose wheeled vehicle;

HAWK missile system;

TOW II missile system: Provided, That a multiyear procurement contract shall not be awarded for TOW II until the Secretary of Defense has certified to the Congress that a multiyear procurement will be more economical than a second source acquisition.

SEC. 8034. None of the funds appropriated by this Act which are available for payment of travel allowances for per diem in lieu of subsistence to enlisted personnel shall be used to pay such an allowance to any enlisted member in an amount that is more than the amount of per diem in lieu of subsistence that the enlisted member is otherwise entitled to receive minus the basic allowance for subsistence, or pro rata portion of such allowance, that the enlisted member is entitled to receive during any day, or portion of a day, that the enlisted member is also entitled to be paid a per diem in lieu of subsistence.

SEC. 8035. None of the funds appropriated by this Act shall be available to approve a request for waiver of the costs otherwise required to be recovered under the provisions of section 21(e)(1)(C) of the Arms Export Control Act unless the Committees on Appropriations have been notified in advance of the proposed waiver.

SEC. 8036. None of the funds in this Act may be used to transfer any article of military equipment or data related to the manufacture of such equipment to a foreign country prior to the approval in writing of such transfer by the Secretary of the military service involved.

(TRANSFER OF FUNDS)

SEC. 8037. None of the funds appropriated in this Act may be made available through transfer, reprogramming, or other means between the Central Intelligence Agency and the Department of Defense for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

SEC. 8038. None of the funds available to the Department of Defense during the current fiscal year shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

SEC. 8039. None of the funds appropriated by this Act may be used to appoint or compensate more than 39 individuals in the Department of Defense in positions in the Executive Schedule (as provided in sections 5312-5316 of title 5, United States Code).

SEC. 8040. Notwithstanding section 213(b) of the Joint Chiefs of Staff Reorganization Act of 1985 or any other provision of law, none of the funds in this or any other Act may be used to alter the command structure for military forces in Alaska.

SEC. 8041. None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programmed to be occupied by, a (civilian) military technician to a position to be held by a person in an active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programmed to be occupied by, (civilian) military technicians of the component concerned, below 69,935: Provided, That none of *the funds appropriated by this Act shall be available to support more than 46,890 positions in support of the Army Reserve, Army National Guard or Air National Guard occupied by, or programmed to be occupied by, persons in an active Guard or Reserve status: Provided further, That none of the funds appropriated by this Act may be used to include (civilian) military technicians in computing civilian personnel ceilings, including statutory or administratively imposed ceilings, on activities in support of the Army Reserve, Air Force Reserve, Army National Guard or Air National Guard.*

SEC. 8042. No later than April 8, 1988, and not later than April 8 of each year thereafter, the Secretary of Defense, in consultation with the Secretary of Commerce, shall submit to the Committees on Appropriations of the Senate and House of Representatives, a report detailing: (a) the full cost of stationing United States troops overseas, including costs incurred in the United States and overseas in connection with such stationing, (b) the overseas costs incurred in connection with operating, maintaining, and supporting United States troops overseas, including direct and indirect expenditures of United States funds in connection with such stationing, and (c) the effect of such overseas expenditures on the United States' balance-of-payments.

SEC. 8043. (a) The provisions of section 115(b)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1988 or with respect to the appropriation of funds for that year.

(b) During fiscal year 1988, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

SEC. 8044. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department to exceed, outside the fifty States of the United States and the District of Columbia, 188,496 civilian workyears: Provided, That workyears shall be applied as defined in the Federal Personnel Manual Supplement 298-2, Book IV: Provided further, That workyears expended in dependent summer hiring programs or hiring programs for disadvantaged youth shall not be included in this workyear limitation.

(TRANSFER OF FUNDS)

SEC. 8045. Appropriations during the current fiscal year may be transferred to appropriations provided in this Act for research, development, test, and evaluation to the extent necessary to meet increased pay costs authorized by or pursuant to law, to be merged with and to be available for the same purposes, and the same time period, as the appropriation to which transferred.

SEC. 8046. Notwithstanding any other provision of law, each contract awarded by the Department of Defense in fiscal year 1988 for construction or services performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: Provided, That the Secretary of Defense may waive the requirements of this section in the interest of national security.

SEC. 8047. None of the funds appropriated by this or any other Act for fiscal year 1988 shall be available to pay the variable housing allowance authorized members of the uniformed services under section 403a of title 37, United States Code, in a total amount in excess of $1,115,261,000 or the amount computed for the current fiscal year under section 403a(d) of such title, whichever is less: Provided, That any reduction in the rates of the variable housing allowance necessitated by the foregoing limitation shall be made as provided in section 403a of title 37, United States Code.

(RESCISSIONS)

SEC. 8048. (a) The following funds are hereby rescinded from the following accounts in the specified amounts:

Aircraft procurement, Army, 1986/1988, $32,000,000;

Aircraft procurement, Army, 1987/1989, $29,200,000;

Missile procurement, Army, 1986/1988, $25,100,000;

Missile procurement, Army, 1987/1989, $34,100,000;

Procurement of weapons and tracked combat vehicles, Army, 1986/1988, $41,700,000;

Procurement of weapons and tracked combat vehicles, Army, 1987/1989, $72,000,000;

Procurement of ammunition, Army, 1987/1989, $7,200,000;

Other procurement, Army, 1986/1988, $41,300,000;

Other procurement, Army, 1987/1989, $65,593,000;

Aircraft procurement, Navy, 1986/1988, $156,400,000;

Aircraft procurement, Navy, 1987/1989, $261,900,000;

Weapons procurement, Navy, 1986/1988, $161,200,000;

Weapons procurement, Navy, 1987/1989, $227,800,000;

Shipbuilding and conversion, Navy, 1984/1988, $134,100,000;

Shipbuilding and conversion, Navy, 1985/1989, $94,600,000;

Shipbuilding and conversion, Navy, 1986/1990, $20,000,000;

Shipbuilding and conversion, Navy, 1987/1991, $155,600,000;

Other procurement, Navy, 1986/1988, $32,361,000;

Other procurement, Navy, 1987/1989, $225,614,000;

Procurement, Marine Corps, 1986/1988, $47,600,000;

Procurement, Marine Corps, 1987/1989, $15,000,000;

Aircraft procurement, Air Force, 1986/1988, $278,521,000;

Aircraft procurement, Air Force, 1987/1989, $659,600,000;

Missile procurement, Air Force, 1985/1989, $40,100,000;

Missile procurement, Air Force, 1986/1988, $122,446,000;

Missile procurement, Air Force, 1987/1989, $11,500,000;

Other procurement, Air Force, 1986/1988, $58,200,000;

Procurement, Defense Agencies, 1986/1988, $31,000,000;

Procurement, Defense Agencies, 1987/1989, $75,000,000;

National Guard and Reserve Equipment, 1986/1988, $17,900,000;

Research, development, test, and evaluation, Army, 1987/1988, $14,000,000;

Research, development, test, and evaluation, Navy, 1987/1988, $67,495,000;

Research, development, test, and evaluation, Air Force, 1987/1988, $266,000,000;

Research, development, test, and evaluation, Defense Agencies, 1987/1988, $8,900,000;

(b) Section 1305 of Public Law 99-661 is amended in subsection (b) by striking "that are enacted before December 31, 1986" and inserting in lieu thereof "and/or fiscal year 1988".

(TRANSFER OF FUNDS)

SEC. 8049. In addition to any other transfer authority contained in this Act, amounts from working capital funds may be transferred to the Operation and Maintenance appropriations contained in this Act to be merged with and to be available for the same purposes and for the same time period as the appropriation to which transferred: Provided, That such transfers shall not exceed $451,036,000 for Operation and Maintenance, Army; $813,400,000 for Operation and Maintenance, Navy; $14,738,000 for Operation and Maintenance, Marine Corps; and $888,881,000 for Operation and Maintenance, Air Force.

SEC. 8050. None of the funds made available by this Act shall be used in any way for the leasing to non-Federal agencies in the United States aircraft or vehicles owned or operated by the Department of Defense when suitable aircraft or vehicles are commercially available in the private sector: Provided, That nothing in this section shall affect authorized and established procedures for the sale of surplus aircraft or vehicles: Provided further, That nothing in this section shall prohibit the leasing of helicopters authorized by section 1463 of the Department of Defense Authorization Act of 1986.

SEC. 8051. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8052. No funds available to the Department of Defense during the current fiscal year may be used to enter into any contract with a term of eighteen months or more or to extend or renew any contract for a term of eighteen months or more, for any vessel, aircraft or vehicles, through a lease, charter, or similar agreement without previously having been submitted to the Committees on Appropriations of the House of Representatives and the Senate in the budgetary process: Provided, That any contractual agreement which imposes an estimated termination liability (excluding the estimated value of the leased item at the time of termination) on the Government exceeding 50 per centum of the original purchase value of the vessel, aircraft, or vehicle must have specific authority in an appropriation Act for the obligation of 10 per centum of such termination liability.

SEC. 8053. None of the funds made available by this Act shall be available to operate in excess of 247 commissaries in the contiguous United States.

SEC. 8054. None of the funds provided in this Act shall be used to procure aircraft ejection seats manufactured in any foreign nation that does not permit United States manufacturers to compete for ejection seat procurement requirements in that foreign nation. This limitation shall apply only to ejection seats procured for installation on aircraft produced or assembled in the United States.

SEC. 8055. None of the funds appropriated by this Act shall be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.

SEC. 8056. None of the funds appropriated by this Act shall be used to purchase dogs or cats or otherwise fund the use of dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds produced by any type of weapon: Provided, That the standards of such training with respect to the treatment of animals shall adhere to the Federal Animal Welfare Law and to those prevailing in the civilian medical community.

SEC. 8057. None of the funds made available by this Act shall be used to initiate full-scale engineering development of any major defense acquisition program until the Secretary of Defense has provided to the Committees on Appropriations of the House and Senate—

(a) a certification that the system or subsystem being developed will be procured in quantities that are not sufficient to warrant development of two or more production sources, or

(b) a plan for the development of two or more sources for the production of the system or subsystem being developed.

SEC. 8058. None of the funds available for the Department of Defense may be used for the floating storage of petroleum or petroleum products except in vessels of or belonging to the United States.

SEC. 8059. No more than $182,402,000 of the funds appropriated by this Act shall be available for the payment of unemployment compensation benefits.

SEC. 8060. Of the funds made available to the Department of the Air Force in this Act, not less than $11,600,000 shall be available for the Civil Air Patrol.

SEC. 8061. Funds available to the Department of Defense may be used by the Department of Defense for the use of helicopters and motorized equipment at Defense installations for removal of feral burros and horses.

SEC. 8062. (a) None of the funds appropriated by this Act shall be available to compensate foreign selling costs as described in Federal Acquisition Regulation 31.205-38(b) as in effect on April 1, 1984.

(b) Notwithstanding section 2324(e)(1)(H) of title 10, United States Code, and subsection (a) of this section, appropriations contained in this Act shall be available for, and the Secretary of Defense shall pay, reasonable costs under covered contracts incurred to promote American aerospace exports at domestic and international exhibits.

SEC. 8063. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 403(a) of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 403(b) of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: Provided, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239.

SEC. 8064. Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any officer who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

SEC. 8065. It is the sense of the Congress that competition, which is necessary to enhance innovation, effectiveness, and efficiency, and which has served our Nation so well in other spheres of political and economic endeavor, should be expanded and increased in the provision of our national defense.

SEC. 8066. None of the funds appropriated by this Act shall be available to pay a dislocation allowance pursuant to section 407 of title 37, United States Code, in excess of one month's basic allowance for quarters.

SEC. 8067. None of the funds available to the Department of Defense shall be obligated or expended to contract out any activity currently performed by the Defense Personnel Support Center in Philadelphia, Pennsylvania: Provided, That this provision shall not apply after notification to the Committees on Appropriations of the House of Representatives and the Senate of the results of the cost analysis of contracting out any such activity.

SEC. 8068. Funds available for operation and maintenance under this Act, may be used in connection with demonstration projects and other activities authorized by section 1092 of title 10, United States Code.

SEC. 8069. None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act, receives an enlistment bonus under section 308a or 308f of title 37, United States Code; nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Administrator of Veterans' Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Administrator pay such benefits to any such member.

SEC. 8070. None of the funds appropriated by this or any other Act for the Navy may be used to carry out an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator for Ships (EMPRESS) program unless or until the Secretary of Defense certifies to the Congress that conduct of the EMPRESS program is essential to the national security of the United States and to achieving requisite military capability for United States naval vessels, and that the economic, environmental, and social costs to the United States of conducting the EMPRESS program in the Chesapeake Bay area are far less than the economic, environmental, and social costs caused by conducting the EMPRESS program elsewhere.

SEC. 8071. Notwithstanding any other provision of law, during fiscal year 1988, the Department of Defense shall conduct an expanded pilot project of providing home health care as part of an individualized case-managed range of benefits that may reasonably deviate from otherwise payable types, amounts and levels of care, in up to four geographic areas containing no more than one-fourth of the Department's beneficiaries, for dependents entitled to health care under sections 1079 and 1086 of title 10, United States Code, with the patients selected from those with exceptionally serious, long-range, costly and incapacitating physical or mental conditions defined by the Secretary of Defense as likely to benefit from the range of demonstration benefits: Provided, That although the cost may be greater in a specific case, the net benefit cost to the Department of Defense shall not exceed that which could reasonably have been expected to occur in the absence of the demonstration: Provided further, That outside of the areas selected, the home health care pilot project as directed and implemented in fiscal years 1986 and 1987 shall be continued.

SEC. 8072. Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education.

SEC. 8073. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 8074. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate.

(TRANSFER OF FUNDS)

SEC. 8075. Upon a determination by the Secretary of Defense that such action will result in a more economical acquisition of automatic data processing equipment, funds provided in this Act under one appropriation account for the lease or purchase of such equipment may be transferred through the Automatic Data Processing Equipment Management Fund to another appropriation account in this Act for the lease or purchase of automatic data processing equipment to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred: Provided, That within thirty days after the end of each quarter the Secretary of Defense shall report transfers made under *this section to the Committees on Appropriations of the Senate and the House of Representatives: Provided further, That the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this Act.*

SEC. 8076. Appropriations available to the Department of Defense during the current fiscal year shall be available, under such regulations as the Secretary of Defense may deem appropriate, to exchange or furnish mapping, charting, and geodetic data, supplies or services to a foreign country pursuant to an agreement for the production or exchange of mapping, charting, and geodetic data.

SEC. 8077. None of the funds appropriated in this Act to the Department of the Army may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States: Provided, That this limitation shall not apply to procurement of such mortars or ammunition required for testing, evaluation, type classification or equipping the Army's Ninth Infantry Division (Motorized).

SEC. 8078. Appropriations made available to the Department of Defense by this Act may be used at sites formerly used by the Department of Defense for removal of unsafe buildings or debris of the Department of Defense: Provided, That such removal must be completed before the property is released from Federal Government control, other than property conveyed to State or local government entities or native corporations.

SEC. 8079. Within the funds made available under title II of this Act, the military departments may use such funds as necessary, but not to exceed $2,400,000, to carry out the provisions of section 430 of title 37, United States Code.

SEC. 8080. None of the funds appropriated in this Act may be obligated or expended to carry out a program to paint any naval vessel with paint known as organotin or with any other paint containing the chemical compound tributyltin until such time as the Environmental Protection Agency certifies to the Department of Defense that whatever toxicity as generated by organotin paints as included in Navy specifications does not pose an unacceptable hazard to the marine environment: Provided, That the Navy may use these funds to paint aluminum-hulled craft as necessary, and, in addition, the Navy may paint no more than fifteen steel-hulled ships to conduct research as described in the "Navy Organotin Program Plan for Two Case Study Harbors".

SEC. 8081. None of the funds appropriated by this Act shall be used for the support of any nonappropriated fund activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States, unless such malt beverages and wine are procured in that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: Provided, That in a case in which a military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages for military installations in States which are not contiguous with another State: Provided further, That alcoholic beverages other than wine and malt beverages in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8082. Notwithstanding any other provision of law, funds available in this Act shall be available to the Defense Logistics Agency to grant civilian employees participating in productivity-based incentive award programs paid administrative time off in lieu of cash payment as compensation for increased productivity.

SEC. 8083. None of the funds appropriated in this Act to the Department of the Army may be obligated for depot maintenance of equipment unless such funds provide for civilian personnel strengths at the Army depots performing communications-electronics depot maintenance at an amount above the strengths assigned to those depots on September 30, 1985: Provided, That the foregoing limitation shall not apply to civilian personnel who perform caretaker-type functions at these installations: Provided further, That nothing in this provision shall cause undue reductions of other Army depots, as determined by the Secretary of the Army.

SEC. 8084. (a) The Secretary of Defense shall award to a United States firm a contract pursuant to a solicitation issued on or after the date of enactment of this Act under the Department of Defense overseas fuel procurement programs that would otherwise be awarded to a foreign firm if such United States firm—

(1) has a crude oil refining capacity of not more than 85,000 barrels a day;

(2) participates in the Department of Defense overseas fuel procurement program;

(3) agrees to the contract on the terms proposed by the foreign firm to which the contract would otherwise be awarded; and

(4) does not use processing agreements in order to fulfill the contract.

(b) This provision shall not apply if the total cost of supplies offered by the United States firm, including transportation as specified in the solicitation, would exceed the total evaluated cost to the government if the contract were awarded to the foreign firm.

(c) This provision shall not supersede any status of forces agreement and shall not apply to acquisitions subject to the Agreement on Government Procurement of 1979 and the Trade Agreements Act of 1979 (19 U.S.C. 2501-2582) and including acquisitions from countries designated under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, et seq.).

(d) For purposes of this section, the term "United States firm" means a corporation, partnership, association, joint stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States.

SEC. 8085. (a) None of the funds made available by this Act to the Department of Defense may be used to procure the Federal Supply Classes of machine tools set forth in subsection (b) of this section, for use in any government-owned facility or property under control of the Department of Defense, which machine tools were not manufactured in the United States or Canada.

(b) The procurement restrictions contained in subsection (a) shall apply to Federal Supply Classes of metalworking machinery in categories numbered 3408, 3410-3419, 3426, 3433, 3441-3443, 3446, 3448, 3449, 3460, and 3461.

(c) When adequate domestic supplies of the classifications of machine tools identified in subsection (b) are not available to meet Department of Defense requirements on a timely basis, the procurement restrictions contained in subsection (a) may be waived on a case by case basis by the Secretary of the Service responsible for the procurement.

(d) Subsection (a) shall not apply to contracts which are binding as of the date of enactment of this Act.

SEC. 8086. None of the funds appropriated or made available by this Act may be obligated for acquisition of major automated information systems which have not successfully completed oversight reviews required by Defense Department regulations: Provided, That none of the funds appropriated or made available by this Act may be obligated on Composite Health Care System acquisition contracts if such contracts would cause the total life cycle cost estimate of $1,100,000,000 expressed in fiscal year 1986 constant dollars to be exceeded.

SEC. 8087. Notwithstanding any other provision of law, appropriations available to the Department of Defense during the current fiscal year shall be available to make payments to a hospital that obtains 6 percent or more of its operating funds from contributions and that limits the care it provides to the treatment of heart and lung conditions: Provided, That payment may not be denied for a claim for otherwise reimbursable services submitted under a plan contracted for under sections 1079(a) and 1086(a) of title 10, United States Code, solely on the basis that such hospital does not impose a legal obligation, including a patient cost share or deductible, on its patients to pay for such services.

SEC. 8088. The Secretary of Defense shall take such action as necessary to assure that a minimum of 50 percent of the polyacrylonitrile (PAN) carbon fiber requirement be procured from domestic sources by 1992: Provided, That the annual goals to achieve this requirement be as follows: 15 percent of the total DoD requirement by 1988; 15 percent of the total DoD requirement by 1989; 20 percent of the total DoD requirement by 1990; 25 percent of the total DoD requirement by 1991; and 50 percent of the total DoD requirement by 1992.

SEC. 8089. (a) Section 9102 of the Department of Defense Appropriations Act, 1987 (as included in Public Laws 99-500 and 99-591) is repealed; (b) of the funds appropriated by this Act not more than $1,190,923,000 may be obligated for morale, welfare, and recreation activities: Provided, That such funds may be spent in accordance with the criteria set forth in the Report of the Assistant Secretary of Defense (Force Management and Personnel) to the Congress entitled "Reassessment of the Department of Defense Morale, Welfare and Recreation Programs" dated August 10, 1987: Provided further, That nonappropriated funds may be used to reimburse appropriated funds for expenses of civilian employees employed on January 1, 1987, by revenue-generating recreation activities and such reimbursed expenses shall not be included in the dollar limitation of this section.

SEC. 8090. (a) The Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Philadelphia Municipal Authority, a State authority, (hereinafter in this section referred to as the "PMA"), all right, title, and *interest of the United States in and to approximately 29 acres of land located in the United States Naval Base, Philadelphia, Pennsylvania, together with any improvements thereon.*

(b) The exact acreage and legal description of the lands to be conveyed under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the PMA.

(c) In consideration for any conveyance authorized under subsection (a), the PMA shall pay to the United States an amount equal to the fair market value of the property to be conveyed (as determined by the Secretary).

(d) The Secretary may require such additional terms and conditions with respect to the conveyance under this section as he considers appropriate to protect the interests of the United States.

(e) In addition to the authority provided in subsection (a) and pursuant to section 2394 of title 10, United States Code, the Secretary, upon his determination that there is an economic advantage to the Navy, is authorized to enter into a long-term contract with the PMA for the purchase of steam generated from a facility to be constructed upon the land authorized to be conveyed herein.

SEC. 8091. Notwithstanding any other provision of law, appropriations made available in this Act may be used for the procurement, product improvement and modification of the Copperhead projectile, without regard to whether or not a second production source program or contract has been established for this program if the Secretary of Defense determines that such expenditures are in the interest of the Government of the United States: Provided, That prior year unobligated balances of funds appropriated for Other Procurement, Navy for procurement of the five inch guided projectile (other than those required for production qualification efforts) shall be available for obligation only after the Secretary of the Navy certifies to the Committees on Appropriations of the House of Representatives and Senate that (1) procurement funding is included in the fiscal year 1989 Navy five year budget, (2) it will be competitively procured, and (3) procurement will be on a firm fixed price contract with a procurement unit cost of not to exceed $29,000 per round.

SEC. 8092. Except where specifically increased or decreased elsewhere in this Act, the restrictions contained within appropriations, or provisions affecting appropriations or other funds, available during fiscal year 1988, limiting the amount which may be expended for personnel services, and including pay and allowances of military personnel and civilian employees, or for purposes involving personal services, or amounts which may be transferred between appropriations or authorizations available for or involving such services, are hereby increased to the extent necessary to meet increased pay costs authorized by or pursuant to law.

SEC. 8093. None of the funds appropriated or made available by this or any other Act with respect to any fiscal year may be used by any Department, agency, or instrumentality of the United States to purchase electricity in a manner inconsistent with state law governing the provision of electric utility service, including state utility commission rulings and electric utility franchises or service territories established pursuant to state statute, state regulation, or state-approved territorial agreements: Provided, That nothing in this section shall preclude the head of a Federal agency from entering into a contract pursuant to 42 U.S.C. 8287; nor shall it preclude the Secretary of a military department from entering into a contract pursuant to 10 U.S.C. 2394 or from purchasing electricity from any provider when the utility or utilities having applicable state-approved franchise or other service authorizations are found by the Secretary to be unwilling or unable to meet unusual standards for service reliability that are necessary for purposes of national defense.

SEC. 8094. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. 8095. Funds appropriated by this Act for construction projects of the Central Intelligence Agency, which are transferred to another Agency for execution, shall remain available until expended.

SEC. 8096. The Secretary of Defense shall submit a quarterly report of cumulative reprogrammings from any project or program in excess of an initial $10,000,000 in total for procurement and an initial $4,000,000 in total for research and development. The initial report shall cover the quarter ending March 31, 1988, and include funds in this and prior appropriation Acts.

SEC. 8097. (a) The Secretary of Defense shall conduct through the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) a demonstration project on the treatment of alcoholism designed to compare the use of chemical aversion therapy with the use of other treatments. At the conclusion of the demonstration project, the Secretary shall submit to the Committees on Appropriations and Armed Services of the Senate and House of Representatives a report on the results of the project: Provided, That the demonstration project shall be conducted at only one location: Provided further, That coverage for chemical aversion therapy under this demonstration project is extended to those beneficiaries referred for such treatment by a physician, psychiatrist or psychologist recognized as an authorized provider under CHAMPUS.

(b) Until the report required by subsection (a) is submitted, the Secretary of Defense shall ensure that coverage of beneficiaries under section 1079(a) or 1086(a) of title 10, United States Code, shall continue under the provisions of subsection (a).

SEC. 8098. Notwithstanding the provisions of section 2401, title 10, United States Code, or of any other provision of law which would limit lease or charter terms to less than five years, the Navy is authorized to enter into agreements to construct and charter up to six clean product tankers of adequate cargo capacity to replace the SEALIFT-class tankers now in service. Tankers constructed under the terms of this section must be constructed in a shipyard of the United States in accordance with section 10-(d), title 41, United States Code.

SEC. 8099. The Secretary of the Army, as Executive Agent for the Department of Defense, may authorize activities on the part of the Armed Forces in celebration of the Bicentennial of the Constitution, and in support of Congressional Bicentennial activities. Such sums as are necessary to pay the expenses of these activities shall be made available from funds otherwise appropriated to the Department of Defense, except that such funds shall not be counted against the limitation on funds available for public affairs or legislative liaison activities of the Department of Defense.

SEC. 8100. Upon a certification by the Chief, National Guard Bureau, to the Committees on Appropriations and Armed Services of the Senate and House of Representatives that complete delivery of 530 M939A2 trucks cannot be accomplished by February 1, 1989, and that the total cost of a contract for M939A1 trucks will not exceed the cost of a contract for M939A2 trucks for the same number of trucks to be acquired under the M939A1 contract, appropriations made in this Act, or in the Department of Defense Appropriations Acts for fiscal year 1986 and for fiscal year 1987 under the heading "National Guard and Reserve Equipment", may be used to acquire M939A1 trucks.

SEC. 8101. None of the funds appropriated by this Act shall be available for the operation and maintenance of contractor-owned, contractor-operated primary health care facilities unless the Department of Defense Inspector General agrees to conduct an inspection, audit and evaluation of these clinics.

SEC. 8102. Funds provided by this Act for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) may be used by the Office of CHAMPUS to conduct a pilot project to provide program modifications and efficiencies by amending up to two existing fiscal intermediary contracts: Provided, That the Secretary of Defense conducts a separate health care demonstration project, if it is in the best interests of the Government, in the New Orleans, Louisiana area (the area described in Solicitation Number MDA903-87-R-0047) that uses a managed health care network, including health care enrollment (as provided for in section 1099, title 10, United States Code): Provided further, That the Secretary shall implement this demonstration project no later than September 30, 1988.

SEC. 8103. Notwithstanding any other provision of law, the Secretary of the Navy may use funds appropriated to charter ships to be used as auxiliary minesweepers providing that the owner agrees that these ships may be activated as Navy Reserve ships with Navy Reserve crews used in training exercises conducted in accordance with law and policies governing Naval Reserve forces.

SEC. 8104. (a) None of the funds in this Act may be used to award a contract for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Reform Initiative that exceeds the total fiscal year 1987 costs for CHAMPUS care provided in California and Hawaii, plus normal and reasonable adjustments for price and program growth.

(b) Notwithstanding section 725 of Public Law 100-180, the preemption provisions of title 10, United States Code, chapter 55, section 1103, shall not be limited to contractual provisions relating to coverage of benefits, but shall apply to any and all contracts entered into pursuant to Solicitation Number MDA-903-87-R-0047 and shall preempt any and all State and local laws or regulations which relate to health insurance or to prepaid health care plans.

SEC. 8105. None of the funds appropriated by this Act may be used by the Defense Logistics Agency to assign a supervisor's title or grade when the number of people he or she supervises is considered as a basis for this determination: Provided, That savings that result from this provision are represented as such in future budget proposals.

SEC. 8106. Appropriations made available in this Act by the appropriation "Operation and maintenance, Army" shall be available for logistical support and personnel services required to complete Department of Defense support for the Tenth International Pan American Games.

SEC. 8107. Of funds identified in chapter IIIA, section 5(b) of the Urgent Supplemental Appropriations Act, 1986 (Public Law 99-349), the $18,500,000 made available for purchase of an HC-130 tanker and the $12,000,000 made available for purchase of an aerostat radar system shall be available only for procurement and installation, including site preparations, of aerostat radars.

SEC. 8108. None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of the enactment of this Act, enlists in the armed services for less than three years; nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Administrator of Veterans Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Administrator pay such benefits to any such member: Provided, That these limitations shall not apply to members in combat arms skills.

SEC. 8109. Of the funds made available in this Act, the Department of Defense shall transfer $1,342,000 to the Bureau of Land Management appropriation account for fire management to be used for repair and replacement of materials destroyed by fire, to be merged with, and such funds are to be awarded for the same purposes and for the same time period as the appropriation to which transferred.

SEC. 8110. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Administrator of Veterans Affairs from the Department of Defense Education Benefits Fund when the time spent as a full-time student is credited toward completion of a service commitment: Provided, That this provision shall not apply to those members who have reenlisted with this option prior to October 1, 1987: Provided further, That this provision applies to active components of the Army.

SEC. 8111. Of the funds made available in this Act for military personnel appropriations, up to $2,800,000 may be available for the purposes of section 638 of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180).

SEC. 8112. Funds appropriated or made available in this Act shall be obligated and expended to continue to fully utilize the facilities at the United States Army Engineer's Waterways Experiment Station, including the continued availability of the supercomputer capability and the planned upgrade of this capability: Provided, That none of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the Armed Services and Appropriations Committees of Congress that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8113. The Secretary of Defense shall take such action as may be necessary to implement at the earliest practicable date and with funds provided for such purpose by section 8110 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190; 99 Stat. 1222), the program proposed by the Department of Defense in a letter dated August 30, 1985, from the Assistant Secretary of Defense for Acquisition and Logistics to rehabilitate and convert current steam generating plants at defense facilities in the United States to coal burning facilities in order to achieve a coal consumption target of 1,600,000 short tons of coal per year (including at least 300,000 short tons of anthracite coal) above current consumption levels at Department of Defense facilities in the United States by fiscal year 1994: Provided, That such action shall be subject to the use of only the most cost effective fuel system in the construction of new plants or the conversion of existing plants: Provided further, That during fiscal year 1988, the amount of anthracite coal purchased by the Department shall be at least 300,000 short tons: Provided further, That the funds identified in section 8110 of Public Law 99-190 shall continue to be made available until expended to be used on a non-reimbursable basis for the administrative costs of this program.

SEC. 8114. For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), the term program, project, and activity for appropriations contained in this Act shall be defined as the most specific level of budget items identified in the Department of Defense Appropriations Act, 1988, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the Committee of Conference, the related classified annexes, and the P-1 and R-1 budget justification documents as subsequently modified by Congressional action: Provided, however, that the following exception to the above definition shall apply:

For the Military Personnel and the Operation and Maintenance accounts, the term "program, project, and activity" is defined as the appropriations accounts contained in the Department of Defense Appropriations Act.

SEC. 8115. (a) Of the funds appropriated to the Army, $90,895,000 shall be available only for the Reserve Component Automation System (RCAS): Provided, That none of these funds can be expended:

(1) except as approved by the Chief of the National Guard Bureau;

(2) unless RCAS resource management functions are performed by the National Guard Bureau;

(3) unless the RCAS contract source selection official is the Chief of the National Guard Bureau;

(4) to pay the salary of an RCAS program manager who has not been selected and approved by the Chief of the National Guard Bureau and chartered by the Chief of the National Guard Bureau and the Secretary of the Army;

(5) unless the Program Manager (PM) charter makes the PM accountable to the source selection official and fully defines his authority, responsibility, reporting channels and organizational structure;

(6) to pay the salaries of individuals assigned to the RCAS program management office, source selection evaluation board, and source selection advisory board unless such organizations are comprised of personnel chosen jointly by the Chiefs of the National Guard Bureau and the Army Reserve;

(7) to award a contract for development or acquisition of RCAS unless such contract is competitively awarded under procedures of OMB Circular A-109 for an integrated system consisting of software, hardware, and communications equipment and unless such contract precludes the use of Government furnished equipment, operating systems, and executive and applications software; and

(8) unless RCAS performs its own classified information processing.

(b) None of the funds appropriated in this Act are available for procurement of Tactical Army Combat Service Support Computer Systems (TACCS) unless at least fifty percent of the TACCS computers procured with Army fiscal year 1988 funds are provided to the Reserve Component.

(c) None of the funds appropriated in this Act are available for procurement of mini- and micro-computers for the Army Reserve Component until the RCAS contract is awarded.

SEC. 8116. Whereas a verifiable treaty eliminating United States and Soviet medium- and short-range nuclear ballistic missiles in Europe would enhance United States and European security;

Whereas the Congress supports the President's goal of reducing United States and Soviet conventional forces in Europe and reducing United States and Soviet strategic nuclear forces;

Whereas it is important the Congress and the President be in agreement on United States national security goals and objectives in order for the United States to be in the strongest possible position to negotiate with the Soviet Union future reductions in conventional and strategic nuclear forces;

Whereas the Congress strongly opposes the undercutting of these arms reduction negotiations by either the United States or the Soviet Union through unnecessary military initiatives or counter-productive arms control proposals;

Whereas no decision has been made on the development or deployment of strategic defenses;

Therefore, it is the sense of the Congress that—

(1) in order to maintain the basis for strong deterrence, the Strategic Defense Initiative (SDI) should be a long-term and robust research program to provide the United States with expanded options for responding to a Soviet breakout from the 1972 Anti-Ballistic Missile Treaty and to respond to other future Soviet arms initiatives that might pose a grave threat to United States national security;

(2) by expanding potential United States strategic options the SDI research program can enhance United States leverage in the United States-Soviet arms reduction negotiations and serve as a safeguard for ensuring that negotiated agreements are kept;

(3) future research plans and budgets for SDI must be established using realistic projections of available resources in the overall defense budget and must not undercut other important Department of Defense programs; and

(4) in matching research priorities against available resources, the primary emphasis of SDI should be to explore promising new technologies, such as directed energy technologies, which might have long-term potential to defend against a responsive Soviet offensive nuclear threat.

SEC. 8117. From funds available in this Act for Research, Development, Test, and Evaluation, Army, the Army shall expeditiously and without further delay complete development and operational testing of the M72E4, type classify the weapon, and acquire a technical data package.

SEC. 8118. None of the funds provided for the Department of Defense in this Act may be obligated or expended for fixed price-type contracts in excess of $10,000,000 for the development of a major system or subsystem unless the Under Secretary of Defense for Acquisition determines, in writing, that program risk has been reduced to the extent that realistic pricing can occur, and that the contract type permits an equitable and sensible allocation of program risk between the contracting parties: Provided, That the Under Secretary may not delegate this authority to any persons who hold a position in the Office of the Secretary of Defense below the level of Assistant Secretary of Defense: Provided further, That the Under Secretary report to the Committees on Appropriations of the Senate and House of Representatives in writing, on a quarterly basis, the contracts which have obligated funds under such a fixed price-type developmental contract.

SEC. 8119. Monetary limitations on the purchase price of a passenger motor vehicle shall not apply to vehicles purchased for intelligence activities conducted pursuant to Executive Order 12333 or successor orders.

SEC. 8120. Not to exceed $25,000,000 of the funds appropriated in this Act to the Department of the Army may be used to fund the construction of classified military projects within the Continental United States, including design, architecture, and engineering services.

SEC. 8121. From the amounts appropriated in this Act, funds shall be available for Naval Air Rework Facilities to perform manufacturing in order to compete for production contracts of Defense articles: Provided, That the Navy shall certify that successful bids between Naval Air Rework Facilities and private companies for such production contracts include comparable estimates of all direct and indirect costs: Provided further, That competitions conducted under this authority shall not be subject to section 502 of the Department of Defense Authorization Act, 1981, as amended, section 307 of the Department of Defense Authorization Act, 1985, or Office of Management and Budget Circular A-76.

SEC. 8122. Nothing in section 102d(1) of Public Law 100-178, section 601(b)(2)(A) of Public Law 99-433 (100 Stat. 1065), or section 601(d) of Public Law 99-433 (100 Stat. 1065) shall be construed as requiring or suggesting that the Secretary of Defense avoid allocating personnel reductions to the Defense Intelligence Agency.

SEC. 8123. Notwithstanding any other provision of law, the Department of Defense may waive Federal regulations concerning wage rates for authorized civilian employees hired for certain health care occupations: Provided, That only those occupations cited in the June 30, 1988, report to be submitted by the Assistant Secretary of Defense for Health Affairs shall be covered by this provision.

SEC. 8124. None of the funds available to the Department of Defense are available for obligation or expenditure to procure either directly or indirectly any goods or services from Toshiba Corporation or any of its subsidiaries, or from Kongsberg Vapenfabrikk or any of its subsidiaries: Provided, That the Secretary of Defense may, on a case-by-case basis, waive the preceding prohibition upon a written determination to the Committees on Appropriations of the House of Representatives and the Senate that compliance would be detrimental to United States national security interests: Provided further, That the above provision shall not be effective until ninety days after enactment of this Act.

SEC. 8125. (a) None of the funds available to the Department of Defense may be used for procurement of welded shipboard anchor chain and mooring chain (of all types four or less inches in diameter) manufactured outside of the United States or Canada.

(b) When adequate domestic supplies of welded shipboard anchor chain and mooring chain (of all types four or less inches in diameter) are not available to meet Department of Defense requirements on a timely basis, the procurement restrictions contained in subsection (a) may be waived on a case-by-case basis by the Secretary of the Service responsible for the procurement.

(c) Subsection (a) shall not apply to contracts which are binding as of the date of enactment of this Act.

SEC. 8126. Except as provided in section 2690 of title 10, United States Code, none of the funds available to the Department of Defense may be used for the consolidation or conversion of heating plants at defense facilities in Europe from coal to district heating distribution systems: Provided, That this provision shall not apply to facilities for which consolidation or construction contracts were entered into before September 30, 1987.

SEC. 8127. During the current fiscal year, notwithstanding any other provision of law, the Department of Defense shall exclude from diagnosis related groups regulations: (a) inpatient hospital services in a hospital whose patients are predominantly under 18 years of age and (b) such services in any hospital with respect to (1) discharges involving newborns and infants who are less than 29 days old upon admission (other than discharges classified to diagnosis related group 391), (2) discharges involving pediatric bone marrow transplants, (3) discharges involving children who have been determined to be HIV seropositive, and (4) discharges involving pediatric cystic fibrosis: Provided, That the Department of Defense shall ensure that beneficiaries not be required to pay more in cost-shares under the foregoing exclusions than those which would have been imposed if the diagnosis related group system had been instituted: Provided further, That notwithstanding any other provision of law, appropriations available to the Department of Defense may be used to pay the difference between the cost-shares paid by beneficiaries under the foregoing and the billed charges for services covered by this provision.

SEC. 8128. None of the funds available for programs administered by the Assistant Secretary of the Army for Civil Works in this or any other Act hereafter are available to continue, initiate, review, complete, or approve A-76 studies on contracting out for any reservoir area in the State of Mississippi administered by the Corps of Engineers unless specified in appropriation bills.

SEC. 8129. None of the funds in this Act or any other funds available to commissaries and exchanges may be used to purchase or sell any Toshiba products in those commissaries or exchanges: Provided, That the above provision shall not be effective until ninety days after enactment of this Act.

(TRANSFER OF FUNDS)

SEC. 8130. Of the funds appropriated in this Act and from funds appropriated to the Department of Defense in prior years that remain available for obligation, $316,000,000 may be transferred from any appropriation, except appropriations made available to the Department of the Army, to any appropriate Air Force appropriation, and thirty legislative days after notification of such transfers to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate and without objection of the Committees within that thirty legislative day period, such transfers may be used for activities related to the space launch recovery program, to be merged with and to be available for the same purposes, and the same time period, as the appropriation to which transferred: Provided, That none of the funds transferred pursuant to this paragraph may be obligated or expended for the space launch recovery program until the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration have submitted the plan required by section 5(a) of chapter II of title I of Public Law 100-71 (101 Stat. 398): Provided further, That the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this Act.

SEC. 8131. Notwithstanding any other provision of law, the Secretary of the Air Force shall, from existing prior year funds, make available the additional $18,000,000 necessary to complete the $28,700,000 development and qualification program of the next generation trainer engine (F-109) over the next three-year period: Provided, That none of the funds may be obligated or expended until the Air Force submits a report to the Committees on Appropriations which identifies the specific Air Force aircraft on which the F-109 engine will be used.

(TRANSFER OF FUNDS)

SEC. 8132. Notwithstanding any other provision of law, the Department of Defense may transfer prior year unobligated balances and funds appropriated in this Act to the operation and maintenance appropriations of the reserve components for the purpose of providing military technician pay the same exemption from sequestration set forth in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) as that granted the other military personnel accounts: Provided, That any transfer made pursuant to any use of the authority provided by this provision shall be limited so that the amounts reprogrammed to the operation and maintenance appropriations of the reserve components do not exceed the amounts sequestered under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119): Provided further, That the authority to make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act: Provided further, That the Secretary of Defense may proceed with such transfer after notifying the Appropriations Committees of the House of Representatives and the Senate twenty legislative days before any such transfer of funds under this provision and if no objection is expressed within that twenty legislative day period.

(TRANSFER OF FUNDS)

SEC. 8133. Funds appropriated in this Act and from funds appropriated to the Department of Defense in prior years that remain available for obligation, $100,000,000 may be transferred from any such appropriation to Aircraft Procurement, Air Force, for the procurement of six replacement aircraft for the Flight Inspection Program, to be merged with and to be available for the same purposes, and the same time period, as the appropriation to which transferred: Provided, That the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this Act.

SEC. 8134. None of the funds appropriated by this Act may be used to carry out full-scale engineering development or deployment on the project under the Strategic Defense Initiative designated on September 1, 1987, as the Space-Based Interceptor (SBI) Project.

SEC. 8135. Sections 4, 431, and 634 of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) are hereby repealed.

SEC. 8136. Notwithstanding any other provision of law, during fiscal year 1988, the Secretary of Defense shall make available to the United States Coast Guard without reimbursement not less than $105,000,000 in supplies, fuel, training assistance, and other operational support, exclusive of administrative costs, including $5,000,000 for the completion of development of a low-frequency, lightweight, portable sonar for the Coast Guard's antisubmarine warfare mission requirements, in addition to such assistance as would ordinarily be provided in the absence of this provision: Provided, That such items shall be deemed Department of Defense expenditures for Coast Guard defense related activities: Provided further, That from funds provided for "Aircraft Procurement, Navy, fiscal year 1987", $33,000,000 shall be available for procurement and installation of APG-66 radar and other sensors for HU-25 aircraft and seabased aerostat radar systems in support of the Coast Guard Drug Interdiction Program.

SEC. 8137. The President shall submit in his budget proposals to the Congress for fiscal year 1989 an arrangement for the Ready Reserve Fleet in which funding and program responsibilities are consolidated in a single Federal organization.

SEC. 8138. It is the sense of the Congress that the Secretary of Defense should name one of the new nuclear aircraft carriers appropriated in fiscal year 1988 the U.S.S. JOHN C. STENNIS.

(TRANSFER OF FUNDS)

SEC. 8139. In addition to the amounts appropriated or otherwise made available in this Act, $875,000,000 is appropriated to fully fund the military pay raise with any remaining balance of the appropriation available to fund the civilian pay raise as authorized by law: Provided, That such amounts shall be transferred and merged with "Military Personnel" and "Operation and Maintenance" appropriations accounts as applicable and that such transfer authority shall be in addition to that provided elsewhere in this Act: Provided further, That such sums as may be necessary for authorized pay raise costs in excess of this appropriation shall be accommodated within the levels appropriated in this Act.

SEC. 8140. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

SEC. 8141. No naval vessel or any vessel owned and operated by the Department of Defense homeported in the United States may be overhauled, repaired, or maintained in a foreign owned and operated shipyard located outside of the United States, except for voyage repairs.

SEC. 8142. (a) Section 38(b)(1) of the Arms Export Control Act (22 U.S.C. 2778(b)(1)) is amended—

(1) by inserting "(A)" before "As prescribed in"; and

(2) by adding at the end the following:

"(B) The prohibition under such regulations required by the second sentence of subparagraph (A) shall not extend to any military firearms (or ammunition, components, parts, accessories, and attachments for such firearms) of United States manufacture furnished to any foreign government by the United States under this Act or any other foreign assistance or sales program of the United States if—

"(i) such firearms are among those firearms that the Secretary of the Treasury is, or was at any time, required to authorize the importation of by reason of the provisions of section 925(e) of title 18, United States Code (including the requirement for the listing of such firearms as curios or relics under section 921(a)(13) of that title); and

"(ii) such foreign government certifies to the United States Government that such firearms are owned by such foreign government.".

(b)(1) Except as provided in paragraphs (2) and (3), subparagraph (B) of section 38(b)(1) of the Arms Export Control Act, as added by subsection (a), shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

(2)(A) Such subparagraph shall take effect on the date of the enactment of this Act with respect to any military firearms or ammunition (or components, parts, accessories and attachments for such firearms) with respect to which an import permit was issued by the Secretary of the Treasury on or after July 1, 1986, irrespective of whether such import permit was subsequently suspended, revoked, or withdrawn by the Secretary of the Treasury based on the application of section 38(b)(1) of the Arms Export Control Act as in effect on the day before the date of the enactment of this Act.

(B) In the case of an import permit described in subparagraph (A) which was suspended, revoked, or withdrawn by the Secretary of the Treasury during the period beginning on July 1, 1986, and ending on the date of the enactment of this Act under the conditions described in such subparagraph, such import permit shall be reinstated and reissued immediately upon the enactment of this Act, and in any event not later than ten days after the date of the enactment of this Act.

(3) During the period preceding the revision of regulations issued under section 38(b)(1) of the Arms Export Control Act to reflect the provisions of subparagraph (B) of such section, as added by subsection (a), such regulations may not be applied with respect to matters covered by paragraph (2) of this subsection so as to prohibit or otherwise restrict the importation of firearms described in that paragraph or in any other manner inconsistent with that paragraph, notwithstanding that such regulations have not yet been so revised: Provided, That this section shall not take effect if during the twenty day period beginning on the date of enactment of this section the Secretary of State, the Secretary of Defense, or the Secretary of the Treasury notifies Congress that he has an objection to the intent of this section: Provided further, That the Attorney General shall, within the period of time stated in the first proviso, submit a certification to Congress indicating whether the enactment of this section will interfere with any ongoing criminal investigation with respect to this section. If a certification of criminal investigative interference or an objection to the intent of this section is made, as herein provided, no permit shall be issued to anyone.

SEC. 8143. (a) EXTENSION OF PROGRAM.—Section 516(a) of the Foreign Assistance Act of 1961 is amended in the first sentence by striking out "and 1988" and inserting in lieu thereof ", 1988, and 1989,".

(b) MAJOR NON-NATO ALLIES.—Section 516(a) of that Act is amended in the first sentence by inserting ", and to major non-NATO allies on the southern and southeastern flank of NATO which are eligible for United States security assistance," after "military structure".

(c) EXCESS DEFENSE ARTICLES.—Section 516 of that Act is amended—

(1) in subsection (a)—

(A) in the first sentence, by inserting "excess" before "defense articles", and

(B) in the second sentence, by inserting "excess defense" before "articles"; and

(2) in the text of subsection (b) preceding paragraph (1), in subsection (c), and in subsection (d), by inserting "excess" before "defense articles".

SEC. 8144. None of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States Government may be obligated or expended during fiscal year 1988 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance unless in accordance with the terms and conditions specified by section 104 of the Intelligence Authorization Act (Public Law 100-178) for fiscal year 1988.

This Act may be cited as the "Department of Defense Appropriations Act, 1988".

And the Senate agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(c) Such amounts as may be necessary for programs, projects or activities provided for in the District of Columbia Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I

FISCAL YEAR 1988 APPROPRIATIONS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1988, $430,500,000, which shall not be subject to apportionment and shall be paid to *the District of Columbia by the Secretary of the Treasury within 15 days after the enactment of this joint resolution: Provided, That none of these funds shall be made available to the District of Columbia until the number of full-time uniformed officers in permanent positions in the Metropolitan Police Department is at least 3,880, excluding any such officer appointed after August 19, 1982, under qualification standards other than those in effect on such date.*

Federal Payment for Water and Sewer Services

For payment to the District of Columbia for the fiscal year ending September 30, 1988, in lieu of reimbursement for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government, $40,500,000, as authorized by the Act of May 18, 1954, as amended (D.C. Code, secs. 43-1552 and 43-1612): Provided, That $7,900,000 of this amount shall be paid to the District government by the Secretary of the Treasury immediately upon enactment of this Act for fiscal years 1986 and 1987 adjustments: Provided further, That $32,600,000 shall be paid to the District government by the Secretary of the Treasury in four equal quarterly payments of $8,150,000 each, with each payment to be made on the first day of the beginning of each quarter without further justification by the District of Columbia government.

Federal Contribution to Retirement Funds

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), $50,000,000.

Transitional Payment for Saint Elizabeths Hospital

For a Federal contribution to the District of Columbia, as authorized by the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, approved November 8, 1984 (98 Stat. 3369; Public Law 98-621), $29,000,000.

Criminal Justice Initiative

(including rescission)

Of funds appropriated under this head in Public Law 99-500 and Public Law 99-591 for the design and construction of a prison in the District of Columbia, $20,000,000 are rescinded.

For the design and construction of a prison within the District of Columbia, to become available October 1, 1988, $20,000,000: Provided, That no funds are available for construction on the South part of Square E-1112 as recorded in Subdivision Book 140, Page 199 in the Office of the Surveyor of the District of Columbia unless previously approved by the Committees on Appropriations of the Senate and House of Representatives: Provided further, That the $50,000,000 herein and heretofore made available for the prison project shall remain in the United States Treasury and shall be transferred to the District of Columbia government only to the extent that outstanding obligations are due and payable to entities other than agencies and organizations of the District of Columbia government, the payments to such agencies and organizations may be made only in reimbursement for amounts actually expended in furtherance of the design and construction of the prison.

Division of Expenses

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

Governmental Direction and Support

Governmental direction and support, $114,328,000: Provided, That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: Provided further, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: Provided further, That notwithstanding any other provision of law, there is hereby appropriated $5,417,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, of which $763,000 shall be derived from the general fund and not to exceed $4,654,000 shall be derived from the earnings of the applicable retirement funds: Provided further, That the District of Columbia Retirement Board shall provide to the Congress and the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: Provided further, That the District of Columbia Retirement Board shall provide the Mayor for transmittal to the Council of the District of Columbia an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report: Provided further, That of the $150,000 appropriated for fiscal year 1988 for Admission to Statehood, $75,000 shall be for the Statehood Commission and $75,000 shall be for the Statehood Compact Commission: Provided further, That the District of Columbia shall identify the sources of funding for admission to Statehood from its own locally generated revenues: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: Provided further, That no part of these funds shall be used for lobbying to support or defeat legislation pending before Congress or any State legislature.

Economic Development and Regulation

Economic development and regulation, $140,467,000: Provided, That the District of Columbia Housing Finance Agency established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: Provided further, That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Agency and shall be repaid to the District of Columbia only from available operating revenues of the Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: Provided further, That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia: Provided further, That up to $270,000 within the 15 percent set-aside for special programs within the Tenant Assistance Program shall be targeted for the single room occupancy initiative.

Public Safety and Justice

Public safety and justice, including purchase of not to exceed 135 passenger-carrying vehicles for replacement only (including 130 for police-type use and five for fire-type use) without regard to the general purchase price limitation for the current fiscal year, $655,524,000: Provided, That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles, and the Fire Department is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: Provided further, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: Provided further, That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1988, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1975: Provided further, That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1988, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1985: Provided further, That $50,000 of any appropriation available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor: Provided further, That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: Provided further, That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: Provided further, That the District of Columbia shall also take steps to publicize the availability of that service among the residents of the area surrounding the Lorton prison: Provided further, That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County and Prince William County, Virginia, for expenses incurred by the counties during fiscal year 1988 in relation to the Lorton prison complex. Such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison: Provided further, That none of the funds appropriated by this Act may be used to imple-

ment any plan that includes the closing of Engine Company 3, located at 439 New Jersey Avenue, Northwest: Provided further, That none of the funds provided by this Act may be used to implement District of Columbia Board of Parole notice of emergency and proposed rulemaking as filed with the District of Columbia Register July 25, 1986: Provided further, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services which are performed in emergencies by the Guard in a militia status and which are requested by the Mayor, in amounts which shall be jointly determined and certified as due and payable for such services by the Mayor and the Commanding General of the District of Columbia National Guard: Provided further, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and their availability shall be deemed as constituting payment in advance for the emergency services involved.

Public Education System

Public education system, including the development of national defense education programs, $570,594,000, to be allocated as follows: $413,567,000 for the public schools of the District of Columbia, of which $600,000 shall be paid within 15 days of the enactment of this Act directly to the District of Columbia Public Schools Foundation for entry level career employment programs, together with $200,000 which shall be paid directly to the Foundation when the Foundation certifies that an equal amount of private contributions has been received; $62,318,000 for the District of Columbia Teachers' Retirement Fund; $71,667,000 for the University of the District of Columbia; $17,047,000 for the Public Library; $3,544,000 for the Commission on the Arts and Humanities; $2,100,000 for the District of Columbia School of Law; and $351,000 for the Educational Institution Licensure Commission: Provided further, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: Provided further, That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: Provided further, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1988, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

Human Support Services

Human support services, $695,591,000: Provided, That $14,700,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation.

Public Works

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $213,654,000, of which not to exceed $4,141,000 shall be available for the School Transit Subsidy: Provided, That this appropriation shall not be available, prior to October 1, 1988, for collecting ashes or miscellaneous refuse from hotels and places of business or from apartment houses with four or more apartments, or from any building or connected group of buildings operating as a rooming or boarding house as defined in the housing regulations of the District of Columbia.

Washington Convention Center Fund

For the Washington Convention Center Fund, $6,758,000: Provided, That the Convention Center Board of Directors, established by section 3 of the Washington Convention Center Management Act of 1979, effective November 3, 1979 (D.C. Law 3-36; D.C. Code, sec. 9-602), shall reimburse the Auditor of the District of Columbia for all reasonable costs for performance of the annual convention center audit.

Repayment of Loans and Interest

For reimbursement to the United States of funds loaned in compliance with an Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); the Departments of Labor, and Health, Education and Welfare Appropriation Act of 1955, approved July 2, 1954 (68 Stat. 443; Public Law 83-472); section 1 of an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of an Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); and section 723 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, note); and section 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act, approved October 13, 1977 (91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, $220,905,000.

Repayment of General Fund Deficit

For the purpose of reducing the $224,881,000 general fund accumulated deficit as of September 30, 1986, $20,000,000 of which not less than $19,118,000 shall be funded and apportioned by the Mayor from amounts otherwise available to the District of Columbia government (including amounts appropriated by this Act or revenues otherwise available, or both): Provided, That if the Federal payment to the District of Columbia for fiscal year 1988 is reduced pursuant to an order issued by the President under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177, approved December 12, 1985), the percentage (if any) by which the $20,000,000 set aside for repayment of the general fund accumulated deficit under this appropriation title is reduced as a consequence shall not exceed the percentage by which the Federal payment is reduced pursuant to such order.

Short-Term Borrowings

For the purpose of funding interest related to borrowing funds for short-term cash needs, $3,750,000.

Optical and Dental Benefits

For optical and dental costs for nonunion employees, $1,489,000.

Energy Adjustment

The Mayor shall reduce authorized energy appropriations and expenditures within object class 30a (energy) in the amount of $1,200,000, within one or several of the various appropriation headings in this Act.

Capital Outlay

For construction projects, $272,526,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, secs. 43-1512 to 43-1519); the District of Columbia Public Works Act of 1954, as approved May 18, 1954 (68 Stat. 101; Public Law 83-364); an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, secs. 9-219 and 47-3402); section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85-692; D.C. Code, sec. 40-805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91-143; D.C. Code, secs. 1-2451, 1-2452, 1-2454, 1-2456, and 1-2457); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: Provided, That $15,353,000 shall be available for project management and $13,134,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor, and that the funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: Provided further, That $4,000,000 of the $272,526,000, shall be financed from general fund operating revenues for pay-as-you-go capital projects for the Department of Public Works: Provided further, That $2,664,000 of the $272,526,000 shall be for the purchase of snow removal equipment of which $703,000 shall be financed from general fund operating revenues: Provided further, That $26,919,000 of the $272,526,000, shall be available to the Board of Education of the District of Columbia for the construction of new roofs for various school buildings, for boiler, window, door, and air conditioning replacements in various school buildings, for room conversions, erosion control, and general improvement projects at various school buildings, for an Administration Building site study and for the Sharpe Health School Modernization Project with $21,109,000 of these funds available for construction, $2,387,000 available for architectural design, $1,423,000 available for project management, and $2,000,000 for equipment: Provided further, That $10,000,000 appropriated in the fiscal year *ending September 30, 1986, and $10,000,000 appropriated in the fiscal year ending September 30, 1987, shall be available to the Board of Education of the District of Columbia for asbestos abatement and removal, with $17,000,000 available for construction, $1,500,000 available for architectural design, and $1,500,000 for project management: Provided further, That notwithstanding the last sentence of section 405(b) of the District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974 (88 Stat. 1423; Public Law 93-471; D.C. Code, sec. 31-1535(b)), the Board of Education of the District of Columbia may procure contracts for the construction of new roofs for various school buildings, for boiler, window, door, and air conditioning replacements in various school buildings, for room conversions, erosion control and general improvement projects at various school buildings, for asbestos abatement, for an Administration Building site study, and for the Sharpe Health School Modernization Project: Provided further, That $12,819,000 of the $272,526,000 shall be available to the University of the District of Columbia for the construction of an underground parking extension at the Van Ness campus, for architectural barrier removal, for heating, ventilation, and air conditioning and partition modification, for a security system evaluation, and for the design and project management of the Mount Vernon Square campus: Provided further, That $500,000 of the $272,526,000 shall be available to the District of Columbia School of Law for general repair, rehabilitation, and improvement projects: Provided further, That all such funds shall be available only for the specific projects and purposes intended: Provided further, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1989, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1989: Provided further, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.*

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $169,013,000, of which $31,720,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, $7,358,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, sec. 43-1512 et seq.): Provided, That the requirements and restrictions which are applicable to general fund capital improvement projects and which are set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund established by the District of Columbia Appropriation Act for fiscal year 1982, approved December 4, 1981, as amended (95 Stat. 1174, 1175; Public Law 97-91), for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Code, secs. 2-2501 et seq. and 22-1516 et seq.), $5,458,000, to be derived from non-Federal District of Columbia revenues: Provided, That the District of Columbia shall identify the sources of funding for this appropriation title from its own locally-generated revenues: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), $250,000.

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor, except for those funds and programs for the Metropolitan Police Department under the heading "Public Safety and Justice" which shall be considered as the amounts set apart exclusively for and shall be expended solely by that Department; and the appropriation under the heading "Repayment of General Fund Deficit" which shall be considered as the amount set apart exclusively for and shall be expended solely for that purpose.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: Provided, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101-7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: Provided, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: Provided, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90-445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. Not to exceed 4½ per centum of the total of all funds appropriated by this Act for personal compensation may be used to pay the cost of overtime or temporary positions.

SEC. 110. Appropriations in this Act shall not be available, during the fiscal year ending September 30, 1988, for the compensation of any person appointed to a permanent position in the District of Columbia government during any month in which the number of employees exceeds 37,393, the number of positions authorized by this Act.

SEC. 111. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 112. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1989, shall be transmitted to the Congress no later than April 15, 1988.

SEC. 113. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on Governmental Efficiency, Federalism and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 114. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 115. None of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 116. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 117. None of the Federal funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

SEC. 118. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: Provided, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

SEC. 119. The Mayor shall not borrow any funds for capital projects unless he has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 120. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 121. None of the funds appropriated in this Act may be used for the implementation of a personnel lottery with respect to the hiring of fire fighters or police officers.

SEC. 122. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443) which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.).

SEC. 123. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 124. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon; Provided, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 125. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) for any position for any period during the last quarter of calendar year 1987 shall be deemed to be the rate of pay payable for that position for September 30, 1987.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, a per diem compensation at a rate established by the Mayor.

SEC. 126. Notwithstanding any other provision of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: Provided, That for pay purposes, employees of the District of Columbia govenment shall not be subject to the provisions of title 5 of the United States Code.

SEC. 127. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency and the District's best interest.

SEC. 128. No later than 30 days after the end of the first quarter of fiscal year 1988, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1988 revenue estimate as of the end of the first quarter of fiscal year 1988: Provided, That these estimates shall be used in the fiscal year 1989 annual budget request: Provided further, That the officially revised estimates at midyear shall be used for the midyear report.

SEC. 129. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 806; Public Law 93-198; D.C. Code, sec. 47-326), is amended by striking out "sold before October 1, 1987" and inserting in lieu thereof "sold before October 1, 1988".

SEC. 130. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 131. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: Provided, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by Public Law 99-177, as amended.

SEC. 132. Beginning with the fiscal year 1988, amounts appropriated for any fiscal year as the Federal payment to the District of Columbia under the District of Columbia Self-Government and Governmental Reorganization Act, as amended (D.C. Code, section 47-3406), shall not be subject to apportionment and shall be paid by the Secretary of the Treasury to the District of Columbia no later than 15 days after the beginning of the fiscal year for which they are appropriated (or no later than 15 days after the date of the enactment of the appropriating Act, if later).

SEC. 133. Beginning with the fiscal year 1988, amounts appropriated for any fiscal year for payment to the District of Columbia in lieu of reimbursement for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government, under sections 106 and 212 of the District of Columbia Public Works Act of 1954, as amended (D.C. Code, sections 43-1552, 43-1612), shall be automatically apportioned in four equal amounts for the four quarters of the fiscal year and each such amount shall be paid in full by the Secretary of the Treasury to the District of Columbia on the first day of the beginning of the fiscal quarter involved without further justification by the District of Columbia government.

SEC. 134. None of the funds available to the District of Columbia government shall be used for any purpose involved in billing individual agencies or establishments for water and water services and sanitary sewer services traditionally funded under the account "Federal Payment for Water and Sewer Services" unless and until existing statutes (sections 106 and 212 of the District of Columbia Public Works Act of 1954, as amended, Public Law 364, approved May 18, 1954) are amended to specifically provide for such billing.

SEC. 135. Federal funds hereafter appropriated to the District of Columbia government shall not be subject to apportionment except to the extent specifically provided by statute.

SEC. 136. After the effective date of this Joint Resolution, the President shall include, without change, in each annual budget submitted to the Congress under section 1105 of title 31, United States Code, the values estimated by the Mayor of the District of Columbia for water and water services and sanitary sewer services furnished to facilities of the United States Government under sections 106 and 212 of the District of Columbia Public Works Act of 1954, as amended (D.C. Code, sections 43-1552, 43-1612).

TITLE II

FISCAL YEAR 1987 SUPPLEMENTAL

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

For an additional amount for "Governmental direction and support", $3,115,000: Provided, That of the funds appropriated under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591, $1,056,000 are rescinded: Provided further, That notwithstanding any other provision of law, there is appropriated $1,000,000 to *pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, which shall be derived from the earnings of the applicable retirement funds.*

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $309,000: Provided, That of the funds appropriated under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591, $5,281,000 are rescinded.

PUBLIC SAFETY AND JUSTICE

For an additional amount for "Public safety and Justice", $60,355,000, including ten additional passenger-carrying vehicles for the Fire Department.

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $4,810,000, to be allocated as follows: $2,250,000 additional for the public schools of the District of Columbia; $1,354,000 additional for the University of the District of Columbia; $1,146,000 additional for the District of Columbia School of Law, which amount shall remain available until expended; $60,000 additional for the Educational Institution Licensure Commission: Provided, That of the funds appropriated under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591, $300,000 for the Public Library and $400,000 for the District of Columbia Teachers' Retirement Fund are rescinded.

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human support services", $5,545,000: Provided, That $3,445,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: Provided further, That of the funds appropriated under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591, $4,067,000 are rescinded.

PUBLIC WORKS

(INCLUDING RESCISSION)

For an additional amount for "Public works", $1,140,000: Provided, That of the funds appropriated under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591, $6,400,000 are rescinded.

REPAYMENT OF LOANS AND INTEREST

(RESCISSION)

Of the funds appropriated under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591, $3,488,000 are rescinded.

PERSONAL SERVICES

For an additional amount for "Personal services", $1,800,000, to be apportioned by the Mayor to the various appropriations titles for optical and dental costs for non-union employees.

CAPITAL OUTLAY

For an additional amount for "Capital outlay", $20,585,000: Provided, That $310,000 of this additional amount shall be for project management and $240,000 of this additional amount shall be for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor, and that the funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System.

General Provisions

Sec. 201. Notwithstanding any other provision of law, appropriations made and authority granted pursuant to this title shall be deemed to be available for the fiscal year ending September 30, 1987.

This Act may be cited as the "District of Columbia Appropriations Act, 1988".

And the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(d) Such amounts as may be necessary for programs, projects or activities provided for in the Energy and Water Development Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Making appropriations for energy and water development for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

Corps of Engineers—Civil

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

General Investigations

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $138,767,000, to remain available until expended: Provided, That the Secretary of the Army is directed to proceed expeditiously with the feasibility study for the multipurpose project at Sunset Harbor, California, to demonstrate the feasibility of the financing mechanism of section 916 of Public Law 99-662 and to undertake the wetlands restoration and other project purposes set forth in section 1119 of Public Law 99-662: Provided further, That not to exceed $19,700,000 shall be available for obligation for research and development activities: Provided further, That of the amounts appropriated under this heading $220,000 shall be available for a reconnaissance study of the South Fork of the Sangamon River, Illinois.

Using funds previously appropriated in the Energy and Water Development Appropriation Act, 1987, Public Law 99-591, the Secretary of the Army is directed to undertake the following study: Indiana Shoreline Erosion, including preconstruction engineering and design, Indiana.

The Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following items under General Investigations in fiscal year 1988:

Greenwood Lake, New Jersey;

East Bank Stabilization, New Jersey;

Beatties Dam, New Jersey;

Olcott Harbor Improvements, New York;

Atlantic Coast of New York City from Rockaway Inlet to Norton Point, New York (Coney Island Area);

Red River Waterway, Shreveport, Louisiana to Index, Arkansas;

Beaver Lake, Arkansas;

Brunswick County Beaches, North Carolina;

Westwego to Harvey Canal, Louisiana;

McCook and Thornton Reservoirs (CUP), Illinois;

Miami Harbor, Florida (cleanup);

St. Petersburg, Florida (coastal areas);

Little River, Horatio, Arkansas.

The Secretary of the Army is directed to expand the scope of the Denison Dam-Lake Texoma, Texas and Oklahoma, General Investigation study, authorized by United States Senate Public Works Committee Resolutions on April 30, 1960, and April 12, 1965, to consider alternatives for improving management and utilization of water resources of the Red River Basin at and above the Denison Dam-Lake Texoma project and to include consideration of the feasibility of additional reservoirs upstream of Denison Dam and direct current interconnections between the Southwest Power Pool and the Electric Reliability Council of Texas.

Funds are included herein for the Arthur Kill extension to Fresh Kills, near Carteret, New Jersey, to continue the ongoing post authorization planning, engineering and design provided that the level of detail shall be commensurate with General Design Memorandum level so that at the conclusion of the current effort and Secretary of the Army approval under section 202(b) of Public Law 99-662, only the preparation of plans and specifications will be necessary before construction.

The Secretary of the Army shall allocate $395,000 to continue preconstruction engineering and design and develop and execute a local cooperative agreement covering all elements of the Roanoke River Upper Basin, Virginia, project as described in the report of the Chief of Engineers dated August 5, 1985, and authorized in section 401(a) of the Water Resources Development Act, 1986 (Public Law 99-662).

The Secretary of the Army, acting through the Chief of Engineers, is directed to include preconstruction engineering and design for the upper Green Brook Sub-Basin and the Stony Brook Tributary, as authorized in the Water Resources Development Act of 1986, as part of preconstruction engineering and design for the flood control project for the Raritan River Basin, Green Brook Sub-Basin, New Jersey.

Construction, General

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,077,985,000 of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterway Trust Fund, to remain available until expended, and of which not more than $7,000,000 shall be available to pay the au-

thorized governing body of the Tohono O'odham Nation in accordance with the provisions of section 4(a) of Public Law 99-469; and in addition, $103,690,000, to remain available until expended, for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, $87,000,000 for work presently scheduled and $16,690,000 with which the Secretary of the Army is directed, as a minimum to award continuing contracts in fiscal year 1988 for construction and completion of each of the following features of the Red River Waterway: in Pool 3, Nantachie/Red Bayou Revetment Extension and Crain and Eureka Revetments; in Pool 4, Gahagan, Piermont, Nichols and Howard Realignments and Coushatta Capout; and in Pool 5, Cuples Revetment; and the amount provided herein includes $2,000,000 with which the Secretary of the Army is directed to initiate an accelerated design schedule for Locks and Dams 4 and 5 in order to initiate the first phase construction of Locks and Dams 4 and 5 by April 1990 and to complete construction of the Locks and Dams by 1994. None of these contracts are to be considered fully funded and contracts are to be initiated with funds herein provided; and in addition, $13,500,000, to remain available until expended, together with funds heretofore or hereafter appropriated, with which the Secretary of the Army is directed to award a single continuing contract for construction and completion of the Cooper River Seismic modification, South Carolina, project authorized by Public Law 98-63: Provided, That no fully allocated funding policy shall apply with respect to the construction of this project; and in addition, $5,000,000, to be made available to Metropolitan Dade County, Florida, for the purpose of a 50 per centum, cost-shared project, including environmental restoration, hurricane protection facilities and approximately one mile of dock space, establishing public access and a regional public park along the Miami River in the Allapatah community across from Curtis Park.

The Secretary of the Army is directed to initiate construction of the Presque Isle Peninsula, Erie, Pennsylvania (Permanent Project), authorized in section 501(a) of Public Law 99-662. The project to be constructed is described in the report of the Chief of Engineers dated October 2, 1981. Of amounts provided herein, $500,000 is to be used to initiate construction of the Presque Isle Peninsula project in fiscal year 1988.

Within available funds, the Secretary of the Army is hereby directed to construct streambank protection measures along the west shoreline of the city of Guntersville, Alabama, on Guntersville Lake, under the authority of section 14 of Public Law 79-526.

The Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following projects in fiscal year 1988:

Sandy Hook to Barnegat Inlet, including Sea Bright to Ocean Township and Asbury Park to Manasquan, New Jersey;

New Melones Lake, California;

Barbourville, Kentucky (Levisa/Tug Forks of Big Sandy River and Upper Cumberland River, West Virginia, Virginia and Kentucky);

Harlan, Kentucky (Levisa/Tug Forks of Big Sandy River and Upper Cumberland River, West Virginia, Virginia and Kentucky): Provided, That no fully allocated funding policy shall apply with respect to the construction of Barbourville, Kentucky, and Harlan, Kentucky (Levisa/Tug Forks of Big Sandy River and Upper Cumberland River, West Virginia, Virginia and Kentucky);

Walnut and Cherry Street Bridges, Massillon, Ohio;

Mill Creek, Fort Smith, Arkansas;

Cape May Inlet to Lower Township, New Jersey;

Ouachita River Levees, Louisiana;

Gentilly, Minnesota;

Century Park, Lorain, Ohio;

Community Park, Sheffield Lake, Ohio;

Tangier Island, Virginia;

Shelburne Bay, Vermont.

The Secretary of the Army, using funds provided by this resolution, is directed to initiate construction of the Parker Lake Project, and is directed, as a minimum, to award continuing contracts in fiscal year 1988 for construction and completion of construction of the access road and project office and the purchase of necessary land for the Parker Lake Project.

The Secretary of the Army, using funds provided by this resolution, is directed to construct in accordance with Public Law 99-662 the Mud Creek Bridge Replacement Project at Eufaula Lake, Oklahoma.

The Secretary of the Army is authorized and directed to use the sum of $11,000,000 herein appropriated and which is to remain available until expended to carry out the provisions for the harbor modifications of the Cleveland Harbor, Ohio project contained in Public Law 99-662. The provisions include bulkheading and other necessary repairs at Pier 34 and approach channels and necessary protective structures for mooring basins for transient vessels in the area south of Pier 34 with necessary material to fill the area between Piers 34 and 36 with remaining fill to be disposed in the existing containment site 14. The local sponsor will provide the Corps of Engineers with the design plans for these projects. The Corps of Engineers shall also conduct a study, pursuant to section 992, of the Cuyahoga River and harbor modifications required by the Cleveland Cuyahoga County Port Authority. The Corps of Engineers shall also be directed to provide technical assistance for these harbor modifications to the Cleveland-Cuyahoga County Port Authority and Pier 34. Congress hereby finds the project justified; and, for all elements in this appropriation, the funds expended by the Ohio Department of Natural Resources beginning with the first quarter of fiscal year 1986 in the area south of Pier 34 shall be considered eligible as non-Federal share consistent with the provisions of section 215 of Public Law 90-483, as amended. The Corps of Engineers shall inform the Congress of any delays in the project.

The Secretary of the Army is directed to dredge Saxon Harbor, Wisconsin, and to construct wood cribs as a permanent solution to the damages being caused by the Federal navigation project under the provisions of section 111 of the 1968 River and Harbor Act, Public Law 90-483, as amended.

The Secretary of the Army is directed to accomplish channel rehabilitation, repair and rehabilitation of fourteen pump stations and appurtenant works and rehabilitation and replacement of bridge structures in the vicinity of the East Side Levee and Sanitary District in East St. Louis, Illinois, by making available $1,000,000 in fiscal year 1988.

The Secretary of the Army, because of the Federal trust relationship that links the United States and Indian people, is directed to expend within available funds not to exceed $50,000 to plan and not to exceed $700,000 to design and engineer appropriate works to alleviate high ground water problems on agricultural lands owned by Cochiti Pueblo, New Mexico, directly downriver from Cochiti Dam: Provided, however, That no such funds shall be expended by the Secretary for design and engineering until the Secretary and the Tribal council of the Pueblo have agreed in writing to a plan of design that, in the judgment of both parties, will resolve the problems related to such high ground water: And, Provided further, That the Secretary and the Tribal Council of the Pueblo shall continue to negotiate, and, if the parties so agree, the Secretary shall submit to Congress, if appropriate, a proposed settlement that would be in lieu of, or in addition to, any construction of works for the purposes of alleviating high ground water problems. For the purposes of this negotiation only, the provisions of section 3 of the Act of May 15, 1928 (45 Stat. 535, ch. 569; 33 U.S.C. 702c) and sections 2401(a), 2401(b), and 2680(a) of title 28, United States Code, are waived. Nothing in this paragraph shall be construed to prejudice the rights, responsibilities, and defense of either party in any litigation between the Pueblo and the United States, nor commit the Secretary of the Army to a structural solution of the controversy.

The project for flood protection on the Lower San Joaquin River, California, authorized by section 10 of the Flood Control Act approved December 22, 1944 (58 Stat. 901), is modified—

(1) to authorize the Secretary of the Army, acting through the Chief of Engineers, to perform, in connection with the clearing and snagging authorized to be performed on such river from Stockton, California, to Friant Dam as part of such project by the Supplemental Appropriations Act, 1983 (97 Stat.310)—

(A) clearing and snagging in the area of the North Fork of the Kings River in Mendota Pool from the southerly boundary of the James Reclamation District Number 1606 to Mendota Dam;

(B) fish and wildlife mitigation; and

(C) such rip-rapping in the area of the clearing and snagging on such rivers as may be necessary to prevent erosion from such clearing and snagging; and

(2) to increase the estimated cost of the clearing and snagging on the Lower San Joaquin River, including the activities authorized by paragraph (1), from $5,000,000 to $8,000,000.

The Secretary of the Army, acting through the Chief of Engineers, is directed to continue with planning, design, engineering and construction of the Des Moines Recreational River and Greenbelt project in accordance with the General Design Memorandum dated September 1987 and Public Law 99-591 using funds heretofore, herein, or hereafter appropriated.

The following portion of the Hudson River in New York County, State of New York, is hereby declared not to be part of the federally authorized Channel Deepening Project: that portion of the Hudson River lying to the west of the United States Pierhead Line as it exists on the effective date of this Act, more specifically described as beginning at a point at the intersection of the north side of North Cove and the existing pierhead line, proceeding in a northerly direction along the existing pierhead line to a point formed by the pierhead line and the southerly side of Vesey Street if extended; thence in *a westerly direction on a line perpendicular to the existing pierhead line 200 feet to a point; thence southerly on a line parallel to the existing pierhead line to a point on the northerly line of the North Cove if extended; thence in an easterly direction 200 feet to the point and place of beginning. This declaration shall apply to all or any part of the above-described area used or needed for trans-Hudson passenger ferry boat service as such may be operated by or contracted for operation by a bistate agency created by Compact between the States of New York and New Jersey.*

The Secretary of the Army shall allocate $2,800,000 heretofore appropriated, and is directed to initiate and complete construction of the breakwater for the Port Austin Harbor project in Michigan in accordance with the provisions for economic justification of the project contained in the River and Harbor Act approved 2 March 1945 (Public Law 14, 79th Congress, 1st Session).

Of funds available to the Army Corps of Engineers, Flood Control and Navigation, Research and Development, $250,000 shall be made available for research to prevent ice jamming and related flooding in the Dump Creek area of the Salmon River in Idaho.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act, approved August 18, 1941, as amended, $20,000,000, to remain available until expended.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g-1), $317,704,000, to remain available until expended: Provided, That not less than $250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District Engineer and the State Conservationist. In furtherance of the development of the Atchafalaya Basin Floodway System, Louisiana, in accordance with Public Laws 99-88 and 99-662, the Secretary of the Army is directed to acquire necessary interests in real estate for all features of the project, flood control, developmental control, environmental, and public access, beginning at the North end of the basin and proceeding southerly. With the funds herein provided, the Secretary is further directed to begin to concurrently acquire all real estate interests approved for the project as the acquisition process proceeds in the manner described in the preceding sentence: Provided further, That the Secretary is directed to expedite the acquisition, in fee simple, of lands, excluding minerals, for public access in the Atchafalaya Basin Floodway System, Louisiana, as authorized by Public Laws 99-88 and 99-662, and to expend up to 50 per centum of the funds herein provided for this purpose.

Funds provided to the Corps of Engineers are to be used in carrying out advanced engineering and design work on the Helena Harbor, Phillips County, Arkansas, project. The Corps will complete the advanced engineering and design work and be prepared to let a contract for the first phase of the construction not later than October 1, 1988.

The Secretary of the Army shall allocate $180,000 to the Mississippi River East Bank, Warren to Wilkerson Counties, Mississippi, Natchez Area project to complete by May 1988 a reevaluation of alternative plans, submission of a draft reevaluation report/Environmental Impact Statement supplement, coordination of report findings with public and other agencies, and completion and submission of the final report by December 1988.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,400,000,000 to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662, may be derived from that fund, and of which $12,000,000 shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l): Provided, That not to exceed $8,000,000 shall be available for obligation for national emergency preparedness programs: Provided further, That none of the funds made available under "Operation and Maintenance, General" shall be used to pay the expenses of the Department of the Army regulatory activities.

The Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following projects in fiscal year 1988: Sauk Lake, Minnesota; and Yaquina North Jetty, Oregon.

GENERAL REGULATORY FUNCTIONS

For expenses necessary for administration of laws pertaining to preservation of navigable waters, $55,262,000, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the office of the Chief of Engineers and offices of the Division Engineers; activities of the Board of Engineers for Rivers and Harbors, the Coastal Engineering Research Board, the Engineer Automation Support Activity, and the Water Resources Support Center, $115,200,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for expenses of attendance by military personnel at meetings in the manner authorized by section 4110 of title 5, United States Code, uniforms, and allowances therefor, as authorized by law (5 U.S.C. 5901-5902), and for printing, either during a recess or session of Congress, of survey reports authorized by law, and such survey reports as may be printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress; and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 225 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS, CORPS OF ENGINEERS

SEC. 101. In section 4(c) of Public Law 99-469, the word "Secretary" is deleted each time it appears and the words "United States" are inserted in lieu thereof.

SEC. 102. The Secretary of the Army is directed to initiate construction and to reimburse non-Federal interests for work completed in conjunction with the North Branch of Chicago River project in Illinois.

SEC. 103. Using funds previously provided in the Energy and Water Development Appropriations Act, 1987 (Public Law 99-500 and Public Law 99-591), the Secretary of the Army is directed to proceed with development of the Cross-Florida Barge Canal Conservation Management Plan as described in subsection 1114(e) of the Water Resources Development Act, 1986 (Public Law 99-662).

SEC. 104. A project for flood control along the San Timoteo Creek in the vicinity of Loma Linda is authorized for construction as part of the Santa Ana Mainstem including Santiago Creek Project in accordance with plans described in the San Timoteo Interim II of the Santa Ana Basin and Orange County study. For purposes of economic justification the benefits and costs of the San Timoteo Project shall be included together with the benefits and costs of the entire Santa Ana Mainstem, including Santiago Creek. The total costs for the Santa Ana Mainstem, including Santiago Creek, is to be raised by $25,000,000.

SEC. 105. Section 1124 of Public Law 99-662 is modified to add the following new subsection:

"(e) The dollar amounts listed in this section are based on October 1985 price levels. Such amounts shall be subject to adjustment pursuant to section 902(2) of this Act. Total contributions to governments in Canada that are authorized by this section, as adjusted pursuant to section 902(2) of this Act, may fluctuate to reflect changes in the rate of exchange for currency between the United States and Canada that occurred between October 1985 and the time contributions are made.".

SEC. 106. The undesignated paragraph under the heading "Puerco River and Tributaries, New Mexico" in section 401(a) of Public Law 99-662 (100 Stat. 4082) is amended by striking out "$4,190,000", "$3,140,000", and "$1,050,000" and inserting in lieu thereof "$7,300,000", "$5,500,000", and "$1,800,000", respectively.

SEC. 107. None of the funds made available under "Department of Defense-Civil, Department of the Army, Corps of Engineers-Civil", except as provided for under "General Regulatory Functions", shall be used to pay the expenses of the Department of the Army-Civil regulatory activities.

SEC. 108. The McClellan-Kerr Arkansas River navigation project authorized under the comprehensive plan for the Arkansas River Basin by section 3 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved June 28, 1938 (52 Stat. 1218), and section 10 of the Flood Control Act of 1946 (60 Stat. 647), is modified to include municipal, industrial and agricultural water supply as authorized project purposes. Withdrawals of water for such purposes may be permitted to the extent that such withdraw-

als are consistent with applicable State laws and do not interfere with the other authorized purposes.

SEC. 109. The undesignated paragraph under the heading "Noyes, Minnesota, in section 401(d) of Public Law 99-662 (100 Stat. 4131) is amended by striking out "$250,000" and inserting in lieu thereof "$650,000".

SEC. 110. The Chief of Engineers is directed to retain three operational aircraft authorized pursuant to section 101 of the Act of July 27, 1953, 67 Stat. 199, together with their attendant crews, and may only dispose of any of these aircraft if authorized to do so by a future congressional enactment for that purpose. The Chief of Engineers shall provide at least thirty days advance written notification to the Appropriations Committees of the Senate and House of Representatives of any intended use of any of these aircraft for a trip destined outside the United States or its territories or possessions.

SEC. 111. The section entitled "TRANSFER OF FEDERAL TOWNSITES" in the Supplemental Appropriations Act, 1985, title 1, chapter IV (Public Law 99-88, 99 Stat. 317) as amended by section 1123 of the Water Resources Development Act, 1986 (Public Law 99-662) is further amended as follows:

(1) By deleting all that follows the colon in paragraph (7);

(2) By adding a new paragraph at the end of paragraph (7) as follows:

"(8) The Secretary shall, at full Federal expense for a period not to exceed three years from the date of the transfer of the townsite to the municipal corporation, continue to operate and maintain such corporation's electrical distribution system, including street lights, and to provide or assume the cost of electric power, natural gas, and liquified petroleum gas to buildings and facilities owned and operated by the corporation and to public school buildings located within the municipality.".

TITLE II

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, $16,590,000: Provided, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: Provided further, That all costs of an advance planning study of a proposed project shall be considered to be construction costs and to be reimbursable in accordance with the allocation of construction costs if the project is authorized for construction: Provided further, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain available until expended $703,716,000, of which $143,143,000 shall be available for transfers to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $152,498,000 shall be available for transfers to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: Provided, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: Provided further, That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation to the heading: Provided further, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: Provided further, That approximately $5,630,000 in unobligated balances of Teton Dam Failure Payment of Claims funds provided under Public Laws 94-355 dated July 12, 1976, and 94-438, dated September 30, 1976, shall be available for use on projects under this appropriation: Provided further, That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: Provided further, That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: Provided further, That of the amount herein appropriated, such amounts as may be necessary shall be available to enable the Secretary of the Interior to continue work on rehabilitating the Velarde Community Ditch Project, New Mexico, in accordance with the Federal Reclamation Laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) for the purposes of diverting and conveying water to irrigated project lands. The cost of the rehabilitation will be nonreimbursable and constructed features will be turned over to the appropriate entity for operation and maintenance: Provided further, That of the amount herein appropriated, such amounts as may be required shall be available to continue improvement activities for the Lower Colorado Regional Complex: Provided further, That the funds contained in this Act for the Garrison Diversion Unit, North Dakota, shall be expended only in accordance with the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294): Provided further, That none of the funds appropriated in this Act shall be used to study or construct the Cliff Dam feature of the Central Arizona Project: Provided further, That Plan 6 features of the Central Arizona Project other than Cliff Dam, including (1) water rights and associated lands within the State of Arizona acquired by the Secretary of the Interior through purchase, lease, or exchange, for municipal and industrial purposes, not to exceed 30,000 acrefeet; and, (2) such increments of flood control that may be found to be feasible by the Secretary of the Interior at Horseshoe and Bartlett Dams, in consultation and cooperation with the Secretary of the Army and using Corps of Engineers evaluation criteria, developed in conjunction with dam safety modifications and consistent with applicable environmental law, are hereby deemed to constitute a suitable alternative to Orme Dam within the meaning of the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.): Provided further, That any funds expended under this Act for the purpose of conserving endangered fish species of the Colorado River system shall be charged against the increased amount authorized to be appropriated under the Colorado River Storage Project Act, as provided by section 501(A) of the Colorado River Basin Act of 1968: Provided further, That notwithstanding the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294), the James River Comprehensive Report on water resource development proposals may be submitted to Congress at a date after September 30, 1988, but not later than September 30, 1989.

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, $151,000,000: Provided, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: Provided further, That of the total appropriated, such amounts as may be required for replacement work on the Boulder Canyon Project which would require readvances to the Colorado River Dam Fund shall be readvanced to the Colorado River Dam Fund pursuant to section 5 of the Boulder Canyon Project Adjustment Act of July 19, 1940 (43 U.S.C. 618d), and such readvances since October 1, 1984, and in the future shall bear interest at the rate determined pursuant to section 104(a)(5) of Public Law 98-381: Provided further, That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same objects and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: Provided further, That revenues in the Upper Colorado River Basin Fund shall be available for performing examination of existing structures on participating projects of the Colorado River Storage Project, the costs of which shall be nonreimbursable.

LOAN PROGRAM

For loans to irrigation districts and other public agencies for construction of distribution systems on authorized Federal reclamation projects, and for loans and grants to non-Federal agencies for construction of projects, as authorized by the Acts of July 4, 1955, as amended (43 U.S.C. 421a–421d), and

August 6, 1956, as amended (43 U.S.C. 422a-422l), including expenses necessary for carrying out the program, $32,309,000, to remain available until expended: Provided, That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from that fund: Provided further, That during fiscal year 1988 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $31,972,000: Provided further, That any contract under the Act of July 4, 1955 (69 Stat. 244), as amended, not yet executed by the Secretary, which calls for the making of loans beyond the fiscal year in which the contract is entered into shall be made only on the same conditions as those prescribed in section 12 of the Act of August 4, 1939 (53 Stat. 1187, 1197).

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver Engineering and Research Center, and offices in the six regions of the Bureau of Reclamation, $51,690,000, of which $1,000,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): Provided, That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

EMERGENCY FUND

For an additional amount for the "Emergency fund", as authorized by the Act of June 26, 1948 (43 U.S.C. 502), as amended, to remain available until expended for the purposes specified in said Act, $1,000,000, to be derived from the reclamation fund.

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or the Colorado River development fund are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) and the Act of July 19, 1940 (43 U.S.C. 618a), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the special fund from which derived.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 13 passenger motor vehicles of which 11 shall be for replacement only; payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; for service as authorized by section 3109 of title 5, United States Code, in total not to exceed $500,000; rewards for information or evidence concerning violations of law involving property under the jurisdiction of the Bureau of Reclamation; performance of the functions specified under the head "Operation and Maintenance Administration", Bureau of Reclamation, in the Interior Department Appropriations Act 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleontological remains in such areas in the same manner as provided for in the Acts of August 21, 1935 (16 U.S.C. 461-467) and June 27, 1960 (16 U.S.C. 469): Provided, That no part of any appropriation made herein shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except "General Administrative Expenses" and amounts provided for plan formulation and advance planning investigations, and general engineering and research under the head "General Investigations".

Sums appropriated herein which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law.

No part of any appropriation for the Bureau of Reclamation, contained in this Act or in any prior Act, which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: Provided, That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341).

No funds appropriated to the Bureau of Reclamation for operation and maintenance, except those derived from advances by water users, shall be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation.

None of the funds made available by this or any other Act shall be used by the Bureau of Reclamation for contracts for surveying and mapping services unless such contracts for which a solicitation is issued after the date of this Act are awarded in accordance with title IX of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 541 et seq.).

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR

SEC. 201. Appropriations in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: Provided, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

SEC. 202. The Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior.

SEC. 203. Appropriations in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 1535 and 1536): Provided, That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 204. Appropriations in this title shall be available for hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchases of reprints; payment for telephone services in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 205. In accordance with repayment contract No. 9-07-70-W0363, entered into August 29, 1979, as amended December 18, 1981, for the Farwell Irrigation District, contractual party with the Farwell Unit, Middle Loup Division, Pick-Sloan Missouri Basin Program, and entitled "Contract between the United States of America and the Farwell Irrigation District for Additional Drainage Facilities", the costs of such project allocated to irrigation and drainage shall not be reimbursable. Payments already made under such contract shall be credited against overall payments due the United States.

SEC. 206. Of the appropriations for the Central Utah project, in this or any other Act, not more than $18,500,000 of the total in any one fiscal year may be expended by the Secretary for all administrative expenses: Provided, That the Inspector General of the Department of the Interior shall annually audit expenditures by the Bureau of Reclamation to determine compliance with this section: Provided further, That none of the Bureau of Reclamation's appropriations shall be used to fund the audit: Provided further, That the Bureau of Reclamation shall not delay or stop construction of the project due to this limitation and shall apply all the remaining appropriations to completion of this project, unless continuation of work on the Central Utah project would cause administrative expenses attributable to the Central Utah project to be paid from funds available for other Bureau of Reclamation projects and thereby delay their construction.

SEC. 207. The Secretary of the Interior is directed to use not to exceed $70,000 in fiscal year 1988 for soil classification studies required to complete the integration of the Hilltop Irrigation District as a Federal unit of the Pick-Sloan Missouri River Basin program.

SEC. 208. (a) Notwithstanding title II of the Reclamation Authorization Act of 1975 (Public Law 94-228), the city of Dickinson, North Dakota, is forgiven all obligations incurred by such city under the contract (numbered 9-07-60-WR052) entered into with the Secretary of the Interior or his delegatee.

(b)(1) The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, is authorized to enter into a new repayment contract with the city of Dickinson the terms of which shall entitle

the city of Dickinson to water supply benefits provided by the bascule gate project authorized by title II of the Reclamation Authorization Act of 1975 in consideration for repayment of the costs of the bascule gate project as provided in paragraph (2).

(2) Repayment terms of the new contract shall provide for—

(A) repayment by the city of Dickinson of the capital cost of the bascule gate project of $1,625,000 over a period of 40 years at an interest rate of 7.21 per centum per annum; and

(B) payment of the annual operation, maintenance, and replacement costs of the project facilities.

SEC. 209. (a) Notwithstanding any other provisions of law, the city of Minot, North Dakota, is relieved of all liability for repayment to the United States of the sum of $1,026,489.29 associated with the excess capacity of the Minot Pipeline resulting from enactment of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294).

(b) The relief from liability for repayment granted by subsection (a) shall be effective retroactive to January 1, 1978, the start of the city of Minot's repayment obligation under the 1972 repayment contract with the Bureau of Reclamation.

(c) If the excess capacity referred to in subsection (a) is ever used, the city of Minot shall reimburse the United States for the costs referred to in subsection (a) proportionate to the actual use of the excess capacity.

SEC. 210. (a) The McGee Creek Project of the Bureau of Reclamation shall not be deemed completed until such time as construction of all authorized components of the project are completed, including access roads and recreation areas.

(b) The Bureau of Reclamation shall not transfer title of the project to any other entity or require repayment of the project or permit refinancing of the project until such time as the project is completed according to the terms of (a) above.

SEC. 211. The Secretary is prohibited from transferring the Office of the Commissioner of the Bureau of Reclamation, the Assistant Commissioner for Administration and the Office of Foreign Activities from Washington, D.C. to Denver, Colorado and shall have in the Washington office a minimum of sixty professional staff experienced in the following areas: Budget, Foreign Activities, Contracts and Repayment, Resource Development and Management; Construction; and Congressional and Public Affairs. The Secretary is further prohibited from transferring the Acreage Limitation Branch from Denver, Colorado to Washington, D.C. In addition, the Bureau shall maintain appropriate administrative support personnel for the Washington Office. The Secretary shall submit quarterly reports to the Congress, beginning January 1988, on Washington office reorganization initiatives to reduce overhead and duplication.

TITLE III

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities, and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 21 for replacement only), $1,988,357,000, to remain available until expended; in addition $104,000,000 shall be derived by transfer from Uranium Supply and Enrichment Activities provided in prior years and shall be available until expended; and of which $125,800,000 which shall be available only for the following facilities: the Institute for Human Genomic Studies at the Mount Sinai Medical Center, New York City; the Center for Applied Optics, University of Alabama in Huntsville; the Center for Automation Technology, Drexel University; the Institute for Advanced Physics Research, Boston University; the Multi-Purpose Center, Boston College; the Pediatric Research Center at Children's Hospital, Pittsburgh, Pennsylvania; the Cancer Research Center at the Medical University of South Carolina; the Oregon Health Science University; the Center for Advanced Microstructures and Devices, Louisiana State University; the Proton-Beam Demonstration Cancer Treatment Center, Loma Linda University Medical Center; the Center for Physical and Environmental Science, East Central University, Oklahoma; the Barry M. Goldwater Center for Science and Engineering, Arizona State University; the Institute of Nuclear Medicine, Center for Molecular Medicine and Immunology, University of Medicine and Dentistry, New Jersey; the National Center for Chemical Research, Columbia University; and the Combustion Research Facility, Phase II, Sandia Laboratory, Livermore, California; and funds provided for byproducts utilization activities shall be available only for the following regional projects: Florida Department of Agriculture and Consumer Services; Hawaii Department of Business and Economic Development; Iowa State University; Oklahoma, RedArk Development Authority; Washington, Port of Pasco; State of Alaska: Provided, That of the amount appropriated under this heading for the magnetic fusion program, $8,000,000 shall be available to continue research, development, engineering and design only of Project 88-R-92, Compact Ignition Tokamak: Provided further, That the Princeton Plasma Physics Laboratory and the Office of Fusion Energy shall submit a report and a 5-year plan based on current budgetary resources allocated for fusion energy research to the Committees on Appropriations of the House and Senate providing detailed information, costs and schedules for the concurrent construction of the Compact Ignition Tokamak project with the continued operation and completion of the Tokamak Fusion Test Reactor project.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 26 for replacement only); $950,000,000, to remain available until expended: Provided, That revenues received by the Department for the enrichment of uranium and estimated to total $1,301,000,000 in fiscal year 1988, shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302(b) of section 484, of title 31, United States Code: Provided further, That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1988 so as to result in a final fiscal year 1988 appropriation estimated at not more than $0.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 22, of which 18 are for replacement only), $804,498,000, to remain available until expended.

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, $360,000,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) to issue obligations to the Secretary of the Treasury. In paying the amounts determined to be appropriate as a result of the decision in Wisconsin Electric Power Co. v. Department of Energy, 778 F. 2d 1 (D.C. Cir. 1985), the Department of Energy shall pay, from the Nuclear Waste Fund, interest at a rate to be determined by the Secretary of the Treasury and calculated from the date the amounts were deposited into the Fund. Funds appropriated pursuant to this Act may be used to provide payments equivalent to taxes to special purpose units of local government at the candidate sites.

Subtitle A of Title V, Nuclear Waste Policy Amendments Act of 1987, contained in H.R. 3545, Omnibus Budget Reconciliation Act of 1987 as agreed to and reported by the Committee of Conference on H.R. 3545 is included herein and shall be effective as if it had been enacted into law.

ATOMIC ENERGY DEFENSE ACTIVITIES

For expenses of the Department of Energy activities, $7,749,364,000, to remain available until expended, including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for atomic energy defense activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 292 for replacement only including 43 police-type vehicles; and purchase of two aircraft, one of which is for replacement only): Provided, That within the funds available within materials production ac-

tivities, the Secretary of Energy shall prepare and submit to the Committees on Appropriations and Armed Services of the Senate and the House of Representatives, not later than May 1, 1988, an acquisition strategy report for replacement production reactors. Such report shall provide the rationale and description of the recommended acquisition strategy for replacement nuclear materials production capacity that would fulfill the long-term requirements of the United States for tritium and plutonium, including the recommendation of the Nuclear Weapons Council with respect to matters within the responsibility of the Council. Such report also shall include an analysis of whether or not the acquisition strategy should provide for the procurement and construction of two or more replacement production reactors, either concurrently or sequentially. Such report also shall include, but not be limited to, an analysis of the use of alternative reactor technologies at one or more sites based on the most current information including overall program costs and schedules; safety, environmental and licensing features; strategic and national security benefits; and amortization of reactor capital and operating costs through the sale of byproduct steam. Such report shall include a comprehensive comparative financial analysis and cost estimate including annual and life cycle costs for research, development, design, construction, operating expenses and revenues and the levelized unit products costs relating to the replacement production reactor alternatives considered. The recommendations of the Secretary shall include a recommendation with respect to the preferred alternatives for achieving replacement nuclear materials production capacity, including the number of production reactors required, the preferred technologies, and the preferred sites, and a time schedule for their acquisition, construction, and operation. The provision of the National Environmental Policy Act (43 U.S.C. 4321, et seq.) shall not apply to any actions taken by the Secretary in the conduct of activities associated with the preparation of such report, including, but not limited to, the formulation of an acquisition strategy or the planning, design, and selection of alternative technologies and sites for replacement production reactors: Provided further, That of these funds, $7,500,000 shall be made available for the Hanford Waste Vitrification Plant (Project 88-D-173): Provided further, That of the amount appropriated to the Department of Energy in this paragraph, $121,000,000 may be obligated only for the verification and control technology program of the Department of Energy: Provided further, That none of the funds made available by this Act may be used for the operation of the N-Reactor at the Hanford Reservation, Washington, unless the Secretary of Energy makes a specific determination and submits a certification in writing to the Congress that—

(1) the further operation of the N-Reactor is necessary to meet national security requirements;

(2) the Department will fully comply with the report of the National Academy of Sciences as described in Public Law 100-180;

(3) the Department plan for the N-Reactor is consistent with the reports of the Roddis panel as described in Public Law 100-180; and

(4) the N-Reactor is safe to operate.

Departmental Administration

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000) $395,513,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): Provided, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: Provided further, That moneys received by the Department for miscellaneous revenues estimated to total $233,896,000 in fiscal year 1988 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302 of title 31, United States Code: Provided further, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1988 so as to result in a final fiscal year 1988 appropriation estimated at not more than $161,617,000.

POWER MARKETING ADMINISTRATIONS

Operation and Maintenance, Alaska Power Administration

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $3,026,000, to remain available until expended.

Bonneville Power Administration Fund

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for fish passage improvements at the Umatilla River Diversion and for the Ellensburg Screen Fish Passage Facilities. Expenditures are also approved for official reception and representation expenses in an amount not to exceed $2,500.

During fiscal year 1988, no new direct loan obligations may be made.

Operation and Maintenance, Southeastern Power Administration

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $27,400,000, to remain available until expended.

Operation and Maintenance, Southwestern Power Administration

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $16,648,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $4,625,000 in collections from the Department of Defense from power purchases and not to exceed $1,721,000 in collections from non-Federal entities for construction projects in fiscal year 1988, to remain available until expended.

Construction, Rehabilitation, Operation and Maintenance, Western Area Power Administration

(including transfer of funds)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (Public Law 95-91), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, the purchase of passenger motor vehicles (not to exceed 3 for replacement only), $242,512,000, to remain available until expended, of which $235,268,000, shall be derived from the Department of the Interior Reclamation fund; in addition, the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $7,003,000, to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984, to remain available until expended.

Federal Energy Regulatory Commission

salaries and expenses

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (Public Law 95-91), including services as authorized by 5 U.S.C. 3109, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed $2,000); $100,000,000, of which $3,000,000 shall remain available until expended and be available only for contractual activities: Provided, That hereafter and notwithstanding any other provision of law, not to exceed $100,000,000 of revenues from licensing fees, inspection services, and other services and collections in fiscal year 1988, may be retained and used for necessary expenses in this account, and may remain available until expended: Provided further, That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1988, so as to result in a final fiscal year 1988 appropriation estimated at not more than $0.

Geothermal Resources Development Fund

For carrying out the Loan Guarantee and Interest Assistance Program as authorized by the Geothermal Energy Research, Development and Demonstration Act of 1974, as amended, $72,000, to remain available until expended: Provided, That the indebtedness guaranteed or committed to be guaranteed through funds provided by this or any other appropriation Act shall not exceed the aggregate of $500,000,000.

General Provisions—Department of Energy

Sec. 301. Appropriations for the Department of Energy under this title for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft; purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an *appropriation Act. The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign.*

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 302. Not to exceed 5 per centum of any appropriation made available for the current fiscal year for Department of Energy activities funded in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committees on Appropriations of the House and Senate.

SEC. 303. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. (a) In any regulations issued pursuant to section 1534 of the Defense Authorization Act for 1986, the Secretary of Energy may not disallow the following costs associated with the activities of contractor personnel from the Department of Energy National Laboratories (or Department of Energy personnel of the Department of Energy National Laboratories):

(1) Costs of providing to Congress or a State legislature, in response to a request (written or oral, prior or contemporaneous) from Congress or a State legislature, information or expert advice of a factual, technical, or scientific nature, with respect to:

(A) topics directly related to the performance of the contract; or

(B) proposed legislation; irrespective of whether such information or advice was requested or supplied through the Department of Energy.

(2) Costs for transportation, lodging, or meals incurred for the purpose of providing such information or advice.

(b) No part of any appropriation made in this title shall be obligated or expended to influence, either directly or indirectly, any appropriation or legislation before Congress, or for any publicity or propaganda purpose not specifically authorized by Congress: Provided, That this provision shall not apply to:

(1) the communication of departmental or agency views to the Congress;

(2) the conduct of normal legislative liaison activities; or

(3) the costs described in subsection (a).

SEC. 306. No funds appropriated or made available under this or any other Act shall be used by the executive branch for studies, reviews, to solicit proposals, to consider unsolicited proposals, undertake any initiatives or draft any proposals to transfer out of Federal ownership, management or control in whole or in part, the facilities, assets, and functions of the uranium supply and enrichment program, including inventories, until such activities have been specifically authorized in accordance with terms and conditions established by an Act of Congress hereafter enacted: Provided, That this provision shall not apply to the authority granted to the Department of Energy under section 161g of the Atomic Energy Act of 1954, as amended, under which it may sell, lease, grant, and dispose of property in furtherance of Atomic Energy Act activities or to the authority of the Administrator of the General Services Administration pursuant to the Federal Property and Administrative Service Act of 1944 to sell or otherwise dispose of surplus property.

SEC. 307. Within three months following the date of enactment of this Act, the Federal Energy Regulatory Commission shall provide the Committee on Appropriations of the House and Senate with a report describing the policies followed in implementing the Commission's responsibilities under the National Environmental Policy Act. This report shall include a description of the steps the Commission has taken to ensure that environmental reviews are conducted efficiently and in a timely manner, the willingness of the Commission to utilize the technical expertise of other Federal and State agencies, and the Commission's environmental authority regarding nonjurisdictional facilities.

SEC. 308. The Federal Energy Regulatory Commission is authorized to extend the time period required for commencement of construction of Project No. 4506 for an additional two years upon application by the licensee to the Federal Energy Regulatory Commission if the Federal Energy Regulatory Commission determines that an extension is warranted under the standard set forth in section 13 of the Federal Power Act and is in the public interest.

SEC. 309. None of the funds appropriated by this Act or any other Act may be expended by the Department of Energy or the Department of Justice or any of their component agencies to prosecute any action or to enforce any judgment against any individual corporate shareholder, officer or employee for restitution under section 209 of the Economic Stabilization Act of 1970, as amended, in any case decided by the Temporary Emergency Court of Appeals on May 7, 1987, based upon the role of such individual as a central figure in any statutory or regulatory violation, except for the actual dollar amount personally received by such individual from such violation and any interest assessed on such amount. The prohibition in this section shall apply only until October 1, 1988.

SEC. 310. (a) The amendments made by section 643(b) of the Energy Security Act (Public Law 96-294) and any regulations issued to implement such amendment shall apply to qualifying small power production facilities (as such term is defined in the Federal Power Act) using solar energy as the primary energy source to the same extent such amendments and regulations apply to qualifying small power production facilities using geothermal energy as the primary energy source, except that nothing in this Act shall preclude the Federal Energy Regulatory Commission from revising its regulations to limit the availability of exemptions authorized under this Act as it determines to be required in the public interest and consistent with its obligations and duties under section 210 of the Public Utility Regulatory Policies Act of 1978.

(b) The provisions of subsection (a) shall apply to a facility using solar energy as the primary energy source only if either of the following is submitted to the Federal Energy Regulatory Commission during the two-year period beginning on the date of enactment of this Act:

(1) An application for certification of the facility as a qualifying small power production facility.

(2) Notice that the facility meets the requirements for qualification.

SEC. 311. None of the funds appropriated by this Act or any other Act may be expended by the Federal Energy Regulatory Commission for the purpose of issuing a certificate of public convenience and necessity pursuant to the application made by the Iroquois Gas Transmission System under the Commission's optional expedited certificate procedures (Docket No. CP86-523 et al.) until the Commission has considered, in accordance with applicable law, the environmental impacts.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, except expenses authorized by section 105 of said Act, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, and for necessary expenses for the Federal Cochairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, to remain available until expended, $107,000,000: Provided, That after the date of enactment of this resolution, appropriations for Appalachian regional programs in this or any other Act may be used for the purposes of the Appalachian Regional Development Act without regard to section 224(b) (2), (3), and (4) of that Act and funds in energy enterprise loan funds may be reapproved by the Commission for similar uses.

DELAWARE RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $203,000.

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $263,000.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91-407), $379,000.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act, as amended, including the employment of aliens; services authorized by section 3109 of title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $392,800,000, to remain available until expended: Provided, That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: Provided further, That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs including criminal history checks under section 149 of the Atomic Energy Act, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: Provided further, That revenues from licensing fees, inspection services, and other services and collections estimated at $196,400,000 in fiscal year 1988 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: Provided further, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1988 from licensing fees, inspection services and other services and collections, excluding those monies received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1988 appropriation estimated at not more than $196,400,000.

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), $197,000.

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expense of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $249,000.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, and for entering into contracts and making payments under section 11 of the National Trails System Act, as amended, $103,000,000, to remain available until expended: Provided, That this appropriation and other moneys available to the Tennessee Valley Authority may be used hereafter for payment of the allowances authorized by section 5948 of title 5, United States Code: Provided further, That the official of the Tennessee Valley Authority referred to as the "inspector general of the Tennessee Valley Authority" is authorized, during the fiscal year ending September 30, 1988, to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and other documentary evidence necessary in the performance of the audit and investigation functions of that official, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: Provided further, That procedures other than subpoenas shall be used by the inspector general to obtain documents and evidence from Federal agencies.

TITLE V

GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in this Act. This prohibition bars payment to a party intervening in an administrative proceeding for expenses incurred in appealing an administrative decision to the courts.

SEC. 503. None of the programs, projects or activities as defined in the report accompanying this Act, may be eliminated or disproportionately reduced due to the application of "Savings and Slippage", "general reduction", or the provision of Public Law 99-177 or Public Law 100-119.

SEC. 504. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 505. None of the funds appropriated in this Act shall be used to implement a program of retention contracts for senior employees of the Tennessee Valley Authority.

SEC. 506. Notwithstanding any other provision of this Act or any other provision of law, none of the funds made available under this Act or any other law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

SEC. 507. None of the funds appropriated in this Act for Power Marketing Administrations or the Tennessee Valley Authority, and none of the funds authorized to be expended by this or any previous Act from the Bonneville Power Administration Fund or the Tennessee Valley Authority Fund, may be used to pay the costs of procuring extra high voltage (EHV) power equipment unless contract awards are made for EHV equipment manufactured in the United States when such agencies determine that there are one or more manufacturers of domestic end product offering a product that meets the technical requirements of such agencies at a price not exceeding 130 per centum of the bid or offering price of the most competitive foreign bidder: Provided, That such agencies shall determine the incremental costs associated with implementing this section and defer or offset such incremental costs against otherwise existing repayment obligations: Provided further, That this section shall not apply to any procurement initiated prior to October 1, 1985, or to the acquisition of spare parts or accessory equipment necessary for the efficient operation and maintenance of existing equipment and available only from the manufacturer of the original equipment: Provided further, That this section shall not apply to procurement of domestic end product as defined in 48 C.F.R. sec. 25.101: Provided further, That this section shall not apply to EHV power equipment produced or manufactured in a country whose government has completed negotiations with the United States to extend the GATT Government Procurement Code, or a bilateral equivalent, to EHV power equipment, or which otherwise offers fair competitive opportunities in public procurements to United States manufacturers of such equipment.

SEC. 508. None of the funds in this Act may be used to construct or enter into an agreement to construct additional hydropower units at Denison Dam—Lake Texoma.

SEC. 509. In honor of Ernest Frederick Hollings, the building located at 83 Meeting Street in Charleston, South Carolina, shall hereafter be known and designated as the "Hollings Judicial Center": Provided further, That the lock and dam on the Tombigbee River in Pickens County, Alabama, commonly known as the Aliceville Lock and Dam, and the resource management and visitor center at Aliceville Lake on the Tennessee-Tombigbee Waterway shall hereafter be known and designated as the "Tom Bevill Lock and Dam" and the "Tom Bevill Resource Management and Visitor Center at Aliceville Lake on the Tennessee-Tombigbee Waterway", respectively. Any reference in a law, map, regulation, document, or paper of the United States to such lock and dam and any reference in a law, map, regulation, document, or paper of the United States to such resource management and visitor center shall be held to be a reference to the "Tom Bevill Lock and Dam" and the "Tom Bevill Resource Management and Visitor Center at Aliceville Lake on the Tennessee-Tombigbee Waterway", respectively.

This Act may be cited as the "Energy and Water Development Appropriation Act, 1988".

And the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(e) Such amounts as may be necessary for programs, projects or activities provided for in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Making appropriations for foreign operations, export financing, and related pro-

grams for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increases in capital stock, $40,176,393 for the General and Selective Capital Increases, to remain available until expended: Provided, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $437,320,185.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $915,000,000, for the United States contribution to the replenishments, to remain available until expended: Provided, That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $20,300,000, for the United States share of the increase in subscriptions to capital stock, to remain available until expended.

CONTRIBUTION TO THE MULTILATERAL INVESTMENT GUARANTEE AGENCY

For payment to the Multilateral Investment Guarantee Agency by the Secretary of the Treasury, for the paid-in share of the capital stock, $44,403,116, to remain available until expended: Provided, That no such payment may be made prior to April 30, 1988: Provided further, That no such payment may be made on or after April 30, 1988, unless the Secretary of the Treasury certifies and reports to the Congress that the United States Director of the Agency has proposed and actively sought the adoption by the Agency of the policies and procedures specified in section 405 of H.R. 3750, as enacted herein: Provided further, That no such payment may be made on or after April 30, 1988, unless the Secretary of the Treasury certifies and reports to the Congress that the Board has adopted those policies and procedures, or substantially similar policies and procedures, or that the United States Director of the Agency will continue to propose and actively seek the adoption by the Agency of those policies and procedures until those policies and procedures, or substantially similar policies and procedures, have been adopted by the Board and that the failure to make such payment is likely to make the adoption of those policies and procedures more difficult to achieve.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The Secretary of the Treasury may subscribe without fiscal year limitation to the callable portion of the shares of capital stock in an amount not to exceed $177,612,464.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury for the United States share of the increase in the resources of the Fund for Special Operations, $25,732,371, to remain available until expended; and $31,600,000, for the United States share of the increases in paid-in capital stock to remain available until expended; and $1,303,000 for the United States share of the capital stock of the Inter-American Investment Corporation, to remain available until expended: Provided, That no such payment may be made while the United States Executive Director for the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director for the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code: Provided further, That the United States Governor of the Inter-American Development Bank is hereby authorized to agree to, and to accept, the amendments to the Articles of Agreement in the proposed resolution entitled "Merger of Inter-regional and Ordinary Capital Resources".

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such increase in capital stock in an amount not to exceed $119,403,576.

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

For payment to the Asian Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $15,057,220, to remain available until expended; and for the United States contribution to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), $28,000,000, to remain available until expended: Provided, That no such payment may be made while the United States Director of the Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Asian Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such increase in capital stock in an amount not to exceed $276,503,941.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $75,000,000, for the United States contribution to the fourth replenishment of the African Development Fund, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $8,999,371, to remain available until expended: Provided, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $134,918,184.

AUTHORIZATION OF APPROPRIATIONS

There is hereby enacted into law H.R. 3750, as introduced in the House of Representatives on December 11, 1987. Section 102 of H.J. Res. 395 shall not apply with respect to provisions enacted by this paragraph.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of sections 301 and 103(g) of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1983, $244,648,000: Provided, That no funds shall be available for the United Nations Fund for Science and Technology: Provided further, That the total amount of funds appropriated under this heading shall be made available only as follows: $110,000,000 for the United Nations Development Program; $54,400,000 for the United Nations Children's Fund, which amount shall be obligated and expended no later than 30 days from the date of enactment of this Act; $980,000 for the World Food Program; $980,000 for the United Nations Capital Development Fund; $220,000 for the United Nations Voluntary Fund for the Decade for Women; $2,000,000 for the International Convention and Scientific Organization Contributions; $1,960,000 for the World Meteorological Organization Voluntary Cooperation Program; $21,854,000 for the International Atomic Energy Agency; $7,840,000 for the United Nations Environment Program; $784,000 for *the United Nations Educational and Training Program for Southern Africa; $245,000 for the United Nations Trust Fund for South Africa; $110,000 for the United Nations Institute for Namibia; $170,000 for the Convention on International Trade in Endangered Species; $220,000 for the World Heritage Fund; $90,000 for the United Nations Voluntary Fund for Victims of Torture; $245,000 for the United Nations Fellowship Program; $400,000 for the United Nations Center on Human Settlements; $150,000 for the UNIDO Investment Promotion Service; $12,000,000 for the Organization of American States; and $30,000,000 for the International Fund for Agricultural Development, of which up to $10,000,000 may be made available for the Special Program for Sub-Saharan African Countries Affected by Drought and Desertification: Provided further, That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency.*

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1988, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 103, $488,715,000: Provided, That up to $5,000,000 shall be provided for new development projects of private entities and cooperatives utilizing surplus dairy products: Provided further, That not less than $8,000,000 shall be provided for the Vitamin A Deficiency Program: Provided further, That, notwithstanding any other provision of law, up to $10,000,000 of the funds appropriated under this heading shall be made available, and remain available until expended, for agricultural activities in Poland which are managed by the Polish Catholic Church or other nongovernmental organizations: Provided further, That not less than $2,000,000 of the funds appropriated under this heading shall be made available only for the North American Waterfowl Plan, which shall not be included in determining compliance with section 119(c) of the Foreign Assistance Act of 1961.

POPULATION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(b), $197,940,000: Provided, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: Provided further, That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: Provided further, That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: Provided further, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act.

HEALTH, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(c), $119,000,000.

INTERNATIONAL AIDS PREVENTION AND CONTROL PROGRAM

For necessary expenses to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, $30,000,000, which shall be made available only for activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome (AIDS) in developing countries: Provided, That of the funds made available under this heading $15,000,000 shall be made available to the World Health Organization for the Special Program on AIDS, including activities implemented by the Pan American Health Organization.

CHILD SURVIVAL FUND

For necessary expenses to carry out the provisions of section 104(c)(2), $66,000,000.

EDUCATION AND HUMAN RESOURCES DEVELOPMENT, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 105, $117,000,000: Provided, That not less than $42,000,000 of the funds appropriated under this heading and under the heading "Sub-Saharan Africa, Development Assistance" shall be available only for programs in basic primary and secondary education: Provided further, That $1,500,000 of the funds appropriated under this heading shall be made available for the Caribbean Law Institute: Provided further, That not less than $1,250,000 of the funds appropriated under this heading shall be made available for the Center for Inter-American Leadership: Provided further, That not less than $10,000,000 of the funds appropriated under this heading shall be available only for the International Student Exchange Program.

PRIVATE SECTOR, ENVIRONMENT, AND ENERGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $120,709,000: Provided, That not less than $5,000,000 shall be made available only for cooperative projects among the United States, Israel and developing countries: Provided further, That not less than $5,000,000 shall be made available only for the Central American Rural Electrification Support project: Provided further, That not less than $1,500,000 shall be made available only for rural electrification activities for the Caribbean.

SCIENCE AND TECHNOLOGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $8,662,270.

MICRO-ENTERPRISE DEVELOPMENT

Of the funds appropriated by this Act to carry out part I and chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $50,000,000 shall be made available for programs of credit and other assistance for micro-enterprises in developing countries: Provided, That local currencies which accrue as a result of assistance provided to carry out the provisions of the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 may be used for assistance for micro-enterprises: Provided further, That such local currencies which are used for this purpose shall be in lieu of funds reserved under this heading and shall reduce the amount reserved for assistance for micro-enterprises by an equal amount.

SUB-SAHARAN AFRICA, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of sections 103 through 106 and section 121 of the Foreign Assistance Act of 1961, $500,000,000, for assistance only for Sub-Saharan Africa, which shall be in addition to any amounts otherwise made available for such purposes: Provided, That any of the funds which are appropriated under this heading may be used for assistance for Sub-Saharan Africa to carry out any economic development assistance activities under the Foreign Assistance Act of 1961: Provided further, That assistance made available under this heading shall be used to help the poor majority in Sub-Saharan Africa through a process of long-term development and economic growth that is equitable, participatory, environmentally sustainable, and self-reliant: Provided further, That these objectives may, in part, be achieved through the integration of women in the development process, appropriate consultation with private voluntary organizations, African and other organizations with a local perspective on the development process, and inclusion of the perspectives and participation of those affected by the provision of assistance: Provided further, That assistance made available under this heading shall be provided in accordance with the policies contained in section 102 of the Foreign Assistance Act of 1961: Provided further, That assistance made available under this heading should be provided, when consistent with the objectives of such assistance, through African, United States and other private and voluntary organizations which have demonstrated effectiveness in the promotion of local grassroots activities on behalf of long-term development in Sub-Saharan Africa: Provided further, That assistance made available under this heading should be used to help overcome shorter-term constraints to long-term development; to promote reform of sectoral economic policies to support the critical sector priorities of agricultural production and natural resources, health, voluntary family planning services, education, and income generating opportunities; to bring about appropriate sectoral restructuring of the Sub-Saharan African economies; to support reform in public administration and finances and to establish a favorable environment for individual enterprise and self-sustaining development: Provided further, That assisted policy reforms should take into account the need to protect vulnerable groups: Provided further, That assistance made available under this heading shall be used to increase agricultural production in ways which protect and restore the natural resource base, especially food production; to maintain and improve basic transportation and communication networks; to maintain and restore the renewable natural resource base in ways which increase agricultural production; to improve health conditions with special emphasis on meeting the health needs of mothers and children, including the establishment of self-sustaining primary health care systems that give priority to preventive care;

to provide increased access to voluntary family planning services; to improve basic literacy and mathematics especially to those outside the formal educational system and to improve primary education; and to develop income-generating opportunities for the unemployed and underemployed in urban and rural areas: Provided further, That the Administrator of the Agency for International Development should target the equivalent of 10 percent of the funds appropriated under this heading for each of the following: (1) maintaining and restoring the renewable natural resource base in ways which increase agricultural production, including components of agriculture activities which are consistent with this objective, (2) health activities, and (3) voluntary family planning: Provided further, That local currencies generated by the sale of imports or foreign exchange by the government of a country in Sub-Saharan Africa from funds appropriated under this heading shall be deposited in a special account established by that government: Provided further, That these local currencies shall be available only for use, in accordance with an agreement with the United States, for development activities which are consistent with the policy directions of section 102 of the Foreign Assistance Act of 1961 and for necessary administrative requirements of the United States Government: Provided further, That in order to carry out the purposes of this heading, section 604(a) of the Foreign Assistance Act of 1961, and similar provisions of law, shall not apply with respect to the implementation of assistance activities consistent with the purposes of this heading: Provided further, That the funds made available under this heading shall be provided only on a grant basis.

SOUTHERN AFRICA, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961, $50,000,000, which shall be made available, without regard to section 518 of this Act and section 620(q) of the Foreign Assistance Act of 1961, only to assist sector projects supported by the Southern Africa Development Coordination Conference (SADCC) to enhance the economic development of the nine member states forming that regional institution: Provided, That at least 50 percent of that amount shall be made available for the transportation sector and the remaining amount shall be made available for one or more of the following sectors: manpower development; agriculture and natural resources; energy (including the improved utilization of electrical power sources which already exist in the member states and offer the potential to swiftly reduce the dependence of those states on South Africa for electricity); and industrial development and trade (including private sector initiatives): Provided further, That amounts made available under this heading shall be in addition to any amounts otherwise made available for such purposes and shall be in addition to amounts made available for Africa under the heading "Sub-Saharan Africa, Development Assistance": Provided further, That none of the funds appropriated under this heading may be made available for activities in Angola: Provided further, That none of the funds appropriated under this heading may be made available for activities in Mozambique unless the President certifies that it is in the national interest of the United States to do so.

PHILIPPINES, DEVELOPMENT ASSISTANCE

Of the aggregate of the funds appropriated by this Act to carry out sections 103 through 106 of the Foreign Assistance Act of 1961, not less than $40,000,000 shall be made available only for the Philippines for project and sector assistance primarily in support of the Government of the Philippines' efforts to promote economic recovery and attain sustained growth through increased rural productivity in both farm and off-farm enterprises, and other activities consistent with the purposes of chapter 1 of part I of the Foreign Assistance Act of 1961: Provided, That of the funds made available for the Philippines under section 103 of the Foreign Assistance Act of 1961, as amended, not less than $1,000,000 shall be made available to fund technical assistance to strengthen nonprofit private organizations and cooperatives in conjunction with projects using local currencies generated by sale of Public Law 480 and section 416 commodities.

PRIVATE AND VOLUNTARY ORGANIZATIONS

None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: Provided, That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98-473) shall be superseded by the provisions of this section.

PRIVATE SECTOR REVOLVING FUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the provisions of section 108 of the Foreign Assistance Act of 1961, not to exceed $9,000,000 to be derived by transfer from funds appropriated to carry out the provisions of chapter 1 of part I of such Act, to remain available until expended. During fiscal year 1988, obligations for assistance from amounts in the revolving fund account under section 108 shall not exceed $12,000,000.

LOAN ALLOCATION, DEVELOPMENT ASSISTANCE

In order to carry out the provisions of part I, the Administrator of the agency responsible for administering such part may furnish loan assistance pursuant to existing law and on such terms and conditions as he may determine: Provided, That to the maximum extent practicable, loans to private sector institutions, from funds made available to carry out the provisions of sections 103 through 106, shall be provided at or near the prevailing interest rate paid on Treasury obligations of similar maturity at the time of obligating such funds: Provided further, That amounts appropriated to carry out the provisions of chapter 1 of part I which are provided in the form of loans shall remain available until September 30, 1989.

AMERICAN SCHOOLS AND HOSPITALS ABROAD

For necessary expenses to carry out the provisions of section 214, $40,000,000.

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses to carry out the provisions of section 491, $25,000,000, to remain available until expended: Provided, That not less than $1,000,000 shall be made available only for assistance for children who have become orphans as a result of drought and famine in Sub-Saharan Africa.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $35,132,000.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, $406,000,000: Provided, That not more than $15,000,000 of this amount shall be for Foreign Affairs Administrative Support: Provided further, That except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 per centum of the aggregate of the funds made available for the fiscal year 1988 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically black colleges and universities, colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5) (B) and (C) of the International Development and Food Assistance Act of 1977). For purposes of this proviso, economically and socially disadvantaged individuals shall be deemed to include women: Provided further, That the Administrator of the Agency for International Development shall submit to the Committees on Appropriations reports assessing the management and performance of the following offices within the Agency: (1) Bureau for Science and Technology, Directorate for Human Resources, (2) Bureau for Science and Technology, Directorate for Health, (3) Bureau for Food for Peace and Voluntary Assistance, Office of Private and Voluntary Cooperation, (4) Office of the Science Advisor, (5) Bureau for Program and Policy Coordination, Office of Economic Affairs, (6) Bureau for Program and Policy Coordination, Center for Development Information and Evaluation, (7) Bureau for Asia and Near East, Office of Project Development, (8) Bureau for Private Enterprise, and (9) Bureau for Africa, Office of Development Planning: Provided further, That such reports shall assess, among other things, the validity of the goals and objectives of the office or directorate, how well these goals and objectives are being achieved, the performance of the office or directorate in providing services, as appropriate, to other bureau offices and/or to the Agency's overseas missions, and, given competing demands being placed on overall Agency resources, whether appropriate personnel and funding resources are being made available for the office or directorate: Provided further, That such reports shall be submitted to the Committees on Appropriations by April 15, 1988: Provided further, That section 636(c) of the Foreign Assistance Act of 1961 is amended by striking out "$3,000,000" and inserting in lieu thereof "$6,000,000": Provided further, That notwithstanding any other provision of law, none of the funds appropriated under this heading or under the heading "Operating Expenses of the Agency for International Development Office of the Inspector General" shall lapse as a result of *to comply with PR Notices 87-4 and 87-5 relating to labeling of such substances, nor for the purpose of enforcement actions against any user of any pesticide whose use is substantially in conformance with label instructions in existence as of August 1, 1987, related to endangered species, as cited in PR Notices 87-4 and 87-5, nor to propose or order any other revision in such labeling for the reasons cited in PR Notices 87-4 and 87-5, except that the Agency may propose revision where there is no disagreement between the Agency and the state departments relevant to implementation in that state.*

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, including not to exceed $500 for official reception and representation expenses, and hire of passenger motor vehicles, $826,000.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $1,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $1,888,000: Provided, That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the functions of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), $120,000,000, to remain available until expended.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of government program to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $1,500 for official reception and representation expenses, $125,841,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), section 103 of the National Security Act (50 U.S.C. 404), and Reorganization Plan No. 3 of 1978, $272,496,000.

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $9,496,000 shall, upon enactment of this Act, be transferred to the "Salaries and expenses" appropriation for administrative costs of the insurance and flood plain management programs and $43,392,000 shall, upon enactment of this Act, be transferred to the "Emergency management planning and assistance" appropriation for flood plain management activities, including $4,531,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), which amount shall be available until September 30, 1989. In fiscal year 1988, no funds in excess of (1) $38,000,000 for operating expenses, (2) $137,765,000 for agents' commissions and taxes, and (3) $2,537,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $114,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100-77: Provided, That total administrative costs shall not exceed three and one-half per centum of the total appropriation.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $1,279,000, to be deposited into the Consumer Information Center Fund: Provided, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $5,140,000. Administrative expenses of the Consumer Information Center in fiscal year 1988 shall not exceed $1,652,000. Appropriations, revenues and collections accruing to this fund during fiscal year 1988 in excess of $5,140,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $1,670,000.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; $3,374,200,000, to remain available until September 30, 1989, of which $100,000,000 shall be derived by transfer from funds appropriated in section 101(g) of Public Law 99-591 for orbiter production: Provided, That of the funds made available by this Act, $225,000,000 is for space station only, which amount shall not become available for obligation until June 1, 1988, and pursuant to section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change.

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

For necessary expenses, not otherwise provided for; in support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance and operation of other than administrative aircraft; $3,908,309,000, to remain available until September 30, 1989, including not to exceed $28,000,000 for expendable launch vehicles which shall be available only for the purchase of two Delta II vehicles for the launch of the Roentgen satellite (ROSAT) and the Extreme Ultraviolet Explorer (EUVE).

CONSTRUCTION OF FACILITIES

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, $178,272,000, to remain available until September 30, 1990: Provided, That, notwithstanding the limitation on the availability of funds appropriated under this heading by this appropriations Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design: Provided further, That no amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act: Provided further, That the Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities.

RESEARCH AND PROGRAM MANAGEMENT

For necessary expenses of research in Government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not

Safety and Health Act of 1970 or from a private consultative source approved by the Administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good faith effort to eliminate the hazard created by the condition cited as such, which was identified by the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained from such consultants: Provided further, That none of the funds appropriated under this paragraph may be obligated or expended for any State plan monitoring visit by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of 1970, of any factory, plant, establishment, construction site, or other area, workplace or environment where such a workplace or environment has been inspected by an employee of a State acting pursuant to section 18 of such Act within the six months preceding such inspection: Provided further, That this limitation does not prohibit the Secretary of Labor from conducting such monitoring visit at the time and place of an inspection by an employee of a State acting pursuant to section 18 of such Act, or in order to investigate a complaint about State program administration including a failure to respond to a worker complaint regarding a violation of such Act, or in order to investigate a discrimination complaint under section 11(c) of such Act, or as part of a special study monitoring program, or to investigate a fatality or catastrophe: Provided further, That none of the funds appropriated under this paragraph may be obligated or expended for the inspection, investigation, or enforcement of any activity occurring on the Outer Continental Shelf which exceeds the authority granted to the Occupational Safety and Health Administration by any provision of the Outer Continental Shelf Lands Act, or the Outer Continental Shelf Lands Act Amendments of 1978.

Mine Safety and Health Administration

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $160,193,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the purchase of not to exceed sixty passenger motor vehicles for replacement only; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: Provided, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

Bureau of Labor Statistics

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $176,481,000, of which $8,793,000 shall be for expenses of revising the Consumer Price Index, together with not to exceed $41,569,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: Provided, That $7,366,000 shall remain available until September 30, 1989.

Departmental Management

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of 5 sedans, and including $2,434,000 for the President's Committee on Employment of the Handicapped, $114,929,000, together with not to exceed $274,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $139,614,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001-08 and 2021-26.

OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, $37,051,000, together with not to exceed $6,201,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

General Provisions

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers health or safety.

SEC. 103. None of the funds appropriated in this Act shall be obligated or expended for the purpose of closing any Job Corps Center operating under part B of title IV of the Job Training Partnership Act prior to January 1, 1989.

SEC. 104. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps which was not under such a contract as of September 1, 1984.

SEC. 105. None of the funds appropriated in this Act shall be used by the Job Corps program to pay the expenses of legal counsel or representation in any criminal case or proceeding for a Job Corps participant, unless certified to and approved by the Secretary of Labor that a public defender is not available.

This title may be cited as the "Department of Labor Appropriations Act, 1988".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

HEALTH RESOURCES AND SERVICES

For carrying out titles III, VI, VII, VIII, X, XVI, and XXIII of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, and the Stewart B. McKinney Homeless Assistance Act, $1,551,478,000, of which not to exceed $718,000 to remain available until expended, shall be available for renovating the Gillis W. Long Hansen's Disease Center, 42 U.S.C. 247e, and of which $96,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act, and of which $6,702,000 shall be made available until expended to make grants under section 1610(b) of the Public Health Service Act for renovation or construction of nonacute care intermediate and long term care facilities for AIDS patients: Provided, That grants made under the Excellence in Minority Health Education and Care Act shall be awarded competitively and, notwithstanding section 788A, any university which awards a graduate degree in the health professions and which has a majority enrollment of minority students shall be eligible to apply and compete for a grant: Provided further, That the total principal amount of Federal loan insurance available under section 728 of the Public Health Service Act during fiscal year 1988 shall be granted by the Secretary of Health and Human Services without regard to any apportionment or other similar limitation: Provided further, That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advances to this appropriation.

For carrying out subpart 2 of part A of title XIX of the Public Health Service Act, $4,787,000 to be available June 1, 1988.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $22,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

Centers for Disease Control

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles III, XVII, and XIX and section 1102 of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, $771,772,000, of which $1,915,000 shall remain available until expended for equipment and construction and renovation of facilities: Provided, That training shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training: Provided further, That funds appropriated under this heading *shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: Provided further, That collections from user fees, including collections from training and reimbursements and advances for the full cost of proficiency testing of private clinical laboratories, may be credited to this appropriation: Provided further, That the General Services Administration is directed to construct under their lease purchase authority, a 100,000 net sq. ft. office building at the CDC Clifton Road site in Atlanta, Georgia and the laboratory facility in Chamblee, Georgia, designed with the funds which Congress provided to the Centers for Disease Control in the fiscal year 1987 Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriation. CDC is to reimburse GSA for the annual lease payment: Provided further, That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the PHS Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality shall be treated as non-Federal employees for reporting purposes only. In addition, the full-time equivalents for organizations within the Department of Health and Human Services shall not be reduced to accommodate implementation of this provision: Provided further, That the Director shall cause to be distributed without necessary clearance of the content by any official, organization or office, an AIDS mailer to every American household by June 30, 1988, as approved and funded by the Congress in Public Law 100-71.*

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $1,469,327,000.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301, title IV, and section 1105 of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $965,536,000.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental diseases, $126,297,000.

NATIONAL INSTITUTE OF DIABETES, AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, $534,733,000.

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological and communicative disorders and stroke, $534,692,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $638,800,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $632,676,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $396,811,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $224,947,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311, and title IV of the Public Health Service Act with respect to environmental health sciences, $215,666,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $194,746,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, $147,679,000.

RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $368,153,000, of which $23,935,000 shall remain available until expended to provide for the repair, renovation, modernization, and expansion of existing facilities and purchase of associated equipment, and to make grants and enter into contracts for such purposes: Provided, That none of these funds, with the exception of funds for the Minority Biomedical Research Support program, shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $23,380,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $15,651,000, of which $1,852,000 shall be available for payment to the Gorgas Memorial Institute for maintenance and operation of the Gorgas Memorial Laboratory.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $67,910,000.

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $61,819,000, including purchase of not to exceed six passenger motor vehicles for replacement only.

BUILDINGS AND FACILITIES

For construction of, and acquisition of sites and equipment for, facilities of or used by the National Institutes of Health, $47,870,000, to remain available until expended.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, $1,373,727,000 of which $4,787,000 shall be available, on a pro rata basis, for grants to the States for State comprehensive mental health services plans pursuant to title V of Public Law 99-660 (100 Stat. 3794-3797), and of which $191,000 for renovation of government owned or leased intramural research facilities shall remain available until expended.

FEDERAL SUBSIDY FOR SAINT ELIZABETHS HOSPITAL

(INCLUDING TRANSFER OF FUNDS)

To carry out the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, $62,793,000, together with any unobligated balances from "Saint Elizabeths Hospital, Construction and Renovation" (except those balances determined by the Secretary of Health and Human Services to be necessary to carry out existing Federal renovation contracts), all of which shall be available in fiscal year 1988 for payments to the District of Columbia as authorized by sections 2, 4, and 9 of the Act; and in addition, $2,609,000 which shall be available through September 30, 1989 for Federal activities authorized by sections 6 and 9 of the Act: Provided, That funds appropriated under this heading may be used for multiyear contracts with the District of Columbia for maintenance of Saint Elizabeths Hospital: Provided further, That any amounts determined by the Secretary of Health and Human Services to be in excess of the amounts requested and estimated to be necessary to carry out sections 6 and 9(f)(2) of the Act shall be returned to the Treasury.

In fiscal year 1988 the maximum amount available to Saint Elizabeths Hospital from Federal sources shall not exceed the total of the following amounts: the appropriations made under this heading, amounts billed to Federal agencies and entities by the District of Columbia for services provided at Saint Elizabeths Hospital, and amounts authorized by titles XVIII and XIX of the Social Security Act. This maximum amount shall not include Federal funds appropriated to the District of Columbia under "Federal Payment to the District of Columbia" and payments made pursuant to section 9(c) of Public Law 98-621. Amounts chargeable to and available from Federal sources for inpatient and outpatient services provided through Saint Elizabeths Hospital as authorized by 24 U.S.C. 191, 196, 211, 212, 222, 253, and 324; 31 U.S.C. 1535; and 42 U.S.C. 249 and 251 shall not exceed the estimated total cost of such services as computed using only the proportionate amount of the direct Federal subsidy appropriated under this heading.

OFFICE OF ASSISTANT SECRETARY FOR HEALTH

PUBLIC HEALTH SERVICE MANAGEMENT

For the expenses necessary for the Office of the Assistant Secretary for Health and for carrying out titles III, XVII, and XX of the Public Health Service Act, $106,737,000, together with not to exceed $1,005,000 to be transferred and expended as authorized by section 201(g) of the Social Security Act from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance

Trust Funds referred to therein and $1,915,000 to be transferred and expended for patient outcome assessment research as authorized by section 9316 of Public Law 99-509, of which $1,245,000 will come from the Federal Hospital Insurance Trust Fund and $670,000 will come from the Federal Supplementary Medical Insurance Trust Fund, and, in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: Provided, That in addition to amounts provided herein, up to $15,318,000 shall be available from amounts available under section 2313 of the Public Health Service Act, to carry out the National Medical Expenditure Survey and $5,827,000 shall be available from amounts available under section 2313 of the Public Health Service Act, to carry out the National Health and Nutrition Examination Survey.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), such amounts as may be required during the current fiscal year.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $22,946,000,000, to remain available until expended.

For making, after May 31, 1988, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1988 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

Payment under title XIX may be made for any quarter beginning after June 30, 1987, and before October 1, 1988, with respect to any State plan or plan amendment in effect during any such quarter, if submitted in, or prior to such quarter and approved in that or any such subsequent quarter.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1989, $8,000,000,000, to remain available until expended.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, and section 278(d) of Public Law 97-248, $25,893,000,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, $98,211,000, together with not to exceed $1,373,585,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein: Provided, That $105,314,000 of said trust funds shall be expended only to the extent necessary to process workloads not anticipated in the budget estimates, including the cost of administration of catastrophic health insurance if enacted into law, and to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: Provided further, That all funds derived in accordance with 31 U.S.C. 9701, are to be credited to this appropriation.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 217(g), 228(g), and 1131(b)(2) of the Social Security Act and section 152 of Public Law 98-21, $105,298,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $663,452,000, to remain available until expended: Provided, That monthly benefit payments shall be paid consistent with section 215(g) of the Social Security Act.

For making, after July 31, of the current fiscal year benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1989, $250,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the social security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $9,535,384,000, to remain available until expended: Provided, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out the Supplemental Security Income Program for the first quarter of fiscal year 1989, $3,000,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than $3,524,114,000, may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: Provided, That travel expense payments under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: Provided further, That $47,870,000 of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads not anticipated in the budget estimates, for automation projects and their impact on the work force, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: Provided further, That not to exceed $53,040,000 for automatic data processing and telecommunications activities shall remain available until expended: Provided further, That none of the funds appropriated by this Act may be used for the manufacture, printing, or procuring of social security cards, as provided in section 205(c)(2)(D) of the Social Security Act, where paper and other materials used in the manufacture of such cards are produced, manufactured, or assembled outside of the United States.

FAMILY SUPPORT ADMINISTRATION

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C., ch. 9), $8,644,385,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV-A and -D, X, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C., ch. 9) for the first quarter of fiscal year 1989, $2,500,000,000, to remain available until expended.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,531,840,000.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), $346,933,000.

WORK INCENTIVES

For carrying out a work incentive program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such programs, and for related child care and other supportive services, as authorized by section 402(a)(19)(G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, $92,551,000 which shall be the maximum amount available for transfer to the Secretary of Labor and to which the States may become entitled pursuant to section 403(d) of such Act, for these purposes.

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act, section 408 of Public Law 99-425 and the Stewart B. McKinney Homeless Assistance Act, $382,290,000 of which $18,909,000 shall be for carrying out section 681(a)(2)(A), $3,925,000 shall be for carrying out section 681(a)(2)(D), $2,968,000 shall be for carrying out section 681(a)(2)(E), $6,319,000 shall be for carrying out section 681(a)(2)(F), $239,000 shall be for carrying out section 681(a)(3), $2,872,000 shall be for carrying out section 408 of Public Law 99-425 and $2,394,000 shall be for carrying out section 681A with respect to the community food and nutrition program.

PROGRAM ADMINISTRATION

For necessary administrative expenses to carry out titles I, IV, X, XI, XIV, and XVI of the Social Security Act, the Act of July 5, 1960 (24 U.S.C., ch. 9), title XXVI of the Omnibus Budget Reconciliation Act of 1981, the Community Services Block Grant Act, the Stewart B. McKinney Homeless Assistance Act, title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980, $79,464,000.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

SOCIAL SERVICES BLOCK GRANT

For carrying out the Social Services Block Grant Act, $2,700,000,000.

HUMAN DEVELOPMENT SERVICES

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Older Americans Act of 1965, the Developmental Disabilities Assistance and Bill of Rights Act, the Child Abuse Prevention and Treatment Act, section 404 of Public Law 98-473, the Family Violence Prevention and Services Act (title III of Public Law 98-457), the Native Americans Programs Act, title II of Public Law 95-266 (adoption opportunities), title II of the Children's Justice and Assistance Act of 1986, chapter 8-D of title VI of the Omnibus Budget Reconciliation Act of 1981 (pertaining to grants to States for planning and development of dependent care programs), the Head Start Act, the Child Development Associate Scholarship Assistance Act of 1985, and part B of title IV and section 1110 of the Social Security Act, $2,455,532,000.

FAMILY SOCIAL SERVICES

For carrying out part E of title IV of the Social Security Act, $811,178,000.

DEPARTMENTAL MANAGEMENT

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, $67,840,000, together with not to exceed $6,702,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein, of which $4,308,000 shall be for construction and fixed equipment for the Mary Babb Randolph Center in West Virginia.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, $35,769,000, together with not to exceed $38,296,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $16,343,000, together with not to exceed $3,830,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $4,873,000.

GENERAL PROVISIONS

SEC. 201. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 202. None of the funds made available by this Act for the National Institutes of Health may be used to provide forward funding or multiyear funding of research project grants except in those cases where the Director of the National Institutes of Health has determined that such funding is specifically required because of the scientific requirements of a particular research project grant.

SEC. 203. Appropriations in this Act for the Health Resources and Services Administration, the National Institutes of Health, the Centers for Disease Control, the Alcohol, Drug Abuse, and Mental Health Administration, the Office of the Assistant Secretary for Health, the Health Care Financing Administration, and Departmental Management shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed two thousand four hundred commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents, assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS-18; not to exceed $9,500 for official reception and representation expenses related to any health agency of the Department when specifically approved by the Assistant Secretary for Health.

SEC. 204. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 205. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

SEC. 206. Funds appropriated in this title for the Social Security Administration shall be available for not to exceed $10,000 for official reception and representation expenses when specifically approved by the Commissioner of Social Security.

SEC. 207. Funds appropriated in this title for the Health Care Financing Administration shall be available for not to exceed $2,000 for official reception and representation expenses when specifically approved by the Administrator of the Health Care Financing Administration.

SEC. 208. No funds appropriated for the fiscal year ending September 30, 1988, by this or any other Act, may be used to pay basic pay, special pays, basic allowances for subsistence and basic allowances for quarters of the commissioned corps of the Public Health Service described in section 204 of title 42, United States Code, at a level that exceeds 110 percent of the Executive Level I annual rate of basic pay: Provided, That amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts "Health Resources and Services", National Institutes of Health "Office of the Director", "Disease Control, Research, and Training", and "Federal Subsidy for Saint Elizabeths Hospital": Provided further, That none of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to the clinical, research, or staff associate program administered by the National Institutes of Health.

SEC. 209. None of the funds appropriated in this title shall be used to transfer the general administration of programs authorized under the Native American Programs Act from the Department of Health and Human Services to the Department of the Interior.

SEC. 210. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 211. The Secretary shall make available through assignment not more than 50 employees of the Public Health Service, who shall be exempt from all FTE limitations in the Department, to assist in child survival activities through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization. In addition, commissioned officers assigned under this section shall be exempt from all limitations on the number and grade of officers in the Public Health Service Commissioned Corps.

SEC. 212. Funds appropriated by this Act may be used to pay physicians' comparability allowances, as authorized under 5 U.S.C. 5948.

SEC. 213. For the purpose of insuring proper management of federally supported computer systems and data bases, funds appropriated by this Act are available for the purchase of dedicated telephone service between the private residences of employees assigned to computer centers funded under this Act, and the computer centers to which such employees are assigned.

SEC. 214. The Secretary of Health and Human Services shall:

(1) Issue a report to Congress within 90 days of the close of fiscal year 1988, of violations occurring during such year, of Department of Health and Human Services travel policy; and

(2) Require that personnel found by the report to be in violation of Department travel policy, shall reimburse the Department for funds spent in violation of Department policy.

SEC. 215. Section 465(b) of 42 U.S.C. 286 is amended by inserting between (5) and (6) an additional charge to the Secretary to "publicize the availability of the above products and services of the National Library of Medicine".

SEC. 216. Funds available in this title for activities related to acquired immune deficiency syndrome (AIDS) may be transferred between appropriation accounts upon the approval by the House and Senate Committees on Appropriations of a transfer request submitted by the Secretary of Health and Human Services.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1988".

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out chapter 1 of the Education Consolidation and Improvement Act of 1981, as amended, $4,327,927,000, of which $7,181,000 shall be used for purposes of section 555(d) of said Act to provide technical assistance and evaluate programs, and the remaining $4,320,746,000 shall become available on July 1, 1988, and remain available until September 30, 1989: Provided, That of these remaining funds, no funds shall be used for purposes of section 554(a)(1)(B), $269,029,000 shall be available for purposes of section 554(a)(2)(A), $151,269,000 shall be available for purposes of section 554(a)(2)(B), $32,552,000 shall be available for purposes of section 554(a)(2)(C) and $38,296,000 shall be available for purposes of section 554(b)(1)(D).

For carrying out section 418A of the Higher Education Act, $8,616,000.

IMPACT AID

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C. ch. 13), $685,498,000, of which $15,318,000 shall be for entitlements under section 2 of said Act and $670,180,000 shall be for entitlements under section 3 of said Act of which $536,144,000 shall be for entitlements under section 3(a) of said Act: Provided, That payment with respect to entitlements under section 3(b) of said Act to any local educational agency in which 20 per centum or more of the total average daily attendance is made up of children determined eligible under section 3(b) shall be at 60 per centum of entitlement and payment with respect to entitlements under section 3(b) of said Act to any local educational agency in which less than 20 per centum of the total average daily attendance is made up of children determined eligible under section 3(b) shall be ratably reduced from 100 per centum of entitlement: Provided further, That payments with respect to entitlements under section 3(a) to any local educational agency described in section 3(d)(1)(A) of said Act shall be at 100 per centum of entitlement, except that payments on behalf of children who reside on property which is described in section 403(1)(C) shall be at 15 per centum of entitlement, so long as the fiscal year 1988 per pupil payment does not exceed 105 per centum of the fiscal year 1987 per pupil payment: Provided further, That payment with respect to entitlements under section 3(a) to any local educational agency whose children determined eligible under section 3(a) amount to at least 15 per centum but less than 20 per centum of such agency's total average daily attendance shall be at 75 per centum of entitlement, except that payments on behalf of children who reside on property which is described in section 403(1)(C) shall be at 11.25 per centum of entitlement and the fiscal year 1988 local contribution rate for such agency shall not exceed 105 per centum of such agency's fiscal year 1987 local contribution rate: Provided further, That payment with respect to entitlements under section 3(a) to any local educational agency whose children determined eligible under section 3(a) amount to less than 15 per centum of such agency's total average daily attendance shall be ratably reduced from 100 per centum of entitlement, except that payments on behalf of children who reside on property which is described in section 403(1)(C) of said Act shall be ratably reduced from 15 per centum of entitlement: Provided further, That the provisions of section 5(c) of said Act shall not apply to funds provided herein: Provided further, That payments with respect to entitlements under section 3(a) for any local educational agency that is described in section 3(d)(1)(A) and is coterminous with a military installation are not subject to limitations on increases in per pupil payments unless such agency's State aid payment is reduced as a result of its section 3 payment: Provided further, That the Secretary shall consider as timely filed requests for assistance filed after the applicable deadline and related to applications for assistance submitted under section 7 of said Act or section 16 of the Act of September 23, 1950, stemming from FEMA Disaster Number 753DR as declared on November 7, 1985: Provided further, That any payment made to a local educational agency for fiscal years prior to 1986 that is attributable to an incorrect determination under section 2(a)(1)(C) of such Act shall be deemed to have been made in accordance with such section, and any payment made to a local educational agency under section 3, for fiscal years prior to 1987, on behalf of children claimed by such agency for any such fiscal year who resided on or whose parents were employed on property that was housing assisted under section 8 of the United States Housing Act of 1937, as amended, shall stand, and such payments withheld or recovered shall be made or restored.

For carrying out the Act of September 23, 1950, as amended (20 U.S.C. ch. 19), $22,978,000 which shall remain available until expended, shall be for providing school facilities as authorized by said Act, of which $8,617,000 shall be for awards under section 10 of said Act, $10,053,000 shall be for awards under sections 14(a) and 14(b) of said Act, and $4,308,000 shall be for awards under sections 5, 9 and 14(c) of said Act: Provided further, That funds appropriated under the heading "School Assistance in Federally Affected Areas" in Public Law 98-8 that are available for obligation shall be available until expended for the purposes of sections 14(a) and 14(b).

SPECIAL PROGRAMS

For carrying out the consolidated programs and projects authorized under chapter 2 of the Education Consolidation and Improvement Act of 1981, as amended, $508,439,000, of which $29,739,000 shall be for programs and projects authorized under subchapter D of said Act, including $10,244,000 for programs and projects authorized under subsection 583(a)(1) of said Act; $4,308,000 shall be used for awards, which, except for educational television programming, are not to exceed a cumulative amount of $957,000 to any recipient for national impact demonstration or research projects; $7,659,000 for activities authorized under subsection 583(b)(1) of said Act; $3,315,000 for programs authorized under subsection 583(b)(2) of said Act; and $3,830,000 for activities authorized under subsection 583(b)(4) of said Act; and $383,000 for national school volunteer programs: Provided, That $478,700,000 to carry out the State block grant program authorized under chapter 2 of said Act shall become available for obligation on July 1, 1988, and shall remain available until September 30, 1989.

For grants to State educational agencies and desegregation assistance centers authorized under section 403 of the Civil Rights Act of 1964, $23,456,000.

For carrying out activities authorized under title IX, part C of the Elementary and Secondary Education Act, $3,351,000.

For carrying out activities authorized under section 1524 of the Education Amendments of 1978, $4,787,000.

For carrying out activities authorized under section 1525 of the Education Amendments of 1978, $1,915,000.

For carrying out activities authorized under Public Law 92-506, as amended, $2,394,000: Provided, That said sum shall become available on July 1, 1988, and shall remain available until September 30, 1989.

For carrying out activities authorized under the Drug-Free Schools and Communities Act of 1986, $229,776,000, of which $191,480,000 for grants to States and outlying areas shall be available beginning July 1, 1988, and shall remain available until September 30, 1989: Provided, That State educational agencies allot fiscal year 1988 funds to local and intermediate educational agencies and consortia under section 4124(a) of the Act on the basis of their relative enrollments in public and private nonprofit schools.

For carrying out the provisions of title VII of the Education for Economic Security Act, relating to magnet schools assistance, $71,805,000: Provided, That not more than $4,000,000 in the fiscal year may be paid to any single eligible local educational agency.

For carrying out the provisions of title II of the Education for Economic Security Act, $119,675,000 of which $108,904,000, for grants to States and outlying areas under section 204 shall become available on July 1, 1988, and shall remain available until September 30, 1989.

For carrying out the provisions of subpart 2 of part C of title V of the Higher Education Act, $8,222,000, to become available

July 1, 1988, and to remain available until September 30, 1989.

For carrying out the provisions of subpart 2 of part D of title V of the Higher Education Act, $1,915,000.

For carrying out the provisions of subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act, $4,787,000 to become available July 1, 1988, and remain available through September 30, 1989.

For carrying out activities authorized under the Follow Through Act, $7,133,000.

For carrying out activities authorized under section 137(c) of this joint resolution relating to dropout prevention, $23,935,000.

For carrying out activities authorized under section 137(b) of this joint resolution relating to workplace literacy, $9,574,000.

For carrying out activities authorized under section 137(a) of this joint resolution relating to Star Schools, $19,148,000: Provided, That grants under the Star Schools program shall be awarded through a competitive grant process.

BILINGUAL EDUCATION

For carrying out, to the extent not otherwise provided, title VII of the Elementary and Secondary Education Act, Refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act, part B of title III of the Refugee Act of 1980, and title VI of the Education Amendments of 1984, $190,504,000, of which $101,198,000 shall be for part A, $9,928,000 shall be for part B, and $35,447,000 shall be for part C of title VII of the Elementary and Secondary Education Act and $28,722,000 shall be for the Emergency Immigrant Education Program authorized by title VI of the Education Amendments of 1984. Of the funds provided under this head in fiscal year 1987 in section 101(i) of Public Laws 99-500 and 99-591, for carrying out title VII of the Elementary and Secondary Education Act, which are unobligated, $1,247,000 are reappropriated to carry out title VI of the Education Amendments of 1984 to be used to fund the amended application from the State of Texas for the Emergency Immigrant Education Program: Provided, That the reappropriated funds shall be available until September 30, 1988.

EDUCATION FOR THE HANDICAPPED

For carrying out the Education of the Handicapped Act, $1,869,019,000, of which $1,431,737,000 for section 611, $201,054,000 for section 619, and $67,018,000 for section 685 shall become available for obligation on July 1, 1988, and shall remain available until September 30, 1989: Provided, That notwithstanding section 621(e) of the Education of the Handicapped Act, up to $479,000 may be used for section 621(d) of that Act: Provided further, That the amount appropriated for section 685 of the Education of the Handicapped Act in Public Laws 99-500 and 99-591, section 101(i), for fiscal year 1987 shall remain available for obligation by the States until September 30, 1989.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973 and the Helen Keller National Center Act, as amended, $1,590,400,000, of which $1,379,500,000 shall be for allotments under sections 100(b)(1) and 110(b)(3) of the Rehabilitation Act, $16,590,000 shall be for special demonstration programs under sections 311 (a), (b), and (c), and $4,800,000 shall be for the Helen Keller National Center: Provided, That $500,000 shall be available on a competitive basis for research and training for hearing loss assessments for native Hawaiian children under section 204 of such Act until September 30, 1989: Provided further, That the amount appropriated for title VI, part C of the Rehabilitation Act in Public Laws 99-500 and 99-591, section 101(i), for fiscal year 1987 shall remain available for obligation by the States until September 30, 1989.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational Education Act, and the Adult Education Act and the Stewart B. McKinney Homeless Assistance Act, $1,005,557,000 which shall become available for obligation on July 1, 1988, and shall remain available until September 30, 1989: Provided, That $25,658,000 shall be available for title IV of the Carl D. Perkins Vocational Education Act, of which $7,276,000 shall be for part A, including $5,744,000 for section 404, $14,792,000 shall be for part B, including $14,361,000 for section 411 and $3,590,000 shall be for part C of said title: Provided further, That $7,851,000 shall be available for State councils under section 112 of the Carl D. Perkins Vocational Education Act: Provided further, That $6,845,000 shall be made available to carry out title III-A and $32,791,000 shall be made available for title III-B of said Vocational Education Act: Provided further, That $3,734,000 shall be available for part E of title IV of the Carl D. Perkins Vocational Education Act: Provided further, That section 202 of the Carl D. Perkins Vocational Education Act is amended—

(1) by inserting (a) after the section designation, and

(2) by adding at the end thereof the following new subsection:

"(b) Funds provided for fiscal year 1988 and described in clause (4) of subsection (a) shall also be available for single pregnant women.".

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A and parts C and E of title IV of the Higher Education Act, as amended, $5,544,792,000, which shall remain available until September 30, 1989: Provided, That the maximum Pell grant that a student may receive in the 1988-89 award year shall be $2,200.

GUARANTEED STUDENT LOANS

For necessary expenses under title IV, part B of the Higher Education Act, $2,565,000,000, to remain available until expended.

HIGHER EDUCATION

For carrying out title III of the Higher Education Act of 1965, as amended, $152,370,000, of which up to $19,148,000 for section 332 of part C of title III of said Act shall remain available until expended: Provided, That $73,161,500 of funds appropriated for title III of said Act shall be available only to historically black colleges and universities.

For carrying out subparts 4 and 6 of part A of title IV; part B and subpart 1 of part D of title V; titles VI and VIII, parts A, B, C, D, E, and F of title IX, notwithstanding section 971(g); parts B and part D of title VII; subpart 1 of part B and parts A and C of title X; and sections 420A and 1204(c) of the Higher Education Act of 1965, as amended; title XIII, part H, subpart 1 of the Education Amendments of 1980, as amended; and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961; $367,884,000, of which $28,244,000 for parts B and D of title VII shall remain available until expended: Provided, That $7,659,000 provided herein for carrying out subpart 6 of part A of title IV shall be available notwithstanding sections 419G(b) and 419I(a) of the Higher Education Act of 1965 (20 U.S.C. 1070d-37(b) and 1070d-39(a)): Provided further, That $239,000 of the amount provided for part B of title IX shall be competitively awarded to a consortium of historically black colleges and doctoral degree-granting institutions to provide supplemental need-based financial aid to students and faculty from historically black colleges who are pursuing doctoral studies.

For carrying out sections 772, 773, 775, and 776 of part G of title VII of the Higher Education Act, sections 1-5 of Public Law 99-608, and title III, section 303 of Public Law 98-480, $14,217,000 to remain available until expended.

Of any funds appropriated in fiscal year 1988 for a grant to an appropriate consortium of institutions of higher education for carrying out part B of title VII of the Higher Education Act, the limitations contained in sections 702(a) and 721(a)(2) shall not apply.

HIGHER EDUCATION FACILITIES LOANS AND INSURANCE

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year. For the fiscal year 1988, no new commitments for loans may be made from the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1132d-2).

COLLEGE CONSTRUCTION LOAN INSURANCE

For carrying out part E of title VII of the Higher Education Act of 1965, as amended, $19,148,000 to be available until expended.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing and academic facilities loans program, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation using loan repayments and other resources available to this account: Provided, That during fiscal year 1988, gross commitments for the principal amount of direct loans shall be $62,231,000. Any unobligated balances remaining from fixed fees previously paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

Whenever the Secretary, pursuant to sections 762(c) or 783 of the Act, sells, exchanges, or otherwise transfers on a discounted basis obligations or securities held by the Secretary under title VII, part F of the Act, the outstanding balance remaining on the notes of the Secretary issued to the Secretary of the Treasury under section 761(d) of the Act shall be reduced by the amount of the discount. For such transactions occurring prior to the fiscal year 1988, such reduction is effective on September 30, 1987. For such transactions occurring in fiscal year 1988 or thereafter, such reduction is to be effective on the last day of the fiscal *year in which the discounted transaction occurs.*

EDUCATION RESEARCH AND STATISTICS

For necessary expenses to carry out sections 405 and 406 of the General Education Provisions Act, as amended, $67,526,000, of which $13,390,000 shall be used for the Center for Education Statistics, as authorized under section 406 of the General Education Provisions Act, and $7,563,000 shall be for the National Assessment of Educational Progress, as authorized under section 405(e)(1) of the General Education Provisions Act: Provided, That $3,830,000 of the sums appropriated shall be used to continue a rural education program by the nine regional laboratories.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, IV, and VI of the Library Services and Construction Act (20 U.S.C., ch. 16), and title II, parts B, C, and D of the Higher Education Act, notwithstanding the provisions of section 221, $135,089,000: Provided, That $22,595,000 of the sums appropriated shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended.

SPECIAL INSTITUTIONS

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101-106), including provision of materials to adults undergoing rehabilitation on the same basis as provided in 1985, $5,266,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $31,594,000, of which $191,000 shall be for the endowment program as authorized under section 408 and shall be available until expended: Provided, That none of the funds provided herein may be used to subsidize the tuition of foreign students.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf and the partial support of Gallaudet University under titles I and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), including continuing education activities, existing extension centers and the National Center for Law and the Deaf, $62,195,000, of which $957,000 shall be for the endowment program as authorized under section 407 and shall be available until expended.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $172,203,000.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $241,028,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $40,530,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $17,560,000.

GENERAL PROVISIONS

SEC. 301. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 302. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet University shall be subject to audit by the Secretary of Education.

SEC. 303. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 304. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 305. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 306. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

This title may be cited as the "Department of Education Appropriations Act, 1988".

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $163,085,000.

CORPORATION FOR PUBLIC BROADCASTING

PUBLIC BROADCASTING FUND

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1990, $232,648,000: Provided, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for government officials or employees: Provided further, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171-180, 182), including expenses of the Labor-Management Panel and boards of inquiry appointed by the President, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia; and for expenses necessary pursuant to Public Law 93-360 for mandatory mediation in health care industry negotiation disputes and for convening factfinding boards of inquiry appointed by the Director in the health care industry; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 125a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. chapter 71), $24,510,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $3,906,000.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345), $718,000.

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

OPERATING EXPENSES

Funds appropriated for operating expenses of the National Commission to Prevent Infant Mortality in the Supplemental Appropriations Act, 1987 (Public Law 100-71) shall remain available until expended.

NATIONAL COUNCIL ON THE HANDICAPPED

SALARIES AND EXPENSES

For expenses necessary for the National Council on the Handicapped as authorized by section 405 of the Rehabilitation Act of 1973, as amended, $892,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, $133,097,000: Provided, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, $7,004,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $5,885,000.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $2,997,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 601 of Public Law 98-21, $3,592,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $352,323,000, all of which shall be credited to the account in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for unnegotiated checks, $3,100,000, to remain available through September 30, 1989, which shall be the maximum amount available for payments pursuant to section 417 of Public Law 98-76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, $57,860,000, to be derived from the railroad retirement accounts: Provided, That such portion of the foregoing amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 1,254 full-time equivalent employees: Provided further, That $479,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved: Provided further, That notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 228a-r): Provided further, That not to exceed $2,500,000 of funds provided under this head in Public Law 99-591 shall remain available until September 30, 1988, only for retirement claims processing automation activities.

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than $13,830,000 shall be apportioned for fiscal year 1988 from moneys credited to the railroad unemployment insurance administration fund: Provided, That such portion of the foregoing amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 303 full-time equivalent employees.

LIMITATION ON REVIEW ACTIVITY

For expenses necessary for the Railroad Retirement Board for audit, investigatory and review activities, as authorized by section 418 of Public Law 98-76, not more than $2,212,000 to be derived from the railroad retirement accounts and railroad unemployment insurance account.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, $35,879,000: Provided, That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Soldiers' and Airmen's Home permanent fund, $15,445,000, to remain available until expended.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $4,308,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: Provided, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor, Health and Human Services, and Education are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I, II, and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is *authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".*

Sec. 511. None of the funds appropriated by this Act shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

Sec. 512. (a)(1) In the cases of all appropriations accounts within this Act from which expenses for travel, transportation, and subsistence (including per diem allowances) are paid under chapter 57 of title 5, United States Code, there are hereby prohibited to be obligated under such accounts in fiscal year 1988 a uniform percentage of such amounts, as determined by the President in accordance with the provisions of paragraph (2), as, but for this subsection, would—

(A) be available for obligation in such accounts as of October 1, 1987,

(B) be planned to be obligated for such expenses after such date during fiscal year 1988, and

(C) result in total outlays of $23,600,000 in fiscal year 1988.

(2) Before making determinations under paragraph (1), the President shall obtain from the Director of the Office of Management and Budget and the Comptroller General of the United States recommendations for determinations with respect to (A) the identification of the accounts affected, (B) the amount in each such account available as of such date for obligation, (C) the amounts planned to be obligated for such expenses after such date in fiscal year 1988, and (D) the uniform percentage by which such amounts need to be reduced in order to comply with paragraph (1).

(b) Within 30 days after the date of enactment of this Act, the President shall prepare and transmit to the Congress a report specifying the determinations of the President under subsection (a).

(c) Sections 1341(a) and 1517 of title 31, United States Code, apply to each account for which a determination is made by the President under subsection (a).

Sec. 513. (a) Subject to subsection (b), none of the funds made available by this or any other Act may be used by the Secretary of Labor to withdraw approval of the California State occupational safety and health plan, or to exercise exclusive Federal safety and health authority in the State of California, under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(b) The prohibition established in subsection (a) shall apply until the California Supreme Court has rendered a final disposition in the case of Ixta v. Rinaldi (Case No. 3 Civil C 002805).

Sec. 514. (a) Notwithstanding the matter under the heading "CENTERS FOR DISEASE CONTROL", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote or encourage, directly, homosexual sexual activities.

(b) Education, information, and prevention activities and materials paid for with funds appropriated under this Act shall emphasize—

(1) abstinence from sexual activity outside a sexually monogamous marriage (including abstinence from homosexual sexual activities) and

(2) abstinence from the use of illegal intravenous drugs.

(c) The homosexual activity referred to in subsections (a) and (b) includes any sexual activity between two or more males as described in section 2256(2)(A) of title 18, United States Code.

(d) The illegal drugs referred to in subsection (b) include any controlled substance as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).

(e) If the Secretary of Health and Human Services finds that a recipient of funds under this Act has failed to comply with this section, the Secretary shall notify the recipient, if the funds are paid directly to the recipient, or notify the State if the recipient receives the funds from the State, of such finding and that—

(1) no further funds shall be provided to the recipient;

(2) no further funds shall be provided to the State with respect to noncompliance by the individual recipient;

(3) further payment shall be limited to those recipients not participating in such noncompliance; and

(4) the recipient shall repay to the United States, amounts found not to have been expended in accordance with this section.

Sec. 515. In administering funds made available under this Act for research relating to the treatment of AIDS, the National Institutes of Health shall take all possible steps to ensure that all experimental drugs for the treatment of AIDS, particularly antivirals and immunomodulators, that have shown some effectiveness in treating individuals infected with the human immunodeficiency virus are tested in clinical trials as expeditiously as possible and with as many subjects as is scientifically acceptable.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1988".

And the Senate agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(i) Such amounts as may be necessary for programs, projects or activities provided for in the Legislative Branch Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Making appropriations for the Legislative Branch for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I—CONGRESSIONAL OPERATIONS

SENATE

Mileage of the Vice President and Senators

For mileage of the Vice President and Senators of the United States, $60,000.

EXPENSE ALLOWANCES OF THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, MAJORITY AND MINORITY LEADERS, MAJORITY AND MINORITY WHIPS, AND CHAIRMEN OF THE MAJORITY AND MINORITY CONFERENCE COMMITTEES

For expense allowances of the Vice President, $10,000; the President Pro Tempore of the Senate, $10,000; Majority Leader of the Senate, $10,000; Minority Leader of the Senate, $10,000; Majority Whip of the Senate, $5,000; Minority Whip of the Senate, $5,000; and Chairmen of the Majority and Minority Conference Committees, $3,000 for each Chairman; in all, $56,000.

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, $10,000 for each such Leader, in all $20,000.

Salaries, Officers and Employees

For compensation of officers, employees, clerks to Senators, and others as authorized by law, including agency contributions, $196,196,700 which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, $1,145,000.

OFFICE OF THE PRESIDENT PRO TEMPORE

For Office of the President Pro Tempore, $153,000.

OFFICE OF THE DEPUTY PRESIDENT PRO TEMPORE

For the Office of the Deputy President Pro Tempore, $90,000.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, $1,388,000.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, $431,000.

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $556,500 for each such committee; in all, $1,113,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, $270,000.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, $115,000.

OFFICE OF THE SECRETARY

For Office of the Secretary, $8,005,000.

ADMINISTRATIVE, CLERICAL, AND LEGISLATIVE ASSISTANCE TO SENATORS

For administrative, clerical, and legislative assistance to Senators, $109,605,500.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, $44,161,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, $918,000.

AGENCY CONTRIBUTIONS

For agency contributions for employee benefits, as authorized by law, $28,802,200.

Office of the Legislative Counsel of the Senate

For salaries and expenses of the Office of the Legislative Counsel of the Senate, $1,764,000: Provided, That the amounts appropriated to the Office of the Legislative Counsel of the Senate for fiscal year 1987 shall remain available until September 30, 1988.

Office of Senate Legal Counsel

For salaries and expenses of the Office of Senate Legal Counsel, $633,000.

Expense Allowances of the Secretary of the Senate, Sergeant at Arms and Doorkeeper of the Senate, and Secretaries for the Majority and Minority of the Senate

For expense allowances of the Secretary of the Senate, $3,000; Sergeant at Arms and Doorkeeper of the Senate, $3,000; Secretary for the Majority of the Senate, $3,000; Secretary for the Minority of the Senate, $3,000; in all, $12,000.

Contingent Expenses of the Senate

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $1,101,500 for each such committee; in all, $2,203,000.

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, section 112 of Public Law 96-304 and Senate Resolution 281, agreed to March 11, 1980, $57,161,000.

EXPENSES OF UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, as authorized by section 814 of the Foreign Relations Authorization Act passed by the Senate on July 31, 1985, $325,000.

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, $666,300.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, $68,021,000: Provided, That of the amounts appropriated under this head in the Legislative Branch Appropriations Act, 1986 (Public Law 99-151), $2,250,000 shall remain available until September 30, 1988.

MISCELLANEOUS ITEMS

For miscellaneous items, $10,183,000: Provided, That, from funds appropriated to the Conference of the Majority and from funds appropriated to the Conference of the Minority for any fiscal year, such Conference may utilize such amounts as it deems appropriate for the specialized training of professional staff, subject to such limitations, insofar as they are applicable, as are imposed by the Committee on Rules and Administration with respect to such training when provided to professional staff of standing committees of the Senate.

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, for officers of the Senate and the Conference of the Majority and Conference of the Minority of the Senate, $8,500; in all, $13,000.

Administrative Provisions

Sec. 1. (a) The table and the sentence immediately following such table in subsection (d)(1) of section 105 of the Legislative Branch Appropriation Act, 1968 (2 U.S.C. 61-1(d)(1)), is amended to read as follows:

"$740,000 if the population of his State is less than 1,000,000;

"$775,950 if such population is 1,000,000 but less than 2,000,000;

"$811,900 if such population is 2,000,000 but less than 3,000,000;

"$847,850 if such population is 3,000,000 but less than 4,000,000;

"$883,800 if such population is 4,000,000 but less than 5,000,000;

"$919,750 if such population is 5,000,000 but less than 6,000,000;

"$955,700 if such population is 6,000,000 but less than 7,000,000;

"$991,650 if such population is 7,000,000 but less than 8,000,000;

"$1,027,600 if such population is 8,000,000 but less than 9,000,000;

"$1,063,550 if such population is 9,000,000 but less than 10,000,000;

"$1,099,500 if such population is 10,000,000 but less than 11,000,000;

"$1,135,450 if such population is 11,000,000 but less than 12,000,000;

"$1,171,400 if such population is 12,000,000 but less than 13,000,000;

"$1,207,350 if such population is 13,000,000 but less than 14,000,000;

"$1,243,300 if such population is 14,000,000 but less than 15,000,000;

"$1,279,250 if such population is 15,000,000 but less than 16,000,000;

"$1,315,200 if such population is 16,000,000 but less than 17,000,000;

"$1,351,150 if such population is 17,000,000 but less than 18,000,000;

"$1,374,150 if such population is 18,000,000 but less than 19,000,000;

"$1,397,150 if such population is 19,000,000 but less than 20,000,000;

"$1,420,150 if such population is 20,000,000 but less than 21,000,000;

"$1,443,150 if such population is 21,000,000 but less than 22,000,000;

"$1,466,150 if such population is 22,000,000 but less than 23,000,000;

"$1,489,150 if such population is 23,000,000 but less than 24,000,000;

"$1,512,150 if such population is 24,000,000 but less than 25,000,000;

"$1,535,150 if such population is 25,000,000 but less than 26,000,000;

"$1,558,150 if such population is 26,000,000 but less than 27,000,000;

"$1,581,150 if such population is 27,000,000 but less than 28,000,000; and

"$1,604,150 if such population is 28,000,000 or more.

"For any fiscal year, the population of a State shall be deemed to be whichever of the following is the higher:

"(I) the population of such State (as determined for purposes of this paragraph) for the preceding fiscal year; or

"(II) the population of such State as of the first day of such fiscal year, as determined by the latest census (provisional or otherwise) conducted prior to such first day by the Bureau of the Census within the Department of Commerce.

"If the population of any State, as determined under the preceding sentence, is not evenly divisible by 1,000,000, the population of such State shall be deemed to be increased to the next higher multiple of 1,000,000.

"If, for any period after a fiscal year has begun, the census figures of the most recent census conducted prior to the first day of such year have not been officially released, then, for such period, in the administration of this paragraph, it shall be assumed that the population of each State is the same as such State's population (as determined for purposes of this paragraph) for the preceding fiscal year.

"In the event that the term of office of a Senator begins after the first month of a fiscal year or ends (except by reason of death, resignation, or expulsion) before the last month of a fiscal year, the aggregate amount available for gross compensation of employees in the office of such Senator for such year shall be the applicable amount contained in the preceding table, divided by 12, and multiplied by the number of months in such year which are included in the Senator's term of office, counting any fraction of a month as a full month.".

(b) The amendment made by this section shall be effective in the case of fiscal years beginning after September 30, 1987.

Sec. 2. (a) Effective with respect to pay periods beginning on or after the enactment of this Act, the Chaplain of the Senate shall be compensated at a rate equal to the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) The second proviso, under the headings "SENATE" and "Office of the Chaplain", of the Legislative Branch Appropriation Act, 1970 (Public Law 91-145) is amended to read as follows: "Provided further, That the Chaplain of the Senate may appoint and fix the compensation of a secretary".

Sec. 3. (a) Section 192 of title I, Chapter IX, of the Supplemental Appropriations Act, 1985 (Public Law 99-88; 99 Stat. 349; 2 U.S.C. 68-5) is amended—

(1) by striking out "and", where it appears immediately after "Minority Whip of the Senate,", and inserting in lieu thereof "one for the attending physician, one as authorized by Senate Resolution 90 of the 100th Congress"; and

(2) by inserting immediately before the period at the end of such section the following: ", and such additional number as is otherwise specifically authorized by law".

(b) The amendments made by subsection (a) shall be effective in the case of fiscal years ending after September 30, 1986.

Sec. 4. Section 151(a) of Public Law 99-591 (100 Stat. 3341-3355) is amended by striking out "during fiscal year 1987".

Sec. 5. Subsection (i) of section 814 of the Foreign Relations Authorization Act, fiscal years 1986 and 1987 (Public Law 99-93), as amended by Public law 99-151, is amended by striking out "1987" and inserting "1988".

Sec. 6. Effective in the case of fiscal years beginning after September 30, 1986, the first sentence of section 107(a) of the Supplemental Appropriations Act, 1979 (Public Law 96-38; 2 U.S.C. 69a), is amended by striking out "$2,000" and inserting in lieu thereof "$4,000".

Sec. 7. The Chairman of the Majority or Minority Conference Committee of the Senate may, during the fiscal year ending September 30, 1988, at his election, transfer not more than $50,000 from the appropriation account for salaries for the Conference of the Majority and the Conference of the Minority of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6). Any transfer of funds under authority of the preceding sentence shall be made at such time or times as such chairman shall specify in writing to the Senate Disbursing Office. Any funds so transferred by the chairman of the Majority or Minority Conference Committee shall be available for expenditure by such committee in like manner and for the same purposes as are other moneys which are available for expenditure by such committee from the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6).

SEC. 8. (a) The Secretary of the Senate is authorized, with the approval of the Senate Committee on Appropriations, to transfer, during any fiscal year, from the appropriations account, within the contingent fund of the Senate, for expenses of the Office of the Secretary of the Senate, such sums as he shall specify to the Senate appropriations account, appropriated under the headings "Salaries, Officers and Employees" and "Office of the Secretary"; and any funds so transferred shall be available in like manner and for the same purposes as are other funds in the account to which the funds are transferred.

(b) The Sergeant at Arms and Doorkeeper of the Senate is authorized, with the approval of the Senate Committee on Appropriations, to transfer, during any fiscal year, from the appropriations account, within the contingent fund of the Senate, for expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, such sums as he shall specify to the appropriations account, appropriated under the headings "Salaries, Officers and Employees" and "Office of the Sergeant at Arms and Doorkeeper"; and any funds so transferred shall be available in like manner and for the same purposes as are other funds in the account to which the funds are transferred.

SEC. 9. Section 114 of Public Law 95-94, as amended (2 U.S.C. 61-1a), is amended to read as follows:

"SEC. 114. Notwithstanding any other provision of law, appropriated funds are available for payment to an individual of pay from more than one position, each of which is either in the office of a Senator and the pay of which is disbursed by the Secretary of the Senate or is in another office and the pay of which is disbursed by the Secretary of the Senate out of an appropriation under the heading "SALARIES, OFFICERS, AND EMPLOYEES", if the aggregate gross pay from those positions does not exceed the maximum rate specified in section 105(d)(2) of the Legislative Appropriations Act of 1968, as amended and modified.".

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Lucie C. McKinney, widow of Stewart B. McKinney, late a Representative from the State of Connecticut, $89,500.

MILEAGE OF MEMBERS

For mileage of Members, as authorized by law, $210,000.

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $3,456,000, including: Office of the Speaker, $798,000, including $18,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $708,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $789,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, $621,000, including $5,000 for official expenses of the Majority Whip and not to exceed $149,950 for the Chief Deputy Majority Whip; Office of the Minority Whip, $540,000, including $5,000 for official expenses of the Minority Whip and not to exceed $79,150 for the Chief Deputy Minority Whip.

MEMBERS' CLERK HIRE

For staff employed by each Member in the discharge of his official and representative duties, $174,556,000.

COMMITTEE EMPLOYEES

For professional and clerical employees of standing committees, including the Committee on Appropriations and the Committee on the Budget, $49,102,000.

COMMITTEE ON THE BUDGET (STUDIES)

For salaries, expenses, and studies by the Committee on the Budget, and temporary personal services for such committee to be expended in accordance with sections 101(c), 606, 703, and 901(e) of the Congressional Budget Act of 1974, and to be available for reimbursement to agencies for services performed, $329,000.

CONTINGENT EXPENSES OF THE HOUSE

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by the House, $52,418,000.

ALLOWANCES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For allowances and expenses as authorized by House resolution or law, $174,797,000, including: Official Expenses of Members, $81,523,000; supplies, materials, administrative costs and Federal tort claims, $16,719,000; furniture and furnishings, $1,005,000; stenographic reporting of committee hearings, $550,000; reemployed annuitants reimbursements, $1,118,000; Government contributions to employees' life insurance fund, retirement funds, Social Security fund, Medicare fund, health benefits fund, and worker's and unemployment compensation, $73,260,000; and miscellaneous items including, but not limited to, purchase, exchange, maintenance, repair and operation of House motor vehicles, restaurants, interparliamentary receptions and gratuities to heirs of deceased employees of the House, $622,000: Provided, That effective upon enactment of this Act, an amount not to exceed $132,000 shall be made available by transfer from the appropriation for "House office buildings, 1987, No year" for deposit in the account established by section 208 of the First Supplemental Civil Functions Appropriations Act, 1941 (40 U.S.C. 174k(b)).

Such amounts as are deemed necessary for the payment of allowances and expenses under this head may be transferred between the various categories within this appropriation, "Allowances and expenses", upon the approval of the Committee on Appropriations of the House of Representatives.

COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)

For salaries and expenses, studies and examinations of executive agencies, by the Committee on Appropriations, and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act, 1946, and to be available for reimbursement to agencies for services performed, $4,300,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, $54,529,000, including: Office of the Clerk, $14,917,000; Office of the Sergeant at Arms, including overtime, as authorized by law, $21,180,000; Office of the Doorkeeper, including overtime, as authorized by law, $7,915,000; Office of the Postmaster, $2,517,000, including $48,124 for employment of substitute messengers and extra services of regular employees when required at the salary rate of not to exceed $16,766 per annum each; Office of the Chaplain, $75,000; Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $716,000; for salaries and expenses of the Office for the Bicentennial of the House of Representatives, $243,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $870,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $3,025,000; six minority employees, $447,000; the House Democratic Steering Committee and Caucus, $721,000; the House Republican Conference, $721,000; and other authorized employees, $1,182,000.

Such amounts as are deemed necessary for the payment of salaries of officers and employees under this head may be transferred between the various offices and activities within this appropriation, "Salaries, officers and employees", upon the approval of the Committee on Appropriations of the House of Representatives.

ADMINISTRATIVE PROVISIONS

SEC. 101. Of the amounts appropriated in fiscal year 1988 for the House of Representatives under the headings "Committee employees", "Standing committees, special and select", "Salaries, officers and employees", "Allowances and expenses", "House leadership offices", and "Members' clerk hire", such amounts as are deemed necessary for the payment of salaries and expenses may be transferred among the aforementioned accounts upon approval of the Committee on Appropriations of the House of Representatives.

SEC. 102. (a) One additional employee is authorized for each of the following:

(1) the House Democratic Steering and Policy Committee; and

(2) the House Republican Conference.

(b) The annual rate of pay for the positions established under subsection (a) shall not exceed 60 percent of the annual rate of pay payable from time to time for level V of the Executive Schedule under section 5316 of title 5, United States Code.

JOINT ITEMS

For joint committees, as follows:

CONTINGENT EXPENSES OF THE SENATE

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, $3,179,000.

JOINT COMMITTEE ON PRINTING

For salaries and expenses of the Joint Committee on Printing, $1,037,000.

CONTINGENT EXPENSES OF THE HOUSE

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $4,219,000, to be disbursed by the Clerk of the House.

For other joint items, as follows:

OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of $1,000 per month to the Attending Physician; (2) an allowance of $600 per month to one Senior Medical Officer while on duty in the Attending Physician's office; (3) an allowance of $200 per month each to two medical officers while on duty in the Attending Physician's office; (4) an allowance of $200 *per month each to not to exceed twelve assistants on the basis heretofore provided for such assistance; and (5) $963,600 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, such amount shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $1,493,000, to be disbursed by the Clerk of the House.*

CAPITOL POLICE

GENERAL EXPENSES

For purchasing and supplying uniforms; the purchase, maintenance, and repair of police motor vehicles, including two-way police radio equipment; contingent expenses, including advance payment for travel for training or other purposes, and expenses associated with the relocation of instructor personnel to and from the Federal Law Enforcement Training Center as approved by the Chairman of the Capitol Police Board, and including $85 per month for extra services performed for the Capitol Police Board by such member of the staff of the Sergeant at Arms of the Senate or the House as may be designated by the Chairman of the Board, $1,734,000, to be disbursed by the Clerk of the House: Provided, That the funds used to maintain the petty cash fund referred to as "Petty Cash II" which is to provide for the prevention and detection of crime shall not exceed $4,000: Provided further, That the funds used to maintain the petty cash fund referred to as "Petty Cash III" which is to provide for the advance of travel expenses attendant to protective assignments shall not exceed $4,000: Provided further, That, notwithstanding any other provision of law, the cost involved in providing basic training for members of the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1988 shall be paid by the Secretary of the Treasury from funds available to the Treasury Department.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs, $82,163,000, to be disbursed by the Clerk of the House, to be available immediately upon enactment of this Act: Provided, That funds appropriated for such purpose for the fiscal year ending September 30, 1987, shall remain available until expended.

CAPITOL GUIDE SERVICE

For salaries and expenses of the Capitol Guide Service, $1,137,000, to be disbursed by the Secretary of the Senate: Provided, That none of these funds shall be used to employ more than thirty-three individuals: Provided further, That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than one hundred twenty days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service.

STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate and House of Representatives, of the statements for the first session of the One-hundredth Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, $19, 000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Technology Assessment Act of 1972 (Public Law 92-484), including reception and representation expenses (not to exceed $3,000 from the Trust Fund), and rental of space in the District of Columbia, and those necessary to carry out the duties of the Director of the Office of Technology Assessment under section 1886 of the Social Security Act as amended by section 601 of the Social Security Amendments of 1983 (Public Law 98-21), and those necessary to carry out the duties of the Director of the Office of Technology Assessment under part B of title XVIII of the Social Security Act as amended by section 9305 of the Consolidated Omnibus Reconciliation Act of 1985 (Public Law 99-272), $16,901,000: Provided, That none of the funds in this Act shall be available for salaries or expenses of any employee of the Office of Technology Assessment in excess of 143 staff employees: Provided further, That no part of this appropriation shall be available for assessments or activities not initiated and approved in accordance with section 3(d) of Public Law 92-484, except that funds shall be available for the assessment required by Public Law 96-151: Provided further, That none of the funds in this Act shall be available for salaries or expenses of employees of the Office of Technology Assessment in connection with any reimbursable study for which funds are provided from sources other than appropriations made under this Act, or be available for any other administrative expenses incurred by the Office of Technology Assessment in carrying out such a study, except that funds shall be available for and reimbursement can be accepted for salaries or expenses of the Office of Technology Assessment in connection with the assessment required by section 101(b) of Public Law 99-190.

BIOMEDICAL ETHICS BOARD

SALARIES AND EXPENSES

For the Biomedical Ethics Board and the Biomedical Ethics Advisory Committee, as authorized by section 381 of the Public Health Service Act (Public Law 99-158), $100,000: Provided, That of the amounts appropriated under this head in the Legislative Branch Appropriations Act, 1987 (as enacted by Public Law 99-500 and Public Law 99-591), shall remain available for obligation until September 30, 1988.

CONGRESSIONAL AWARD BOARD

CONGRESSIONAL AWARD PROGRAM

Notwithstanding any other provision of law, there is appropriated to the Congressional Award Board (established by Public Law 96-114; 2 U.S.C. 801) the sum of $189,000, to be disbursed by the Clerk of the House upon vouchers approved by the Chairman of the Congressional Award Board or another member of the Board as delegated by the Chairman, to remain available without fiscal year limitation: Provided, That notwithstanding any provision of such Public Law 96-114, such sum shall be used by the Congressional Award Board in the same manner and for the same purposes, and subject to the same limitations, as are funds donated to such Board by private individuals: Provided further, That these funds may only be used for routine operational purposes and may not be allocated for the payment of any debt outstanding as of the date of enactment of this Act.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93-344), $17,886,000: Provided, That none of these funds shall be available for the purchase or hire of a passenger motor vehicle: Provided further, That none of the funds in this Act shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 226 staff employees: Provided further, That any sale or lease of property, supplies, or services to the Congressional Budget Office shall be deemed to be a sale or lease of such property, supplies, or services to the Congress subject to section 903 of Public Law 98-63.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For the Architect of the Capitol; the Assistant Architect of the Capitol; the Executive Assistant; and other personal services; at rates of pay provided by law, $5,925,000.

TRAVEL

Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of $10,000.

CONTINGENT EXPENSES

To enable the Architect of the Capitol to make surveys and studies, and to meet unforeseen expenses in connection with activities under his care, $48,000.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For all necessary expenses for the maintenance, care and operation of the Capitol Building and electrical substations of the Senate and House Office Buildings, under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment; not to exceed $1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; purchase or exchange, maintenance and operation of a passenger motor vehicle; for expenses of attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, and for security installations, which are approved by the Capitol Police Board, authorized by House Concurrent Resolution 550, Ninety-second Congress, agreed to September 19, 1972, the cost limitation of which is hereby further increased by $111,000, $12,793,000, of which $360,000 shall remain available until expended.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House Office Buildings, and the Capitol Power Plant, $3,404,000.

SENATE OFFICE BUILDINGS

For all necessary expenses for maintenance, care and operation of Senate Office Buildings; and furniture and furnishings, to be expended under the control and supervision of the Architect of the Capitol, $23,265,000, of which $3,943,000 shall remain available until expended: Provided, That $928,000 of funds provided under this head are for improvements to the Senate Restaurants kitchen in the Dirksen Building: Provided further, That no obligations can be made from this amount for improve-

ments to the Senate Restaurants kitchen in the Dirksen Building without the prior approval of the Committee on Appropriations of the United States Senate.

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House Office Buildings, including the position of Superintendent of Garages as authorized by law, $30,547,000, of which $8,010,000 shall remain available until expended.

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; for lighting, heating, and power (including the purchase of electrical energy) for the Capitol, Senate and House Office Buildings, Congressional Library Buildings, and the grounds about the same, Botanic Garden, Senate garage, and for air conditioning refrigeration not supplied from plants in any of such buildings; for heating the Government Printing Office and Washington City Post Office and heating and chilled water for air conditioning for the Supreme Court Building, Union Station complex and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation; $24,583,000: Provided, That not to exceed $1,950,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1988.

ADMINISTRATIVE PROVISIONS

SEC. 103. Notwithstanding any other provisions of law, the Architect of the Capitol is hereby authorized to (1) develop a pilot program to determine the economic feasibility and efficiency of centralizing certain maintenance functions, to assign and reassign, without increase or decrease in basic salary or wages, any person on the employment rolls of the Office of the Architect of the Capitol, for personal services in any buildings, facilities, or grounds under his jurisdiction for which appropriations have been made and are available; (2) maintain appropriate cost and productivity records for the program; and (3) report to appropriate authorities, including the Committees on Appropriations, on the results of the program, together with recommendations for continuation or expansion of the program.

SEC. 104. The Architect of the Capitol, under the direction of the Joint Committee on the Library, is authorized to accept donations to restore and display the Statue of Freedom model.

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946, as amended by section 321 of the Legislative Reorganization Act of 1970 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $43,022,000: Provided, That no part of this appropriation may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration or the Senate Committee on Rules and Administration: Provided further, That, notwithstanding any other provisions of law, the compensation of the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

For authorized printing and binding for the Congress; for printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and for printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $70,359,000: Provided, That funds remaining from the unexpended balances from obligations made under prior year appropriations for this account shall be available for the purposes of the printing and binding account for the same fiscal year: Provided further, That this appropriation shall not be available for printing and binding part 2 of the annual report of the Secretary of Agriculture (known as the Yearbook of Agriculture) nor for copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: Provided further, That, to the extent that funds remain from the unexpended balance of fiscal year 1984 and fiscal year 1985 funds obligated for the printing and binding costs of publications produced for the Bicentennial of the Congress, such remaining funds shall be available for the current year printing and binding cost of publications produced for the Bicentennial: Provided further, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

This title may be cited as the "Congressional Operations Appropriations Act, 1988".

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $2,221,000.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress, not otherwise provided for, including the Speaker's Civic Achievement Awards Program, subject to authorization, development and maintenance of the Union Catalogs; custody, care and maintenance of the Library Buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog cards and other publications of the Library; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $143,866,000, of which not more than $5,000,000 shall be derived from collections credited to this appropriation during fiscal year 1988 under the Act of June 28, 1902, as amended (2 U.S.C. 150): Provided, That the total amount available for obligation shall be reduced by the amount by which collections are less than the $5,000,000: Provided further, That, of the total amount appropriated, $4,944,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, $19,061,000, of which not more than $7,000,000 shall be derived from collections credited to this appropriation during fiscal year 1988 under 17 U.S.C. 708(c), and not more than $931,000 shall be derived from collections during fiscal year 1988 under 17 U.S.C. 111(d)(3) and 116(c)(1): Provided, That the total amount available for obligation shall be reduced by the amount by which collections are less than the $7,931,000: Provided further, That $150,000 of the unobligated balance of that part of the appropriation "Salaries and Expenses, Copyright Office" for the fiscal year 1987, for the acquisition of a stand-alone data system for the processing of cable television statements and jukebox registrations, shall remain available until September 30, 1988.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the provisions of the Act approved March 3, 1931, as amended (2 U.S.C. 135a), $36,186,000.

FURNITURE AND FURNISHINGS

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, $5,816,000, of which $4,781,000 shall be available until expended only for the purchase and supply of furniture, shelving, furnishings, and related costs necessary for the renovation and restoration of the Thomas Jefferson and John Adams Library Buildings.

ADMINISTRATIVE PROVISIONS

SEC. 201. Appropriations in this Act available to the Library of Congress shall be available, in an amount not to exceed $101,390 of which $23,900 is for the Congressional Research Service, when specifically authorized by the Librarian, for expenses of attendance at meetings concerned with the function or activity for which the appropriation is made.

SEC. 202. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS-15; and

(2) grants the manager or supervisor the right to not be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term "manager or supervisor" means any management official or supervisor, as such terms *are defined in section 7103(a) (10) and (11) of title 5, United States Code.*

SEC. 203. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of 31 U.S.C. 1535 and 1536 shall not be used to employ more than 65 employees.

SEC. 204. No funds shall be expended by the Library of Congress for the purpose of providing long-term special study facilities for profit or non-profit business enterprises until guidelines for such use are approved by the Joint Committee on the Library.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $6,741,000, of which $365,000 shall remain available until expended.

COPYRIGHT ROYALTY TRIBUNAL

SALARIES AND EXPENSES

For necessary expenses of the Copyright Royalty Tribunal, $662,000, of which $533,000 shall be derived by collections from the appropriation "Payments to Copyright Owners" for the reasonable costs incurred in proceedings involving distribution of royalty fees as provided by 17 U.S.C. 807.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

For necessary expenses of the Office of Superintendent of Documents, including compensation of all employees in accordance with the provisions of 44 U.S.C. 305; travel expenses (not to exceed $117,000); price lists and bibliographies; repairs to buildings, elevators, and machinery; and supplying publications to the Depository Library and International Exchange Programs, $24,662,000, of which $5,500,000 representing excess receipts from the sale of publications shall be derived from the Government Printing Office revolving fund: Provided, That $300,000 of this appropriation shall be apportioned for use pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 1512), with the approval of the Public Printer, only to the extent necessary to provide for expenses (excluding permanent personal services) for workload increases not anticipated in the budget estimates and which cannot be provided for by normal budgetary adjustments.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the "Government Printing Office revolving fund": Provided, That not to exceed $5,000 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: Provided further, That during the current fiscal year the revolving fund shall be available for the hire of eight passenger motor vehicles: Provided further, That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: Provided further, That the revolving fund shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS-18: Provided further, That the revolving fund shall be available to acquire needed land, located in Northwest D.C., which is adjacent to the present Government Printing Office, and is bounded by Massachusetts Avenue and the southern property line of the Government Printing Office, between North Capitol Street and First Street. The land to be purchased is identified as Parcels 45-D, 45-E, 45-F, and 47-A in Square 625, and includes the alleys adjacent to these parcels, and G Street, N.W. from North Capitol Street to First Street: Provided further, That the revolving fund and the funds provided under the paragraph entitled "Office of Superintendent of Documents, Salaries and expenses" together may not be available for the full-time equivalent employment of more than 5,237 workyears.

ADMINISTRATIVE PROVISION

SEC. 205. Funds authorized to be expended by the Government Printing Office for fiscal year 1988, not to exceed $55,000, shall be available without regard to the 25 per centum limitation of section 322 of the Economy Act of June 30, 1932, as amended, for the repair, alteration, and improvement of rented premises.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not to exceed $5,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS-18; hire of one passenger motor vehicle; advance payments in foreign countries in accordance with 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6) and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6) and 4081(8), respectively); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to A.I.D. projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(b)); $329,847,000: Provided, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including but not limited to the salary of the Executive Director and secretarial support: Provided further, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: Provided further, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences: Provided further, That this appropriation shall be available to finance a portion, not to exceed $50,000 of the costs of the Governmental Accounting Standards Board: Provided further, That $50,000 of this appropriation shall be available for the expenses of planning the triennial Congress of the International Organization of Supreme Audit Institutions (INTOSAI) to be hosted by the United States General Accounting Office in Washington, D.C., in 1992, to the extent that such expenses cannot be met from the trust authorized below: Provided further, That the General Accounting Office is authorized to solicit and accept contributions (including contributions from INTOSAI), to be held in trust, which shall be available without fiscal year limitation for the planning, administration, and such other expenses as the Comptroller General deems necessary to act as the sponsor of the aforementioned triennial Congress of INTOSAI. Moneys in the trust not to exceed $10,000 shall be available upon the request of the Comptroller General to be expended for the purposes of the trust.

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration or for the Senate issued by the Committee on Rules and Administration.

SEC. 302. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 303. Whenever any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for herein or whenever the rate of compensation or designation of any position appropriated for herein is different from that specifically established for such position by such Act, the rate of compensation and the designation of the position, or either, appropriated for or provided herein, shall be the permanent law with respect thereto: Provided, That the provisions herein for the various items of official expenses of Members, officers, and committees of the Senate and House, and clerk hire for Senators and Members shall be the permanent law with respect thereto.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. (a) The Architect of the Capitol, in consultation with the heads of the agen-

cies of the legislative branch, shall develop an overall plan for satisfying the telecommunications requirements of such agencies, using a common system architecture for maximum interconnection capability and engineering compatibility. The plan shall be subject to joint approval by the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, and, upon approval, shall be communicated to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate. No part of any appropriation in this Act or any other Act shall be used for acquisition of any new or expanded telecommunications system for an agency of the legislative branch, unless, as determined by the Architect of the Capitol, the acquisition is in conformance with the plan, as approved.

(b) As used in this section—

(1) the term "agency of the legislative branch" means, the office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the Congressional Budget Office; and

(2) the term "telecommunications system" means an electronic system for voice, data, or image communication, including any associated cable and switching equipment.

Sec. 306. Hereafter, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with each appropriation account in this Act, except that the accounts under the general heading "House of Representatives" shall be considered one appropriation account and one "program, project, and activity", and the accounts under the general heading "Senate" shall be considered one appropriation account and one "program, project, and activity".

Sec. 307. (a) Notwithstanding section 105 of title 4, United States Code, or any other provision of law, no person shall be required to pay, collect, or account for any sales, use, or similar excise tax, or any personal property tax, with respect to an essential support activity or function conducted by a nongovernmental person in the Capitol, the House Office Buildings, the Senate Office Buildings, the Capitol Grounds, or any other location under the control of the Congress in the District of Columbia.

(b) As used in this section—

(1) the term "essential support activity or function" means a support activity or function so designated by the Committee on House Administration of the House of Representatives or the Committee on Rules and Administration of the Senate, acting jointly or separately, as appropriate;

(2) the term "personal property tax" means a tax of a State, a subdivision of a State, or any other authority of a State, that is levied on, levied with respect to, or measured by, the value of personal property;

(3) the term "sales, use, or similar excise tax" means a tax of a State, a subdivision of a State, or any other authority of a State, that is levied on, levied with respect to, or measured by, sales, receipts from sales, or purchases, or by storage, possession, or use of personal property; and

(4) the term "State" means a State of the United States, the District of Columbia, or a territory or possession of the United States.

(c) This section shall apply to any sale, receipt, purchase, storage, possession, use, or valuation taking place after December 31, 1986.

Sec. 308. (a) Notwithstanding any other provision of law, the pay for positions described in subsection (b) shall be the amounts specified for such positions in appropriations Acts.

(b) The positions referred to in subsection (a) are: (1) the two positions of assistant referred to in the proviso in the first undesignated paragraph under the center subheadings "Office of the Architect of the Capitol" and "Salaries" in the Legislative Branch Appropriation Act, 1971 (40 U.S.C. 164a), and (2) the seven positions provided for in the third and fourth undesignated paragraphs under the center subheadings "Office of the Architect of the Capitol" and "Salaries" in the Legislative Branch Appropriation Act, 1960 (40 U.S.C. 166b-3).

(c) The pay for each position described in subsection (b) shall be the pay payable for such position with respect to the last pay period before this section takes effect, subject to any applicable adjustment during fiscal year 1988 under, or by reference to any applicable adjustment during fiscal year 1988 under, subchapter I of chapter 53 of title 5, United States Code.

(d) This section shall apply in fiscal years beginning after September 30, 1987, with respect to pay periods beginning after the date of the enactment of this Act.

Sec. 309. (a) None of the funds appropriated for fiscal year 1988 by this Act or any other law may be obligated or expended by any entity of the executive branch for the procurement from commercial sources of any printing related to the production of Government publications (including forms), unless such procurement is by or through the Government Printing Office.

(b) Subsection (a) does not apply to (1) individual printing orders costing not more than $1,000, if the work is not of a continuing or repetitive nature, (2) printing for the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or (3) printing from commercial sources that is specifically authorized by law or is of a kind that has not been routinely procured by or through the Government Printing Office.

(c) As used in this section, the term "printing" means the process of composition, platemaking, presswork, binding, and microform, and the end items of such processes.

Sec. 310. The provision of law which was derived from section 80 of the Revised Statutes and which currently is carried as the second sentence of section 131 of title 2, United States Code, is hereby repealed.

Sec. 311. (a) The first sentence of section 4(a) of Public Law 91-656 (2 U.S.C. 60a-1) is amended by striking out the period at the end and inserting "and adjust the rates of such personnel by such amounts as necessary to restore the same pay relationships that existed on December 31, 1986, between personnel and Senators and between positions.".

(b) Section 4(b) of such public law is amended by striking out the period at the end and inserting ", except in cases in which it is necessary to restore and maintain the same pay relationships that existed on December 31, 1986, between personnel and Senators and between positions.".

(c) Notwithstanding any other provision of this Act or any other provision of law, subsections (a) and (b) of this section shall be effective in the case of pay orders issued by the President pro tempore of the Senate on or after January 1, 1988.

(d) Notwithstanding any other provison of this Act, or any other provison of law, rule, or regulation, hereafter each time the President pro tempore of the Senate exercises any authority pursuant to any of the amendments made by this section with respect to rates of pay or any other matters relating to personnel whose pay is disbursed by the Secretary of the Senate, the Speaker of the House of Representatives may, with respect to personnel whose pay is disbursed by the Clerk of the House of Representatives, exercise the same authority to the extent necessary to ensure parity of treatment between personnel of the respective Houses of Congress having comparable duties and responsibilities.

This Act may be cited as the "Legislative Branch Appropriations Act, 1988".

And the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(j) Such amounts as may be necessary for programs, projects or activities provided for in the Military Construction Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1988, and for other purposes.

Military Construction, Army

(including rescissions)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, and for construction and operation of facilities in support of the functions of the Commander-in-Chief, $977,590,000, to remain available until September 30, 1992: Provided, That of this amount, not to exceed $120,120,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: Provided further, That of the funds appropriated for "Military Construction, Army" under Public Law 98-473, $6,800,000 is hereby rescinded: Provided further, That of the funds appropriated for "Military Construction, Army" under Public Law 99-173, $28,000,000 is hereby rescinded.

Military Construction, Navy

(including rescissions)

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $1,417,311,000, to remain available until September 30, 1992: Provided, That of this amount, not to exceed $130,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense deter-

mines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: Provided further, That of the funds appropriated for "Military Construction, Navy" under Public Law 98-473, $6,800,000 is hereby rescinded: Provided further, That of the funds appropriated for "Military Construction, Navy" under Public Law 99-173, $19,400,000 is hereby rescinded.

MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $1,241,254,000, to remain available until September 30, 1992: Provided, That of this amount, not to exceed $115,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: Provided further, That of the funds appropriated for "Military Construction, Air Force" under Public Law 98-473, $6,300,000 is hereby rescinded: Provided further, That of the funds appropriated for "Military Construction, Air Force" under Public Law 99-173, $18,500,000 is hereby rescinded: Provided further, That none of the funds appropriated for planning, design, or construction of military facilities or family housing may be used to support the relocation of the 401st Tactical Fighter Wing from Spain to another country.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $558,446,000, to remain available until September 30, 1992: Provided, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided further, That of the amount appropriated, not to exceed $55,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: Provided further, That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 98-473, $1,900,000 is hereby rescinded: Provided further, That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 99-173, $5,300,000 is hereby rescinded.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

(INCLUDING RESCISSION)

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, $381,000,000, to remain available until expended: Provided, That of the funds appropriated for "North Atlantic Treaty Organization Infrastructure" under Public Law 99-173, $8,000,000 is hereby rescinded.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

(INCLUDING RESCISSION)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $184,405,000, to remain available until September 30, 1992: Provided, That of the funds appropriated for "Military Construction, Army National Guard" under Public Law 99-173, $2,500,000 is hereby rescinded.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

(INCLUDING RESCISSIONS)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $151,291,000, to remain available until September 30, 1992: Provided, That of the funds appropriated for "Military Construction, Air National Guard" under Public Law 98-473, $200,000 is hereby rescinded: Provided further, That of the funds appropriated for "Military Construction, Air National Guard" under Public Law 99-173, $3,300,000 is hereby rescinded.

MILITARY CONSTRUCTION, ARMY RESERVE

(INCLUDING RESCISSION)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $95,100,000, to remain available until September 30, 1992: Provided, That of the funds appropriated for "Military Construction, Army Reserve" under Public Law 99-173, $1,800,000 is hereby rescinded.

MILITARY CONSTRUCTION, NAVAL RESERVE

(INCLUDING RESCISSION)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $73,737,000, to remain available until September 30, 1992: Provided, That of the funds appropriated for "Military Construction, Naval Reserve" under Public Law 99-173, $1,200,000 is hereby rescinded.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

(INCLUDING RESCISSIONS)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $79,300,000, to remain available until September 30, 1992: Provided, That of the funds appropriated for "Military Construction, Air Force Reserve" under Public Law 98-473, $200,000 is hereby rescinded: Provided further, That of the funds appropriated for "Military Construction, Air Force Reserve" under Public Law 99-173, $1,800,000 is hereby rescinded.

FAMILY HOUSING, ARMY

(INCLUDING RESCISSIONS)

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $305,890,000; for Operation and maintenance, and for debt payment, $1,255,121,000; in all $1,561,011,000: Provided, That the amount provided for construction shall remain available until September 30, 1992: Provided further, That of the funds appropriated for "Family Housing, Army" under Public Law 98-473, $900,000 is hereby rescinded: Provided further, That of the funds appropriated for "Family Housing, Army" under Public Law 99-173, $19,400,000 is hereby rescinded.

FAMILY HOUSING, NAVY AND MARINE CORPS

(INCLUDING RESCISSIONS)

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $237,914,000; for Operation and maintenance, and for debt payment, $530,028,000; in all $767,942,000: Provided, That the amount provided for construction shall remain available until September 30, 1992: Provided further, That of the funds appropriated for "Family Housing, Navy and Marine Corps" under Public Law 98-473, $400,000 is hereby rescinded: Provided further, That of the funds appropriated for "Family Housing, Navy and Marine Corps" under Public Law 99-173, $8,800,000 is hereby rescinded.

FAMILY HOUSING, AIR FORCE

(INCLUDING RESCISSIONS)

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $152,310,000; for Operation and maintenance, and for debt payment, $691,983,000; in all $844,293,000: Provided, That the amount provided for construction shall remain available until September 30, 1992: Provided further, That of the funds appropriated for "Family Housing, Air Force" under Public Law 98-473, $2,400,000 is hereby rescinded: Provided further, That of the funds appropriated for "Family Housing, Air Force" under Public Law 99-173, $12,300,000 is hereby rescinded.

FAMILY HOUSING, DEFENSE AGENCIES

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military depart-

ments) for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $1,186,000; for Operation and maintenance, $19,514,000; in all $20,700,000: Provided, That the amount provided for construction shall remain available until September 30, 1992.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), $2,800,000.

FOREIGN CURRENCY FLUCTUATIONS, CONSTRUCTION, DEFENSE

For foreign currency fluctuations, construction, Defense, $85,000,000, to remain available until expended.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except; (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in this Act shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.

SEC. 107. None of the funds appropriated in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in this Act may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. No part of the funds appropriated in this Act for dredging in the Indian Ocean may be used for the performance of the work by foreign contractors: Provided, That the low responsive and responsible bid of a United States contractor does not exceed the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 110. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 111. No part of the funds appropriated in this Act may be used to pay the compensation of an officer of the Government of the United States or to reimburse a contractor for the employment of a person for work in the continental United States by any such person if such person is an alien who has not been lawfully admitted to the United States.

SEC. 112. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 113. None of the funds in this Act may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 114. None of the funds appropriated in this Act may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 115. None of the funds appropriated in this Act for military construction in the United States territories and possessions in the Pacific and on Kwajalein Island may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: Provided, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 116. The Secretary of Defense is to inform the Committees on Appropriations and Committees on Armed Services of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

(TRANSFER OF FUNDS)

SEC. 117. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account during fiscal year 1988, shall be transferred to the appropriations for Family Housing provided in this Act, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 118. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 119. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such military department by the authorizations enacted into law during the first session of the One Hundredth Congress.

SEC. 120. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with a report by February 15, 1988, containing details of the specific actions proposed to be taken by the Department of Defense during fiscal year 1988 to encourage other member nations of the North Atlantic Treaty Organization and Japan to assume a greater share of the common defense burden of such nations and the United States.

SEC. 121. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 122. Notwithstanding any other provision of law, the Secretary of the Air Force is required to maintain legislative liaison to the House and Senate Appropriations Subcommittees on Military Construction and budgetary and fiscal management of the Military Construction and Military Family Housing appropriations in a manner identical to the method employed as of September 30, 1986.

SEC. 123. Notwithstanding any other provision of law, including the certification requirements provided in section 210 of title 23, United States Code, the Secretary of Defense is directed to provide for the design of access roads for the New Cumberland Army Depot, Pennsylvania and for the Tobyhanna Army Depot, Pennsylvania, as well as design of replacement bridges at Broad Creek and at Gales Creek on North Carolina Highway 24, within funds provided in this Act.

SEC. 124. None of the funds appropriated in this Act for planning and design activities may be used to initiate design of the Pentagon Annex.

SEC. 125. None of the funds appropriated by this or any other Act for the Department of Defense may be obligated or expended for the National Test Bed Components of the National Test Facility at Falcon Air Station, Colorado, until the Strategic Defense Initiative Organization (SDIO) has begun the development of the Phase One Strategic Defense System (SDS) Architecture and the Follow-on Strategic Defense System Architecture and the Committees on Appropriations of the Senate and the House of Representatives have thereafter received an interim report from SDIO on the Phase One System Architecture and follow-on architecture that the National Test Facility will be testing and evaluating; and until SDIO has provided a detailed report to the Committees on Appropriations of the Senate and the House of Representatives on the capability of the National Test Facility and the other components of the National Test Bed to produce the simulation, evaluation, and demonstration data needed to determine whether a proposed ballistic missile defense system satisfies the criteria of technical feasibility, cost-effectiveness at the margin, and survivability: Provided, That, none of the *funds appropriated by this or any other Act for the National Test Facility or any other components of the National Test Bed may be used to provide any operational battle management, command, control or communications capabilities for an early deployment of a ballistic missile defense system: Provided further, That, the goal of the National Test Facility and other components of the National Test Bed shall be to simulate, evaluate, and demonstrate architectures and technologies that are technically feasible, cost effective at the margin, and survivable.*

SEC. 126. None of the funds appropriated in this Act may be obligated or expended for the purpose of transferring any equipment, operation, or personnel from the Edgewood Arsenal, Maryland, to any other facility during fiscal year 1988.

SEC. 127. In addition to the purposes for which it is now available, the property account established by section 12(b) of the Act of January 2, 1976, as amended (43 U.S.C. 1611 note) shall be available hereafter for purposes involving any public sale of property by any agency of the United States, including the Department of Defense, or any element thereof.

SEC. 128. Of the amounts appropriated by this Act for "Family Housing, Navy and Marine Corps", not to exceed $150,000 shall be available to liquidate obligations incurred for debt payment during fiscal year 1986.

SEC. 129. (a) Subject to subsections (b) through (d), the Secretary of the Army is authorized to convey to the city of New York, New York, all right, title, and interest of the United States in and to its 7 acre parcel of land in the Brooklyn Navy Yard, Brooklyn, New York.

(b) In consideration for the conveyance by the Secretary under subsection (a), the city of New York shall pay to the United States the fair market value, as determined by the Secretary, of the property to be conveyed.

(c) The Secretary shall include in the deed of conveyance a condition that the United States may reenter and use the property without compensation in the event of war or other national emergency declared by the President or Congress.

(d) The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 130. (a) Subject to subsections (b) through (f), the Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the State of New Jersey (hereinafter in this section referred to as the "State"), and the city of Jersey City, New Jersey (hereinafter in this section referred to as the "City"), all right, title, and interest of the United States in and to a tract of land located in Jersey City, New Jersey, consisting of approximately 40 acres of unimproved real property, comprising a portion of the United States Army Reserve Center, Caven Point, New Jersey.

(b)(1) The conveyance authorized by subsection (a) shall be subject to the following conditions—

(A) that the City convey to the United States a tract of unimproved real property consisting of approximately 9 acres, located immediately adjacent to the Caven Point Army Reserve Center's northeast boundary;

(B) that the State and City stabilize approximately 30 acres of real property west of the proposed highway; and

(C) that the State and City remove and store the existing railroad track.

(2) If the fair market value (as determined by the Secretary) of the real property conveyed by the United States to the State and City under subsection (a) exceeds the sum of fair market values (as determined by the Secretary) of the real property conveyed by the City to the United States and the improvements made by the State and the City, the State and City shall pay the amount of the difference to the Secretary.

(c) The exact acreages and legal description of properties to be conveyed under subsections (a) and (b) shall be determined by surveys that are satisfactory to the Secretary. The cost of any surveys shall be borne by the State and City.

(d) The Secretary may require such additional terms and conditions as the Secretary considers appropriate to carry out the provisions of this section and to protect the interests of the United States.

(e)(1) The Secretary may use any funds paid to the Secretary by the State and City in accordance with subsection (b)(2) to repair, expand, and improve, or replace the United States Army Reserve Center facilities at Caven Point, New Jersey, whichever is most cost-effective.

(2) The Secretary shall deposit any remaining funds into miscellaneous receipts of the Treasury.

(f) This section shall be implemented in accordance with an agreement to be entered into by the Secretary, the State, and the City.

SEC. 131. (a) AUTHORITY TO CONVEY.—Subject to subsections (b) through (f), the Secretary of the Navy may convey to the City of San Diego, California, all right, title, and interest of the United States in and to three parcels of real property (including improvements thereon) comprising approximately 680 acres located in the Mission Trails Regional Park area of the City of San Diego, California.

(b) CONSIDERATION.—In consideration for the conveyance authorized by subsection (a), the City of San Diego shall pay to the United States the fair market value, as determined by the Secretary, of the property to be conveyed by the United States.

(c) USE OF FUNDS.—(1) The Secretary may use proceeds from the sale of property under this section solely for the purpose of acquiring suitable sites for military family housing or constructing military family housing units, or both, in the San Diego area.

(2) Any funds received by the Secretary under this section and not used for the acquisition of a site for military family housing or the construction of military family housing units within 60 months after the receipt of such funds shall be deposited into the general fund of the Treasury.

(d) LEGAL DESCRIPTION OF LAND.—The exact acreages and legal description of the property to be conveyed under this section shall be determined by surveys satisfactory to the Secretary. The cost of any such survey shall be borne by the city.

(e) NOTIFICATION.—The Secretary may not enter into any contract under this section to—

"(1) convey any property;

"(2) acquire a site for military family housing; or

"(3) construct housing,

until after the 21-day period beginning on the date on which the Secretary transmits to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives a report of the details of the contract.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interest of the United States.

(g) AMENDMENTS.—Section 833 of the Military Construction Authorization Act, 1986 (Public Law 99-167), is amended—

(1) in subsection (d)(1), by inserting the following before the period: "or constructing military family housing, or both";

(2) in subsection (d)(2), by striking out "within 30 months" and inserting in lieu thereof "or constructing military family housing within 60 months"; and

(3) by adding at the end the following new subsection:

"(g) NOTIFICATION.—After the date of the enactment of this subsection, the Secretary may not enter into any contract under this section to—

"(1) convey any property;

"(2) acquire a site for military family housing; or

"(3) construct housing,

until after the 21-day period beginning on the date on which the Secretary transmits to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives a report of the details of the contract.".

(h) LIMITATION.—The total number of military family housing units constructed under this section and under section 833 of the Military Construction Authorization Act, 1986 (Public Law 99-167) shall not exceed 300 units.

SEC. 132. (a) AUTHORITY TO EXCHANGE REAL PROPERTY.—Subject to subsections (b) through (d), the Secretary of the Army may transfer to the City of Copperas Cove, Texas, approximately 112 acres of real property (including improvements thereon) at Fort Hood, Texas, in exchange for approximately 600 acres of real property (including improvements thereon) which are of at least equal value to the property being transferred by the Secretary.

(b) DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the City.

(c) REPORT.—The Secretary may not transfer any property under this section until after the 21-day period beginning on the date on which the Secretary transmits a report of the details of such transfer to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States in any transfer made under this section.

SEC. 133. (a) AUTHORITY TO CONVEY.—Subject to subsection (b), the Secretaries of the Army and Navy may convey, without consideration, to the State of North Carolina all right, title, and interest of the United States in and to—

(1) approximately 51 acres of real property, with improvements thereon, located in the FARTC area of Ft. Bragg, North Carolina; and

(2) approximately 50 acres of real property, with improvements thereon, located in the Montford Point/Camp Johnson area of Camp Lejeune, North Carolina.

(b) CONDITIONS.—(1) The conveyances authorized by subsection (a) shall be subject to the condition that the properties conveyed

by the Secretaries be used by the State to establish State veterans' cemeteries.

(2) If either of the properties conveyed pursuant to subsection (a) is not used for the purpose described in paragraph (1), all right, title, and interest in and to such property shall revert at no cost to the United States, which shall have the right of immediate entry thereon.

(c) LEGAL DESCRIPTION OF LAND.—The exact acreage and legal description of the properties to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretaries. The cost of such surveys shall be borne by the State.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretaries may require such other terms and conditions with respect to the conveyances authorized by this section as the Secretaries consider appropriate to protect the interests of the United States.

SEC. 134. Notwithstanding any other provision of this or of any other law, any limitation on the obligation or expenditure of funds appropriated for fiscal year 1987 for military construction for homeporting at Everett, Washington, shall not apply unless such limitation was expressly stated in a law which was enacted on or before September 30, 1987.

SEC. 135. (a) In addition to other military construction projects and land acquisition authorized by any other law for fiscal year 1988—

(1) the Secretary of the Navy may acquire real property and may increase military construction projects at Naval Air Station, Adak, Alaska, in the amount of $20,000,000;

(2) the Secretary of the Air Force may acquire real property and may carry out military construction projects at Hanscom Air Force Base, Massachusetts, in the amount of $15,000,000; and

(3) the Secretary of Defense may acquire real property and may carry out military construction projects at Falcon Air Force Station, Colorado, in the amount of $35,000,000.

(b) Funds are hereby authorized to be appropriated for fiscal year 1988 for the projects and land acquisitions described in subsection (a) of this section. The amount authorized for each such project and land acquisition is the amount listed for each in paragraphs (1), (2) and (3), respectively, of such subsection.

This Act may be cited as the "Military Construction Appropriations Act, 1988".

And the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(k) Such amounts as may be necessary for programs, projects, or activities provided for in the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, including the direct supervision of the Soil Conservation Service and the Forest Service, and not to exceed $50,000 for employment under 5 U.S.C. 3109, $1,466,000: Provided, That not to exceed $8,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

INVESTIGATION OF LARGE PAYMENTS

To enable the Secretary of Agriculture to investigate large payments made under the provisions of the Food Security Act of 1985, and other laws, as to accuracy and legality and to submit a detailed report on such payments to the appropriate committees of the Congress, $100,000.

OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Office of the Deputy Secretary of Agriculture, including not to exceed $25,000 for employment under 5 U.S.C. 3109, $321,000: Provided, That not to exceed $3,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Deputy Secretary.

OFFICE OF THE ASSISTANT SECRETARY FOR SPECIAL SERVICES

For necessary salaries and expenses to continue the Office of the Assistant Secretary for purposes of providing special services to the Department, $416,000: Provided, That none of these funds shall be available for the supervision of Natural Resources and Environment activities, the Soil Conservation Service, or the Forest Service.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $498,000.

RENTAL PAYMENTS (USDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Department of Agriculture which are included in this Act, $49,665,000, of which $3,000,000 shall be retained by the Department of Agriculture for non-recurring repairs as determined by the Department of Agriculture: Provided, That in the event an agency within the Department of Agriculture should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 10 per centum of the funds made available for space rental and related costs to or from this account.

BUILDING OPERATIONS AND MAINTENANCE

For the operation, maintenance, and repair of Agriculture buildings pursuant to the delegation of authority from the Administrator of General Services authorized by 40 U.S.C. 486, $20,024,000, of which $3,245,000 is for one-time purchase of systems furniture.

ADVISORY COMMITTEES (USDA)

For necessary expenses for activities of Advisory Committees of the Department of Agriculture which are included in this Act, $1,308,000: Provided, That no other funds appropriated to the Department of Agriculture in this Act shall be available to the Department of Agriculture for support of activities of Advisory Committees.

HAZARDOUS WASTE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, except for expenses of the Commodity Credit Corporation, to comply with the requirement of section 107g of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607g, and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961, $2,000,000, to remain available until expended: Provided, That appropriations and funds available herein to the Department of Agriculture for hazardous waste management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Budget and Program Analysis, $4,252,000; for Personnel, Finance and Management, Operations, Information Resources Management, Advocacy and Enterprise, and Administrative Law Judges and Judicial Officer, $20,642,000 and in addition, for payment of the USDA share of the National Communications System, $110,000; making a total of $25,004,000 for Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture and for general administration and emergency preparedness of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: Provided, That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551-558.

WORKING CAPITAL FUND

An amount of $5,708,000 is hereby appropriated to the Departmental Working Capital Fund to increase the Government's equity in this fund and to provide for the purchase of automated data processing, data communication, and other related equipment necessary for the provision of Departmental centralized services to the agencies.

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AND PUBLIC AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Governmental and Public Affairs to carry out the programs funded in this Act, $347,000.

PUBLIC AFFAIRS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, and for the dissemination of agricultural information and the coordination of information, work and programs authorized by Congress in the Department, $7,700,000, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000 *may be used for farmers' bulletins and not fewer than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: Provided, That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).*

CONGRESSIONAL RELATIONS

For necessary expenses for liaison with the Congress on legislative matters, $497,000.

INTERGOVERNMENTAL AFFAIRS

For necessary expenses for programs involving intergovernmental affairs and liaison within the executive branch, $476,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), $48,795,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(8) of the Inspector General Act of 1978 (Public Law 95-452), and including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $95,000 for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95-452 and section 1337 of Public Law 97-98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $18,734,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ECONOMICS

For necessary expenses of the Office of the Assistant Secretary for Economics to carry out the programs funded in this Act, $484,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and service relating to agricultural production, marketing, and distribution, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and other laws, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, costs and returns in farming, and farm finance; research relating to the economic and marketing aspects of farmer cooperatives; and for analyses of supply and demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products, $48,186,000; of which not less than $200,000 shall be available for investigation, determination and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said Administrator, other agencies or before the courts: Provided, That not less than $350,000 of the funds contained in this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and the consumer: Provided further, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225): Provided further, That not less than $145,000 of the funds contained in this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627) and other laws, $61,176,000: Provided, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

WORLD AGRICULTURAL OUTLOOK BOARD

For necessary expenses of the World Agricultural Outlook Board to coordinate and review all commodity and aggregate agricultural and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $1,730,000: Provided, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

OFFICE OF THE ASSISTANT SECRETARY FOR SCIENCE AND EDUCATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Science and Education to administer the laws enacted by the Congress for the Agricultural Research Service, Cooperative State Research Service, Extension Service, and National Agricultural Library, $386,000.

AGRICULTURAL RESEARCH SERVICE

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, $538,884,000: Provided, That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: Provided further, That funds appropriated herein can be used to provide financial assistance to the organizers of national and international conferences, if such conferences are in support of agency programs: Provided further, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: Provided further, That uniform allowances for each uniformed employee of the Agricultural Research Service shall not be in excess of $400 annually: Provided further, That of the appropriations hereunder not less than $10,526,600 shall be available to conduct marketing research: Provided further, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed $150,000, except for headhouses connecting greenhouses which shall each be limited to $500,000, and except for ten buildings to be constructed or improved at a cost not to exceed $275,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or $150,000 whichever is greater: Provided further, That the limitations on alterations contained in this Act shall not apply to a total of $250,000 for facilities at Beltsville, Maryland: Provided further, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): Provided further, That the limitation on purchase of land shall not apply to the purchase of land at Fresno, California, or to the purchase of land at the Mahantango Research Watershed, Pennsylvania: Provided further, That not to exceed $190,000 of this appropriation may be transferred to and merged with the appropriation for the Office of the Assistant Secretary for Science and Education for the scientific review of international issues involving agricultural chemicals and food additives.

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and cooperative agreements to strengthen the work at Federal research installations in the field, $1,800,000.

BUILDINGS AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities and for grants to States and other eligible recipients for such purposes, as necessary to carry out the agricultural research, extension and teaching programs of the Department of Agriculture, where not otherwise provided, $57,815,000, of which $7,500,000 shall not be obligated prior to fiscal year 1989: Provided, That these funds may be transferred to such other accounts in this Act as may be appropriate to carry out these purposes: Provided further, That facilities to house Bonsai collections at the National Arboretum may be constructed with funds accepted under the provisions of Public Law 94-129 (20 U.S.C. 195) and the limitation on construction contained in the Act of August 24, 1912 (40 U.S.C. 68) shall not apply to the construction of such facilities.

COOPERATIVE STATE RESEARCH SERVICE

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $155,545,000 to carry into effect the provisions of the Hatch Act approved March 2, 1887, as amended by the Act approved August 11, 1955 (7 U.S.C. 361a-361i), and further amended by Public Law 92-318 approved June 23, 1972, and further amended by Public Law 93-471 approved October 26, 1974, including administration by the United States Department of Agriculture, and penalty mail costs of agricultural experiment stations under section 6 of the

Hatch Act of 1887, as amended, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $17,500,000 for grants for cooperative forestry research under the Act approved October 10, 1962 (16 U.S.C. 582a—582a-7), as amended by Public Law 92-318 approved June 23, 1972, including administrative expenses, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $23,333,000 for payments to the 1890 land-grant colleges, including Tuskegee University, for research under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (Public Law 95-113), as amended, including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges, including Tuskegee University; $31,185,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i); $42,372,000 for competitive research grants, including administrative expenses; $5,476,000 for the support of animal health and disease programs authorized by section 1433 of Public Law 95-113, including administrative expenses; $675,000 for supplemental and alternative crops and products as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d); $4,918,000 for grants for research and construction of facilities to conduct research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178) and section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended; $475,000 for rangeland research grants as authorized by subtitle M of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended; $4,754,000 for higher education grants under section 1417(a) of Public Law 95-113, as amended (7 U.S.C. 3152(a)); $3,500,000 for grants as authorized by section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 and other Acts; $3,827,000 for grants to States for the establishment and operation of international trade development centers, as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3292); $3,900,000 for low-input agriculture as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 4701-4710); $2,100,000 for other grants as authorized by section 1472 of the Food and Agriculture Act of 1977 (7 U.S.C. 3318); and $4,094,000 for necessary expenses of Cooperative State Research Service activities, including coordination and program leadership for higher education work of the Department, administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; in all, $303,654,000.

Extension Service

(INCLUDING TRANSFERS OF FUNDS)

Payments to States, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas and American Samoa: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962 (7 U.S.C. 341-349), section 506 of the Act of June 23, 1972, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), to be distributed under sections 3(b) and 3(c) of said Act, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $241,594,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $58,635,000, of which $39,627,000 shall be derived by transfer from the appropriation "Food Stamp Program" and merged with this appropriation; payments for the urban gardening program under section 3(d) of the Act, $3,329,000; payments for the pest management program under section 3(d) of the Act, $7,164,000; payments for the farm safety program under section 3(d) of the Act, $970,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $1,633,000; grants to upgrade 1890 land-grant college extension facilities as authorized by section 1416 of Public Law 99-198, $9,508,000, to remain available until expended; payments for an integrated reproductive management program under section 3(d) of the Act, $47,000; payments for the rural development centers under section 3(d) of the Act, $903,000; payments for extension work under section 209(c) of Public Law 93-471, $935,000; payments for a financial management assistance program under section 3(d) of the Act, $1,427,000; payments for carrying out the provisions of the Renewable Resource Extension Act of 1978, $2,765,000; for special grants for financially stressed farmers and dislocated farmers as authorized by section 1440 of Public Law 99-198, $3,350,000; and payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321-326, 328) and Tuskegee University, $18,291,000; in all, $350,551,000, of which not less than $79,400,000 is for Home Economics: Provided, That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

Federal administration and coordination: For administration of the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962, section 506 of the Act of June 23, 1972, section 209(d) of Public Law 93-471, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $7,412,000, of which not less than $2,300,000 is for Home Economics.

National Agricultural Library

For necessary expenses of the National Agricultural Library, $12,194,000: Provided, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $35,000 shall be available for employment under 5 U.S.C. 3109: Provided further, That not to exceed $575,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements: Provided further, That $370,000 shall be available for a grant pursuant to section 1472 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3318).

Office of the Assistant Secretary for Marketing and Inspection Services

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Inspection Services to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, Food Safety and Inspection Service, Federal Grain Inspection Service, Agricultural Cooperative Service, Agricultural Marketing Service (including Office of Transportation) and Packers and Stockyards Administration, $363,000.

Animal and Plant Health Inspection Service

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b-c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426-426b); and to protect the environment, as authorized by law, $329,330,000; of which $4,500,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions: Provided, That $1,000,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: Provided further, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: Provided further, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: Provided further, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed two, of which one shall be for replacement only: Provided further, That uniform allowances for each uniformed employee of the Animal and Plant Health Inspection Service shall not be in excess of $400 annually: Provided further, That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious diseases or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts: Provided further, That hereafter, the Secretary of Agriculture is authorized, except for urban rodent control, to conduct activities and to enter into agreements with States, local jurisdictions, individuals, and public and private agencies, organizations, and institutions in the control of nuisance mam-

mals and birds and those mammal and bird species that are reservoirs for zoonotic diseases, and to deposit any money collected under any such agreement into the appropriation accounts that incur the costs to be available immediately and to remain available until expended for Animal Damage Control activities.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $2,246,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $392,009,000: Provided, That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: Provided further, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

FEDERAL GRAIN INSPECTION SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $7,020,000: Provided, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: Provided further, That none of the funds provided by this Act may be used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to any person or persons who require nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94-582 other than those necessary to fulfill the purposes of such Act.

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Not to exceed $36,856,000 (from fees collected) shall be obligated during the current fiscal year for Inspection and Weighing Services.

AGRICULTURAL COOPERATIVE SERVICE

For necessary expenses to carry out the Cooperative Marketing Act of July 2, 1926 (7 U.S.C. 451-457), and for activities relating to the marketing aspects of cooperatives, including economic research and analysis and the application of economic research findings, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and for activities with institutions or organizations throughout the world concerning the development and operation of agricultural cooperatives (7 U.S.C. 3291), $4,611,000; of which $99,000 shall be available for a field office in Hawaii: Provided, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $15,000 shall be available for employment under 5 U.S.C. 3109.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution and regulatory programs as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $70,000 for employment under 5 U.S.C. 3109, $32,409,000; of which not less than $1,591,000 shall be available for the Wholesale Market Development Program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: Provided, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $30,628,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $7,601,000 for formulation and administration of Marketing Agreements and Orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $942,000.

OFFICE OF TRANSPORTATION

For necessary expenses to carry on services related to agricultural transportation programs as authorized by law; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $2,397,000: Provided, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

PACKERS AND STOCKYARDS ADMINISTRATION

For necessary expenses for administration of the Packers and Stockyards Act, as authorized by law, and for certifying procedures used to protect purchasers of farm products, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $5,000 for employment under 5 U.S.C. 3109, $9,402,000.

FARM INCOME STABILIZATION

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

For necessary salaries and expenses for the Office of the Under Secretary for International Affairs and Commodity Programs to administer the laws enacted by Congress for the Agricultural Stabilization and Conservation Service, Office of International Cooperation and Development, Foreign Agricultural Service, and the Commodity Credit Corporation, $524,000.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301-1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q); sections 1001 to 1004, 1006 to 1008, and 1010 of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501 to 1504, 1506 to 1508, and 1510); the Water Bank Act, as amended (16 U.S.C. 1301-1311); the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101); sections 202(c) and 205 of title II of the Colorado River Basin Salinity Control Act of 1974, as amended (43 U.S.C. 1592(c), 1595); sections 401, 402, and 404 to 406 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 to 2205); the United States Warehouse Act, as amended (7 U.S.C. 241-273); and laws pertaining to the Commodity Credit Corporation, not to exceed $565,000,000, to be derived by transfer from the Commodity Credit Corporation fund: Provided, That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this account: Provided further, That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: Provided further, That no part of the funds made available under this Act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals reg-

istered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $95,000: Provided, That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government: Provided, That this amount shall be transferred to the Commodity Credit Corporation: Provided further, That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursements.

CORPORATIONS

The following corporations and agencies are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided:

Federal Crop Insurance Corporation

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, as authorized by the Federal Crop Insurance Act, as amended (7 U.S.C. 1516), $200,000,000: Provided, That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 508(b) of the Federal Crop Insurance Act, as amended, $228,523,000.

Commodity Credit Corporation

OPERATING EXPENSES

Notwithstanding any other provision of law, for operating expenses as authorized by the Charter of the Commodity Credit Corporation (15 U.S.C. 714) to be available for financing the Corporation's programs and activities only as follows:

Deficiency payments, $6,116,000,000;
Export guarantee loan claims, $711,386,000;
Commodity purchases, $1,150,875,000;
Crop insurance, $200,000,000;
Storage and handling payments, $1,343,166,000;
Transportation of commodities, $185,464,000;
Processing and packaging of commodities, $105,065,000;
Producer storage payments, $609,801,000;
Loan collateral settlements, $142,236,000;
Whole herd buy out payments (dairy termination program), $218,000,000;
Interest payments to the United States Treasury, $1,468,860,000;
Working capital, $1,500,000,000;
Prior year losses, $1,422,400,000;
Other expenses, $5,292,046,000;
Operating expenses, $541,691,000;
Special activities (wool program), $126,108,000;
Support of advisory committees or commissions, including travel or per diem expenses, $560,000;

Provided, That such provisions shall not interfere with the Commodity Credit Corporation's discharge of its corporate responsibilities: Provided further, That not to exceed 7 per centum of the funds made available for any program or activity may be transferred to another program or activity as provided by existing law: Provided further, That notwithstanding any other provision of law, the Commodity Credit Corporation shall pay an interest penalty, determined on the basis of the provisions of the Prompt Payment Act (31 U.S.C. 3901 et seq.), on the amount of all payments and price support loans which the Commodity Credit Corporation is obligated to make if payment is not made by the required payment date. This provision shall be applicable to all such payments for obligations incurred after January 1, 1988.

INCREASE IN BORROWING AUTHORITY

Section 4(i) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(i)) is amended by striking out "$25,000,000,000" and inserting in lieu thereof "$30,000,000,000".

Section 4 of the Act of March 8, 1938 (15 U.S.C. 713a-4) is amended by striking out "$25,000,000,000" and inserting in lieu thereof "$30,000,000,000".

SHORT-TERM EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,000,000,000 in credit guarantees under its export credit guarantee program for short-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1125(b) of the Food Security Act of 1985 (Public Law 99-198).

INTERMEDIATE EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $500,000,000 in credit guarantees under its export guarantee program for intermediate-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1131(3)(B) of the Food Security Act of 1985 (Public Law 99-198).

GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

Not to exceed $7,157,000 may be transferred from the Commodity Credit Corporation funds to support the General Sales Manager, of which up to $4,000,000 shall be available only for the purpose of selling surplus agricultural commodities from Commodity Credit Corporation inventory in world trade at competitive prices for the purpose of regaining and retaining our normal share of world markets. The General Sales Manager shall report directly to the Secretary of Agriculture. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered, including information relating to the effectiveness of greater reliance by the General Sales Manager upon loan guarantees as contrasted to direct loans for financing commercial export sales of agricultural commodities out of private stocks on credit terms, as provided in titles I and II of the Agricultural Trade Act of 1978, Public Law 95-501, and shall submit quarterly reports to the appropriate committees of Congress concerning such developments.

TITLE II—RURAL DEVELOPMENT PROGRAMS

Rural Development Assistance

Office of the Under Secretary for Small Community and Rural Development

For necessary salaries and expenses for the Office of the Under Secretary for Small Community and Rural Development to administer programs under the laws enacted by the Congress for the Farmers Home Administration, Rural Electrification Administration, Federal Crop Insurance Corporation, and rural development activities of the Department of Agriculture, $440,000.

Farmers Home Administration

RURAL HOUSING INSURANCE FUND

From funds in the Rural Housing Insurance Fund, and for insured loans as authorized by title V of the Housing Act of 1949, as amended, $1,844,990,000, of which not less than $1,794,420,000 shall be for subsidized interest loans to low-income borrowers, as determined by the Secretary, and for subsequent loans to existing borrowers or to purchasers under assumption agreements or credit sales; and not to exceed $10,000,000 to enter into collection and servicing contracts pursuant to the provisions of section 3(f)(3) of the Federal Claims Act of 1966 (31 U.S.C. 3718).

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) of the Housing Act of 1949, as amended, total new obligations shall not exceed $275,310,000, to be added to and merged with the authority provided for this purpose in prior fiscal years: Provided, That of this amount not to exceed $109,918,000 is available for newly constructed units financed by section 515 of the Housing Act of 1949, as amended, and not less than $5,082,000 is for newly constructed units financed under sections 514 and 516 of the Housing Act of 1949: Provided further, That $160,310,000 is available for expiring agreements and for servicing of existing units without agreements: Provided further, That agreements entered into or renewed during fiscal year 1988 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated: Provided further, That agreements entered into or renewed during fiscal years 1984, 1985, 1986, and 1987, may also be extended beyond five years to fully utilize amounts obligated.

For an additional amount to reimburse the Rural Housing Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of title V of the Housing Act of 1949, as amended (42 U.S.C. 1483, 1487(e), and 1490a(c)), including $2,185,000 as authorized by section 521(c) of the Act; $2,964,249,000. For an additional amount as authorized by section 521(c) of the Act such sums as may be necessary to reimburse the fund to carry out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended.

SELF-HELP HOUSING LAND DEVELOPMENT FUND

For direct loans pursuant to section 523(b)(1)(B) of the Housing Act of 1949, as amended (42 U.S.C. 1490c), $500,000 shall be available from funds in the Self-Help Housing Land Development Fund.

AGRICULTURAL CREDIT INSURANCE FUND

(INCLUDING TRANSFERS OF FUNDS)

For direct and guaranteed loans as authorized by 7 U.S.C. 1928–1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $505,000,000, of which $390,000,000 shall be guaranteed loans; $14,000,000 for water development, use, and conservation loans, of which $3,000,000 shall be guaranteed loans; operating loans, $3,300,000,000, of which $2,400,000,000 shall be guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $2,000,000; and for emergency insured and guaranteed loans, $600,000,000 to meet the needs resulting from natural disasters, of which $12,000,000 shall be transferred to the Commodity Credit Corporation for payments to be made to cover the difference between the partial payment and the amount of the full claim under provisions of the Farm Disaster Assistance Act of 1987 (Public Law 100–45): Provided, That notwithstanding any provision of law the Secretary shall execute and deliver a quit claim deed to Tennessee State University for approximately ninety acres obtained by foreclosure and recorded in book 233, page 56 of the register of deeds of Warren County, Tennessee.

For an additional amount to reimburse the Agricultural Credit Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $3,627,153,000.

RURAL DEVELOPMENT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928 and 86 Stat. 661–664, to be available from funds in the Rural Development Insurance Fund, as follows: insured water and sewer facility loans, $330,380,000; guaranteed industrial development loans, $95,700,000; and insured community facility loans, $95,700,000.

For an additional amount to reimburse the Rural Development Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $842,682,000.

RURAL DEVELOPMENT LOAN FUND

For direct loans to intermediary borrowers, $14,000,000, as authorized under the Rural Development Loan Fund (42 U.S.C. 9812(a)), to be available from funds in the Rural Development Loan Fund, $6,500,000 and from funds transferred from the Rural Development Insurance Fund, $7,500,000: Provided, That such funds be made available within six months of enactment and that a priority be given applications serving rural communities in economic distress or from organizations experienced in administering rural economic development programs.

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), $109,395,000, to remain available until expended, pursuant to section 306(d) of the above Act.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949, as amended, $12,500,000.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to eligible nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), $9,513,000.

MUTUAL AND SELF-HELP HOUSING

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $8,000,000.

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95–313), $3,091,000 to fund up to 50 per centum of the cost of organizing, training, and equipping rural volunteer fire departments.

COMPENSATION FOR CONSTRUCTION DEFECTS

For compensation for construction defects as authorized by section 509(c) of the Housing Act of 1949, as amended, $713,000.

RURAL HOUSING PRESERVATION GRANTS

For grants for rural housing preservation as authorized by section 552 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98–181), $19,140,000.

RURAL DEVELOPMENT GRANTS

For grants authorized under section 310(B)(c) (7 U.S.C. 1932) to any qualified public or private nonprofit organization, $6,500,000: Provided, That such funds shall be made available within six months of date of enactment and that a priority be given to applications from rural areas in economic distress or from organizations with previous experience in administering rural economic development programs: Provided further, That $3,000,000 shall be available for planning and construction costs in connection with establishment of a rural industrialization technology center in Pontotoc County, Oklahoma.

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Farmers Home Administration, $600,000: Provided, That no other funds in this Act shall be available for this Office.

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921–2000), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471–1490o); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440–444), for administering the loan program authorized by title III A of the Economic Opportunity Act of 1964 (Public Law 88–452 approved August 20, 1964), as amended, and such other programs which the Farmers Home Administration has the responsibility for administering, $407,634,000, together with not more than $3,000,000 of the charges collected in connection with the insurance of loans as authorized by section 309(a) of the Consolidated Farm and Rural Development Act, as amended, and section 517(i) of the Housing Act of 1949, as amended, or in connection with charges made on borrowers under section 502(a) of the Housing Act of 1949, as amended: Provided, That, in addition, not to exceed $1,000,000 of the funds available for the various programs administered by this agency may be transferred to this appropriation for temporary field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), to meet unusual or heavy workload increases: Provided further, that not to exceed $500,000 of this appropriation may be used for employment under 5 U.S.C. 3109: Provided further, That not to exceed $2,675,000 of this appropriation shall be available for contracting with the National Rural Water Association or other equally qualified national organization for a circuit rider program to provide technical assistance for rural water systems: Provided further, That, in addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this title, or under the provisions of any other law administered by the Farmers Home Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: Provided, That, if the security instrument securing such loan is foreclosed, such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

CITY OF LINCOLN

The area within the present city limits of the city of Lincoln, Burleigh County, State of North Dakota, and the southeast quarter (SE¼) of section eighteen (18), township one hundred thirty-eight (138) north, range seventy-nine (79) west, Burleigh County, North Dakota, shall continue to be eligible for loans and payments administered by the Farmers Home Administration through the Rural Housing Insurance Fund.

RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND LOAN AUTHORIZATIONS

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: rural electrification loans, not less than $622,050,000 nor more than $933,075,000; and rural telephone loans, not less than $239,250,000 nor more than $311,025,000; to remain available until expended: Provided, That loans made pursuant to section 306 of that Act are in addition to these amounts but during fiscal year 1988 total commitments to guarantee loans pursuant to section 306 shall be not less than $933,075,000 nor more than $2,100,615,000 of contingent liability for total loan principal: Provided further, That as a condition of approval of insured electric loans during fiscal year 1988, borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15, 1982: Provided further, That no funds appropriated in this Act may be used to deny or reduce loans or loan advances based upon a borrower's level of general funds.

REIMBURSEMENT TO THE RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND

For an additional amount to reimburse the rural electrification and telephone revolving fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), $327,675,000.

RURAL TELEPHONE BANK

For the purchase of Class A stock of the Rural Telephone Bank, $28,710,000, to remain available until expended (7 U.S.C. 901-950(b)).

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During fiscal year 1988, and within the resources and authority available, gross obligations for the principal amount of direct loans shall be not less than $177,045,000 nor more than $210,540,000.

RURAL COMMUNICATION DEVELOPMENT FUND

To reimburse the Rural Communication Development Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in making Community Antenna Television loans and loan guarantees under sections 306 and 310B of the Consolidated Farm and Rural Development Act, as amended, $1,309,000.

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Rural Electrification Administration, $155,000: Provided, That no other funds in this Act shall be available for this Office.

SALARIES AND EXPENSES

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), and to administer the loan and loan guarantee programs for Community Antenna Television facilities as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1995), and for which commitments were made prior to fiscal year 1988, including not to exceed $7,000 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $103,000 for employment under 5 U.S.C. 3109, $30,713,000.

CONSERVATION

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100; purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $398,670,000, of which not less than $5,379,000 is for snow survey and water forecasting and not less than $4,856,000 is for operation and establishment of the plant materials centers: Provided, That of the foregoing amounts not less than $310,000,000 is for personnel compensation and benefits: Provided further, That the Chief of the Soil Conservation Service shall report directly to the Secretary of Agriculture: Provided further, That the cost of any permanent building, purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed $10,000, except for one building to be constructed at a cost not to exceed $100,000 and eight buildings to be constructed or improved at a cost not to exceed $50,000 per building and except that alterations or improvements to other existing permanent buildings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $2,000 per building: Provided further, That when buildings or other structures are erected on non-Federal land that the right to use such land is obtained as provided in 7 U.S.C. 2250a: Provided further, That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a-590f) in demonstration projects: Provided further, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: Provided further, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e-2): Provided further, That none of the funds in this Act shall be used for the purpose of consolidating equipment, personnel, or services of the Soil Conservation Service's national technical centers in Portland, Oregon; Lincoln, Nebraska; Chester, Pennsylvania; and Fort Worth, Texas, into a single national technical center.

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigations, and surveys of the watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1006-1009), $12,051,000: Provided, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $60,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001-1008), $8,651,000: Provided, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001-1005, 1007-1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and in accordance with the provisions of laws relating to the activities of the Department, $165,873,000 (of which $26,271,000 shall be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): Provided, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $3,500,000 shall be available for emergency measures as provided by sections 403-405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203-2205), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: Provided further, That $7,949,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): Provided further, That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93-205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010-1011; 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and the provisions of the Agriculture and Food Act of 1981 (16 U.S.C. 3451-3461), $25,120,000: Provided, That $1,207,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): Provided further, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), $20,474,000, to remain available until expended (16 U.S.C. 590p(b)(7)).

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q), and sections 1001-1004, 1006-1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C.

1501-1504, 1506-1508, and 1510), and including not to exceed $15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, $176,935,000, to remain available until expended (16 U.S.C. 590o) for agreements, excluding administration but including technical assistance and related expenses, except that no participant in the Agricultural Conservation Program shall receive more than $3,500 per year, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community, or where a participant has a long-term agreement, in which case the total payment shall not exceed the annual payment limitation multiplied by the number of years of the agreement: Provided, That no portion of the funds for the current year's program may be utilized to provide financial or technical assistance for drainage on wetlands now designated as Wetlands Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: Provided further, That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation materials, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved farming practices as authorized by the Soil Conservation and Domestic Allotment Act, as amended, as determined and recommended by the county committees, approved by the State committees and the Secretary, under programs provided for herein: Provided further, That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: Provided further, That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per centum may be made available to any other Federal, State, or local public agency for the same purpose and under the same conditions: Provided further, That for the current year's program $2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: Provided further, That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities" approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913 to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $11,891,000, to remain available until expended, as authorized by that Act.

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301-1311), $8,371,000, to remain available until expended.

EMERGENCY CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 401, 402, and 404 of title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205), $1,000,000, to remain available until expended, as authorized by 16 U.S.C. 2204.

COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

For necessary expenses for carrying out the purposes of section 202 of title II of the Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1592), to be used to reduce salinity in the Colorado River and to enhance the supply and quality of water available for use in the United States and the Republic of Mexico, $4,904,000, for investigations and surveys, for technical assistance in developing conservation practices and in the preparation of salinity control plans, for the establishment of on-farm irrigation management systems, including related lateral improvement measures, for making cost-share payments to agricultural landowners and operators, Indian tribes, irrigation districts and associations, local governmental and nongovernmental entities, and other landowners to aid them in carrying out approved conservation practices as determined and recommended by the county committees, approved by the State committees and the Secretary, and for associated costs of program planning, information and education, and program monitoring and evaluation: Provided, That the Soil Conservation Service shall provide technical assistance and the Agricultural Stabilization and Conservation Service shall provide administrative services for the program, including but not limited to, the negotiation and administration of agreements and the disbursement of payments: Provided further, That such program shall be coordinated with the regular Agricultural Conservation Program and with research programs of other agencies.

CONSERVATION RESERVE PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Conservation Reserve Program pursuant to the Food Security Act of 1985 (16 U.S.C. 3881-3845), $1,131,000,000, to remain available until expended, to be used for Commodity Credit Corporation expenditures for cost-share assistance for the establishment of conservation practices, for annual rental payments, and for technical assistance: Provided, That 4 per centum of the funds available for the conservation reserve program in this Act shall be transferred to the conservation operations account of the Soil Conservation Service for services of its technicians in carrying out the conservation programs of the Food Security Act of 1985: Provided further, That none of the funds in this Act may be used to enter into new contracts that are in excess of the prevailing local rental rates for an acre of comparable land: Provided further, That funds appropriated by this Act for the Conservation Reserve Program shall be used to the extent necessary to reimburse fully the Commodity Credit Corporation for conservation reserve costs financed by the Corporation during the period of the Continuing Resolutions, Public Laws 100-120 and 100-162.

TITLE III—DOMESTIC FOOD PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Food and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service and the Human Nutrition Information Service, $365,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751-1769b, except 1766(i)), and the applicable provisions other than sections 3, 17, 18, and 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1773-1785, and 1788-1789); $4,497,629,000, to remain available through September 30, 1989, of which $679,826,000 is hereby appropriated and $3,817,803,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): Provided, That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966, when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture: Provided further, That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allocated: Provided further, That only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

SPECIAL MILK PROGRAM

For necessary expenses, to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), $21,500,000, to remain available through September 30, 1989. Only final reimbursement claims for milk submitted to State agencies within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $1,802,363,000, to remain available through September 30, 1989.

STUDY OF MEDICAID SAVINGS FOR NEWBORNS FROM WIC PROGRAM

(a) Study.—The Secretary of Agriculture shall conduct a national study of savings in the amount of assistance provided to families with newborns under State plans for medical assistance approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and State indigent health care programs, during the first 60-day period after birth, as the result of the prenatal participation of mothers in the special supplemental food program authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(b) Report.—Not later than February 1, 1990, the Secretary shall submit to Congress a report that describes the results of the study conducted under subsection (a).

(c) Funding.—This section shall be carried out using funds made available under section 17(g)(3) of the Child Nutrition Act of 1966.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), including not less than $8,000,000 for the projects in Detroit, New Orleans, and Des Moines, $50,000,000: Provided, That funds available above those needed to serve 145,000 women, infants, and children and 80,000 elderly persons in States operating projects in 1987 shall be used to fund additional women, infants, and children in projects in States without projects in 1987: Provided further, That funds provided herein shall remain available through September 30, 1989: Provided further, That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011–2027, 2028, 2029), $13,557,757,000: Provided, That funds provided herein shall remain available through September 30, 1988 in accordance with section 18(a) of the Food Stamp Act: Provided further, That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: Provided further, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: Provided further, That this appropriation shall be subject to any work registration or workfare requirements as may be required by law: Provided further, That $345,000,000 of the funds provided herein shall be available only to the extent necessary after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste, and abuse in the program: Provided further, That $879,250,000 of the foregoing amount shall be available for Nutrition Assistance for Puerto Rico as authorized by 7 U.S.C. 2028.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), section 4(b) of the Food Stamp Act (7 U.S.C. 2013), and section 311 of the Older Americans Act of 1965, as amended (42 U.S.C 3030a(a)), $194,108,000.

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

For necessary expenses to carry out the Temporary Emergency Food Assistance Act of 1983, as amended, $50,000,000: Provided, That, in accordance with section 202 of Public Law 98-92, these funds shall be available only if the Secretary determines the existence of excess commodities.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the Domestic Food Programs funded under this Act, $85,828,000; of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification, and prosecution of fraud and other violations of law: Provided, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

Human Nutrition Information Service

For necessary expenses to enable the Human Nutrition Information Service to perform applied research and demonstrations relating to human nutrition and consumer use and economics of food utilization, $8,623,000: Provided, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

TITLE IV—INTERNATIONAL PROGRAMS

Foreign Agricultural Service

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761–1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $110,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $92,017,000: Provided, That not less than $255,000 of this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis: Provided further, That, hereafter, notwithstanding any other provision of law, upon the request of the Secretary of Agriculture, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Foreign Agricultural Service Officer assigned to any United States mission abroad: Provided further, That the number of Agricultural Counselors accorded such diplomatic title at any time shall not exceed eight: Provided further, That funds available to the Foreign Agricultural Service under this and subsequent appropriations Acts shall be available to contract with individuals for services to be performed outside the United States as determined by the Service to be necessary or appropriate for carrying out programs and activities abroad. Such individuals shall not be regarded as officers or employees of the United States under any law, including any law administered by the Office of Personnel Management.

Public Law 480

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701–1715, 1721–1726, 1727–1727f, 1731–1736g), as follows: (1) financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms pursuant to titles I and III of said Act, or for convertible foreign currency for use under 7 U.S.C. 1708, and for furnishing commodities to carry out the Food for Progress Act of 1985, not more than $852,000,000, of which $429,596,000 is hereby appropriated and the balance derived from proceeds from sales of foreign currencies and dollar loan repayments, repayments on long-term credit sales, carryover balances and commodities made available from the inventories of the Commodity Credit Corporation by the Secretary of Agriculture pursuant to sections 102 and 403(b) of said Act, and (2) commodities supplied in connection with dispositions abroad, pursuant to title II of said Act, not more than $630,000,000, of which $630,000,000 is hereby appropriated: Provided, That not to exceed 10 per centum of the funds made available to carry out any title of this paragraph may be used to carry out any other title of this paragraph.

Office of International Cooperation and Development

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of International Cooperation and Development to coordinate, plan, and direct activities involving international development, technical assistance and training, and international scientific and technical cooperation in the Department of Agriculture, including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291), $5,295,000: Provided, That in addition, funds available to the Department of Agriculture shall be available to assist an international organization in meeting the costs, including salaries, fringe benefits and other associated costs, related to the employment by the organization of Federal personnel that may transfer to the organization under the provisions of 5 U.S.C. 3581–3584, or of other well-qualified United States citizens, for the performance of activities that contribute to increased understanding of international agricultural issues, with transfer of funds for this purpose from one appropria-

tion to another or to a single account authorized, such funds remaining available until expended: Provided further, That the Office may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

SCIENTIFIC ACTIVITIES OVERSEAS (FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for market development research authorized by section 104(b)(1) and for agricultural and forestry research and other functions related thereto authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704(b)(1), (3)), $1,500,000: Provided, That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foregoing currencies: Provided further, That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines are needed and can be used most effectively to carry out the purposes of this paragraph: Provided further, That not to exceed $25,000 of this appropriation shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

TITLE V—RELATED AGENCIES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $450,504,000: Provided, That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $1,450,000.

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug Administration which are included in this Act, $25,612,000: Provided, That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 10 per centum of the funds made available for rental payments (FDA) to or from this account.

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $32,813,000, including not to exceed $700 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON REVOLVING FUND FOR ADMINISTRATIVE EXPENSES

Notwithstanding any provision of The Farm Credit Act Amendments of 1987 (H.R. 3030), or any similar bill, if enacted into law, not to exceed $35,000,000 (from assessments collected from farm credit system banks), of which not to exceed $1,500 shall be available for official reception and representation expenses, shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249.

TITLE VI—GENERAL PROVISIONS

SEC. 601. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 602. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1988 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed seven hundred and fifty-four (754) passenger motor vehicles, of which seven hundred and forty-six (746) shall be for replacement only, and for the hire of such vehicles.

SEC. 603. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefore as authorized by law (5 U.S.C. 5901-5902).

SEC. 604. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946 and July 28, 1954, and (7 U.S.C. 427, 1621-1629), and by chapter 63 of title 31, United States Code, shall be available for contracting in accordance with said Acts and chapter.

SEC. 605. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporations upon a final finding by court of competent jurisdiction that such party is guilty of growing, cultivating, harvesting, processing or storing marijuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

SEC. 606. Advances of money to chiefs of field parties from any appropriation in this Act for the Department of Agriculture may be made by authority of the Secretary of Agriculture.

SEC. 607. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: Provided, That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 608. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Public Law 480; Mutual and Self-Help Housing; Watershed and Flood Prevention Operations; Resource Conservation and Development; Colorado River Basin Salinity Control Program; Animal and Plant Health Inspection Service, $4,500,000 for the contingency fund to meet emergency conditions, and buildings and facilities; Agricultural Stabilization and Conservation Service, salaries and expenses funds made available to county committees; the Federal Crop Insurance Corporation Fund; Rural Housing for Domestic Farm Labor; Agricultural Research Service, buildings and facilities; Scientific Activities Overseas (Foreign Currency Program); Dairy Indemnity Program; $5,000,000 for the grasshopper and Mormon cricket control program, Animal and Plant Health Inspection Service; $2,852,000 for higher education training grants under section 1417(a)(3)(B) of Public Law 95-113, as amended (7 U.S.C. 3152(a)(3)(B)); and buildings and facilities, Food and Drug Administration.

SEC. 609. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 610. Not to exceed $50,000 of the appropriation available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94-449.

SEC. 611. Notwithstanding any other provision of law, employees of the agencies of the Department of Agriculture, including employees of the Agricultural Stabilization and Conservation county committees, may be utilized to provide part-time and intermittent assistance to other agencies of the Department, without reimbursement, during periods when they are not otherwise full utilized, and ceilings on full-time equivalent staff years established for or by the Department of Agriculture shall exclude overtime as well as staff years expended as a result of carrying out programs associated with natural disasters, such as forest fires, droughts, floods, and other acts of God.

SEC. 612. Funds provided by this Act for personnel compensation and benefits shall be available for obligation for that purpose only.

SEC. 613. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract as provided by law.

SEC. 614. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 615. Certificates of beneficial ownership sold by the Farmers Home Administration in connection with the Agricultural Credit Insurance Fund, Rural Housing Insurance Fund, and the Rural Development Insurance Fund shall be not less than 65 per centum of the value of the loans closed during the fiscal year.

SEC. 616. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 per centum of the total direct cost of the agreement when the purpose of such cooperative *arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.*

SEC. 617. None of the funds in this Act shall be used to carry out any activity related to phasing out the Resource Conservation and Development Program.

SEC. 618. None of the funds in this Act shall be used to prevent or interfere with the right and obligation of the Commodity Credit Corporation to sell surplus agricultural commodities in world trade at competitive prices as authorized by law.

SEC. 619. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

SEC. 620. During fiscal year 1988, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

SEC. 621. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1987 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act.

SEC. 622. In fiscal year 1988, the Secretary of Agriculture shall initiate construction on not less than twenty new projects under the Watershed Protection and Flood Prevention Act (Public Law 566) and not less than five new projects under the Flood Control Act (Public Law 534).

SEC. 623. Funds provided by this Act may be used for translation of publications of the Department of Agriculture into foreign languages when determined by the Secretary to be in the public interest.

SEC. 624. None of the funds appropriated by this or any other Act may be used to relocate the Hawaii State Office of the Farmers Home Administration from Hilo, Hawaii, to Honolulu, Hawaii.

SEC. 625. Provisions of law prohibiting or restricting personal services contracts shall not apply to veterinarians employed by the Department to take animal blood samples, test and vaccinate animals, and perform branding and tagging activities on a fee-for-service basis.

SEC. 626. None of the funds provided in this Act may be used to reduce programs by establishing an end-of-year employment ceiling on full-time equivalent staff years below the level set herein for the following agencies: Farmers Home Administration, 12,675; Agricultural Stabilization and Conservation Service, 2,550; Rural Electrification Administration, 550; and Soil Conservation Service, 14,177.

SEC. 627. Funds provided in this act may be used for one-year contracts which are to be performed in two fiscal years so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 628. Funds appropriated by this Act shall be applied only to the objects for which appropriations were made except as otherwise provided by law, as required by 31 U.S.C. 1301.

SEC. 629. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 630. None of the funds provided in this Act may be expended to release information acquired from any handler under the Agricultural Marketing Agreement Act of 1937, as amended: Provided, That this provision shall not prohibit the release of information to other Federal agencies for enforcement purposes: Provided further, That this provision shall not prohibit the release of aggregate statistical data used in formulating regulations pursuant to the Agricultural Marketing Agreement Act of 1937, as amended: Provided further, That this provision shall not prohibit the release of information submitted by milk handlers.

SEC. 631. Unless otherwise provided in this Act, none of the funds appropriated or otherwise made available in this Act may be used by the Farmers Home Administration to employ or otherwise contract with private debt collection agencies to collect delinquent payments from Farmers Home Administration borrowers.

SEC. 632. During fiscal year 1988 and each succeeding fiscal year, the Secretary of Agriculture shall permit each district office of the Farmers Home Administration to exempt any existing dwelling from any limitation established by the Secretary on the number of square feet of living area that may be contained in a dwelling to be eligible for a loan under section 502 of the Housing Act of 1949, if the dwelling is modest in design, size, and cost for the area in which it is located.

SEC. 633. Hereafter, notwithstanding section 306A (c), (d), and (e) of the Rural Electrification Act of 1936, as amended, a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of such Act (7 U.S.C. 936) may, at the option of the borrower, prepay such loan (or any loan advance thereunder) in accordance with section 306A (a) and (b) of such Act: Provided, That any prepayment in excess of $2,500,000,000 shall be subject to the approval of the Secretary of the Treasury.

SEC. 634. None of the funds appropriated in this Act or any other Act shall be used to alter the method of computing normalized prices for agricultural commodities for use by any Federal agency in evaluating water resources development projects to be undertaken in whole or in part with Federal funds that was in effect as of January 1, 1986.

SEC. 635. None of the funds in this Act, or otherwise made available by this Act, shall be used to sell loans made by the Agricultural Credit Insurance Fund.

SEC. 636. (a) Section 1323(a)(1) of the Food Security Act of 1985 is amended by striking out "For the fiscal year ending September 30, 1987" and inserting in lieu thereof "Prior to September 30, 1988", and

(b) Section 1323(a)(5) of such Act is amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1988", and

(c) Section 1323(b)(1) of such Act is amended by striking out "For the fiscal year ending September 30, 1987" and inserting in lieu thereof "Prior to September 30, 1988".

SEC. 637. $10,000,000 of Section 32 funds shall be used to purchase sunflower oil, such purchases to facilitate additional sales of sunflower oil in World Markets at competitive prices, so as to compete with other countries in fiscal years 1988 and 1989.

SEC. 638. Section 201(d)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)) is amended—

(1) in subparagraph (A) by striking out "During the period beginning on April 1, 1986, and ending on September 30, 1987," and inserting in lieu thereof "Beginning after March 31, 1986,";

(2) in subparagraph (B) by striking out "subparagraph (E)" and inserting in lieu thereof "subparagraphs (E) and (F)"; and

(3) by adding at the end thereof the following new subparagraph:

"(F)(i) The Secretary—

"(I) notwithstanding the Balanced Budget and Emergency Deficit Control Act of 1985 and any order issued by the President under section 252 of such Act for a fiscal year; and

"(II) in lieu of making any reduction in payments for the purchase of milk or the products of milk under this subsection during such fiscal year under any such order;

shall provide for the reduction (measured in cents per hundredweight of milk marketed) under subparagraph (A) during the period beginning on October 1 and ending on September 30 of such fiscal year as the sole means of achieving any reduction in budget outlays under the milk price-support program that otherwise would be required under either such order and only for the purpose of substituting for any reduction in payments made by the Secretary for the purchase of milk or the products of milk under either such order.

"(ii) The aggregate amount of any reduction under subparagraph (A) resulting from the operation of clause (i) may not exceed the aggregate amount of the reduction in budget outlays under the milk price-support program, as estimated by the Secretary, that otherwise would have been achieved under either such order by reducing payments made by the Secretary for the purchase of milk or the products of milk under this subsection during such fiscal year.".

SEC. 639. Section 1581(b) of the Food Security Act of 1985 (Public Law 99-198) is amended by striking out "June 30, 1987," and inserting in lieu thereof "June 30, 1988,".

This Act may be cited as the "Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988".

And the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(1) Such amounts as may be necessary for programs, projects, or activities provided for in the Department of Transportation and Related Agencies Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of the Secretary of Transportation, including not to exceed $30,000 for allocation within the Department of official reception and representation expenses as the Secretary may determine; $1,050,000 for the Immediate Office of the Secretary; $451,000 for the Immediate Office of the Deputy Secretary; $5,785,000 for the Office of the General Counsel; $7,796,000 for the Office of the Assistant Secretary for Policy and International Affairs; $2,105,000 for the Office of the Assistant Secretary for Budget and Programs; $2,367,000 for the Office of the Assistant Secretary for Governmental Affairs; $22,099,000, of which $15,360,000 shall be derived from unobligated balances of "Payments to air carriers", for the Office of the Assistant Secretary for Administration; $1,459,000 for the Office of the Assistant Secretary for Public Affairs; $798,000 for the Executive Secretariat; $430,000 for the Contract Appeals Board; $1,244,000 for the Office of Civil Rights; $384,000 for the Office of Commercial Space Transportation; $1,700,000 for the Office of Essential Air Service; $642,000 for Regional Representatives; and $3,042,000 for the Office of Small and Disadvantaged Business Utilization, of which $2,229,000 shall remain available for the purposes of the Minority Business Resource Center as authorized by 49 U.S.C. 332: Provided, That, notwithstanding any other provision of law, funds available for the purposes of the Minority Business Resource Center in this or any other Act may be used for business opportunities related to any mode of transportation: Provided further, That 5 per centum of each sum provided under this head for the Immediate Office of the Secretary, the Immediate Office of the Deputy Secretary, and the Office of the General Counsel shall not be available for obligation until on or after the date that final rules are issued by the Department of Transportation that: (1) expand existing requirements for installation and carriage of cockpit voice recorders and flight data recorders to smaller sizes of commuter air carrier aircraft and to require cockpit voice recorder and flight data recorder retrofits on certain types of existing commuter air carrier aircraft to be determined by the Federal Aviation Administration; and (2) require installation and carriage of operating altitude-encoding radar transponders for all aircraft operating in terminal airspace where air traffic control service is provided and in all controlled airspace above a minimum altitude to be determined by the Federal Aviation Administration.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

(TRANSFERS OF FUNDS)

For necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics, and university research and internships, to remain available until expended, $4,987,000 of which $4,750,000, shall be derived from "Payments to air carriers" and $237,000 shall be derived from "Expressway gap closing demonstration project".

WORKING CAPITAL FUND

Necessary expenses for operating costs and capital outlays of the Department of Transportation Working Capital Fund not to exceed $127,801,000 shall be paid, in accordance with law, from appropriations made available by this Act and prior appropriation Acts to the Department of Transportation, together with advances and reimbursements received by the Department of Transportation; for necessary expenses associated with the development of the Departmentwide Accounting and Information System, $1,601,000, to remain available until expended; and for the Department of Transportation office space reduction initiative, $204,000.

PAYMENTS TO AIR CARRIERS

For payments to air carriers of so much of the compensation fixed and determined under section 419 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1389), as is payable by the Department of Transportation, $28,500,000, to remain available until expended.

COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed eight passenger motor vehicles for replacement only; and recreation and welfare, $1,789,106,000, of which $21,600,000 shall be expended from the Boat Safety Account: Provided, That, of the funds available under this head, not less than $429,120,000 shall be available for drug enforcement activities: Provided further, That the number of aircraft on hand at any one time shall not exceed two hundred and fourteen, exclusive of planes and parts stored to meet future attrition: Provided further, That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: Provided further, That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109 except to the extent fees are collected from yacht owners and credited to this appropriation.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, to remain available until September 30, 1992, $247,000,000: Provided, That the Secretary of Transportation shall issue regulations requiring that written warranties shall be included in all contracts with prime contractors for major systems acquisitions of the Coast Guard: Provided further, That any such written warranty shall not apply in the case of any system or component thereof that has been furnished by the Government to a contractor: Provided further, That the Secretary of Transportation may provide for a waiver of the requirements for a warranty where: (1) the waiver is necessary in the interest of the national defense or the warranty would not be cost effective; and (2) the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Merchant Marine and Fisheries of the House of Representatives are notified in writing of the Secretary's intention to waive and reasons for waiving such requirements: Provided further, That the requirements for such written warranties shall not cover combat damage.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, $940,000, to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C., ch. 55), $386,700,000.

RESERVE TRAINING

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services, $62,880,000.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for basic and applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $19,000,000, to remain available until expended: Provided, That there may be credited to this appropriation funds received from State and local governments, other public authorities, private sources and foreign countries, for expenses incurred for research, development, testing, and evaluation.

OFFSHORE OIL POLLUTION COMPENSATION FUND

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations in such amounts and at such times as may be necessary to the extent that appropriations are not adequate to meet the obligations of the Fund: Provided, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $57,000,000 in fiscal year 1988 for the "Offshore Oil Pollution Compensation Fund".

DEEPWATER PORT LIABILITY FUND

The Secretary of Transportation is authorized to issue, and the Secretary of the Treasury is authorized to purchase, without fiscal year limitation, notes or other obligations in such amounts and at such times as may be necessary to the extent that available appropriations are not adequate to meet the obligations of the Fund: Provided, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $47,500,000 in fiscal year 1988 for the "Deepwater Port Liability Fund".

BOAT SAFETY

(LIQUIDATION OF CONTRACT AUTHORIZATION)

For payment of obligations incurred for recreational boating safety assistance under Public Law 92-75, as amended, $22,500,000, to be derived from the Boat Safety Account and to remain available until expended: Provided, That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $21,375,000 in fiscal year 1988 for recreational boating safety assistance.

FEDERAL AVIATION ADMINISTRATION

HEADQUARTERS ADMINISTRATION

For necessary expenses, not otherwise provided for, of providing administrative services at the headquarters location of the Federal Aviation Administration, including but not limited to accounting, budgeting, legal, public affairs, and executive direction services for the Federal Aviation Administration, $35,520,000.

OPERATIONS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including administrative expenses for research and development, and for establishment of air navigation facilities, and carrying out the provisions of the Airport and Airway Development Act, as amended, or other provisions of law authorizing the obligation of funds for similar programs of airport and airway development or improvement, purchase of four passenger motor vehicles for replacement only, $3,148,520,000, of which not to exceed $825,955,000 shall be derived from the Airport and Airway Trust Fund: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the maintenance and operation of air navigation facilities: Provided further, That none of these funds shall be available for new applicants for the second career training program or for a pilot test of contractor maintenance: Provided further, That the immediately preceding proviso shall not prohibit the augmentation of the existing field maintenance work force if it is determined to be essential for the safe operation of the air traffic control system: Provided further, That section 5532(f)(2) of title V, United States Code, is amended by striking "December 31, 1987" and inserting "December 31, 1988" in lieu thereof: Provided further, That section 8344(h) of title V, United States Code, is amended by striking "April 1, 1986" in paragraph (2) and inserting "December 31, 1986" in lieu thereof: Provided further, That in the event that the Federal Aviation Administrator employs annuitants subject to section 8344(h) of title V, United States Code, not to exceed $9,700,000, to be derived from the unobligated balance of any appropriation available for obligation by the Federal Aviation Administration as of the effective date of this Act, shall be available through December 31, 1988, for the purpose of funding such employment: Provided further, That any such funding shall be reported to the Committees on Appropriations of the Senate and the House of Representatives.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities, including initial acquisition of necessary sites by lease or grant; engineering and service testing including construction of test facilities and acquisition of necessary sites by lease or grant; construction and furnishing of quarters and related accommodations of officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the lease or purchase of one aircraft; to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 1992, $1,108,056,000: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: Provided further, That of the funds available under this head, $5,225,000 shall be available for the Secretary of Transportation to enter into grant agreements with universities or colleges having an airway science curriculum recognized by the Federal Aviation Administration, to conduct demonstration projects in the development, advancement, or expansion of airway science curriculum programs, and such funds, which shall remain available until expended, shall be made available under such terms and conditions as the Secretary of Transportation may prescribe, to such universities or colleges for the purchase or lease of buildings and associated facilities, instructional materials, or equipment to be used in conjunction with airway science curriculum programs, but, notwithstanding any other provision of law, beginning in fiscal year 1989 and thereafter, in no event shall the total Federal share provided for any airway science construction project exceed 50 percent of the total cost of such project.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, in accordance with the provisions of the Federal Aviation Act (49 U.S.C. 1301-1542), including construction of experimental facilities and acquisition of necessary sites by lease or grant, $153,425,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for airport planning and development under section 14 of Public Law 91-258, as amended, and under other law authorizing such obligations, and obligations for noise compatibility planning and programs, $1,063,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: Provided, That none of the funds in this Act shall be available for the planning or execution of programs the commitments for which are in excess of $1,268,725,000 in fiscal year 1988 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 506(e)(4) of the Airport and Airway Improvement Act of 1982.

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to section 1306 of the Act of Au-gust 23, 1958, as amended (49 U.S.C. 1536), and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year for aviation insurance activities under said Act.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

The Secretary of Transportation may hereafter issue notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such obligations may be issued to pay any necessary expenses required pursuant to any guarantee issued under the Act of September 7, 1957, Public Law 85-307, as amended (49 U.S.C. 1324 note). None of the funds in this Act shall be available for the implementation or execution of programs under this head, the obligations for which are in excess of $57,000,000 during fiscal year 1988. Such obligations shall be redeemed by the Secretary from appropriations authorized by this section. The Secretary of the Treasury shall purchase any such obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under the subsection. The Secretary of the Treasury may sell any such obligations at such times and price and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such obligations by such Secretary shall be treated as public debt transactions of the United States.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Necessary expenses for administration, operation, and research of the Federal Highway Administration, not to exceed $206,736,000, shall be paid, in accordance with law, from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: Provided, That not to exceed $37,566,000 of the amount provided herein shall remain available until expended: Provided further, That, notwithstanding any other provision of law, there may be credited to this account funds received from States, counties, municipalities, other public authorities and private sources, for training expenses incurred for non-Federal employees.

HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

(HIGHWAY TRUST FUND)

For necessary expenses in carrying out provisions of sections 307(a) and 403 of title 23, United States Code, to be derived from the Highway Trust Fund and to remain available until expended, $6,650,000.

Highway-Related Safety Grants
(Liquidation of Contract Authorization)
(Highway Trust Fund)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 402, administered by the Federal Highway Administration, to remain available until expended, $9,900,000, to be derived from the Highway Trust Fund: Provided, That not to exceed $100,000 of the amount appropriated herein shall be available for "Limitation on general operating expenses": Provided further, That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $9,405,000 in fiscal year 1988 for "Highway-related safety grants".

Railroad-Highway Crossings Demonstration Projects

For necessary expenses of certain railroad-highway crossings demonstration projects as authorized by section 163 of the Federal-Aid Highway Act of 1973, as amended, to remain available until expended, $7,790,000, of which $5,193,333 shall be derived from the Highway Trust Fund.

Federal-Aid Highways
(Limitation on Obligations)
(Highway Trust Fund)

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $11,780,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 1988.

Federal-Aid Highways
(Liquidation of Contract Authorization)
(Highway Trust Fund)

For carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, $13,400,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

Right-of-Way Revolving Fund
(Limitation on Direct Loans)
(Highway Trust Fund)

During fiscal year 1988 and with the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $45,457,000.

Motor Carrier Safety

For necessary expenses to carry out the motor carrier safety functions of the Secretary as authorized by the Department of Transportation Act (80 Stat. 939-940), $22,790,000, of which $1,920,000 shall remain available until expended, and not to exceed $300,000 shall be available for "Limitation on general operating expenses".

Motor Carrier Safety Grants
(Liquidation of Contract Authorization)
(Highway Trust Fund)

For payment of obligations incurred in carrying out the provisions of section 402 of Public Law 97-424, $50,000,000, to be derived from the Highway Trust Fund and to remain available until expended: Provided, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $46,992,000 for "Motor carrier safety grants".

Access Highways to Public Recreation Areas on Certain Lakes

Notwithstanding any other provision of law, there is appropriated $1,786,000 for necessary expenses of certain access highway projects, as authorized by section 155, title 23, United States Code, to remain available until expended.

Baltimore-Washington Parkway
(Highway Trust Fund)

For necessary expenses, not otherwise provided, to carry out the provisions of the Federal-Aid Highway Act of 1970, for the Baltimore-Washington Parkway, to remain available until expended, $14,250,000, to be derived from the Highway Trust Fund and to be withdrawn therefrom at such times and in such amounts as may be necessary.

Waste Isolation Pilot Project Roads

For necessary expenses in connection with the upgrading of certain highways for the transportation of nuclear waste generated during defense-related activities, not otherwise provided for, $15,504,000, to remain available until expended.

Expressway Gap Closing Demonstration Project

For necessary expenses to carry out a highway construction project along State Route 113 in north-central California that demonstrates methods of reducing motor vehicle congestion and increasing employment, $7,885,000, to remain available until expended.

Intermodal Urban Demonstration Project
(Highway Trust Fund)

For necessary expenses to carry out the provisions of section 124 of the Federal-Aid Highway Amendments of 1974, $9,500,000, to be derived from the Highway Trust Fund and to remain available until expended.

Highway Safety and Economic Development Demonstration Projects
(Highway Trust Fund)

For necessary expenses to carry out construction projects as authorized by Public Law 99-500 and Public Law 99-591, $9,500,000, to be derived from the Highway Trust Fund and to remain available until expended: Provided, That, notwithstanding any other provision of law, funds appropriated for this project shall not be included in any calculations made under section 157 of title 23, United States Code, for fiscal year 1988 and each fiscal year thereafter.

Highway Safety Improvement
Demonstration Project
(Highway Trust Fund)

For the purpose of carrying out a coordinated project of highway improvements in the vicinity of Pontiac and East Lansing, Michigan, that demonstrates methods of enhancing safety and promoting economic development through widening and resurfacing of highways on the Federal-aid primary system and on roads on the Federal-aid urban system, as authorized by Public Law 99-500 and Public Law 99-591, $1,900,000, to be derived from the Highway Trust Fund and to remain available until expended.

Highway-Railroad Grade Crossing Safety
Demonstration Project
(Highway Trust Fund)

For the purpose of carrying out a coordinated project of highway-railroad grade crossing separations in Mineola, New York, that demonstrates methods of enhancing highway-railroad grade crossing safety while minimizing surrounding environmental effects, as authorized by Public Law 99-500 and Public Law 99-591, $9,500,000, to be derived from the Highway Trust Fund and to remain available until expended.

Bridge Improvement Demonstration Project

For 80 percent of the expenses necessary to carry out a highway project in the vicinity of Jacksonville, Florida, for the purpose of demonstrating methods of reducing traffic congestion and improving efficiency in the trans-shipment of military and civilian cargo, by construction of a bridge to Blount Island, widening State Highway 105 (Heckscher Drive) and constructing an interchange at the intersection of Heckscher Drive and the new Blount Island Bridge, $4,750,000, to remain available until expended.

Vehicular and Pedestrian Safety Demonstration Project
(Highway Trust Fund)

For the purpose of carrying out a demonstration of methods of improving vehicular and pedestrian safety on roads on the Federal-aid urban and Federal-aid secondary systems, involving Route 66 in Northampton and Huntington, Massachusetts, $6,650,000, to be derived from the Highway Trust Fund and to remain available until expended: Provided, That all funds appropriated under this head shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs.

Highway Bridge Relocation Demonstration Project

For 80 percent of the expenses necessary to carry out a highway project involving the relocation of U.S. Highway 101 and the Queets River Bridge in the State of Washington that demonstrates methods of improving highway safety, $2,470,000, to remain available until expended.

Highway Bypass Demonstration Project

For 80 percent of the expenses necessary to carry out a highway project in the vicinity of Prunedale, California, that demonstrates methods of accelerating the environmental studies and preliminary engineering for the construction of a highway bypass, $1,900,000, to remain available until expended.

Highway Widening and Improvement Demonstration Project

For 80 percent of the expenses necessary to carry out a highway project between Paintsville and Prestonsburg, Kentucky, that demonstrates the safety and economic benefits of widening and improving highways in mountainous areas, $2,375,000, to remain available until expended.

Corridor Safety Improvement Project
(Highway Trust Fund)

For the purpose of carrying out a demonstration of methods of improving vehicular and pedestrian safety on roads on the Federal-aid primary and Federal-aid secondary systems, involving Route 1 in New Jersey, there is hereby authorized to be appropriated $50,000,000, to be derived from the Highway Trust Fund and to remain available until expended, of which $4,702,000 is hereby appropriated and to remain available until expended: Provided, That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

BRIDGE CAPACITY IMPROVEMENTS
(HIGHWAY TRUST FUND)

For the purpose of carrying out the Nashua River Bridge and Broad Street Parkway project in Nashua, New Hampshire, that crosses the Nashua River, there is hereby authorized to be appropriated $8,000,000, to be derived from the Highway Trust Fund and to remain available until expended, of which $237,000 is hereby appropriated, to remain available until expended. All funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

TRAFFIC IMPROVEMENT DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway bypass project in the vicinity of Petoskey, Michigan, that demonstrates methods of improving economic development and regional transportation, there is authorized to be appropriated $28,000,000, to remain available until expended, of which $475,000 is hereby appropriated, to remain available until expended: Provided, That all funds appropriated under this head shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under the Motor Vehicle Information and Cost Savings Act (Public Law 92-513, as amended), and the National Traffic and Motor Vehicle Safety Act, $62,534,000, of which $29,331,000 shall remain available until expended: Provided, That, of the funds available under this head, $6,480,000 shall be available to implement the recommendations of the 1985 National Academy of Sciences report on trauma research.

OPERATIONS AND RESEARCH
(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under chapter 4, title 23, United States Code, to be derived from the Highway Trust Fund, $30,346,000, to remain available until expended: Provided, That, of the funds available under this head, $1,680,000 shall be available for light truck and van safety research and analysis.

HIGHWAY TRAFFIC SAFETY GRANTS
(LIQUIDATION OF CONTRACT AUTHORIZATION)
(HIGHWAY TRUST FUND)

For payment of obligations incurred carrying out the provisions of 23 U.S.C. 402, 406, and 408, and section 209 of Public Law 95-599, as amended, to remain available until expended, $135,000,000, to be derived from the Highway Trust Fund: Provided, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $114,950,000 in fiscal year 1988 for "State and community highway safety grants" authorized under 23 U.S.C. 402: Provided further, That none of these funds shall be used for construction, rehabilitation or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: Provided further, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $13,533,000 for "Alcohol safety incentive grants" authorized under 23 U.S.C. 408: Provided further, That not to exceed $4,656,000 shall be available for administering the provisions of 23 U.S.C. 402: Provided further, That notwithstanding any other provision of law, none of the funds in this Act shall be available for the planning or execution of programs authorized under section 209 of Public Law 95-599, as amended, the total obligations for which are in excess of $4,750,000 in fiscal years 1982, 1983, 1984, 1985, 1986, 1987, and 1988.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR
(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $22,877,000, together with $1,900,000 to be derived from unobligated balances of "Airport access demonstration project", of which $15,024,000 shall remain available until expended; and in addition, all unexpended balances in "Rail service assistance" after September 30, 1987, shall be transferred to this account, to remain available until expended: Provided, That none of the funds in this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, and that no new commitments to guarantee loans under section 211(a) or 211(h) of the Regional Rail Reorganization Act of 1973, as amended, shall be made: Provided further, That none of the funds in this Act shall be available for the acquisition, sale, or transference of Washington Union Station without the prior approval of the Committees on Appropriations of the Senate and the House of Representatives: Provided further, That, notwithstanding any other provision of law, of the funds available under this head, $9,600,000 shall be available for necessary expenses for rail assistance authorized by section 5(q) of the Department of Transportation Act, as amended, to remain available until expended: Provided further, That $7,200,000 of the fiscal year 1988 funds made available under section 5(h) shall be made available for use directly under sections 5(h)(3)(B)(ii) and 5(h)(3)(C) of the Department of Transportation Act, as amended, notwithstanding any provisions therein to the contrary: Provided further, That each State shall be entitled to, and no more than, $48,000 under the combined provisions of section 5(h)(2) and section 5(i), notwithstanding any provisions therein to the contrary: Provided further, That no State may apply for fiscal year 1988 funds available under section 5(h)(2) until such State has obligated all funds granted to it under section 5(h)(2) in the fiscal years prior to the beginning of fiscal year 1983, other than funds not expended due to pending litigation: Provided further, That a State denied funding by reason of the preceding proviso may still apply for and receive funds for planning purposes.

RAILROAD SAFETY

For necessary expenses in connection with railroad safety, not otherwise provided for, $27,968,000, of which $2,090,000 shall remain available until expended.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, $9,286,000, to remain available until expended.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM
(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for improvements to the Communication and Signal Systems at locations between Wilmington, Delaware, and Boston, Massachusetts, on the Northeast Corridor main line and between Philadelphia, Pennsylvania, and Harrisburg, Pennsylvania, on the Harrisburg line; improvements to the Electric Traction System between Wilmington, Delaware, and Newark, New Jersey; installation of baggage rack restraints, seat back guards and seat lock devices on 348 passenger cars operating within the Northeast Corridor; installation of 44 event recorders and 10 electronic warning devices on locomotives operating within the Northeast Corridor; acquisition of cab signal test boxes and installation of 9 wayside loop code transmitters for use on the Northeast Corridor; North Philadelphia Station platform refurbishments, building renovations, and site improvements; and necessary mechanical, electrical, and structural repair work on the North Tunnel; $26,600,000, together with $950,000 to be derived from unobligated balances of "Airport access demonstration project", to remain available until expended.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation for operating losses incurred by the Corporation, capital improvements, and labor protection costs authorized by 45 U.S.C. 565, to remain available until expended, $580,800,000: Provided, That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the president of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status: Provided further, That the Secretary shall make no commitments to guarantee new loans or loans for new purposes under 45 U.S.C. 602 in fiscal year 1988: Provided further, That the incurring of any obligation or commitment by the Corporation for the purchase of capital improvements prohibited by this Act or not expressly provided for in an appropriation Act shall be deemed a violation of 31 U.S.C. 1341: Provided further, That no funds are required to be expended or reserved for expenditure pursuant to 45 U.S.C. 601(e): Provided further, That none of the funds in this or any other Act shall be made available to finance the rehabilitation and other improvements (including upgrading track and the signal system, ensuring safety at public and private highway and pedestrian crossings by improving signals or eliminating such crossings, and the improvement of operational portions of stations related to intercity rail passenger service) on the main line track between Atlantic City, New Jersey, and the main line of the Northeast Corridor, unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-Federal sources: Provided further, That, notwithstanding any other provision of law, the National Railroad Passenger Corporation shall not operate rail passenger service between Atlantic City, New Jersey, and the Northeast Corridor main line unless the Corporation's Board of Directors determines that revenues from such service have covered or exceeded 80 per centum of the short term avoidable costs of operating such service in the first year of operation and 100 per centum of the short term avoidable operating costs for each year thereafter: Provided further, That none of the funds provided in *this or any other Act shall be made available to finance the acquisition and rehabilitation of a line, and construction necessary to facilitate improved rail passenger service, between Spuyten Duyvil, New York, and the main line of the Northeast Corridor unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-Amtrak sources.*

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: Provided, That no new loan guarantee commitments shall be made during fiscal year 1988: Provided further, That, notwithstanding any other provision of law, the Secretary of Transportation shall sell all securities or promissory notes held by the Department of Transportation under authority of sections 502, 505-507, 509, and 511-513 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended: Provided further, That such securities or promissory notes authorized to be sold in the immediately preceding proviso shall be sold only for amounts greater than or equal to the net present value to the Government of each loan as determined by the Secretary of Transportation in consultation with the Secretary of the Treasury: Provided further, That the Secretary of Transportation shall transmit a written certification to the Committees on Appropriations of the Senate and House of Representatives for approval before the consummation of each sale certifying that the amount to be realized is equal to or greater than the net present value to the Government of each loan: Provided further, That, notwithstanding any other provision of law, all amounts realized from the sale of notes or securities sold under authority of this section shall be considered as domestic discretionary outlay offsets and not as "asset sales" or "loan prepayments" as defined by section 257(12) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SETTLEMENTS OF RAILROAD LITIGATION

For the settlement of promissory notes pursuant to section 210(f) of the Regional Rail Reorganization Act of 1973 (Public Law 93-236), as amended, $38,950,246, to be derived from the proceeds of settlements of railroad litigation, to remain available until expended.

URBAN MASS TRANSPORTATION ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the urban mass transportation program authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), and 23 U.S.C. chapter 1, in connection with these activities, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $31,882,000, of which not to exceed $600,000 shall be available for the Office of the Administrator.

RESEARCH, TRAINING, AND HUMAN RESOURCES

For necessary expenses for research, training, and human resources as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), to remain available until expended, $12,217,000: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for training.

FORMULA GRANTS

For necessary expenses to carry out the provisions of sections 9 and 18 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), $1,731,703,000, together with $4,750,000 to carry out the provisions of section 18(h) of the Urban Mass Transportation Act, as amended, to remain available until expended: Provided, That notwithstanding any other provision of law, before apportionment of these funds, $12,350,000 shall be made available for the purposes of section 18 of the Urban Mass Transportation Act of 1964, as amended: Provided further, That, notwithstanding any other provision of law, of the funds provided under this Act for formula grants, no more than $804,691,892 may be used for operating assistance under section 9(k)(2) of the Urban Mass Transportation Act of 1964, as amended.

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs in excess of $1,130,500,000, in fiscal year 1988 for grants under the contract authority authorized in section 21(a)(2) and (b) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.).

MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out section 21(a)(2) and (b) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), administered by the Urban Mass Transportation Administration, $1,100,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

INTERSTATE TRANSFER GRANTS—TRANSIT

For necessary expenses to carry out the provisions of 23 U.S.C. 103(e)(4) related to transit projects, $123,500,000, to remain available until expended.

WASHINGTON METRO

For necessary expenses to carry out the provisions of section 14 of Public Law 96-184, $180,500,000, to remain available until expended.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year except as hereinafter provided in the "Limitation on administrative expenses".

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $2,016,000 shall be available for administrative expenses, which shall be computed on an accrual basis, including not to exceed $3,000 for official entertainment expenses to be expended upon the approval or authority of the Secretary of Transportation: Provided, That Corporation funds shall be available for the hire of passenger motor vehicles and aircraft, operation and maintenance of aircraft, uniforms or allowances therefor for operation and maintenance personnel, as authorized by law (5 U.S.C. 5901-5902), and $15,000 shall be available for services as authorized by 5 U.S.C. 3109.

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operation and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, $10,806,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, and for expenses for conducting research and development, $12,832,000, of which $1,939,000 shall remain available until expended: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

For expenses necessary to conduct the functions of the pipeline safety program and for grants-in-aid to carry out a pipeline safety program, as authorized by section 5 of the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, $8,550,000, to be derived from the Pipeline Safety Fund, of which $4,892,000 shall remain available until expended.

OFFICE OF THE INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, $27,898,000.

TITLE II—RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $1,891,000.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902), $24,000,000, of which not to exceed $500 may be used for official reception and representation expenses.

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $1,500 for official reception and representation expenses, $44,294,000: Provided, That joint board members and cooperating State commissioners may use Government transportation requests when traveling in connection with their official duties as such.

PAYMENTS FOR DIRECTED RAIL SERVICE

(LIMITATION ON OBLIGATIONS)

None of the funds provided in this Act shall be available for the execution of programs the obligations for which can reasonably be expected to exceed $475,000 for directed rail service authorized under 49 U.S.C. 11125 or any other Act.

PANAMA CANAL COMMISSION

Operating Expenses

For operating expenses necessary for the Panama Canal Commission, including hire of passenger motor vehicles and aircraft; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); not to exceed $10,000 for official reception and representation expenses of the Board; operation of guide services; residence for the Administrator, disbursements by the Administrator for employee and community projects; not to exceed $4,000 for official reception and representation expenses of the Secretary; not to exceed $25,000 for official reception and representation expenses of the Administrator; and to employ services as authorized by law (5 U.S.C. 3109); $407,088,000, to be derived from the Panama Canal Commission Fund: Provided, That there may be credited to this appropriation funds received from the Panama Canal Commission's capital outlay account for expenses incurred for supplies and services provided for capital projects.

CAPITAL OUTLAY

For acquisition, construction, replacement, and improvement of facilities, structures, and equipment required by the Panama Canal Commission, including the purchase of not to exceed 42 passenger motor vehicles for replacement only (including large heavy-duty vehicles used to transport Commission personnel across the Isthmus of Panama, the purchase price of which shall not exceed $14,000 per vehicle); and to employ services authorized by law (5 U.S.C. 3109); $33,715,000, to be derived from the Panama Canal Commission Fund and to remain available until expended.

DEPARTMENT OF THE TREASURY

REBATE OF SAINT LAWRENCE SEAWAY TOLLS

(HARBOR MAINTENANCE TRUST FUND)

For rebate of the United States' portion of tolls paid for use of the St. Lawrence Seaway, pursuant to Public Law 99-662, $9,880,000, to remain available until expended and to be derived from the Harbor Maintenance Trust Fund, of which not to exceed $285,000 shall be available for expenses of administering the rebates.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

INTEREST PAYMENTS

For necessary expenses for interest payments, to remain available until expended, $49,080,000: Provided, That these funds shall be disbursed pursuant to terms and conditions established by Public Law 96-184 and the Initial Bond Repayment Participation Agreement.

TITLE III—GENERAL PROVISIONS

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 302. Funds appropriated for the Panama Canal Commission may be apportioned notwithstanding section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341), to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law that are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the Government in comparable positions.

SEC. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available (1) except as otherwise authorized by the Act of September 30, 1950 (20 U.S.C. 236-244), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents, and (2) for transportation of said dependents between schools serving the area that they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18.

SEC. 305. None of the funds appropriated in this Act for the Panama Canal Commission may be expended unless in conformance with the Panama Canal Treaties of 1977 and any law implementing those treaties.

SEC. 306. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 307. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year nor may any be transferred to other appropriations unless expressly so provided herein.

SEC. 308. None of the funds in this or any previous or subsequent Act shall be available for the planning or implementation of any change in the current Federal status of the Transportation Systems Center; and none of the funds in this Act shall be available for the implementation of any change in the current Federal status of the Turner-Fairbank Highway Research Center.

SEC. 309. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 310. (a) For fiscal year 1988 the Secretary of Transportation shall distribute the obligation limitation for Federal-aid highways by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction that are apportioned or allocated to each State for such fiscal year bear to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction that are apportioned or allocated to all the States for such fiscal year.

(b) During the period October 1 through December 31, 1987, no State shall obligate more than 35 per centum of the amount distributed to such State under subsection (a), and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection.

(c) Notwithstanding subsections (a) and (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction that have been apportioned to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1988, revise a distribution of the funds made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code, and giving priority to those States which, because of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses, the Federal lands highway program, the strategic highway research program and amounts made available under sections 149(d), 158, 159, 164, 165, and 167 of Public Law 100-17.

(d) The limitation on obligations for Federal-aid highways and highway safety construction programs for fiscal year 1988 shall not apply to obligations for emergency relief under section 125 of title 23, United States Code, obligations under section 157 of title 23, United States Code, projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, subsections 131 (b) and (j) of Public Law 97-424, section 118 of the National Visitors Center Facilities Act of 1968, section 320 of title 23, United States Code, projects authorized by Public Law 99-500 and Public Law 99-591, or projects covered under subsections 149 (b) and (c) of Public Law 100-17.

(e) Subject to paragraph (c)(2) of this General Provision, a State which after August 1 and on or before September 30 of fiscal year 1988 obligates the amount distributed to such State in that fiscal year under paragraphs (a) and (c) of this General Provision may obligate for Federal-aid highways and highway safety construction on or before September 30, 1988, an additional amount

not to exceed 5 percent of the aggregate amount of funds apportioned or allocated to such State—

(1) under sections 104, 130, 144, and 152 of title 23, United States Code, and

(2) for highway assistance projects under section 104(e)(4) of such title,

which are not obligated on the date such State completes obligation of the amount so distributed;

(f) During the period August 2 through September 30, 1988, the aggregate amount which may be obligated by all States pursuant to paragraph (e) shall not exceed 2.5 percent of the aggregate amount of funds apportioned or allocated to all States—

(1) under sections 104, 130, 144, and 152 of title 23, United States Code, and

(2) for highway assistance projects under section 104(e)(4) of such title,

which would not be obligated in fiscal year 1988 if the total amount of the obligation limitation provided for such fiscal year in this Act were utilized; and

(g) Paragraph (e) shall not apply to any State which on or after August 1, 1988, has the amount distributed to such State under paragraph (a) for fiscal year 1988 reduced under paragraph (c)(2).

SEC. 311. None of the funds in this Act shall be available for salaries and expenses of more than one hundred thirty-eight political and Presidential appointees in the Department of Transportation.

SEC. 312. Not to exceed $665,000 of the funds provided in this Act for the Department of Transportation shall be available for the necessary expenses of advisory committees.

SEC. 313. None of the funds in this or any other Act shall be made available for the proposed Woodward light rail line in the Detroit, Michigan, area until a source of operating funds has been approved in accordance with Michigan law: Provided, That this limitation shall not apply to alternatives analysis studies under section 21(a)(2) of the Urban Mass Transportation Act of 1964, as amended.

SEC. 314. The limitation on obligations for the Discretionary Grants program of the Urban Mass Transportation Administration shall not apply to any authority under section 21(a)(2) of the Urban Mass Transportation Act of 1964, as amended, previously made available for obligation.

SEC. 315. Notwithstanding any other provision of law, none of the funds in this Act shall be available for the construction of, or any other costs related to, the Central Automated Transit System (Downtown People Mover) in Detroit, Michigan.

SEC. 316. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 317. (a) SAFETY ENFORCEMENT PROGRAM PERFORMANCE.—The Secretary of Transportation shall on or before January 1 of each year transmit to the Congress a comprehensive report on the Federal Aviation Administration's prior fiscal year safety enforcement activities. The report shall include:

(1) a comparison of end-of-year staffing levels by inspector category (operations, maintenance, avionics) to staffing goals and a statement as to how staffing standards were applied to make allocations between air carrier and general aviation operations, maintenance and avionics inspectors;

(2) schedules showing the range of inspector experience by various inspector work force categories, and the number of inspectors in each of the categories who are considered fully qualified;

(3) schedules showing the number and percentage of inspectors who have received mandatory training by individual course, and the number of inspectors, by work force categories, who have received all mandatory training;

(4) a description of the criteria used to set annual work programs, an explanation of how these criteria differ from criteria used in the prior fiscal year and how the annual work programs ensure compliance with appropriate Federal regulations and safe operating practices;

(5) a comparison of actual inspections performed during the fiscal year to the annual work programs disaggregated to the field locations and, for any field location completing less than 80 percent of its planned number of inspections, an explanation as to why annual work program plans were not met;

(6) a statement of the adequacy of Federal Aviation Administration internal management controls available to ensure that field managers are complying with Federal Aviation Administration policies and procedures including those regarding inspector priorities, district office coordination, minimum inspection standards, and inspection follow-up;

(7) the status of the Federal Aviation Administration's efforts to update inspector guidance documents and Federal regulations to include technological, management, and structural changes taking place within the aviation industry, including a listing of the backlog of all proposed regulatory changes;

(8) a list of the specific operational measures of effectiveness—"best proxies" standing between the ultimate goal of accident prevention and ongoing program activities—that are being used to evaluate progress in meeting program objectives, the quality of program delivery, and the nature of emerging safety problems;

(9) a schedule showing the number of civil penalty cases closed during the two prior fiscal years, including total initial assessments, total final assessments, total dollar amount collected, range of dollar amount collected, average case processing time, and range of case processing time;

(10) a schedule showing the number of enforcement actions taken, excluding civil penalties, during the two prior fiscal years, including total number of violations cited, and the number of cited violation cases closed by certificate suspension, certification revocations, warnings, and no action taken; and

(11) schedules showing the aviation industry's safety record during the fiscal year for air carriers and general aviation, including the number of inspections performed where deficiencies were identified compared with inspections where no deficiencies were found and the frequency of safety deficiencies per carrier as well as an analysis based on the data of the general status of air carrier and general aviation compliance with Federal Aviation Regulations.

(b) LONG-RANGE NATIONAL TRANSPORTATION STRATEGIC PLANNING STUDY.—The Department of Transportation shall undertake a long-range, multi-modal national transportation strategic planning study. This study shall forecast long-term needs and costs for developing and maintaining facilities and services to achieve a desired national transportation program for moving people and goods in the year 2015. The study shall include detailed analyses of transportation needs within six to nine metropolitan areas that have diverse population, development, and demographic patterns, including at least one interstate metropolitan area. This study shall be submitted to Congress on or before October 1, 1989.

SEC. 318. Within seven calendar days of the obligation date, the Urban Mass Transportation Administration shall publish in the Federal Register an announcement of each grant obligated pursuant to sections 3 and 9 of the Urban Mass Transportation Act of 1964, as amended, including the grant number, the grant amount, and the transit property receiving each grant.

SEC. 319. None of the funds appropriated in this Act may be used to prescribe, implement, or enforce a national policy specifying that only a single type of visual glideslope indicator can be funded under the facilities and equipment account or through the airport improvement program: Provided, That this prohibition shall not apply in the case of airports that are certified under part 139 of the Federal Aviation Regulations.

SEC. 320. (a) The Federal Aviation Administration shall satisfy the following air traffic controller work force staffing requirements by September 30, 1988:

(1) total air traffic controller work force level of not less than 15,900;

(2) total full performance level air traffic controllers of not less than 10,450; and

(3) at least 70 percent of the air traffic controller work force, excluding common screen students, at each center and level 3 and above terminal shall have achieved operational controller status.

(b) The Secretary may waive any requirement of this section by certifying that such requirement would adversely affect aviation safety: Provided, That such a waiver shall become effective 30 days after the Committees on Appropriations of the Senate and the House of Representatives are notified in writing of the Secretary's intention to waive and reasons for waiving such requirement.

SEC. 321. Notwithstanding any other provision of law, funds appropriated in this or any other Act intended for studies, reports, or research, and related costs thereof including necessary capital expenses, are available for such purposes to be conducted through contracts or financial assistance agreements with the educational institutions that are specified in such Acts or in any report accompanying such Acts.

SEC. 322. The Secretary of Transportation shall permit the obligation of not to exceed $4,000,000, apportioned under title 23, United States Code, section 104(b)(5)(B) for the State of Florida for operating expenses of the Tri-County Commuter Rail Project in the area of Dade, Broward, and Palm Beach Counties, Florida, during each year that Interstate 95 is under reconstruction in such area.

SEC. 323. Notwithstanding any provision of this or any other law, none of the funds provided by this Act for appropriation shall be available for payment to the General Services Administration for rental space and services at rates per square foot in excess of 100 percent of the rates paid during fiscal year 1987; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1987 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act.

SEC. 324. Notwithstanding any other provision of law, section 144(g)(2) of title 23, *United States Code, shall not apply to the Virginia Street Bridge in Charleston, West Virginia.*

SEC. 325. The portion of Oklahoma State Route 99 between the United States Highway 377 and Interstate Route I-44 which portion is on the Federal-aid primary system shall hereafter be designated as "United States Highway 377". Any reference in a law, map, regulation, document, record or other paper of the United States to such highway shall be held to be a reference to "United States Highway 377".

SEC. 326. Within 12 months of enactment, the Federal Aviation Administration shall adopt regulations requiring the installation and carriage of operating automatic altitude reporting equipment for all aircraft operating in terminal airspace where air traffic control radar service is provided, and in all controlled airspace above a minimum altitude to be determined by the Federal Aviation Administration. This regulation shall be effective on the earliest feasible date.

SEC. 327. None of the funds appropriated or made available by this Act or any other Act shall be made available to the New York Metropolitan Transportation Authority unless, within 90 days after the date of enactment of this Act, such authority prohibits all smoking on the Long Island Railroad.

SEC. 328. (a) Section 404 of the Federal Aviation Act of 1958 (49 U.S.C. 1374) is amended by adding at the end thereof the following subsection:

"PROHIBITION AGAINST SMOKING ON SCHEDULED FLIGHTS AND TAMPERING WITH SMOKE ALARM DEVICES

"(d)(1)(A) On and after the date of expiration of the 4-month period following the date of the enactment of this subsection, it shall be unlawful to smoke in the passenger cabin or lavatory on any scheduled airline flight in intrastate, interstate, or overseas air transportation, if such flight is scheduled for 2 hours or less in duration.

"(B) The Secretary of Transportation shall issue such regulations as may be necessary to carry out the provisions of this subsection.

"(C) The provisions of paragraph (1) of this subsection are repealed effective on the expiration of the 28-month period following the date of enactment of this subsection.

"(2) Any passenger who tampers with, disables, or destroys any smoke alarm device located in any lavatory aboard an aircraft engaged in air transportation or intrastate air transportation shall be subject to a civil penalty in accordance with section 901, except that such civil penalty may be imposed in an amount up to $2,000.".

(b) That portion of the table of contents of the Federal Aviation Act of 1958 under the heading:

"Sec. 404. Rates for carriage of persons and property; duty to provide service, rates, and divisions; foreign air transportation rates; discrimination;"

is amended by adding at the end thereof the following:

"(d) Prohibition against smoking on scheduled flights and tampering with smoke alarm devices.".

DEMONSTRATION PROGRAM FOR SIXTY-FIVE MPH SPEED LIMIT

SEC. 329. (a) Any project approval under section 106 of title 23, United States Code, shall not be withheld under sections 154(a) and 141(a) of title 23, United States Code, in fiscal years 1988, 1989, 1990, and 1991 with respect to a highway located in a State eligible under subsection (b), having a maximum speed limit of not more than sixty-five miles per hour and located outside an urbanized area of fifty thousand population, which is—

(1) constructed to interstate standards in accordance with section 109(b) of title 23, United States Code and connected to an Interstate highway posted at sixty-five miles per hour;

(2) a divided four-lane fully controlled access highway designed or constructed to connect to an Interstate highway posted at sixty-five miles per hour and constructed to design and construction standards as determined by the Secretary of Transportation which provide a facility adequate for a speed limit of sixty-five miles per hour; or

(3) constructed to the geometric and construction standards adequate for current and probable future traffic demands and for the needs of the locality and is designated by the Secretary of Transportation as part of the Interstate System in accordance with section 139(c) of title 23, United States Code.

(b) Participation in the demonstration program authorized by this section is available only to the first twenty States that post maximum speed limits of sixty-five miles per hour before July 1, 1988, in accordance with the requirements of subsection (a).

SEC. 330. Sums authorized under section 17(f) of the Urban Mass Transportation Act, as amended, shall also be used to cover costs incurred since 1978 by such States, bodies, and agencies as a result of the discontinuation of Conrail commuter rail services under section 1136 of the Northeast Rail Services Act of 1981. Eligible cost shall include but not be limited to additional costs incurred as a result of the assumption of commuter rail service and all liabilities assumed by such States, bodies, and agencies as a result of agreements with Conrail. The Federal share of any cost covered under this provision shall be 100 percent.

SEC. 331. Section 149(b)(82) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended to read as follows: "(82) subsections (a)(82) and (a)(83) $2,300,000;". Section 149(b)(83) of such Act is repealed, and succeeding paragraphs are renumbered accordingly.

SEC. 332. The portion of the Union Canal, also known as the Union Ship Canal, an appendage of the Buffalo Outer Harbor, located in the City of Buffalo, State of New York, is declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525, et seq.) from a point two hundred feet west of Fuhrmann Boulevard east to its terminus.

SEC. 333. The Secretary of Transportation is authorized to transfer appropriated funds under "Office of the Secretary, Salaries and expenses": Provided, That no appropriation shall be increased or decreased by more than 2½ per centum by all such transfers: Provided further, That any such transfer shall be submitted for approval to the House and Senate Committees on Appropriations.

SEC. 334. (a) Notwithstanding any other provision of law, with regard to the Atlantic City Airport, at Pomona, New Jersey, the Federal Aviation Administration shall not transfer any property to any municipality or any other entity operating such airport, nor shall any funds made available by this Act be available to such municipality or entity for any planning, study, design, engineering, or construction of a runway extension, new runway, new passenger terminal, or improvements to or expansion of the existing passenger terminal at such Airport, until such time as—

(1) the Master Plan Update for Atlantic City Airport and Bader Field, prepared pursuant to Federal Aviation Administration Contract FA-EA-2656, is completed and released; and

(2) the Administrator of the Federal Aviation Administration finds that a public entity has been created to operate and manage the Atlantic City Airport, which entity has the following characteristics:

(A) the authority to enter into contracts and other agreements, including contracts, leases, cooperative agreements, or other transactions with any agency or instrumentality of the United States;

(B) the standing to sue and be sued in its own name;

(C) the authority to hire and dismiss officers and employees;

(D) the power to adopt, amend and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised;

(E) the authority to acquire, in its own name, an interest in such real or personal property as is necessary or appropriate for the operation and maintenance of the airport;

(F) the power to acquire property by the exercise of the right of eminent domain;

(G) the power to borrow money by issuing marketable obligations, or such other means as is permissible for public authorities under the laws of the State of New Jersey;

(H) adequate existing capitalization to carry out all activities which are ordinarily necessary and appropriate to operate and maintain an airport;

(I) a governing board which includes voting representatives of the City of Atlantic City, the County of Atlantic, and the townships which are adjacent to or are directly impacted by the airport;

(J) a charter which includes (i) a requirement that members of the governing board have expertise in transportation, finance, law, public administration, aviation, or such other fields or disciplines as would be necessary or appropriate for the operation of an airport; and (ii) procedures which protect the research and development mission of the Federal Aviation Technical Center at Pomona, New Jersey, and the defense functions of the Air National Guard; and

(K) the authority to carry out comprehensive transportation planning to minimize traffic congestion and facilitate access to and from the airport.

(b) The limitation on funds set forth in subsection (a) shall not apply to any expenditure which the Administrator of the Federal Aviation Administration determines is needed for safety purposes.

(c) Notwithstanding any other provision of law, the funds restricted under subsection (a) shall become available at such time as the conditions set forth in subsection (a) are satisfied.

SEC. 335. Notwithstanding section 127 of title 23, United States Code, the State of Wyoming may permit the use of the National System of Interstate and Defense Highways located in Wyoming by vehicles in excess of 80,000 pounds gross weight, but meeting axle and bridge formula specifications in section 127 of title 23, United States Code, through September 30, 1991. Additionally, the Secretary of Transportation shall report, by September 30, 1990, to the Senate and House Appropriations Committees, and to the Com-

mittee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the United States Senate, on the productivity and economic benefits, the safety performance, and the effects of such vehicles on the condition of the highways over which they were operated.

SEC. 336. TRANSFER OF SECTION 9 FUNDS.—The Governor of Louisiana, after consultation with all urbanized areas within Louisiana, may transfer not to exceed $5,000,000 of unused apportionments under section 9 of the Urban Mass Transportation Act of 1964 to any other urbanized area for use for urban mass transportation purposes. The authority to transfer these funds expires on October 1, 1988.

SEC. 337. Section 149(a)(89) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by striking the language therein and inserting in lieu thereof:

"The Secretary is authorized to carry out a project to construct a full-diamond interchange to connect Louisiana Highway 354 to Interstate Route I-10 in East Lafayette, Louisiana.".

SEC. 338. Notwithstanding any other provision of this joint resolution or of any other law, section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 181) is amended by adding after subsection (k) the following new subsection (1).

"(1) REQUEST FOR REALLOCATION.—If, in any fiscal year amounts allocated to the State of Nevada under subsections (b) and (d) to carry out subsection (a)(68), (a)(105), or (a)(106), are not sufficient to complete any project authorized by such subsections, such State may request the Secretary to reallocate all or any portion of such funds for another of such projects.

"(2) GRANTING OF REQUESTS.—The Secretary shall grant a request made under paragraph (1) if the respective local officials having jurisdiction over the area in which the concerned projects are located consent to such request.

"(3) ADJUSTMENT OF ALLOCATION.—If any funds allocated for a project are reallocated to another project pursuant to this subsection, the amount of funds allocated for such projects in succeeding fiscal years shall be adjusted so that the aggregate amount of funds allocated for each of such projects under this section for fiscal years 1987 through 1991 is equal to the aggregate amount of funds allocated for such projects for such fiscal years by subsections (b) and (d) of this section.".

SEC. 339. Notwithstanding any other provision of law, the Secretary shall make available $250,000 per year for a national public information program to educate the public of the inherent hazard at railway-highway crossings. Such funds shall be made available out of funds authorized to be appropriated out of the Highway Trust Fund, pursuant to section 130 of title 23, United States Code.

SEC. 340. Section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended (1) by striking in subsection (b)(111)(H) "$80,000" and inserting in lieu thereof "$100,000" and (2) in subsection (b)(111)(I) by striking "$100,000" and inserting in lieu thereof "$80,000".

SEC. 341. Section 149(a) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by striking subsections 111 (A) and (B) and inserting in lieu thereof the following:

"(A)(1) MORTON COUNTY.—The Secretary is authorized to carry out a project to obtain easements for and construct an access road in Morton County FAS, Route 3020 from 11 miles south of Sweet Briar Lake, 1½ miles south of Fish Creek Lake, then easterly 8 miles to Morton County FAS Route 3047.

"(2) MORTON COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Morton County, FAS Route 3002 from 6 miles north of Crown Butte Road, then easterly 2 miles to North Dakota State Highway 1806.

"(3) MORTON COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Morton County, FAS Route 3039 from Sweet Briar Lake, north 7 miles to the Oliver County line.

"(B)(1) MERCER COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Mercer County, FAS Route 2927 from 4 miles north of Hazen, North Dakota; north 8 miles to Hazen Bay, Lake Sakakawea or from 4 miles north of Hazen, North Dakota; then 3 miles north and 6 miles east to intersection of N.D. 200 and Mercer County Route 37; then in a southeasterly direction approximately 10 miles to the north corporate limits of the City of Stanton, North Dakota.

"(2) MERCER COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Mercer County, County FAS Route 2927 from 4 miles north of Hazen, North Dakota north 8 miles to Hazen Bay, Lake Sakakawea or from 4 miles north of Hazen, North Dakota then 8 miles north to the intersection of North Dakota 1806; then east to the intersection of North Dakota 200; then south 5 miles to Mercer County, Route 37; then in a southeasterly direction approximately 10 miles to the north corporate limits of the City of Stanton, North Dakota.

"(3) MERCER COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Mercer County, County FAS Route 2927 from 4 miles north of Hazen, North Dakota, north 8 miles to Hazen Bay, Lake Sakakawea, or 7 miles north of the junction with North Dakota 200 and 200 A; then east 3 miles, south 2 miles, east 2 miles, and south 3 miles to the north corporate limits of the City of Stanton, North Dakota.

"(4) MERCER COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Mercer County, County FAS Route 2927, from 4 miles north of Hazen, North Dakota, north 8 miles to Hazen Bay, Lake Sakakawea, or Knife River Indian Village Historic Site access road.".

SEC. 342. The Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by inserting at the end of section 149 a new subsection to read as follows:

"The State of North Dakota may elect to utilize the total amount of funds authorized for such State under section 149 (b) and (d) in any given year for any project or projects in the State of North Dakota as authorized under section 149. The total amount of Federal funds obligated for any project under section 149 shall not exceed the total 5 year authorization for such project.".

SEC. 343. (a) Notwithstanding any other provision of law, the Secretary of Transportation shall provide not to exceed $20,000,000 out of the emergency relief fund authorized under section 125 of title 23, United States Code, to pay the expenses incurred in the reconstruction or repair of the bridge over Schoharie Creek in the State of New York that is on Interstate Route 90, including any expenses incurred in conducting the investigation of the cause of the collapse of the bridge and the expenses incurred in detouring traffic around the site of the bridge until the reconstruction or repair is completed.

(b) No payment of an expense may be made by reason of subsection (a) if such expense is paid or reimbursed—

(1) under any Federal program other than section 125 of title 23, United States Code, or

(2) under any insurance policy covering the bridge described in subsection (a).

(c) The provisions of section 125 of title 23, United States Code, and any regulations prescribed under such section, regarding the expenditure of funds provided under such section shall apply to any funds provided by reason of subsection (a) to the extent such provisions and regulations are consistent with the provisions and purposes of this joint resolution.

SEC. 344. Section 165 of the Federal-Aid Highway Act of 1987 (Public Law 100-17) relating to a cost effectiveness study of upgrading of Route 219 is amended as follows:

(1) Subparagraph (B) of subsection (a)(1) is amended to read as follows:

"(B) between Springville, New York, and its intersection with the New York-Pennsylvania State line;".

(2) Subsection (b) is amended by striking "1 year" and inserting "18 months".

SEC. 345. Paragraph (72) of section 149(a) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 192) is amended to read as follows:

"(72) DOUGLAS COUNTY, KANSAS.—The Secretary shall carry out a highway project in Douglas County, Kansas, to demonstrate methods of reducing traffic congestion and facilitating the usage by motorists on the Interstate System of recreational facilities by construction of a limited access road of approximately 14 miles in length which, at its western terminus, will provide access from an east-west Interstate highway route to a reservoir and a university research park, will proceed easterly around the southern portion of the City of Lawrence and, at its eastern terminus, will provide access to a business park and a limited access east-west State highway.".

SEC. 346. Section 163(n) of the Federal-Aid Highway Act of 1973 (23 U.S.C. 130 note) is amended by adding "except those railroad-highway crossings segments which are already engaged in or have completed the preparation of the plans, specifications and estimates (PS&E) for the construction of the segment involved shall retain the Federal share as specified in subsection 163(n) as amended by section 134 of the Surface Transportation Assistance Act of 1978.

TECHNICAL AMENDMENTS TO TITLE 23

SEC. 347. (a) SECTION 104.—Section 104(g) of title 23, United States Code, is amended—

(1) in the first sentence by striking out "sections 144, 152, and 153 of this title, or section 203(d) of the Highway Safety Act of 1973," and inserting in lieu thereof "sections 130, 144, and 152 of this title"; and

(2) by striking out the third sentence.

(b) SECTION 119.—Section 119(f)(2)(B) of such title is amended by striking out "equal to" and inserting in lieu thereof "not to exceed".

(c) SECTION 127.—Section 127(a) of such title is amended by striking out "September 1, 1988" each place it appears and inserting in lieu thereof "September 1, 1989".

(d) Section 129.—(1) Section 129(j)(1) of such title is amended by striking out "(7)" and inserting in lieu thereof "(8)".

(2) Section 129(j)(3) of such title is amended—

(A) by striking out "(7)" and inserting in lieu thereof "(8)";

(B) by striking out "State of Pennsylvania" and inserting in lieu thereof "States of Pennsylvania and West Virginia";

(C) by inserting "State of Georgia," after "State of Florida,"; and

(D) by adding at the end thereof the following new sentence: "The toll facility in Orange County, California, may be located in more than 1 highway corridor to relieve congestion on existing interstate routes in such County.".

Technical Amendments to Surface Transportation and Uniform Relocation Assistance Act

Sec. 348. (a) Section 134.—Section 134 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (23 U.S.C. 202 note) is amended by striking out "and 1990," and inserting in lieu thereof "1990, and 1991,".

(b) Section 149(a).—(1) Section 149(a)(5)(B) of such Act is amended—

(A) by striking out "reconstructing 2" and inserting in lieu thereof "rehabilitating 3"; and

(B) by striking out "and Bagley" and inserting in lieu thereof ", Bagley, and Shevlin".

(2) Section 149(a)(15) of such Act is amended by striking out "a highway project for construction of a grade separation on a route" and inserting in lieu thereof "highway projects for construction of grade separations on routes".

(3) Section 149(a)(16) of such Act is amended by striking out "project to demonstrate" and all that follows through "the effectiveness" and inserting in lieu thereof "projects to demonstrate methods by which railroad relocation and construction of grade separations for railroad crossings of highways and streets enhances urban redevelopment".

(4) Section 149(a)(46) of such Act is amended—

(A) by inserting "and Andover" after "in Lawrence"; and

(B) by striking out "under construction" and all that follows through the period at the end of such section and inserting in lieu thereof "by providing access between an interstate route and Merrimack Street.".

(5) Section 149(a)(81) of such Act is amended by inserting "(A)" after "carry out" and by inserting "and (B) construction of such project," after "Florida,".

(6) Section 149(a)(102) of such Act is amended by striking out "for the design and site location".

(7) Section 149(a)(121) of such Act is amended by striking out "Virginia" and inserting in lieu thereof "Virginia)" and by striking out "Service)" and inserting in lieu thereof "Service".

(c) Section 149(b).—(1) Section 149(b)(57) of such Act is amended by striking out "land acquisition under".

(2) Section 149(b)(64) of such Act is amended by striking out "preliminary engineering and design under".

(3) Section 149(b)(70) of such Act is amended by striking out "preliminary engineering and design under".

(d) Section 149(i).—

(1) Amendment.—Section 149(i) of such Act is amended by adding at the end thereof the following new sentence: "50 percent of the funds allocated under subsections (b) and (d) to carry out subsection (a)(104) shall be allocated to the State of Nebraska, and the other 50 percent of such funds shall be allocated to the State of Iowa.".

(2) Effective date.—The amendment made by paragraph (1) shall take effect April 2, 1987.

(e) Section 149(k).—Section 149(k)(2) of such Act is amended by striking out "104(b)(5)(A))" and inserting in lieu thereof "subsection (b)(5)(A))".

(f) Section 167.—Section 167(b) of such Act is amended by striking out "9 months" and inserting in lieu thereof "3 years".

(g) Section 202.—Section 202(c) of such Act is amended by striking out "(a)(3)" and inserting in lieu thereof "(a)(1)".

(h) Section 208.—Section 208(a) of such Act is amended by striking out "Not later than 30 months after the date of the enactment of this Act, the" and inserting in lieu thereof "The".

Cumberland Gap

Sec. 349. Section 104(a)(8) of the Federal-Aid Highway Act of 1978 is amended by adding at the end thereof the following new sentence: "Funds may be appropriated under an authorization contained in this paragraph in the fiscal year authorized and any fiscal year thereafter.".

Highway Feasibility Studies

Sec. 350. (a) Illinois and Missouri.—The Secretary of Transportation, in cooperation with the States of Illinois and Missouri, shall study the feasibility and necessity of constructing a toll expressway between Chicago, Illinois, and Kansas City, Missouri.

(b) Alabama.—The Secretary of Transportation shall study the feasibility and necessity of completing a beltway around the city of Birmingham, Alabama.

(c) Federal Share.—The Federal share of the cost of conducting each study under this section shall be 65 percent.

(d) Reports.—Not later than 1 year after the date of the enactment of this section, the Secretary of Transportation shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the studies conducted under this section.

(e) Amendments to New York Feasibility Study.—Section 168 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended—

(1) by inserting at the end of subsection (a) the following new sentence: "Such study shall include environmental assessment, economic analysis, economic impact, engineering, and rail rationalization studies."; and

(2) in subsection (c) by striking out "one year" and inserting in lieu thereof "2 years".

Exemption From Certain Procedural Requirements

Sec. 351. Notwithstanding any other provision of law, the withdrawal of Interstate Route I-420 in the State of Georgia shall be exempt from the procedural requirements of section 103(e)(4) of title 23, United States Code, including the regulations issued under such section.

Highway Widening Demonstration Project

Sec. 352. (a) Project Description.—The Secretary of Transportation is authorized to carry out a demonstration project to improve United States Route 202 between I-76 and Pennsylvania State Route 252 in the vicinity of King of Prussia, Pennsylvania.

(b) Authorization of Appropriations.—There is authorized to be appropriated $19,000,000 to carry out this section. Any funds appropriated pursuant to this section shall remain available until expended and shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs.

(c) Federal Share.—The Federal share of the cost of the project authorized by this section shall not exceed 80 percent.

This Act may be cited as the "Department of Transportation and Related Agencies Appropriations Act, 1988".

And the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(m) Such amounts as may be necessary for programs, projects or activities provided for in the Treasury, Postal Service and General Government Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I—DEPARTMENT OF THE TREASURY

Office of the Secretary

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; not to exceed $22,000 for official reception and representation expenses; not to exceed $200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not to exceed $573,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex; $55,681,000.

INTERNATIONAL AFFAIRS

For necessary expenses of the international affairs function of the Office of the Secretary, hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,000,000 for official travel expenses; and not to exceed $73,000 for official reception and representation expenses; $23,422,000.

Federal Law Enforcement Training Center

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including purchase (not to exceed eight for police-type use); and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; not to exceed $3,000,000 *for major maintenance and facility improvements, and related equipment for the Federal Law Enforcement Training Center facility to remain available until expended; not to exceed $200,000 for the development of a Master Plan for future land and facility use at Glynco, Georgia, to remain available until expended; not to exceed $5,000 for official reception and representation expenses; and services as authorized by 5 U.S.C. 3109: Provided, That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; acceptance of gifts; training of private sector security officials on a space available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the Center: Provided further, That the Federal Law Enforcement Training Center shall hire and maintain an average of not less than 325 direct full-time equivalent positions for fiscal year 1988: Provided further, That the new residential facility at the Federal Law Enforcement Training Center at Glynco, Georgia, shall be designated as the "Aubrey A. 'Tex' Gunnels Dormitory Complex"; $28,672,000.*

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, $265,000,000, of which not to exceed $7,213,000 shall remain available until expended for systems modernization initiatives.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of not to exceed five hundred vehicles for police-type use for replacement only; and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such rates as may be determined by the Director; not to exceed $5,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement; provision of laboratory assistance to State and local agencies, with or without reimbursement; $217,531,000, of which $15,000,000 shall be available solely for the enforcement of the Federal Alcohol Administration Act during fiscal year 1988, and of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2): Provided, That no funds appropriated herein shall be available for administrative expenses in connection with consolidating or centralizing within the Department of the Treasury the records of receipts and disposition of firearms maintained by Federal firearms licensees or for issuing or carrying out any provisions of the proposed rules of the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, on Firearms Regulations, as published in the Federal Register, volume 43, number 55, of March 21, 1978: Provided further, That none of the funds appropriated herein shall be available for explosive identification or detection tagging research, development, or implementation: Provided further, That not to exceed $300,000 shall be available for research and development of an explosive identification and detection device: Provided further, That funds made available under this Act shall be used to maintain a base level of 3,451 full-time equivalent positions for fiscal year 1988.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase of up to seven hundred motor vehicles for replacement only, including six hundred eighty for police-type use and commercial operations; for additional purchase of up to two hundred fifty new passenger motor vehicles for police-type use and commercial operations; hire of passenger motor vehicles; not to exceed $10,000 for official reception and representation expenses; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; $966,000,000, of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations, and not to exceed $4,000,000, to remain available until expended, for research: Provided, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: Provided further, That none of the funds made available by this Act shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: Provided further, That the Commissioner or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service: Provided further, That none of the funds made available by this Act may be used for administrative expenses in connection with the proposed redirection of the Equal Employment Opportunity Program: Provided further, That none of the funds made available by this Act shall be available for administrative expenses to reduce the number of Customs Service regions below seven during fiscal year 1988: Provided further, That the United States Customs Service shall hire and maintain an average of not less than 16,099 full-time equivalent positions in fiscal year 1988: Provided further, That none of the funds made available in this or any other Act may be used to fund more than nine hundred positions in the Headquarters staff of the United States Customs Service in the fiscal year ending September 30, 1988: Provided further, That no funds appropriated by this Act may be used to reduce to single eight hour shifts at airports and that all current services as provided by the Customs Service shall continue through September 30, 1988: Provided further, That not less than $300,000 shall be expended for additional part-time and temporary positions in the Honolulu Customs District: Provided further, That $600,000 shall be available only for the purchase of 6 additional mobile X-Ray Systems for the United States Customs Service.

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

For expenses, not otherwise provided for, necessary for the hire, lease, acquisition (transfer or acquisition from any other agency), operation and maintenance of aircraft, and other related equipment of the Air Program; $140,000,000 to remain available until expended, of which $2,000,000 shall be available for construction of a hangar and administrative complex for the Customs Aviation Branch located in Albuquerque, New Mexico: Provided, That no aircraft or other related equipment, shall be transferred on a permanent basis to any other Federal agency, Department, or office outside of the Department of the Treasury during fiscal year 1988.

CUSTOMS FORFEITURE FUND

(LIMITATION ON AVAILABILITY OF DEPOSITS)

For necessary expenses of the Customs Forfeiture Fund, not to exceed $10,000,000, as authorized by Public Law 98-473 and Public Law 98-573; to be derived from deposits in the Fund.

CUSTOMS SERVICES AT SMALL AIRPORTS

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary, not to exceed $486,000, for expenses for the provision of Customs services at certain small airports designated by the Secretary of the Treasury, including expenditures for the salaries and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary of the Treasury pursuant to section 236 of Public Law 98-573 for each of these airports, and to remain available until expended.

PAYMENT TO THE GOVERNMENT OF PUERTO RICO

For payment of a grant to the Government of Puerto Rico, $7,800,000 to remain available until expended, for the purchase and installation of an aerostat radar drug interdiction surveillance system.

UNITED STATES MINT

SALARIES AND EXPENSES

For necessary expenses of the United States Mint; $42,000,000, of which $965,000 shall remain available until expended for research and development projects and of which $75,000 may be used to host the International Mint Directors' Conference in the United States in 1988, including but not limited to reception and representation expenses: Provided, That such fees as are collected from participants at the International Mint Directors' Conference shall be merged with and credited to this account, notwithstanding the provisions of 31 U.S.C. 3302.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States; $215,000,000.

PAYMENT OF GOVERNMENT LOSSES IN SHIPMENT

For payment of Government losses in shipment, in accordance with section 2 of the Act approved July 8, 1937 (40 U.S.C. 722) $400,000, to remain available until expended.

INTERNAL REVENUE SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Internal Revenue Service, not otherwise provided; for executive direction and management services, and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $87,165,000, of which not to exceed $25,000 for official reception and representation expenses and of which not to exceed $500,000 shall remain available until expended, for research.

PROCESSING TAX RETURNS

For necessary expenses of the Internal Revenue Service not otherwise provided for; including processing tax returns; revenue accounting; computer services; and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be deter- mined by the Commissioner; $1,691,076,000, of which not to exceed $80,000,000 shall remain available until expended for systems modernization *initiatives: Provided, That of the total amount appropriated under this heading, $17,800,000 shall be available for the Statistics of Income Program in fiscal year 1988.*

EXAMINATIONS AND APPEALS

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; employee plans and exempt organizations; tax litigation; hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,849,581,000.

INVESTIGATION, COLLECTION, AND TAXPAYER SERVICE

For necessary expenses of the Internal Revenue Service for investigation and enforcement activities; including purchase (not to exceed four hundred and fifty-one for replacement only, for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); securing unfiled tax returns; collecting unpaid accounts; examining selected employment and excise tax returns; technical rulings; enforcement litigation; providing assistance to taxpayers; and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner: Provided, That notwithstanding any other provision of this Act, none of the funds made available by this Act shall be used to reduce the number of positions allocated to taxpayer service activities below fiscal year 1984 levels, or to reduce the number of positions allocated to any other direct taxpayer assistance functions below fiscal year 1984 levels, including, but not limited to Internal Revenue Service toll-free telephone tax law assistance and walk-in assistance available at Internal Revenue Service field offices: Provided further, That the Internal Revenue Service shall fund the Tax Counseling for the Elderly Program at $2,650,000. The Internal Revenue Service shall absorb within existing funds the administrative costs of the program in order that the full $2,650,000 can be devoted to program requirements; $1,431,058,000.

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SECTION 1. Not to exceed 4 per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation.

SEC. 2. Not to exceed 15 per centum, or $15,000,000, whichever is greater, of any appropriation made available to the Internal Revenue Service for document matching for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation for document matching.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed three hundred and forty-three vehicles for police-type use for replacement only and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; the conducting of and participating in firearms matches and presentation of awards and for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: Provided, That approval is obtained in advance from the House and Senate Committees on Appropriations; for repairs, alterations, and minor construction at the James J. Rowley Secret Service Training Center; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed $12,500 for official reception and representation expenses; for payment in advance for commercial accommodations as may be necessary to perform protective functions in fiscal year 1988; and for uniforms without regard to the general purchase price limitation for the current fiscal year; $367,000,000, of which $5,000,000 shall remain available until expended for continued construction at the James J. Rowley Secret Service Training Center, and of which $29,911,000 shall be available for Presidential candidate protective activities pursuant to 18 U.S.C. 3056(a)(7).

DEPARTMENT OF THE TREASURY—GENERAL PROVISIONS

SECTION 101. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services as authorized by 5 U.S.C. 3109.

SEC. 102. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1954 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection complies with subsection (a) of section 805 (relating to communication in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

SEC. 103. Not to exceed 2 per centum of any appropriations in this title for the Department of the Treasury may be transferred between such appropriations. However, no such appropriation shall be increased or decreased by more than 1 per centum and any such proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

SEC. 104. None of the funds made available by this title may be used to place the United States Secret Service, the United States Customs Service, or the Bureau of Alcohol, Tobacco and Firearms under the operation, oversight, or jurisdiction of the Inspector General of the Department of the Treasury.

SEC. 105. The Department of the Treasury shall undertake a study analyzing the economic impact and administrative complexity resulting from section 453C of the Internal Revenue Code, and recommending revenue-neutral alternatives to this section which would minimize that impact and complexity. The study shall also analyze the impact of the effective date of section 453C on fiscal year taxpayers. The study shall be completed as soon as practicable but no later than August 15, 1988.

SEC. 106. Section 613b of the Tariff Act of 1930, as amended (19 U.S.C. 1613b) is amended by inserting the following between subsection (a)(5)(iv) and subsection (b):

"(v) the equipping for law enforcement functions of any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency if the conveyance will be used in joint law enforcement operations with the Customs Service.

"(vi) the payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint operations with the Customs Service.".

This title may be cited as the "Treasury Department Appropriations Act, 1988".

TITLE II—UNITED STATES POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsection (c) of section 2401 of title 39, United States Code; $517,000,000: Provided, That mail for overseas voting and mail for the blind shall continue to be free: Provided further, That six-day delivery and rural delivery of mail shall continue at the 1983 level: Provided further, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: Provided further, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1988.

PAYMENT TO THE POSTAL SERVICE FUND FOR NONFUNDED LIABILITIES

For payment to the Postal Service Fund for meeting the liabilities of the former Post Office Department to the Employees' Compensation Fund pursuant to 39 U.S.C. 2004, $1,000.

UNITED STATES POSTAL SERVICE—ADMINISTRATIVE PROVISIONS

SECTION 1. None of the funds appropriated in this Act or made available by 39 U.S.C. 2401(a) shall be used by the United States Postal Service or any other governmental agency for the purpose of locating a regional mail distribution center in the Westchester Business Park on Westpark Drive in the Town of North Castle, New York, for a period of one hundred and eighty days.

SEC. 2. Funds made available to the United States Postal Service pursuant to section 2401(a) of title 39, United States Code, shall be used hereafter to continue full postal service to the people of Holly Springs proper, including upgrading, remodeling, and improving the United States Post Office building located at 110 North Memphis Street, Holly Springs, Mississippi.

This title may be cited as the "Postal Service Appropriation Act, 1988".

TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102; $250,000: Provided, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31 of the United States Code: Provided further, That none of the funds made available for *official expenses shall be considered as taxable to the President.*

Office of Administration

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration; $16,000,000 including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles.

White House Conference for a Drug Free America

SALARIES AND EXPENSES

For necessary expenses of the White House Conference for a Drug Free America, $2,500,000.

The White House Office

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed $20,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; $26,426,000.

Executive Residence at the White House

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President; $7,403,000, of which $2,400,000 for the repair of the face of the Executive Residence shall remain available until expended, to be expended and accounted for as provided by 3 U.S.C. 105, 109–110, 112–114.

Official Residence of the Vice President

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, the hire of passenger motor vehicles, and not to exceed $75,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate; $258,000: Provided, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

Special Assistance to the President

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; $2,163,000.

Council of Economic Advisers

SALARIES AND EXPENSES

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021); $2,500,000.

Office of Policy Development

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; $3,000,000.

National Critical Materials Council

SALARIES AND EXPENSES

For necessary expenses of the National Critical Materials Council, including activities as authorized by Public Law 98-373; $350,000.

National Security Council

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109; $5,000,000.

Office of Management and Budget

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109; $39,000,000 of which not to exceed $4,500,000 shall be available to carry out the provisions of 44 U.S.C., chapter 35: Provided, That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: Provided further, That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): Provided further, That none of the funds made available for the Office of Management and Budget by this Act may be expended for the review of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committee on Appropriations or the Committee on Veterans' Affairs or their subcommittees: Provided further, That this proviso shall not apply to printed hearings released by the Committee on Appropriations or the Committee on Veterans' Affairs: Provided further, That none of the funds made available by this Act or any other Act shall be used to reduce the scope or publication frequency of statistical data relative to the operations and production of the alcoholic beverage and tobacco industries below fiscal year 1985 levels: Provided further, That none of the funds appropriated by this Act shall be available to the Office of Management and Budget for revising, curtailing or otherwise amending the administrative and/or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with section 205, title 27 of the United States Code (Federal Alcohol Administration Act) or with regulations, rulings or forms promulgated thereunder.

Office of Federal Procurement Policy

SALARIES AND EXPENSES

For expenses of the Office of Federal Procurement Policy, including services as authorized by 5 U.S.C. 3109; $2,300,000.

Unanticipated Needs

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year; $1,000,000.

This title may be cited as the "Executive Office Appropriations Act, 1988".

TITLE IV—INDEPENDENT AGENCIES

Administrative Conference of the United States

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as amended (5 U.S.C. 571 et seq.) including not to exceed $1,000 for official reception and representation expenses; $1,865,000.

Advisory Commission on Intergovernmental Relations

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Advisory Commission on Intergovernmental Relations Act of 1959, as amended, 42 U.S.C. 4271–79; $1,378,000, and additional amounts not to exceed $200,000, collected from the sale of publications shall be credited to and used for the purposes of this appropriation.

Advisory Committee on Federal Pay

SALARIES AND EXPENSES

For necessary expenses of the Advisory Committee on Federal Pay, established by 5 U.S.C. 5306; $200,000.

Committee for Purchase from the Blind and Other Severely Handicapped

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From the Blind and Other Severely Handicapped established by the Act of June 23, 1971, Public Law 92-28, $850,000.

Federal Election Commission

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended, $14,174,000.

GENERAL SERVICES ADMINISTRATION

Federal Buildings Fund

LIMITATIONS ON AVAILABILITY OF REVENUE

The revenues and collections deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Government agencies (including space adjustments) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings and moving; repair and alteration of federally owned buildings, including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by purchase contract, in the aggregate amount of $2,854,052,000 of which (1) not to exceed $115,036,000 shall remain available until expended for construction of additional projects at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:

Arizona:

Tucson, Federal Law Enforcement Building, Site acquisition only, $1,500,000
District of Columbia:
International Cultural and Trade Center, Design, $3,700,000 (to be transferred to the Pennsylvania Avenue Development Corporation for reimbursement)
Louisiana:
Baton Rouge, Federal Building and Courthouse, Design, $3,000,000
Michigan:
Detroit, Ambassador Bridge Cargo Inspection Facility, Site, $3,800,000
New Jersey:
Camden, Federal Building, Courthouse Annex, Site and Design, $1,486,000
Virgin Islands:
St. Croix, Federal Building, Courthouse, Site, $550,000
Construction Projects, less than $500,000, $1,000,000:

Other Selected Purchases including options to purchase, $100,000,000: Provided, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: Provided further, That all funds for direct construction projects shall expire on September 30, 1989, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: Provided further, That claims against the Government of less than $50,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92-313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects; (2) not to exceed $472,945,000 which shall remain available until expended, for repairs and alterations: Provided further, That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate for a greater amount:

Repairs and Alterations:
Alabama:
Birmingham, Federal Building, Courthouse, $3,899,000
California:
Fresno, Sisk Federal Building, Courthouse, $2,879,000
Los Angeles, Federal Building, $10,422,000
San Francisco, Federal Building, Courthouse, $16,962,000
District of Columbia:
Central Heating Plant, $15,500,000
West Heating Plant, $9,201,000
Elevator Replacement, $26,700,000
Forrestal Building, $2,578,000
GSA Regional Office Building, $1,036,000
Agriculture Administration Building, $530,000
Agriculture South Building, $3,360,000
Courthouse, $1,887,000
Perkins Federal Building, $1,644,000
GSA Headquarters, $929,000
Hoover Federal Building, $1,627,000
Department of the Interior, $1,858,000
New Post Office, $1,006,000
Veterans Administration, $1,355,000
Florida:
Miami, Federal Building, $11,481,000
West Palm Beach, Post Office, $2,900,000
Georgia:
Atlanta, Federal Annex, $2,400,000
East Point, Federal Archives and Records Center, $1,102,000
Illinois:
Chicago, Dirksen Federal Building, Courthouse, $7,334,000
East St. Louis, Post Office, Courthouse, $3,762,000
Iowa:
Des Moines, Federal Building, $1,300,000
Louisiana:
Maryland:
Baltimore, Appraisers Stores, $2,668,000
Bethesda, Federal Building, $700,000
Massachusetts:
Boston, McCormack Post Office, Courthouse, $2,200,000
Missouri:
St. Louis, Mart Federal Building, $28,964,000
St. Louis, Federal Center #104, $8,983,000
New Jersey:
Trenton, Post Office, Courthouse, $2,823,000
New York:
Brooklyn, Federal Building No. 2, $11,472,000
New York, Foley Square Courthouse, $4,655,000
New York, 201 Varick Street, $14,475,000
North Carolina:
Raleigh, Federal Building, Post Office, Courthouse, $9,640,000
Pennsylvania:
Philadelphia, Byrne Courthouse, $6,875,000
Pittsburgh, Post Office, Courthouse, $16,572,000
Texas:
San Antonio, Post Office, Courthouse, $8,154,000
Virginia:
Arlington, Federal Building No. 2, $4,080,000
Arlington, Pentagon, $8,080,000
Minor Repairs and Alterations, $167,427,000
Capital Improvements of United States-Mexico Border Facilities:
Nogales, AZ
Mariposa, $174,330
Grand Ave., $375,310
Morley Gate, $64,000
Calexico, CA
New Station, $1,000,000
New Dock/Office, $411,320
R&A, $274,430
El Paso, TX
Ysleta, $2,651,320
Bridge of the Americas, $442,200
Paso del Norte, $2,850,000
Laredo, TX
Juarez-Lincoln Bridge, $5,745,000
Replace RR Bldg., $118,000
Convent St., $151,710
Brownsville, TX
Gateway:
Security, $14,661
Expand Lanes, $46,135
R&A, $67,204
B&M Bridge, $1,173,000
Los Indios Bridge, $510,000
San Ysidro/Otay Mesa, CA
Virginia St., $75,000
Safety Work, $1,601,000
R&A, $612,000
Improve Commercial Lot, $456,950
Firearms Range, $350,000
Reconfigure Lanes, $310,000
Signs/Security, $517,000
Andrade, CA, $143,000
Antelope Wells, NM, $14,000
Columbus, NM, $100,000
Fabens, TX, $100,000
Fort Hancock, TX, $100,000
Lukeville, AZ, $148,000
Marathon, TX, $50,000
Naco, AZ, $65,000
Presidio, TX, $100,000
Progresso, TX, $100,000
Roma, TX, $100,000
San Luis, AZ, $79,000
Del Rio, TX
Expand Lanes, $270,000
Security, $250,000
Replace Station, $3,640,000
Los Ebanos, TX, $520,000
Douglas, AZ, $228,000
Eagle Pass, TX, $480,000
Rio Grande City, TX, $510,000
Tecate, CA, $338,000
Hildago, TX, $289,510
Falcon Dam, TX, $400,000
Santa Teresa, NM, $663,000:

Provided, That by no later than July 30, 1988, the Administrator of General Services shall assess the level of unobligated balances, if any, in the Federal Buildings Fund and request reprogramming of such balances, not to exceed $12,000,000, to provide additional funding for the United States-Mexico Border Facility projects in this Act: Provided further, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: Provided further, That all funds for repairs and alterations prospectus projects shall expire on September 30, 1989, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (3) not to exceed $133,105,000 for payment on purchase contracts entered into prior to July 1, 1975; (4) not to exceed $1,169,532,000 for rental of space; (5) not to exceed $805,384,000 for real property operations; (6) not to exceed $48,014,000 for program direction and centralized services; and (7) not to exceed $110,036,000 for design and construction services which shall remain available until expended: Provided further, That the Administrator of General Services is hereby directed to enter into a contract for construction of a building in Oakland, California, on a site donated by the city of Oakland. The contract shall provide, by lease or installment payments over a period not to exceed 30 years, for the payment of the purchase price, which shall not exceed $141,700,000, and reasonable interest thereon. The contract shall further provide that title to the building shall vest in the United States at or before the expiration of the contract term upon fulfillment of the terms and conditions of the contract: Provided further, That the Administrator of the GSA is hereby directed to enter into an agreement, pursuant to a competitive selection process, for the lease-purchase of a building in San Francisco, California, during fiscal year 1988 of approximately 430,000 office occupiable square feet on a site donated by that city: Provided further, That the agreement shall provide for annual lease or installment payments from funds available for the rental of space in the Federal Buildings Fund over a period not to exceed 30 years for the payment of the purchase price of such building, and shall provide for title to the building to vest in the United States on or before the expiration of the contract term upon fulfillment of the terms and conditions of the agreement: Provided further, That additional space may be acquired if the Administrator finds such space to be in the *public interest and will not reduce the occupiable Federal space to be available in the Oakland Federal Building. The Oakland Building shall, when completed be fully occupied by federal agencies and continued full occupancy shall have the highest priority consistent with the federal interest: Provided further, That for the purposes of this authorization, buildings constructed pursuant to the Public Buildings Purchase Contract Act of 1954 (40 U.S.C. 356), the Public Buildings Amendments of 1972 (40 U.S.C. 490), and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: Provided further, That none of the funds available to the General Services Administration with the exception of those for Capital Improvements for United States-Mexico Border Facilities; Other Approved Border Facility projects; and the San Francisco, California Federal building project, shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: Provided further, That notwithstanding any other provision of law, the Administrator of General Services is authorized, under section 210(h) of the Federal Property and Administrative Services Act of 1949, to acquire the building in Chicago, Illinois, approved under this heading in fiscal year 1987, from any commercial or private entity, through a lease to ownership transaction. Said lease shall not exceed 30 years, on such terms and conditions as he deems appropriate. These terms and conditions may include an option to permit the Federal Government, if the Administrator deems that it is in the best interest of the Federal Government, to execute a succeeding lease: Provided further, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: Provided further, That not later than 60 days after the date of the enactment of this Act, the Administrator of General Services shall submit under the Public Buildings Act of 1959, a prospectus for acquiring by purchase or lease-purchase (1) a building which is not to exceed 1,400,000 occupiable square feet for the Environmental Protection Agency in the Washington metropolitan area, and (2) a building which is not to exceed 1,800,000 occupiable square feet for the Department of Transportation. The lease-purchase shall provide for annual lease or installment payments from funds available for the rental of space in the Federal Buildings Fund over a period not to exceed 30 years for the payment of the purchase price of such building and reasonable interest thereon and shall provide for title to the building to vest in the United States on or before the last day of the term of the lease-purchase transaction. If a lease-purchase prospectus for a building described in this paragraph is approved under the Public Buildings Act of 1959, the Administrator of General Services may enter into a transaction for the lease-purchase of such building in accordance with the terms specified in such approved prospectus and applicable provisions of law and may make annual lease or installment payments from funds available for the rental of space in such fund: Provided further, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, as amended, shall be available from such revenues and collections: Provided further, That revenues and collections and any other sums accruing to this fund during fiscal year 1988 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $2,854,052,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriation Acts.*

FEDERAL SUPPLY SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for property management activities, utilization of excess and disposal of surplus personal property, rehabilitation of personal property, transportation management activities, transportation audits by in-house personnel, procurement, and other related supply management activities through September 30, 1988, and supply distribution (including contractual services incident to receiving, handling and shipping supply items), procurement (including royalty payments), inspection, standardization, and related supply operations activities not later than March 31, 1987, including services as authorized by 5 U.S.C. 3109; $69,600,000: Provided, That notwithstanding any other provisions of law, costs incurred during the period October 1, 1987, through March 31, 1987, directly related to supply operations activities, not covered by this appropriation, shall be recorded as costs in the General Supply Fund, General Services Administration: Provided further, That the annual limitation of $5,200,000 through September 30, 1989, in the Supplemental Appropriations Act, 1985, Public Law 99-88, payable from overcharges collected, for expenses of transportation audit contracts and contract administration, is hereby superseded by Public Law 99-627 establishing permanent authority for these expenses at not to exceed 40 percent of the overpayments collected annually.

FEDERAL PROPERTY RESOURCES SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for carrying out the functions of the Administrator with respect to utilization of excess real property; the disposal of surplus real property, the utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property; the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.) including services as authorized by 5 U.S.C. 3109 and reimbursement for recurring security guard service; $12,000,000 to be derived from proceeds from transfers of excess real property and disposal of surplus real property and related personal property, subject to the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-5), and in addition, $30,000,000 for the transportation, processing, refining, storage, security, maintenance, rotation, and disposal of materials contained in or acquired for the stockpile by reimbursement from the National Defense Stockpile Transaction Fund.

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

SEC. 1. During the fiscal year ending September 30, 1988, not to exceed $35,000,000, in addition to amounts previously appropriated, all to remain available until expended, may be obligated from amounts in the National Defense Stockpile Transaction Fund, for the acquisition and upgrading of strategic and critical materials under section 6(a) (1) and (3) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a) (1) and (3)), transportation, storage, and other incidental expenses related to such acquisition and upgrades, development of current specifications of stockpile materials and the upgrading of existing stockpile materials to meet current specifications (including transportation, when economical, related to such upgrading), testing and quality studies of stockpile materials, studying future material and mobilization requirements for the stockpile and other reasonable requirements for management of the stockpile, including relocation, operating, and management expenses incident to operating the stockpile, are hereby authorized to the extent provided in Appropriations Acts.

SEC. 2. For the fiscal year ending September 30, 1988, in addition to the funds previously appropriated for the National Defense Stockpile Transaction Fund, notwithstanding the provisions of 50 U.S.C. 98h, there are hereby appropriated $10,000,000 under this heading and $9,000,000 in section 101(b) of this joint resolution, to remain available until expended, the amounts to be allocated for the following projects:

University of Hawaii at Manoa pursuant to 50 U.S.C. 98a and 98g(a), for a grant for construction of a strategic materials research facility, $5,000,000;

University of Utah pursuant to 50 U.S.C. 98a and 98g(a)(2)(C) for a grant to pay the Federal share of the cost of construction and equipment for a Center for Biomedical Polymers, $4,000,000;

University of Massachusetts at Amherst pursuant to 50 U.S.C. 98a and 98g(a) for a grant for continued construction of a strategic materials research facility, $5,000,000;

University of Arizona pursuant to 50 U.S.C. 98a and 98g(a)(2)(C) for a grant to pay the Federal share of the cost of construction and equipment for a Center for Advanced Studies for Copper Recovery and Utilization, $4,000,000; and

University of New Mexico pursuant to 50 U.S.C. 98 a and g for a grant to study replacements for metallic alloys that use critical materials, $1,000,000.

GENERAL MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of agency management of activities under the control of the General Services Administration, and general administrative and staff support services not otherwise provided for; for providing accounting, records management, and other support incident to adjudication of Indian

Tribal Claims by the United States Court of Claims, and services authorized by 5 U.S.C. 3109; $122,500,000, of which $800,000 shall be available only for, and is hereby specifically earmarked for personnel and associated costs in support of Congressional District and Senate State offices: Provided, That this appropriation shall be available, subject to reimbursement by the applicable agency, for services performed for other agencies pursuant to subsections (a) and (b) of section 1535 of title 31, United States Code.

Real Property Relocation

For expenses not otherwise provided for, $5,000,000, to remain available until expended, necessary for carrying out the functions of the Administrator with respect to relocation of Federal agencies from property which has been determined by the Administrator to be other than optimally utilized under the provisions of section 210(e) of the Federal Property and Administrative Services Act of 1949, as amended: Provided, That such relocations shall only be undertaken when the estimated proceeds from the disposition of the original facilities approximate the appraised fair market value of such new facilities and exceed the estimated costs of relocation. Relocation costs include expenses for and associated with acquisition of sites and facilities, and expenses of moving or repurchasing equipment and personal property. These funds may be used for payments to other Federal entities to accomplish the relocation functions: Provided further, That nothing in this paragraph shall be construed as relieving the Administrator of General Services or the head of any other Federal agency from any obligation or restriction under the Public Buildings Act of 1959 (including any obligation concerning submission and approval of a prospectus), the Federal Property and Administrative Services Act of 1949, as amended, or any other Federal law, or as authorizing the Administrator of General Services or the head of any other Federal agency to take actions inconsistent with statutory obligations or restrictions placed upon the Administrator of General Services or such agency head with respect to authority to acquire or dispose of real property.

Information Resources Management Service

operating expenses

For expenses authorized by law, not otherwise provided for, necessary for carrying out Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related activities, including services as authorized by 5 U.S.C. 3109; and for the Information Security Oversight Office established pursuant to Executive Order 12356; $31,193,000.

Office of Inspector General

For necessary expenses of the Office of Inspector General; $24,334,000: Provided, That not to exceed $10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property.

Allowances and Office Staff for Former Presidents

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95-138; $1,198,000: Provided, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

General Services Administration—General Provisions

Section 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

Sec. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

Sec. 3. Not to exceed 1 per centum of funds made available in appropriations for operating expenses and salaries and expenses, during the current fiscal year, may be transferred between such appropriations for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

Sec. 4. Funds in the Federal Buildings Fund made available for fiscal year 1988 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

Sec. 5. Funds hereafter made available to the General Services Administration for the payment of rent shall be available for the purpose of leasing, for periods not to exceed thirty years, space in buildings erected on land owned by the United States.

Sec. 6. The Bureau of Mines should completely vacate all space at the Columbia Plaza building no later than September 30, 1988. In the event that it becomes necessary to acquire leased space for the Bureau of Mines, the Administrator of General Services shall competitively acquire space for the Bureau of Mines and select quality space at the lowest possible cost in the Washington Metropolitan Area. If such space is acquired by GSA, the Bureau of Mines shall immediately relocate to the space acquired by the GSA.

Sec. 7. (a) The General Accounting Office shall, within 60 days after the date of enactment of this Act, submit an estimate of the fair market value of the main post office in Denver, Colorado, located at 1823 Stout Street to the General Services Administration, the Congress of the United States, the United States Postal Service, and the Administrative Office of the United States Courts.

(b) Within 30 days after obtaining the estimate made pursuant to subsection (a) the United States Postal Service shall transfer the use and benefit of the lot on which the main post office in Denver is located along with such post office building, improvements and any other structures on such lot to the General Services Administration, and from such date such lot and structures shall be considered to be held for the use and benefit of the United States courts for the Tenth Circuit.

(c) In making the transfer pursuant to subsection (b), the General Services Administration and the United States Postal Service shall use, as the market value of such property, the estimate submitted by the General Accounting Office pursuant to this section and the United States Postal Service shall receive as compensation therefor, the fair market value of such lot, buildings and improvements, as determined by the General Accounting Office.

(d) The United Postal Service shall surrender possession of the second, third and fourth floors of such post office building to the General Services Administration not later than 1 year after the date of the transfer thereof as provided in this section and, except as provided in subsection (e), shall surrender possession of the balance of such post office building not later than 2 years after such date.

(e) The General Services Administration shall permit the United States Postal Service to continue to occupy such area on the first floor of such main post office building not in excess of 18,000 square feet as shall be determined by the General Services Administration after consultation with the Administrative Office of the United States Courts and the United States Postal Service.

(f) Pursuant to section 210(f) of the Federal Property and Administrative Service Act of 1949, the Administrator of General Services is authorized to charge the United States Postal Service for all space and services furnished to the United States Postal Service in such main post office building after the date of the conveyance provided in this section.

(g) Notwithstanding any other provision of law, the General Services Administration is hereby authorized to sell, at competitive bid, block 111, located at 20th and Curtis Streets in Denver, Colorado, and to deposit such sale proceeds into the Federal Buildings Fund.

(h) There are authorized to be appropriated such sums as are necessary to cover the costs of obtaining such post office building for the courts for the Tenth Circuit. Such costs shall include—

(1) amounts necessary to transfer the lot, main post office building, improvements and any other structures on such lot pursuant to subsection (b);

(2) appropriate renovations of such post office building for the Tenth Circuit to use such building as the principal office of such courts; and

(3) the transfer of such courts from their current building to such post office building.

(i) There are hereby appropriated, out of the Federal Buildings Fund, such sums as may be necessary to carry out the purposes of subsection (h).

Sec. 8. The Administrator of General Services is hereby directed to submit a prospectus to the Congress within 60 days to enable the Administrator to contract for construction of two buildings not to exceed a total of 1,600,000 gross square feet of office space, plus additional parking and retail space, in New York City on sites to be acquired from the city of New York. The contracts shall provide, by lease or installment payments over a period not to exceed 30 years, from funds available for the rental of space in the Federal Buildings Fund for the payment of the purchase price, and reasonable interest thereon. The contracts shall further provide that title to the buildings shall vest in the United States at or before expiration of the contract term upon fulfillment of the terms and conditions of the contracts. If a lease-purchase prospectus for a building described in this paragraph is approved under the Public Buildings Act of 1959, the Administrator of General Services may enter into a transaction for the lease-purchase of such building in accordance with the terms specified in such approved prospectus and applicable provisions of law and may make annual lease or installment payments from the funds available for the rental of space in such Fund. The General Services Administration shall lease up to 400,000 square feet *of office space and associated parking to the city of New York at rates that reflect an appropriate portion of the construction and related costs of the projects, adjusted for the value of the land acquired from the city. In addition, income accrued by the General Services Administration from the outlease of office space to the city as well as retail and related space to private organizations shall be used to offset GSA's installment payments for the cost of the facilities. Obligations of funds under these transactions shall be limited to the current fiscal year for which payments are due without regard to 31 U.S.C. 1341(a)(1)(B).*

SEC. 9. The Administrator of General Services shall proceed with the site selection and design for construction of a facility of not less than 182,000 usable square feet for the Social Security Administration in Wilkes-Barre, Pennsylvania, pursuant to section 115 of the joint resolution entitled, "A Joint Resolution making continuing appropriations for the fiscal year 1987 and for other purposes", approved October 30, 1986 (100 Stat. 3341-949; Public Law 99-591).

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with National Archives and Records Administration and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $116,000,000 of which $4,000,000 for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, shall remain available until expended, and of which $6,000,000 for design and planning of a new archival facility in Maryland shall remain available until expended.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, not to exceed $2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended; $101,834,000 in addition to $67,746,000 for administrative expenses for the retirement and insurance programs to be transferred from the appropriate trust funds of the Office of Personnel Management in the amounts determined by the Office of Personnel Management without regard to other statutes: Provided, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, U.S.C.: Provided further, That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose: Provided further, That the President's Commission on White House Fellows, established by Executive Order 11183 of October 3, 1964, may, during the fiscal year ending September 30, 1988, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

REVOLVING FUND

Pursuant to section 4109(d)(1) of title 5, United States Code, costs for entertainment expenses of the President's Commission on Executive Exchange shall not exceed $12,000.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, $1,788,931,000, to remain available until expended.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, $4,720,913,000: Provided, That annuities authorized by the Act of May 29, 1944, as amended (22 U.S.C. 3682(e)), August 19, 1950, as amended (33 U.S.C. 771-75), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles; $20,957,000, together with not to exceed $1,200,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of the Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978 (Public Law 95-454), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $4,673,000

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; $17,576,000: Provided, That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government Service, and compensation as authorized by 5 U.S.C 3109.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; $27,500,000: Provided, That travel expenses of the judges shall be paid upon the written certificate of the judge.

This title may be cited as the "Independent Agencies Appropriations Act, 1988".

TITLE V—GENERAL PROVISIONS

THIS ACT

SECTION 501. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the appropriations: Provided, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans' Administration; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

SEC. 502. No part of any appropriation contained in this Act shall be available to pay the salary of any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 503. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: Provided, That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 506. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality *and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6-104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970: Provided, That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source end product. This section shall be applicable to all solicitations for bids opened after its enactment.*

SEC. 507. None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, and custodians, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28.

SEC. 508. No funds appropriated in this Act shall be available for administrative expenses in connection with implementing or enforcing any provisions of the rule TD ATF-66 issued June 13, 1980, by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms on labeling and advertising of wine, distilled spirits and malt beverages, except if the expenditure of such funds is necessary to comply with a final order of the Federal court system.

SEC. 509. None of the funds appropriated or made available by this Act shall be used to competitively procure electric utility service, except where such procurement is expressly authorized by the Federal Power Act or by State law or regulation.

SEC. 510. None of the funds appropriated in this Act may be used for administrative expenses to close the Federal Information Center of the General Services Administration located in Sacramento, California.

SEC. 511. None of the funds made available by this Act for the Department of the Treasury may be used for the purpose of eliminating any existing requirement for sureties on customs bonds.

SEC. 512. None of the funds made available by this Act shall be available for any activity or for paying the salary of any government employee where funding an activity or paying a salary to a government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the 1930 Tariff Act.

SEC. 513. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, out of the Treasury Department.

SEC. 514. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 515. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any member or committee of Congress as described in paragraph (1) of this subsection.

SEC. 516. Except for vehicles provided to the President, Vice President and their families, or to the United States Secret Service, none of the funds provided in this Act to any Department or Agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than twenty-two miles per gallon. The requirements of this section may be waived by the Administrator of the General Services Administration for special purpose or special mission automobiles.

SEC. 517. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverages for abortions.

SEC. 518. The provision of section 517 shall not apply where the life of the mother would be endangered if the fetus were carried to term.

SEC. 519. No later than October 1, 1989, the Administrator of General Services, or any Federal officer assuming the Administrator's responsibilities with respect to management of the stockpile, shall use all funds authorized and appropriated before January 1, 1985 from the National Defense Stockpile Transaction Fund to evaluate, test, relocate, upgrade or purchase stockpile materials to meet National Defense Stockpile goals and specifications in effect on October 1, 1984.

SEC. 520. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6-104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

SEC. 521. None of the funds appropriated by this Act may be used to establish on a permanent basis any test or program of the "port of arrival immediate release and enforcement determination."

SEC. 522. None of the funds appropriated by this Act may be used to solicit bids, lease space, or enter into any contract to close or consolidate executive seminar centers for the Office of Personnel Management.

SEC. 523. None of the funds appropriated by this Act or any other Act in any fiscal year may be obligated or expended in any way for the purpose of the sale, lease, rental, excessing, surplusing, or disposal of any portion of land on which the Beltsville Agricultural Research Center is located at Beltsville, Maryland, without the specific approval of Congress: Provided, That such land may be sold, for fair market value, to the Washington Metropolitan Area Transit Authority and any proceeds from the sale of such land shall be placed in an escrow account to be available hereafter for use in the renovation and restoration of the Beltsville Agricultural Research Center, to be released as specified in advance in appropriations Acts.

SEC. 524. Not later than October 1, 1988, of the amounts made available pursuant to Section 519 of the Treasury, Postal Service and General Government Appropriations Act, 1987, as incorporated in Section 101(m) of Public Laws 99-500 and 99-591, not less than $1,000,000 shall be obligated for a pilot project to upgrade technologically obsolete cobalt deposited in the National Defense Stockpile. The funds used in this section for upgrading shall not exceed $2,000,000.

SEC. 525. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, lease, rental, excessing, surplusing or disposal of any portion of land on which the Phoenix Indian School is located at Phoenix, Arizona without the specific approval of Congress.

SEC. 526. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas administered by the Corps of Engineers, Department of the Army without the specific approval of Congress.

SEC. 527. The Administrator of General Services under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, shall acquire, by means of a lease of up to 30 years duration, space for the United States Courts in Tacoma, Washington, at the site of Union Station, Tacoma, Washington.

SEC. 528. Funds under this Act shall be available as authorized by sections 4501-4506 of title 5, United States Code, when the achievement involved is certified, or when an award for such achievement is otherwise payable, in accordance with such sections. Such funds may not be used for any purpose with respect to which the preceding sentence relates beyond fiscal year 1988.

SEC. 529. (a) Notwithstanding any other provision of law, during fiscal year 1988, the authority to establish higher rates of pay under section 5303 of title 5, United States Code, may—

(1) in addition to positions paid under any of the pay systems referred to in subsection (a) of section 5303 of title 5, U.S.C., be exercised with respect to positions paid under any other pay system established by or under Federal statute for positions within the executive branch of the Government; and

(2) in addition to the circumstance described in the first sentence of subsection (a) of section 5303 of title 5, U.S.C., be exercised based on—

(A) pay rates for the positions involved being generally less than the rates payable for similar positions held—

(i) by individuals outside the Government; or

(ii) by other individuals within the executive branch of the Government;

(B) the remoteness of the area or location involved;

(C) the undesirability of the working conditions or the nature of the work involved, including exposure to toxic substances or other occupational hazards; or

(D) any other circumstance which the President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, U.S.C., for purposes of this subparagraph) may identify.

Nothing in paragraph (2) shall be considered to permit the exercise of any authority based on any of the circumstances under such paragraph without an appropriate finding that such circumstance is significantly handicapping the Government's recruitment or retention efforts.

(b)(1) A rate of pay established during fiscal year 1988 through the exercise of any additional authority under subsection (a) of section 5303 of title 5, U.S.C.,

(A) shall be subject to revision or adjustment,

(B) shall be subject to reduction or termination (including pay retention), and

(C) shall otherwise be treated,

in the same manner as generally applies with respect to any rate otherwise established under section 5303 of title 5, United States Code.

(2) The President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subsection) may prescribe any regulations necessary to carry out this subsection.

(c) Any additional authority under this section may, during fiscal year 1988, be exercised only to the extent that amounts otherwise appropriated under this Act for purposes of section 5303 of title 5, United States Code, are available.

SEC. 530. The Director of the Office of Management and Budget shall include in the area designated as the St. Louis Metropolitan Statistical Area, the City of Sullivan, Missouri.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SEC. 601. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $6,600 except station wagons for which the maximum shall be $7,600: Provided, That these limits may be exceeded by not to exceed $2,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: Provided further, That the limits set forth in this section shall not apply to electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.

SEC. 602. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922–24.

SEC. 603. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian, and Laotian refugees paroled in the United States after January 1, 1975: Provided, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: Provided further, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than one year, or both: Provided further, That the above penal clause shall be in addition to, and not in substitution for any other provisions of existing law: Provided further, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

SEC. 604. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 605. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: Provided, That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 606. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 607. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: Provided, That such credits received as exchanged allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

SEC. 608. No part of any appropriation contained in this or any other Act, shall be available for interagency financing of boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 609. Funds made available by this or any other Act to (1) the General Services Administration, including the fund created by the Public Building Amendments of 1972 (86 Stat. 216), and (2) the "Postal Service Fund" (39 U.S.C. 2003), shall be available for employment of guards for all buildings and areas owned or occupied by the United States or the Postal Service and under the charge and control of the General Services Administration or the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318), but shall not be restricted to certain Federal property as otherwise required by the proviso contained in said section and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318c): Provided, That when the Administrator of General Services delegates responsibility to protect property under his charge and control to the head of another Federal agency, that agency may employ guards to protect the property who shall have the same powers of special policemen in same manner as the foregoing.

SEC. 610. None of the funds available under this or any other Act shall be available for administrative expenses in connection with the designation for construction, arranging for financing, or execution of contracts or agreements for financing or construction of any additional purchase contract projects pursuant to section 5 of the Public Building Amendments of 1972 (Public Law 92-313) during the period beginning October 1, 1976, and ending September 30, 1988.

SEC. 611. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce *any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.*

SEC. 612. *No part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the fiscal year for which appropriations were granted.*

SEC. 613. *(a)(1) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal years ending September 30, 1988, or September 30, 1989, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 5348 of that title—*

(1) during the period from the date of expiration of the limitation imposed by section 613 of the Treasury, Postal Service, and General Government Appropriations Act, 1987, as incorporated in section 101(m) of Public Laws 99-500 and 99-591, until the first day of the first applicable pay period that begins not less than ninety days after that date, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 613; and

(2) during the period consisting of the remainder, if any, of fiscal year 1988, and that portion of fiscal year 1989, that precedes the normal effective date of the applicable wage survey adjustment that is to be effective in fiscal year 1989, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage adjustment in the General Schedule during fiscal year 1988.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, may be paid during the periods for which subsection (a) of this section is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purpose of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1987, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1987, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1987.

(f) For the purpose of administering any provision of law, including section 8431 of title 5, United States Code, or any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit, that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate or salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section may be construed to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 614. *None of the funds made available in this Act may be used to plan, implement, or administer (1) any reduction in the number of regions, districts or entry processing locations of the United States Customs Service; or (2) any consolidation or centralization of duty assessment or appraisement functions of any offices in the United States Customs Service.*

SEC. 615. *During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to renovate, remodel, furnish, or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such renovation, remodeling, furnishing, or redecoration is expressly approved by the Committees on Appropriations of the House and Senate.*

SEC. 616. *(a) If any individual or entity which provides or proposes to provide child care services for Federal employees during fiscal year 1988 or any fiscal year thereafter, applies to the officer or agency of the United States charged with the allotment of space in the Federal buildings in the community or district in which such individual or entity provides or proposes to provide such service, such officer or agency may allot space in such a building to such individual or entity if—*

(1) such space is available;

(2) such officer or agency determines that such space will be used to provide child care services to a group of individuals of whom at least 50 percent are Federal employees; and

(3) such officer or agency determines that such individual or entity will give priority for available child care services in such space to Federal employees.

(b)(1) If an officer or agency allots space during fiscal year 1988 or any fiscal year thereafter, to an individual or entity under subsection (a), such space may be provided to such individual or entity without charge for rent or services.

(2) If there is an agreement for the payment of costs associated with the provision of space allotted under subsection (a) or services provided in connection with such space, nothing in title 31, United States Code, or any other provision of law, shall be construed to prohibit or restrict payment by reimbursement to the miscellaneous receipts or other appropriate account of the Treasury.

(3) For the purpose of this section, the term "services" includes the providing of lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone service (including installation of lines and equipment and other expenses associated with telephone service), and security systems (including installation and other expenses associated with security systems).

SEC. 617. *Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.*

SEC. 618. *(a) None of the funds appropriated by this Act, or any other Act in this or any fiscal year hereafter, may be used in preparing, promulgating, or implementing any regulations relating to the Combined Federal Campaign if such regulations are not in conformance with subsection (b).*

(b)(1)(A) Any requirements for eligibility to receive contributions through the Combined Federal Campaign shall not, to the extent that such requirements relate to litigation, public-policy advocacy, or attempting to influence legislation, be any more restrictive than any requirements established with respect to those subject matters under section 501(c)(3) or 501(h) of the Internal Revenue Code of 1986.

(B) Any requirements for eligibility to receive contributions through the Combined Federal Campaign shall, to the extent that such requirements relate to any subject matter other than one referred to in subparagraph (A), remain the same as the criteria in the 1984 regulations, except as otherwise provided in this section.

(C) Notwithstanding any requirement referred to in subparagraph (A) or (B), for purposes of any Combined Federal Campaign—

(i) any voluntary agency or federated group which was a named plaintiff as of September 1, 1987, in a case brought in the United States District Court for the District of Columbia, and designated as Civil Action No. 83-0928 or 86-1367, and

(ii) The Federal Employee Education and Assistance Fund,

shall be considered to have national eligibility.

(D) Public accountability standards shall remain similar to the standards which were by regulation established with respect to the 1984-1987 Combined Federal Campaigns, except that the Office of Personnel Management shall prescribe regulations under which a voluntary agency or federated group which does not exceed a certain size (as established under such regulations) may submit a copy of an appropriate Federal tax return, rather than complying with any independent auditing requirements which would otherwise apply.

(2)(A) A voluntary agency or federated group shall, for purposes of any Combined Federal Campaign in any year, be considered to have national eligibility if such agency or group—

(i) complies with all requirements for eligibility to receive contributions through the Combined Federal Campaign, without regard to any requirements relating to "local presence"; and

(ii) demonstrates that it provided services, benefits, or assistance, or otherwise conducted program activities, in—

(I) 15 or more different States over the 3-year period immediately preceding the start of the year involved; or

(II) several foreign countries or several parts of a foreign country.

For purposes of this subparagraph, an agency or federated group shall be considered to have conducted program activities *in the required number of States, countries, or parts of a country, over the period of years involved, if such agency or group conducted program activities in such number of States, countries, or parts either in any single year during such period or in the aggregate over the course of such period, provided that no State, country, or part of a country is counted more than once.*

(B) Notwithstanding any other provisions, eligibility requirements relating to International Services Agencies shall remain at least as inclusive as existing requirements. Any voluntary agency or federated group which attains national eligibility under subparagraph (A), and any voluntary agency which is a member of the International Services Agencies, shall be considered to have satisfied any requirements relating to "local presence".

(3)(A) If a federated group is eligible to receive donations in a Combined Federal Campaign, whether on a national level (pursuant to certification by the Office) or a local level (pursuant to certification by the local Federal coordinating committee), each voluntary agency which is a member of such group may, upon certification by the federated group, be considered eligible to participate on such national or local level, as the case may be.

(B) Notwithstanding any provision of subparagraph (A)—

(i) the Office may require a voluntary agency to provide information to support any certification submitted by a federated group with respect to such agency under subparagraph (A); and

(ii) if a determination is made, in writing after notice and opportunity to submit written comments, that the information submitted by the voluntary agency does not satisfy the applicable eligibility requirements, such agency may be barred from participating in the Combined Federal Campaign on a national or local level, as the case may be, for a period not to exceed 1 campaign year.

(4) The Office shall exercise oversight responsibility to ensure that—

(A) regulations are uniformly and equitably implemented in all local combined Federal campaigns;

(B) federated groups participating in a local combined Federal campaign are allowed to compete fairly for the role of principal combined fund organization;

(C) federated groups participating in a local combined Federal campaign are afforded—

(i) adequate opportunity to consult with the PCFO for the area involved before any plans are made final relating to the design or conduct of such campaign (including plans pertaining to any materials to be printed as part of the campaign);

(ii) adequate opportunity to participate in campaign events and other related activities; and

(iii) timely access to all reports, budgets, audits, and other records in the possession of, or under the control of, the PCFO for the areas involved; and

(D) a federated group or voluntary agency found by the Office, by a written decision issued after notice and opportunity to submit written comments, to have violated the regulations may be barred from serving as a PCFO for not to exceed 1 campaign year.

(5) The Office shall prescribe regulations to ensure that PCFOs do not make inappropriate delegations of decisionmaking authority.

(6)(A) The Office shall, in consultation with federated groups, establish a formula under which any undesignated contributions received in a local combined Federal campaign shall be allocated in any year.

(B) Under the formula for the 1990 Combined Federal Campaign, all undesignated contributions received in a local campaign shall be allocated as follows:

(i) 82 percent shall be allocated to the United Way.

(ii) 7 percent shall be allocated to the International Services Agencies.

(iii) 7 percent shall be allocated to the National Voluntary Health Agencies.

(iv) 4 percent shall, after fair and careful consideration of all eligible federated groups and agencies, be allocated by the local Federal coordinating committee among any or all of the following:

(I) National federated groups (other than any identified in clauses (i), (ii), or (iii)), except that a national federated group shall not be eligible under this subclause unless there are at least 15 members of such group participating in the local campaign, unless the members of such group collectively receive at least 4 percent of the designated contributions in the local campaign, and unless such group was granted national eligibility status for the 1987, 1988, 1989, or 1990 Combined Federal Campaign.

(II) Local federated groups.

(III) Any local, non-affiliated voluntary agency which receives at least 4 percent of the designated contributions in the local campaign.

(C) The formula set forth in subparagraph (B)—

(i) shall be phased in over the course of the 1988 and 1989 Combined Federal Campaigns;

(ii) shall be fully implemented with respect to the 1990 Combined Federal Campaigns; and

(iii) shall, with respect to any Combined Federal Campaign thereafter, be adjusted based on the experience gained in the Combined Federal Campaigns referred to in clauses (i) and (ii).

(D) Nothing in this paragraph shall apply with respect to any campaign conducted in a foreign country.

(E) All appropriate steps shall be taken to encourage donors to make designated contributions.

(7) The option for a donor to write in the name of a voluntary agency or federated group not listed in the campaign brochure to receive that individual's contribution in a local campaign shall be eliminated.

(8) The name of any individual making a designated contribution in a campaign shall, upon request of the recipient voluntary agency or federated group, be released to such agency or group, unless the contributor indicates that his or her name is not to be released. Under no circumstance may the names of contributors be sold or otherwise released by such agency or group.

(9)(A) The name of each participating voluntary agency and federated group, together with a brief description of their respective programs, shall be published in any information leaflet distributed to employees in a local combined Federal campaign. Agencies shall be arranged by federated group, with combined Federal campaign organization code numbers corresponding to each such agency and group.

(8) The requirement under subparagraph (A) relating to the inclusion of program descriptions may, at the discretion of a local Federal coordinating committee, be waived for a local campaign in any year if, in the immediately preceding campaign year, contributions received through the local campaign totalled less than $100,000.

(10) Employee coercion is not to be tolerated in the Combined Federal Campaign, and protections against employee coercion shall be strengthened and clarified.

(11) The Office—

(A) may not, after the date of the enactment of this Act, grant national eligibility status to any federated group unless such group has at least 15 member voluntary agencies, each of which meets the requirements for national eligibility under paragraph (2)(A); and

(B) may withdraw federation status from any federated group for a period of not to exceed 1 campaign year if it is determined, on the record after opportunity for a hearing, that the federated group has not complied with the regulatory requirements.

(12) The Office may bar from participation in the Combined Federal Campaign, for a period not to exceed 1 campaign year, any voluntary agency which the Office determines, in writing, and after notice and opportunity to submit written comments, did not comply with a reasonable request by the Office to furnish it with information relating to such agency's campaign accounting and auditing practices.

(c) For purposes of this section, a voluntary agency or federated group having "national eligibility" is one which is eligible to participate in each local domestic combined Federal campaign.

INDUSTRIAL FUNDING OF THE GENERAL SUPPLY FUND

SEC. 619. Industrial Funding.

SUBSECTION 1. PERMISSIBLE USES OF GENERAL SUPPLY FUND.

The last sentence of section 109(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 756(a)) is amended—

(1) by striking out "and" at the end of clause (1); and

(2) by inserting before the period at the end of clause (2) the following: ", and (3) for paying other direct costs of, and indirect costs that are reasonably related to, contracting, procurement, inspection, storage, management, distribution, and accountability of property and nonpersonal services provided by the General Services Administration or by special order through such Administration".

SUBSEC. 2. COLLECTION OF PAYMENTS FOR DEPOSIT IN FUND.

Section 109(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 756(b)) is amended by inserting after the second sentence the following new sentence: "Such prices shall also include an additional charge to recover properly allocable costs payable by the General Supply Fund under subsection (a)(3) with respect to the supplies or services concerned.".

SUBSEC. 3. IMPLEMENTATION PLAN.

Not later than February 15, 1988, the Administrator of General Services shall submit to the appropriate committees of the Congress a plan for the implementation of the amendments made by this Act. Such plan shall (1) fully describe and explain the accounting system (including the pricing and cost allocation methodology for supplies and services) to be used for such implementation, and (2) contain a schedule for completing actions necessary for such implementation.

SUBSEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect not later than April 1, 1988.

SEC. 620. Section 1202(b) of title 5, United States Code, is amended by adding a new sentence as follows: "Any new member serving only a portion of a seven-year term in office may continue to serve until a successor is appointed and has qualified, except that such member may not continue to serve for more than one year after the date on which the term of the member would otherwise expire, unless reappointed.".

SEC. 621. (a) Notwithstanding the provisions of sections 112 and 113 of title 3, United States Code, each Executive agency detailing any personnel shall submit a report on an annual basis in each fiscal year to the Senate and House Committees on Appropriations on all employees or members of the armed services detailed to Executive agencies, listing the grade, position, and offices of each person detailed and the agency to which each such person is detailed.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

(c) The exemptions in part (b) of this section are not intended to apply to information on the use of personnel detailed to or from the intelligence agencies which is currently being supplied to the Senate and House Intelligence and Appropriations Committees by the executive branch through budget justification materials and other reports.

(d) For the purposes of this section, the term 'Executive agency' has the same meaning as defined under section 105 of title 5, United States Code (except that the provisions of section 104(2) of title 5, United States Code shall not apply) and includes the White House Office, the Executive Residence, and any office, council, or organizational unit of the Executive Office of the President.

SEC. 622. (a) None of the funds made available by this or any other Act with respect to any fiscal year may be used to make a contract for the manufacture of distinctive paper for United States currency and securities pursuant to section 5114 of title 31, United States Code, with any corporation or other entity owned or controlled by persons not citizens of the United States, or for the manufacture of such distinctive paper outside of the United States or its possessions. This subsection shall not apply if the Secretary of the Treasury determines that no domestic manufacturer of distinctive paper for United States currency or securities exists with which to make a contract and if the Secretary of the Treasury publishes in the Federal Register a written finding stating the basis for the determination.

(b) None of the funds made available by this or any other Act with respect to any fiscal year may be used to procure paper for passports granted or issued pursuant to the first section of the Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (22 U.S.C. 211a), if such paper is manufactured outside of the United States or its possessions or is procured from any corporation or other entity owned or controlled by persons not citizens of the United States. This subsection shall not apply if no domestic manufacturer for passport paper exists.

SEC. 623. INTEREST ON BACK PAY FOR FEDERAL EMPLOYEES.—(a) IN GENERAL.—Section 5596(b) of title 5, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by adding after paragraph (1) the following:

"(2)(A) An amount payable under paragraph (1)(A)(i) of this subsection shall be payable with interest.

"(B) Such interest—

"(i) shall be computed for the period beginning on the effective date of the withdrawal or reduction involved and ending on a date not more than 30 days before the date on which payment is made;

"(ii) shall be computed at the rate or rates in effect under section 6621(a)(1) of the Internal Revenue Code of 1986 during the period described in clause (i); and

"(iii) shall be compounded daily.

"(C) Interest under this paragraph shall be paid out of amounts available for payments under paragraph (1) of this subsection.".

(b) EFFECTIVE DATE.—

(1) GENERALLY.—Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to any employee found, in a final judgment entered or a final decision otherwise rendered on or after such date, to have been the subject of an unjustified or unwarranted personnel action, the correction of which entitles such employee to an amount under section 5596(b)(1)(A)(i) of title 5, United States Code.

(2) EXCEPTION.—

(A) CASES IN WHICH A RIGHT TO INTEREST WAS RESERVED.—The amendments made by subsection (a) shall also apply with respect to any claim which was brought under section 5596 of title 5, United States Code, and with respect to which a final judgment was entered or a final decision was otherwise rendered before the date of the enactment of this Act, if, under terms of such judgment or decision, a right to interest was specifically reserved, contingent on the enactment of a statute authorizing the payment of interest on claims brought under such section 5596.

(B) METHOD OF COMPUTING INTEREST.—The amount of interest payable under this paragraph with respect to a claim shall be determined in accordance with section 5596(b)(2)(B) of title 5, United States Code (as amended by this section).

(C) SOURCE.—An amount payable under this paragraph shall be paid from the appropriation made by section 1304 of title 31, United States Code, notwithstanding section 5596(b)(2)(C) of title 5, United States Code (as amended by this section) or any other provision of law.

(D) DEADLINE.—An application for a payment under this paragraph shall be ineffective if it is filed after the end of the 1-year period beginning on the date of the enactment of this Act.

(E) LIMITATION ON PAYMENTS.—Payments under this paragraph may not be made before October 1, 1988, except that interest shall continue to accrue in accordance with 5596(b)(2)(B) of title 5, United States Code.

SEC. 624. (a) Section 7701(j) of title 26, United States Code, is amended—

(1) by deleting from paragraph (1)(c) the words "the provisions of paragraph (2) and" following the words "subject to"; and

(2) by deleting paragraph (2) in its entirety and substituting in lieu thereof the following language: "NONDISCRIMINATION REQUIREMENTS.—Notwithstanding any other provision of law, the Thrift Savings Fund is not subject to the nondiscrimination requirements applicable to arrangements described in section 401(k) or to matching contributions (as described in section 401(m)), so long as it meets the requirements of this section.".

(b) Section 8440 of title 5, United States Code, is amended—

(1) by deleting from paragraph (a)(3) the words "the provisions of subsection (b) and" following the words "subject to"; and

(2) by deleting subsection (b) in its entirety and by substituting in lieu thereof the following language: "NONDISCRIMINATION REQUIREMENTS.—Notwithstanding any other provision of law, the Thrift Savings Fund is not subject to the nondiscrimination requirements applicable to arrangements described in section 401(k) of title 26, United States Code, or to matching contributions (as described in section 401(m) of title 26, United States Code), so long as it meets the requirements of this section.".

SEC. 625. TEMPORARY AUTHORITY TO TRANSFER LEAVE.—In order to ensure that the experimental use of voluntary leave transfers established under Public Laws 99-500 and 99-591 may continue and may cover additional employees in fiscal year 1988, the Office of Personnel Management shall establish by regulation, notwithstanding chapter 63 of title 5, United States Code, a program under which the unused accrued annual leave of officers or employees of the Federal Government may be transferred for use by other officers or employees who need such leave due to a personal emergency as defined in the regulations. The Veterans' Administration shall establish a similar program for employees subject to section 4108 of title 5, United States Code. The programs established by this section shall expire at the end of fiscal year 1988, but any leave that has been transferred to an officer or employee under the programs shall remain available for use until the personal emergency has ended, and any remaining unused transferred leave shall, to the extent administratively feasible, be restored to the leave accounts of the officers or employees from whose accounts it was originally transferred.

SEC. 626. Subsection 8902 of title 5, United States Code, is amended—

(1) by inserting in subsection (k)(1), after "as applicable," the following: "or by a qualified clinical social worker as defined in section 8901(11),";

(2) by inserting in subsection (k)(1), after "such a clinical psychologist" the following: ", qualified clinical social worker";

(3) by striking out all of subsection (k)(2) and by redesignating subsection (k)(3) as subsection (k)(2); and

(4) by striking out the last sentence in subsection (m)(2)(A).

SEC. 627. (a) Section 5 of Public Law 99-87, relating to the use of official mail in the location of missing children, is amended by striking out "two and one-half years after the date of the enactment of this Act" and inserting in lieu thereof "after December 31, 1992".

(b) Section 3(a) of Public Law 99-87 is amended by striking out "Not later than two years after the date of enactment of this Act," and inserting in lieu thereof "Not later than June 30, 1992,".

Sec. 628. Sale of Residence of Transferred Federal Employees and Transportation Expenses.—

(a) Reimbursement of Expenses of Sale and Purchase of a Residence Upon the Transfer of a Federal Employee.—

(1) Reimbursement of expenses.—Section 5724a(a)(4)(A) of title 5, United States Code, is amended—

(A) by inserting before the period at the end of the first sentence the following: "; and expenses, required to be paid by the employee, (i) of the sale of the residence (or the settlement of an unexpired lease) of the employee at the official station from which the employee was transferred when he was assigned to a post of duty located outside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979) and (ii) of the purchase of a residence at the new official station when the employee is transferred in the interest of the Government from a post of duty located outside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979), to an official station (other than the official station from which he was transferred when assigned to the foreign tour of duty) within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or such areas and installations in the Republic of Panama"; and

(B) by adding at the end thereof the following new sentence: "Reimbursement of expenses prescribed under this paragraph in connection with transfers from a post of duty located outside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979), shall not be allowed for any sale or settlement of unexpired lease or purchase transaction that occurs prior to official notification that the employee's return to the United States would be to an official station other than the official station from which the employee was transferred when assigned to the foreign post of duty.".

(2) Effective date.—The amendments made by paragraph (2) shall be applicable with respect to any employee transferred to or from a post of duty on or after 60 days after the date of enactment of this section.

(b) Funds for Implementation.—The amendments made by subsection (a) shall be carried out by agencies by the use of funds appropriated or otherwise available for the administrative expenses of each of such respective agencies. The amendments made by such subsections do not authorize the appropriation of funds in amounts exceeding the sums already authorized to be appropriated for such agencies.

Sec. 629. Notwithstanding 31 U.S.C. 1346 or section 607 of this Act, funds made available for fiscal year 1988 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided in Executive order Number 12472 (April 3, 1984).

Employee Disclosure Agreements

Sec. 630. No funds appropriated in this or any other Act for fiscal year 1988 may be used to implement or enforce the agreements in Standard Forms 189 and 4193 of the Government or any other nondisclosure policy, form or agreement if such policy, form or agreement:

(1) concerns information other than that specifically marked as classified; or, unmarked but known by the employee to be classified; or, unclassified but known by the employee to be in the process of a classification determination;

(2) contains the terms "classifiable";

(3) directly or indirectly obstructs, by requirement of prior written authorization, limitation of authorized disclosure, or otherwise, the right of any individual to petition or communicate with Members of Congress in a secure manner as provided by the rules and procedures of the Congress;

(4) interferes with the right of the Congress to obtain executive branch information in a secure manner as provided by the rules and procedures of the Congress;

(5) imposes any obligations or invokes any remedies inconsistent with statutory law:

Provided, That nothing in this section shall affect the enforcement of those aspects of such nondisclosure policy, form or agreement that do not fall within subsections (1)-(5) of this section

This Act may be cited as the "Treasury, Postal Service and General Government Appropriations Act, 1988".

And the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and the matter inserted by said amendment, insert the following:

(n)(1) Upon the enactment of this resolution enrolled as a hand enrollment, the Clerk of the House of Representatives shall prepare a printed enrollment of this resolution as in the case of a bill or joint resolution to which sections 106 and 107 of title 1, United States Code, apply. Such enrollment shall be a correct enrollment of this resolution as enrolled in the hand enrollment.

(2) A printed enrollment prepared pursuant to subsection (n)(1) may, in order to conform to customary style for printed laws, include corrections in spelling, punctuation, indentation, type face, and type size and other necessary stylistic corrections to the hand enrollment. Such a printed enrollment shall include notations (in the margins or as otherwise appropriate) of all such corrections.

(3) A printed enrollment prepared pursuant to subsection (n)(1) shall be signed by the presiding officers of both Houses of Congress as a correct printing of the hand enrollment of this resolution and shall be transmitted to the President.

(4) Upon certification by the President that a printed enrollment transmitted pursuant to subsection (n)(3) is a correct printing of the hand enrollment of this resolution, such printed enrollment shall be considered for all purposes as the original enrollment of this resolution and as valid evidence of the enactment of this resolution.

(5) A printed enrollment certified by the President under subsection (n)(4) shall be transmitted to the Archivist of the United States, who shall preserve it with the hand enrollment. In preparing this resolution for publication in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall use the printed enrollment certified by the President under subsection (n)(4) in lieu of the hand enrollment.

(6) As used in this section, the term "hand enrollment" means enrollment in a form other than the printed form required by sections 106 and 107 of title 1, United States Code, as authorized by the joint resolution entitled "Joint resolution authorizing the hand enrollment of the budget reconciliation bill and of the full-year continuing resolution for fiscal year 1988", approved December 1987 (H.J. Res. 426 of the 100th Congress).

(o) Federal employees furloughed as the result of any lapse in appropriations prior to the enactment of this Resolution shall be compensated at their standard rate of compensation for the period during which there was a lapse in appropriations.

All obligations incurred in anticipation of the appropriations made and authority granted by this Resolution for the purpose of maintaining the essential level of activity to protect life and property and bring about the orderly termination of government functions are hereby ratified and approved if otherwise in accord with the provisions of this Resolution.

And the Senate agree to the same.

Amendment numbered 17:

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and the matter inserted by said amendment, insert the following: *December 21, 1987*

And the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and the matter inserted by said amendment, insert the following:

House and the Senate and in the Joint Explanatory Statement of the Conference accompanying this Joint Resolution

And the Senate agree to the same.

Amendment numbered 44:

That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

Sec. 108. (a) Notwithstanding any other provision of this Resolution or any other law, no adjustment in rates of pay under section 5305 of title 5, United States Code, which becomes effective on or after October 1, 1987, and before October 1, 1988, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch or in the government of the District of Columbia—

(1) if the rate of salary or basic pay payable for that office or position as of September 30, 1987, was equal to or greater than the rate of basic pay then payable for level V of

the Executive Schedule under section 5316 of title 5, United States Code; or

(2) to a rate exceeding the rate of basic pay payable for level V of the Executive Schedule under such section 5316 as of September 30, 1987, if, as of that date, the rate of salary or basic pay for that office or position was less than the rate of basic pay then payable for such level V.

(b) For purposes of subsection (a), the rate of salary or basic pay payable as of September 30, 1987, for any office or position which was not in existence on such date shall be deemed to be the rate of salary or basic pay payable to individuals in comparable offices or positions on such date, as determined under regulations prescribed—

(1) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

(2) jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

(3) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

And the Senate agree to the same.

Amendment numbered 49:

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

Sec. 109. (a) None of the funds appropriated for fiscal year 1988 by this Resolution or any other law may be obligated or expended to enter into any contract for the construction, alteration, or repair of any public building or public work in the United States or any territory or possession of the United States with any contractor or subcontractor of a foreign country, or any supplier of products of a foreign country, during any period in which such foreign country is listed by the United States Trade Representative under subsection (c) of this section.

(2) The President or the head of a Federal agency administering the funds for the construction, alteration, or repair may waive the restrictions of paragraph (1) of this subsection with respect to an individual contract if the President or the head of such agency determines that such action is necessary in the public interest. The authority of the President or the head of a Federal agency under this paragraph may not be delegated. The President or the head of a Federal agency waiving such restrictions shall, within 10 days, publish a notice thereof in the Federal Register describing in detail the contract involved and the reason for granting the waiver.

(b)(1) Not later than 30 days after the date of enactment of this Resolution, the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunties for products and services of the United States in bidding.

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information or evidence concerning discrimination in construction projects against United States products and services that are available.

(c)(1) The United States Trade Representative shall maintain a list of each foreign country which—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) Such list shall include—

(A) each foreign country with respect to which an affirmative determination is made under subsection (b); and

(B) the country of Japan and any other country which has expressed a policy of denying fair and equitable market opportunities for products and services of the United States in procurement or bidding for projects described in paragraph (1) of this subsection.

(3) Any foreign country that is initially listed or that is added to the list maintained under paragraph (1) shall remain on the list until—

(A) such country removes the barriers in construction projects to United States products and services;

(B) such country submits to the President of the United States Trade Representative evidence demonstrating that such barriers have been removed; and

(C) the United States Trade Representative conducts an investigation to verify independently that such barriers have been removed and submits, at least 30 days before granting any such waiver, a report to each House of the Congress identifying the barriers and describing the actions taken to remove them.

(4) The United States Trade Representative shall publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made after publication of the original list.

(d) For purposes of this section—

(1) each foreign instrumentality, and each territory or possession of a foreign country that is administered separately for customs purposes, shall be treated as a separate foreign country;

(2) any contractor or subcontractor that is a citizen or national of a foreign country, or is controlled directly or indirectly by citizens or nationals of a foreign country, shall be considered to be a contractor or subcontractor of such foreign country;

(3) subject to paragraph (4), any product that is produced or manufactured (in whole or in substantial part) in a foreign country shall be considered to be a product of such foreign country;

(4) the restrictions of subsection (a)(1) shall not prohibit the use, in the construction, alteration, or repair of a public building or public work, of vehicles or construction equipment of a foreign country; and

(5) the terms "contractor" and "subcontractor" include any person performing any architectural, engineering, or other services directly related to the preparation for or performance of the construction, alteration, or repair.

(e) Paragraph (a)(1) of this section shall not apply to contracts entered into prior to the date of enactment of this Resolution.

(f) The provisions of this section are in addition to, and do not limit or supersede, any other restrictions contained in any other Federal law.

And the Senate agree to the same.

Amendment numbered 51:

That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 110. (a) Adjustments for Employees Under Statutory Pay Systems.—

(1) Two-percent increase.—Notwithstanding any other provision of law, in the case of fiscal year 1988, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems (as defined by section 5301(c) of such title), shall be an increase of 2 percent.

(2) Uniform adjustments; delayed effective date.—Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage and shall take effect as of the beginning of the first applicable pay period beginning on or after January 1, 1988.

(b) Two Percent Military Pay Raise for Fiscal Year 1988.—Section 601 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) is amended by striking out subsections (b), (c), and (d) and inserting in lieu thereof the following:

"(b) Two Percent Increase in Basic Pay, BAQ, and BAS.—The rates of basic pay, basic allowance for quarters, and basic allowance for subsistence of members of the uniformed services are increased by 2 percent effective on January 1, 1988.

"(c) Two Percent Increase in Cadet and Midshipman Pay.—Effective on January 1, 1988, section 203(c)(1) of title 37, United States Code, is amended by striking out '$494.40' and inserting in lieu thereof '$504.30'.".

And the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

ASSISTANCE TO THE NICARAGUAN DEMOCRATIC RESISTANCE

Sec. 111. (a) There are hereby transferred to the President $3,600,000 of unobligated funds, from such accounts for which appropriations were made by Department of Defense appropriations acts for the fiscal year 1987 or prior years, as the President shall designate, to provide humanitarian assistance to the Nicaraguan democratic resistance consistent with this section, to remain available through February 29, 1988.

(b)(1) The President is authorized to transfer or reprogram $4,500,000 of unobligated funds from such accounts for which appropriations were made by Department of Defense appropriations acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, to provide transportation of humanitarian and other assistance previously, specifically authorized by law to the

[In thousands of dollars]

	House	Senate	Conference
Full-time support (AGR)	−3,741	−1,281	−1,281
Paid drill strength		−60	−60
Training	−492		−246
IRR mobilization	−401		−401
VHA freeze		−503	−503
Total	−4,634	−1,844	−2,491

RESERVE PERSONNEL, AIR FORCE

The conferees agree to provide $608,345,000 instead of $598,131,000 as proposed by the House and $612,821,000 as proposed by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	House	Senate	Conference
Inflation	−187	−187	−187
Full-time support (AGR)	−159		
Paid drill strength	−8,404	−1,800	−1,800
Training	−7,433		−3,716
IRR mobilization	−760		−760
VHA freeze		−266	−266
WC-130 Augmentation	+374	+374	+374
Total	−16,596	−1,879	−6,355

NATIONAL GUARD PERSONNEL, ARMY

The conferees agree to provide $3,196,386,000 instead of $3,178,713,000 as proposed by the House and $3,199,938,000 as proposed by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	House	Senate	Conference
Inflation	−925	−925	−925
Full-time support (AGR)	−30,957	−12,378	−12,378
Paid drill strength		−1,732	−1,732
Training	−7,105		−3,552
VHA freeze		−2,727	−2,727
Total	−38,987	−17,762	−21,314

NATIONAL GUARD PERSONNEL, AIR FORCE

The conferees agree to provide $976,939,000 instead of $975,811,000 as proposed by the House $977,390,000 as proposed by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	House	Senate	Conference
Inflation	−134	−134	−134
Full-time support (AGR)	−361	−1,066	−1,066
Paid drill strength	−2,792	−1,460	−1,460
Training	−902		−451
VHA freeze		−550	−550
Minot AFB drill strength		+600	+600
Total	−4,189	−2,610	−3,061

TITLE II—OPERATION AND MAINTENANCE

The conferees agree to the following amounts for the Operation and Maintenance accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
Army	22,120,394	20,683,277	20,941,050	20,853,205
Navy	25,652,830	23,901,188	23,791,997	23,601,462
Marine Corps	1,918,367	1,840,992	1,799,714	1,819,188
Air Force	21,325,282	19,881,516	19,888,916	19,661,448
Defense agencies	7,602,907	7,044,011	7,176,276	7,112,951
Army Reserve	879,103	844,851	859,703	857,540
Navy Reserve	957,115	926,899	940,138	929,896
Marine Corps Reserve	71,361	67,938	68,621	69,500
Air Force Reserve	1,018,257	994,767	997,391	1,000,981
Army National Guard	1,862,152	1,855,978	1,838,951	1,856,542
Air National Guard	1,972,992	1,950,191	1,958,737	1,958,063
National Board for the Promotion of Rifle Practice, Army	4,099	4,095	4,099	4,099
Claims, defense	273,574	273,574		193,574
Court of Military Appeals	3,461	3,241	3,241	3,241
Pan American Games				
Environmental restoration, defense	402,800	392,800	402,800	402,800
Humanitarian assistance		10,000	13,000	13,000
Military health care				
Grand total, operation and maintenance	86,064,694	80,675,318	80,684,634	80,337,490

The following items represent agreements of the conferees:

CIVILIAN PERSONNEL

The House reduced $226,000,000 for acquisition personnel. The Senate reduced $109,000,000 due to the overstatement of the civilian workyear and end strength funding base, and $94,640,000 from the Defense Agencies due to implementation of the Goldwater-Nichols reorganization legislation. The conferees agree to a reduction of $188,320,000 distributed as follows:

Army	−$28,000,000
Navy	−53,000,000
Air Force	−60,000,000
Defense agencies	−47,320,000
Total	−188,320,000

The conferees agree that these reductions are not made to any specific category of civilian personnel, in order to maximize flexibility for the Department. However, the Department should target reductions to the area of acquisition personnel as recommended by the Packard Commission. The conferees expect that the Defense Department will take every step to fully accomplish acquisition reorganization and process streamlining by reducing redundancy in requirements determination, relying more on industry to provide innovative solutions for Defense needs, and eliminating overlap in contract audit functions. Key to accomplishing meaningful acquisition reform is the use of performance specifications and increased reliance on industry.

The conferees further agree with the House requirements for an independent study to precisely define the individuals, both civilian and military, in the Defense acquisition system and for enhanced information in annual budget submissions to Congress on this subject. The Defense Department must be able in future budgets to demonstrate that it has truly implemented the Packard Commission recommendations and that significant streamlining has been accomplished. In applying the above reductions as well as in defining which organizations and individuals are in the Defense acquisition system, no organization should be overlooked, including: the Office of the Secretary of Defense, each Defense Agency, Service headquarters, transportation commands, communications and information systems commands, and operating commands as appropriate. The study should be submitted to the Armed Services and Appropriations Committees of Congress by June 1, 1988.

The amounts above for Defense Agencies relate to both Goldwater-Nichols Reorganization Act reductions proposed by the Senate and acquisition personnel reductions proposed by the House. In allocating these Defense Agency reductions, the conferees agree with the Senate position that reductions should be, but do not have to be, assessed against civilian personnel costs. The conferees also agree that this reduction should be directed toward all the agencies and that not more than half the Defense Agency reduction can be allocated to the Defense Logistic Agency. The Department should provide a breakout of how the $47,220,000 reduction has been distributed to each Agency to the Appropriations committees by February 1, 1988.

The conferees are aware that the Office of the Secretary of Defense has been analyzing how the full savings and personnel reductions required under the Goldwater-Nichols Act should be allocated among specific Defense agencies. The Committee requests that this analysis be transmitted to the House and Senate Appropriations Committees by March 15, 1988.

BUDGET JUSTIFICATION

The conferees agree to the requirements in both the House and Senate reports dealing with improved budget justification material for the operation and maintenance appropriations, stock funds, and industrial funds. The conferees also agree to the reporting requirements from both the House and Senate. In particular, the Comptroller of the Defense Department should ensure that Air Force justification material is responsive to the needs of the Congress. The stock fund overview as detailed in the Senate report must be submitted annually starting with the fiscal year 1989 budget or amended budget submission.

FOREIGN CURRENCY

The conferees agree to the Senate recommendation to make no reduction for foreign currency financing. The Department should use the exchange rates published in the Senate report for budget execution purposes in fiscal year 1988.

EXPENSE INVESTMENT CRITERIA

The conferees have provided funds required for the $15,000 threshold enacted in the fiscal year 1988 Defense Authorization Act. As stated in the House report, the conferees expect that the Department will enforce policies to ensure that this higher level of operation and maintenance funding is not used by local commanders for uneconomical leasing of equipment.

TRAVEL/TRANSPORTATION

The conferees agree to the transportation reductions proposed by the House and the travel reductions proposed by the Senate.

MANPOWER SAVINGS

The conferees have reduced the operation and maintenance accounts by $117,000,000 for manpower savings. The conferees believe these savings will be experienced as efficiency and productivity studies, organizational analyses and other cost containment activities are implemented during fiscal year 1988.

Army	−$52,000,000
Navy	−31,600,000
Marine Corps	−8,600,000
Air Force	−24,800,000
Total	−117,000,000

FUNDING FLOORS

The conferees agree to the Senate recommendation to have no annual floors on depot and real property maintenance. However, the conferees designate these areas to be Congressional interest items which should be shown annually on DD Form 1414, Base for Reprogrammings. Any reprogramming of funds out of either real property or depot maintenance funds requires prior approval of the Appropriations Committee of Congress.

ENVIRONMENTAL PROGRAMS

On the subject of hazardous waste cleanup, the conferees support the Senate direction on Hamilton Air Force Base, California, and the House direction on Castner Range, Fort Bliss, Texas; Northbrook Park District, Northbrook, Illinois; Ardmore Regional Industrial Airpark, Oklahoma; and Santa Rosa Island, Channel Islands National Park, California.

JAPANESE DEFENSE CONTRIBUTION

The conferees agree to a reduction of $120,365,000 as proposed by the Senate, recognizing that Japan should assume a greater share of the cost of stationing U.S. troops and units in that nation.

SPECIAL OPERATIONS FORCES

The conferees agree with the House language contained in a classified letter to the Secretary of Defense dated October 15, 1987 concerning the availability of Operation and Maintenance, Air Force funds for certain Special Operations Forces activities during fiscal year 1988.

OVERSEAS WORKYEAR CEILING

The conferees agree to a provision that continues an overseas civilian workyears ceiling at the level of workyears used in fiscal year 1986. The conferees have set the limitation at 188,496 workyears as was certified by the Assistant Secretary of Defense (Force Management and Personnel) in a June 5, 1987 letter to the House and Senate Committee on Appropriations.

The conferees are concerned that the Department's estimate of overseas workyear is overstated. The Department's fiscal year 1988 Manpower Requirements Report, for example, states that the number of overseas workyears consumed in fiscal year 1986 was 184,222, 4,274 workyears less than the Assistant Secretary's certification. Accordingly, the conferees request the General Accounting Office to audit the Department's estimates for overseas civilian workyears used in fiscal year 1986, by service, and report to the House and Senate Appropriations Committees by May 15, 1988.

CIVILIAN PAY CEILING

The conferees agree to the House position and have not included a civilian payroll ceiling as proposed by the Senate. The conferees remain interested in the Department's expenditures for civilian payroll costs, and changes from the payroll cost estimates identified in the budget submission.

Accordingly, the conferees expect the Department to provide payroll estimates by service with any amendments to the 1989 budget submission. The Department should provide quarterly reports to the Committees on Appropriations of the House and Senate detailing payroll expenditures by service and appropriation account.

PAY RAISE

The conferees agree to provide $875,000,000 to fund the cost of the military pay raise with the remaining balance to partially fund civilian pay costs. The conferees recognize that no additional funds can be provided for pay raise costs in accord with outlay limitations stipulated in the budget summit agreement. Therefore, the conferees will not entertain a supplemental appropriations request to cover increased pay or related costs for either military or civilian personnel.

MEDICAL PROGRAMS

Health care demonstration projects

The conferees have amended the House provision, section 8095, which will allow the Department of Defense to amend up to two fiscal intermediary contracts. Furthermore, the conferees have included a new proviso directing the Department of Defense to conduct a health care demonstration project in New Orleans, Louisiana. The conferees direct that the Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS) in conjunction with the Assistant Secretary of Defense for Health Affairs (ASD(HA)), shall be responsible for this project and shall report to the Senate and House Committee on Appropriations by April 1, 1988, on a plan for implementation with a start up of services no later than September 30, 1988.

The conferees do not want the Department to award a contract that is not in the best interest of the government. For purposes of clarification, the best interests of the government include: (1) costs should be no greater than the current cost of CHAMPUS in New Orleans, with consideration given to price increases and other growth factors: (2) the program should offer at least the current benefits which are covered under CHAMPUS. The best interests of the government should not be determined on the basis that the Department is simply not interested in implementing this project.

Physician special incentive pay

The conferees agree with the Senate position on physician special incentive pay and support the use of special pay for those specialties needed in wartime. The conferees are pleased with the efforts of the ASD(HA) in this matter.

Physicians in administrative positions

The conferees agree with the intent of the House position to reduce the number of physicians in administrative positions. However, the conferees note that teaching and research positions, which are administrative in nature, should be exempt from this reduction. Furthermore, the reporting requirements of the House report are agreed to be the conferees.

Peer review

The conferees direct the Department to determine the most effective and cost efficient way of conducting peer review. The conferees are concerned about whether it is necessary and cost effective to contract through the Department of Health and Human Services for peer review. The conferees plan to address this issue in hearings for the fiscal year 1989 budget.

Fort Bragg mental health demonstration project

The conferees agree with the Senate position and endorse the federal-state partnership between the Department of Defense and the state of North Carolina which was developed to conduct the mental health demonstration project at Ft. Bragg. The Department is directed to award this contract and begin the demonstration as soon as is practical.

CHAMPUS reform initiative

The conferees wish to restate their support for the CHAMPUS Reform Initiative (CRI). The staggering shortfalls experienced by CHAMPUS this past year underscore the need for dramatic changes in the structure and administration of the program and CRI offers an intriguing and promising alternative. Nonetheless, the Department must not rush toward implementation at any cost. Congress has been repeatedly assured by the ASD(HA) that no contract will be awarded unless it will clearly contain growth. To underscore this point, the conferees have included a general provision which limits CRI to the fiscal year 1987 cost for California and Hawaii plus inflation and growth. The conferees amended the provision by including a clause which makes a technical adjustment to the federal preemption clause contained in the fiscal year 1988 DOD Authorization Act.

For purposes of definition, fiscal year 1987 costs are defined as total costs for care provided during fiscal year 1987. Normal and reasonable price growth is considered to be health care inflation experienced within CRI test states. Finally, normal and reasonable program growth would include growth attributable changes in utilization and scope of services delivered.

Additionally, the conferees are very concerned about the amount of time DOD has taken to make a decision regarding the award of the CRI contract. CRI offers an opportunity to change the structure and administration of the runaway CHAMPUS program. Therefore, the conferees direct that, if it is in the best interest of the government, the Department should award the CRI contract as soon as possible.

CHAMPUS funding

The conferees agree to the following amounts for the CHAMPUS program. Furthermore, the conferees agree with the House position that these funds are only to be used for CHAMPUS claims, CHAMPUS approved demonstration projects such as the ongoing projects like the Tidewater mental health demonstration project and the Bone Marrow Transplant demonstration project and CRI contract costs. The conferees do agree with the interest the services have in developing catchment area demonstration projects to reduce CHAMPUS costs and would be willing to look at funding these projects with CHAMPUS funds when willing to look at funding these projects with CHAMPUS funds when the projects are ready for implementation, if funding is available with the amounts designated for CHAMPUS.

[In thousands of dollars]

	Request		Reduction		Appropriated
	Claims	Dental	Claims	Dental	
Army	693,500	40,000	−44,200	−10,700	−678,600
Navy	811,100	46,800	−50,700	−11,000	−796,200
Air Force	559,300	32,200	−35,100	−4,500	−551,900
	2,063,900	119,000	−130,000	−26,200	−2,026,700

Flush year 1988 funding for medical programs:

The conferees agree to the following reductions for medical programs:

[In thousands of dollars]

	DRGs	Dental	Other	Total
Army	−44,200	−10,700	−8,400	−63,300
Navy	−50,700	−11,000	−13,200	−74,900
Air Force	−35,100	−4,500	−22,500	−62,100
	−130,000	−26,200	−44,100	−200,300

Nonphysican health care providers

The conferees agree with the Senate position on the establishment of separate Department of Psychology at an Army and Air Force installation in addition to the Department of Psychology at the Bethesda Naval Hospital. Additionally, the conferees agree with the Senate position on professional nurses and clinical autonomy.

The conferees agree that the Department of Defense should test the concept of a separate Department of Optometry within the services. However, the conferees agree that it should first be tested by one service with the understanding that if this is a success the other services would follow. The Department of Defense should notify the House and Senate Committees on Appropriations of which service shall take the lead on this project and when it will be implemented.

Management of health affairs

The conferees are concerned about the management of certain programs by the Office of the ASD (HA). In the case of CHAMPUS oversight and health care budgeting, the conferees are concerned that the ASD (HA) has overlapping program management and unnecessary staffing levels. The conferees agree that these issues are best addressed in a congressional hearing format and plan to do so in the future.

Health professions initiatives

The conferees agree with the House provision allowing the waiver of wage rates for certain health professions.

PRIMUS/NAVCARE user fees

The conferees agree to the Senate's position concerning the imposition of user fees at PRIMUS and NAVCARE facilities and no fees will be imposed in fiscal year 1988. Additionally, the conferees agree to the House position on funding and have not made an offsetting reduction in the military personnel accounts for this new benefit. However, the conferees are very concerned about the cost of this program, especially the cost overruns and the overutilization of these clinics.

Therefore, the conferees agree to a provision which directs the Department of Defense Inspector General (DOD(IG))a to conduct an inspection, audit and evaluation of the current and proposed PRIMUS and NAVCARE facilities and contracts. The conferees would like the DOD IG to inspect the facilities and evaluate both the management of these facilities and the management of the contracting process, with recommendations for improvement. Additionally, the DOD IG should audit the budgeted and actual costs of the clinics, the cost comparison of this care with CHAMPUS, and provide guidance on how to ensure reasonable cost expenditures for the clinics. Finally, the DOD IG should evaluate the level of care offered by these clinics and contracts, and provide recommendations on the most cost effective method of providing this level of care.

The conferees request the DOD IG is to keep the Committees on Appropriations of the House and Senate informed as items of interest are audited or evaluated, and submit a final report by August 1, 1988.

OPERATION AND MAINTENANCE, ARMY

The conferees agree to provide $20,853,205,000 instead of $20,683,277,000 as recommended by the House and $20,941,050,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	House	Senate	Conference
OPERATION AND MAINTENANCE, ARMY			
Expense investment criteria		−38,000	−15,000
Inflation	−62,400	−62,400	−62,400
Foreign currency financing	−401,700		
DLA surcharge	−86,100	−72,814	−72,814
FERS economic assumptions	−64,639		
NAF activities	−34,000	−31,500	−34,000
Medical	−60,000	−66,100	−63,300
HQ operations	−32,500		−32,500
Travel/transportation	−32,200	−103,006	−87,300
Depot maintenance	+250,000		+150,000
Leased telecommunications	−20,000	−10,000	−20,000
Automatic data processing	−194,000	−30,000	−75,000
Training	−14,800		−11,278
Education	−13,300	−480	−8,661
Command, control and communications	−38,500	−25,000	−38,500
Classified programs	−12,278	−7,236	−7,556
Overseas banking	−12,300	−12,300	−12,300
Savings	−73,300	−17,600	−43,300
INSCOM real property maintenance	−2,000	−2,000	−2,000
Force modernization	−50,600	−67,300	−67,300
PCS travel	−2,100	−2,100	−2,100
Technology test bed	−5,800		−5,800
Health promotion	−1,200		−1,200
Inventory accountability	+9,400		+9,400
Base operating support	−271,300	−271,300	−271,300
Contractor support services	−21,900	−26,556	−26,556
Asset capitalization prog	−15,900	−31,700	−23,800
Acquisition personnel	−32,000		
Stock fund policy	−100,000	−133,610	−133,610
FERS population assumptions	−38,300		
Recruiting/advertising	−3,400	−10,940	−7,200
Japanese defense contribution		−22,905	−22,905
Civilian endstrength		−26,849	
Supply operations		−21,009	−21,009
Manpower savings		−52,000	−52,000
Student dependent travel		−2,000	−2,000
Helicopter flying hours		−11,000	−11,000
Other personnel activities		−35,000	−35,000
Training support		−30,000	−30,000
AIDS education		+3,000	+3,000
Work-year pricing		−80,614	−102,900
Claims, Defense transfer		+120,975	
Civilian personnel			−28,000
Total Army	−1,437,117	−1,179,344	−1,267,189

DEPOT MAINTENANCE

The conferees agree to provide an increase of $150,000,000 above the budget as was authorized. The conferees also agree to the reporting requirements in the House report.

AUTOMATIC DATA PROCESSING

The conferees agree to a reduction of $75,000,000 in the following areas:

Corporate data base	−$12,300,000
Commodity control standard system	−9,400,000
Studies	−30,000,000
Maintenance contracts	−20,000,000
Supplies	−3,300,000

SAVINGS

The conferees agree to a reduction of $43,300,000 due to fielding of ADP systems (−$20,000,000), Japan base labor contracts (−$17,600,000), and battery management (−5,700,000).

OPERATION AND MAINTENANCE, NAVY

The conferees agree to provide $23,601,462,000 instead of $23,901,188,000 as recommended by the House and $23,791,997,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	House	Senate	Conference
OPERATION AND MAINTENANCE, NAVY			
Flying hours	−14,000	−4,000	−14,000
Ship/aircraft modernization	−12,700		−12,700
Ship operations	−5,300		−5,300
Expense investment criteria		−48,400	−24,700
Inflation	−93,700	−113,700	−93,700
Foreign currency financing	−67,800		
DLA surcharge	−106,400	−89,820	−89,820
FERS economic assumptions	−73,890		
NAF activities	−10,000	−14,500	−10,000
Medical	−72,300	−77,000	−74,900
HQ operations	−20,900	−7,100	−20,900
Travel/transportation	−21,500	−50,797	−45,200
Depot maintenance	−161,700	−321,757	−285,000
Leased telecommunications	−20,000	−10,000	−20,000
Automatic data processing	−26,600		−26,600
Training	−18,000		−17,245
Education	−1,500	−1,580	−1,500
Command, control and communication	−32,500	−50,000	−32,500
Classified programs	−21,852	−9,533	−12,805
Overseas banking	−7,700		
Savings	−217,500	−47,500	−112,400
Persian Gulf operations	+100,000		+100,000
Recruiting/advertising	−21,200		−10,600
Stock fund refund	−360,000		−390,000
Stark "lessons learned"			+38,000
Industrial fund pass-thru	−191,100	−191,100	−191,100
Coast Guard operations	+100,000		
Base operating support	−76,000	−101,320	−76,000
Bone marrow registry	+2,100		
ASW system maintenance	−9,800	−9,800	−9,800
Contractor support services	−14,600	−70,666	−70,666
Asset capitalization	−71,300	−142,500	−106,900
Acquisition personnel	−57,000		
Submarine silencing	+24,900		+24,900
Budget amendment	−32,000		
Stock fund policy	−100,000	−102,074	−102,074
FERS population assumptions	−39,800		
Japanese defense contribution		−48,341	−48,341
Civilian endstrength		−49,502	
Supply operations		−15,426	−15,426
Manpower savings		−31,600	−31,600
Student dependent travel		−700	−700
Work-year pricing		−89,959	−113,690
Midway deactivation		−108,994	−25,000
Trident support		−18,100	−18,100
P-3 aircraft maintenance		−10,001	−10,001
Sea college		−300	−300
Other authorization reductions		−44,700	−44,700
AIDS education		+3,000	+3,000
Claims, Defense transfer		+16,937	
Civilian personnel			−53,000
Total, Navy	−1,751,642	−1,860,833	−2,051,368

MEMPHIS NAVAL AIR STATION

The Memphis Naval Air Station at Millington, Tennessee is, and has been for years an important United States Naval facility that cannot be duplicated. The facility has provided and continues to provide flight operations, medical facilities, important training programs, and many other vital support functions that are needed to perform the overall defense mission.

Therefore, it is of concern to the conferees that efforts are being taken to transfer some of the functions which have been performed at the Memphis Naval Air Station to other locations, thus weakening this vital defense mission. Over the years, similar efforts have been made to transfer functions from the Memphis Naval Air Station for questionable reasons. This issue was considered in 1984 at which time it was settled that the Station would continue its activities in place then.

The conferees find any effort to reduce civilian and military personnel levels, to reduce, transfer, downgrade or downsize current activities or facilities at the Memphis Naval Complex totally unacceptable. Therefore, the conferees direct the Department of the Navy to maintain civilian and military personnel levels and facilities at the fiscal year 1984 levels.

The conferees specifically intend that the Naval Medical facilities at Millington not only be maintained at the fiscal year 1984 personnel levels but that these personnel slots be filled and fully manned.

DEPOT MAINTENANCE

The conferees agree to a reduction of $285,000,000 in the following areas:

Unnecessary voyage repairs	−$21,651,000
Inactive ship upgrades	−17,990,000
Aircraft maintenance	−36,700,000
Overhauls accomplished with 1987 funds	−190,663,000
Other rescheduling changes	−17,996,000

The conferees also agree to the Senate recommendation that funds previously programmed for overhaul and operation of the U.S.S. *Andrew Jackson*, SSBN-619, should be applied to other planned overhauls and emergent work packages in 1988, including specific actions to alleviate manpower reductions and disruption in efficient workload scheduling at Charleston Navy Ship Yard related to the decision on the U.S.S. *Andrew Jackson*. The conferees expect that specific actions with respect to the U.S.S. *Andrew Jackson* be consistent with the provisions of Public Law 100-180.

RETIREMENT OF THE U.S.S. *MIDWAY*

The conferees do not agree with the Senate recommendation to decommission the U.S.S. *Midway* in fiscal year 1988. The conferees are concerned, however, about the viability of operating the U.S.S. *Midway* beyond the fiscal year 1989-1990 timeframe. The conferees recommend a reduction of $25,000,000 and direct that no major overhaul work be done on the U.S.S. *Midway* without prior Congressional approval. The fiscal year 1989 budget should clearly justify future Navy plans for the U.S.S. *Midway*.

READY RESERVE FLEET

The conferees do not agree to the Senate bill language which transfers funding responsibility for maintenance of the Nation's Ready Reserve Fleet from the Navy to the Maritime Administration. However, it is evident that the current financial arrangement between the two Agencies is inadequate, since funding and program responsibility are disjointed. The conferees believe that it should be the responsibility of the executive branch to solve the management problems and territorial disputes that have evolved since 1982 when the Office of Management and Budget changed the financial arrangement that had existed prior to that time. The conferees have included bill language which requires the executive branch to recommend a resolution to this issue in the fiscal year 1989 budget submitted to the Congress. Then Legislative and Appropriations Committees will have ample time to conduct formal hearings and to recommend further legislative proposals if required at that time.

Further, the Committee directs the Department of the Navy and the Department of Transportation to collaborate equally to perform a study of the feasibility of various alternatives for manning government-owned reserve sealift ships during military surge sealift. The alternatives examined should include assignment of manning responsibility to the Naval Reserve and the increased use of reserve sealift ships for the training of Naval Reservists. The study should examine the feasibility, costs, and benefits of recruitment of private sector merchant marine manpower into the Naval Reserve. The Committee directs completion of this study from the Department of Defense and the Department of Transportation by May 1, 1988.

Vessels in the Ready Reserve Fleet may not be used to carry Department of Defense cargoes or to substitute for or displace privately-owned U.S. flag vessels except in case of a sealift surge capacity requirement, exercise or emergency, or activities incidental to Ready Reserve Fleet use by Naval Reservists in training.

U.S.S. *STARK* "LESSONS LEARNED"

The conferees have provided $38,000,000 for additional firefighting and other equipment and supplies on Navy ships in light of lessons learned from the attack on the U.S.S. *Stark*.

SUBMARINE SILENCING EQUIPMENT

The conferees recommend $24,900,000 for the Special Hull Treatment Program. The recommended addition is intended for special hull treatment of three SSN 637 class submarines during scheduled overhauls in fiscal year 1988 to enhance operating quietness.

BONE MARROW REGISTRY

The conferees agree to provide $2,100,000 for the national bone marrow registry as recommended by the House, but in the Research, Development, Test and Evaluation Navy appropriation rather than Operation and Maintenance.

SHORT-TERM NAVAL VESSEL REPAIR WORK

The conferees did not include the general provision proposed by the House concerning short-term naval vessel repair work because identical legislation has been enacted in the Department of Defense Authorization Act for fiscal year 1988. Therefore, as stated in the House Report, no Naval Reserve vessels homeported on the West Coast may be reserved to their homeports for the purpose of short-term repair work of less than six months duration.

COAST GUARD

The conferees have included a general provision which requires the Secretary of Defense to make available to the U.S. Coast Guard without reimbursement not less than $105,000,000 in commodities, training, maintenance, and other operational support needed for that Agency's defense mission. The conferees understand that currently the Coast Guard obtains many critical supplies and equipment, such as fuel and other operational support, from the Department of Defense. Through this provision the Coast Guard and the Department of Defense will negotiate this transfer of supplies and equipment to the Coast Guard from defense stocks with no administrative cost charged to the Coast Guard. The conferees believe that the economies of scale realized due to combined purchasing by the Department of Defense for such items will maximize the return of this credit, further enhancing the defense readiness posture of the Coast Guard. The Commandant of the Coast Guard should report to the House and Senate Committees on Appropriations the details of this commodity and supply transfer no later than March 31, 1988.

The general provision also makes available $33,000,000 for certain purposes in order to facilitate execution of drug interdiction programs funded in the FY 1987 Omnibus Drug Supplemental Appropriation Act.

NEW THREAT UPGRADE

The conferees have included bill language which requires one overhaul in fiscal year 1988 to be accomplished in the Philadelphia Naval Shipyard, and for remaining overhauls in the new threat upgrade program to utilize full and open competition among public and private shipyards qualified for overhaul work.

RAST HELICOPTER RECOVERY SYSTEMS

The conferees do not agree to the bill language recommended by the House which prohibits the installation of single RAST helicopter systems during destroyer overhauls. The conferees do, however, agree that after September 30, 1988 only dual-RAST helicopter recovery systems shall be installed on DD-963 class destroyers. The conferees expect the Department to expeditiously comply with this direction in order to avoid future legislative requirements. It should be noted that these issues will be discussed in detail during the upcoming budget hearings.

INTERPORT DIFFERENTIAL

The conferees agree to retain the general provision on interport differentials, which was enacted into law in fiscal year 1987, this year. It precludes use of an interport differential factor in evaluation of bids on contracts for overhauls on the West Coast of the United States.

OPERATION AND MAINTENANCE, MARINE CORPS

The conferees agree to provide $1,819,188,000 instead of $1,840,992,000 as recommended by the House and $1,799,714,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	House	Senate	Conference
OPERATION AND MAINTENANCE, MARINE CORPS			
Expense investment criteria		−7,300	−3,500
Inflation	−5,200	−5,200	−5,200
Foreign currency financing	−30,500		
DLA surcharge	−13,000	−11,062	−11,062
FERS economic assumptions	−4,675		
NAF activities	−3,000		−3,000
HQ operations	−2,000	−6,300	−6,300
Travel/transportation	−2,000	−2,155	−1,600
Depot maintenance	+8,600		+4,000
Training	−1,700		−3,700
Savings	−3,000		−3,000
Real property maintenance		−30,000	−15,000
Industrial fund pass-thru	−3,700	−3,700	−3,700
Industrial fund factor	−200		
Supply depot operations	−2,000	−1,576	−2,000
Contractor tech services	−1,000		−1,000
Base operating support	−15,000	−15,000	−15,000
Command, control and communication	−1,000		−1,000
Recruiting/advertising	−4,000	−6,550	−6,550
Asset capitalization prog	−1,100	−2,200	−1,700
MPS maintenance	+10,000		+10,000
FERS population assumptions	−2,900		
Japanese defense contribution		−6,467	−6,467
Manpower savings		−8,600	−8,600
Student dependent travel		−200	−200
Other authorization reductions		−7,000	−7,000
Work-year pricing		−5,343	−7,600
Total, Marine Corps	−77,375	−118,653	−99,179

OPERATION AND MAINTENANCE, AIR FORCE

The conferees agree to provide $19,661,448,000 instead of $19,881,516,000 as recommended by the House and $19,888,916,000 as recommended by the Senate. Details of the adjustment are as follows:

[In thousands of dollars]

	House	Senate	Conference
OPERATION AND MAINTENANCE, AIR FORCE			
Flying hours	−167,200	−60,120	−167,200
SAC refresher flying hours		−13,311	
Expense investment criteria		−28,200	−9,500
Inflation	−66,600	−66,600	−66,600
Foreign currency financing	−106,900		
DLA surcharge	−116,300	−98,257	−98,257
FERS economic assumptions	−49,993		
NAF activities	−28,000	−17,100	−28,000
Medical	−70,300	−53,100	−62,100
HQ operations	−13,600	−41,700	−27,000
Transportation	−97,000	−17,136	−82,600
Depot maintenance	+75,000	−126,765	
Logistics management systems	+42,000		+20,000
Procurement offsets	−30,000	−30,000	−30,000
Leased telecommunications	−70,000	−35,000	−70,000
Automatic data processing	−48,000		−48,000
Training	−3,000		−3,000
Education	−6,600	−1,222	−7,822
Classified programs	−9,473	−11,038	−11,038
Savings	−130,000	−130,000	−130,000
Travel	−5,000	−65,103	−65,100
Shuttle operations	−50,000	−50,000	−50,000
Vandenberg	−50,000		−10,000
Titan missile	−1,200	−1,200	−1,200
Surveill and radars	−25,000		−25,000
Civil Air Patrol	+2,000		+2,000
C–5 trainer	−1,000	−1,000	−1,000
DSCS	−4,200	−4,200	−4,200
Civilian PCS	−7,800	−7,800	−7,800
Cost center	−1,000		
Base operating support	−112,000	−112,000	−112,000
Command, control and communication	−10,000	−10,000	−10,000
Asset capitalization	−25,000	−49,800	−34,700
Acquisition personnel	−87,000		
Small computers	−41,000		
Stock fund policy	−100,000	−52,068	−100,000
FERS population assumptions	−29,600		
Japanese defense contribution		−41,922	−41,922
Contractor support services		−41,462	−48,462
Recruiting and advertising		−6,080	−6,080
Civilian endstrength		−32,649	
Supply operations		−16,992	−16,992
Manpower savings		−24,800	−24,800
Work-year pricing		−52,847	−79,600
Student dependent travel		−1,800	−1,800
Real property maintenance		−50,000	−50,000
EDS/PDS		−24,382	−24,382
USAFE headquarters		−25,000	−25,000
Leather jackets		−7,420	
Air Force historian overpricing		−1,179	−1,179
SOFC transfer		+7,000	+7,000
Decker Field		+500	+500
Other authorization reductions		−54,000	−54,000
AIDS education		+3,000	+3,000
Claims, defense transfer		+23,000	
Civilian personnel			−60,000
Total, Air Force	−1,443,766	−1,436,366	−1,663,834

FUNDING PRIORITIES

The Senate reluctantly agreed to the House and authorized level for flying hours, a reduction of $167,200,000 from the budget request. The conferees agreed to fund Air Force deport maintenance at the President's budget request level, rather than a reduction of $126,765,000 as proposed by the Senate or an increase of $75,000,000 as proposed by the House.

The current budget situation, unfortunately, requires choices to be made between programs that only a few years ago would have been fully funded at the budget request level. Recognizing such priorities must be made, the Senate proposed largely protecting operating tempos and reducing depot maintenance, while the House proposed protecting depot maintenance and reducing operating tempos. Since passage of the Senate bill, the Air Force logistics community impressed upon the conferees the importance of fully funding depot maintenance and logistics support as a top priority. The conference agreement recognizes this tradeoff.

VANDENBERG SPACE SHUTTLE FACILITY

The conferees agree to provide $40,000,000, a reduction of $10,000,000 from the budget request. The Air Force should not expect that the Congress will continue to make annual expenditures of this magnitude for the Vandenberg shuttle complex in future years simply because it might potentially be needed in the late 1990s. The Air Force should take expeditious action to allocate any useful facilities to other programs, such as the Strategic Defense Initiative, Advanced Launch System, Titan, or NASA programs and to mothball those which serve no useful purpose in the foreseeable future. The conferees expect that the Fiscal Year 1989 budget submitted to the Congress will contain an audit trail that clearly tracks such financial allocations.

The conferees further request the Secretary of Defense to provide a report by June 1, 1988 that specifies uses within the next five years for each of the Vandenberg shuttle facilities.

C-130 AIRCRAFT

The conferees direct that an eight C-130E unit be maintained at McChord, Washington and have included bill language for its financing in fiscal year 1988. In addition, the conferees direct that the Air Force proceed with its current plans to transfer C-130E aircraft to Reserve Component units at Rickenbacker AFB, Ohio and K.I. Sawyer AFB, Michigan.

LEATHER JACKETS

The conferees agree to the House funding recommendation which provided no reduction to the budget request. The Air Force may obligate funds as needed without prior advance notification.

AUTOMATIC DATA PROCESSING SYSTEMS

Based upon the three revised budget exhibits for the Department's central design activities and other recently provided information, it is apparent that the Comptroller of the Defense Department is taking the actions necessary to improve the quality of future submissions. Therefore, the conferees do not see a need to cap the funding for the central design activities at this time.

The conferees recognize that the Department is currently undertaking a number of initiatives to streamline its ADP management processes. Since these ongoing efforts could impact the substance of the OSD master plan required by the House, the conferees agree to waive a reporting requirement at this time.

Concerning the Reserve Components Automation System, the conferees agree to the House bill and report language except on the single issue concerning moving the ADP contracting activity to the Army Materiel Command. Concerning the Composite Health Care System, the conferees agree to the language in the Senate report.

In addition, the conferees have included a general provision on supercomputers which modifies the House language to change the term "leading-edge, advanced scientific main-frame computer" to "supercomputer" to make it perfectly clear that this limitation covers supercomputers only and does not apply to other main-frame computers. The conferees can find no reason to believe that the recent procurement of a Japanese-made advanced scientific computer for its Military Airlift Command Deployment Flow Computer System was improper.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

The conferees agree to provide $7,112,951,000 instead of $7,044,011,000 as proposed by the House and $7,176,276,000 as proposed by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	House	Senate	Conference
Inflation	−17,600	−17,600	−17,600
Base operating support	−22,900	−22,900	−22,900
Command, control and communications	−15,000	−15,000	−15,000
AFIS—Stars and Stripes	−2,000	−2,000	−2,000
DCA—CSIF passthrough	−45,600	−45,600	−45,600
Expense/investment		−19,700	−7,468
Travel	−22,500	−26,568	−26,568
Contract support services	−41,236	−11,942	−11,942
Headquarters operations	−5,000		−5,000
Stock fund refund	−4,600		
FERS economic assumption	−52,404		
FERS population assumption	−30,950		
Work-year pricing		−28,789	−83,354
Transportation		−3,200	—
Supply operations		−7,809	−7,809
SOFC transfer		−7,000	−7,000
AFIS	−2,576		−2,576
DCAA	−25,334		−25,334
DISA	−180		
DLA—ready to issue	−39,740		−10,000
DNA	−1,725		−1,725
OIG	−1,162		−581
OSD	−5,938		−5,938
JRAP	−6,500		−2,515
WHS	−8,233		−8,233
OEA	+200		+300
USUHS	+400		+400
NAS	+100		+100
NATO Study	+50		+50
Professional development	—	−3,947	
Foreign currency financing	−6,981		
National defense stockpile transfer			+9,000
Classified programs	−151,487	−119,206	−142,613
Japanese defense contribution		−730	−730
Acquisition personnel	−50,000		
Goldwater-Nichols Act		−94,640	
Civilian personnel			−47,320
Total	−558,896	−426,631	−489,956

Nerve gas agent antidotes

The conferees expect the Defense Logistics Agency to maintain adequate supplies and suppliers of nerve agent antidotes. The conferees understand that the Defense Logistics Agency anticipates procuring $12,900,000 of nerve gas antedote and antedote injectors in 1988.

Economic adjustment planning assistance

Both the House and Senate included bill language making $800,000 available to the Office of Economic Adjustment to conduct community planning assistance grants for installation realignment impacts and for mitigation of operational impacts from encroachment. The House provided additional funds for this purpose, while the Senate provided this funding within total appropriations for Operation and Maintenance, Defense Agencies. The Senate recedes and agrees that such funds be additive and not come from within existing appropriations. Both the House and Senate provided for economic adjustment assistance in Southwestern Louisiana.

In recognition of the importance of community adjustment assistance during a period of budget constraints, the conferees recommend that $900,000 be made available for economic adjustment planning grants. The conferees expect the Department of Defense Comptroller to ensure that these funds are provided in addition to OEA's budget for salaries, expenses and contract planning assistance.

National defense stockpile

The conferees have included an additional $9,000,000 to meet the requirements of the National Defense Stockpile Transaction Fund as provided for in section 101(m) of this Resolution. These funds will continue strategic materials and defense-related research objectives.

OPERATION AND MAINTENANCE, ARMY RESERVE

The conferees agree to provide $857,540,000 instead of $844,851,000 as proposed by the House and $859,703,000 as proposed by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	House	Senate	Conference
Inflation	−1,700	−1,700	−1,700
Base operating support	−2,508	−2,508	−2,508
Travel	−7,083	−4,904	−7,625
Stock fund refund	−7,400		
Keystone contract	−3,627		−3,627
Recruiting/advertising	−2,700		−1,350
FERS economic adjustment	−2,988		
FERS population adjustment	−1,765		
Work-year pricing		−2,974	−4,753
Full-time support (AGR)	−4,481		
Civilian technicians		−7,314	
Total	−34,252	−19,400	−21,563

OPERATION AND MAINTENANCE, NAVY RESERVE

The conferees agree to provide $929,896,000 instead of $926,899,000 as proposed by the House and $940,138,000 as proposed by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	House	Senate	Conference
Inflation	−3,000	−3,000	−3,000
Base operating support	−6,700	−6,700	−6,700
Expense/investment		−1,600	−700
Travel	−2,261	−1,152	−2,861
Stock fund refund	−3,900		
Advertising	−1,291		−1,291
Recruiting/advertising	−7,573		−3,786
Ship maintenance and modernization	−3,926		−3,926
Real property maintenance	+509		+509
P-3 aircraft maintenance		−3,824	−3,824
FERS economic adjustment	−1,031		
FERS population adjustment	−609		
Work-year pricing		−701	−1,640
Full-time support (TAR)	−434		
Total	−30,216	−16,977	−27,219

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

The conferees agree to provide $69,500,000 instead of $67,938,000 as proposed by the House and $68,621,000 as proposed by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	House	Senate	Conference
Inflation	−300	−300	−300
Expense/investment		−200	−100
Travel	−289	−368	−489
Stock fund refund	−1,800		
Base operating support	−900	−1,800	−900
FERS economic adjustment	−74		
Work-year pricing		−72	−72
Full-time support (AGR)	−60		
Total	−3,423	−2,740	−1,861

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

The conferees agree to provide $1,000,981,000 instead of $994,767,000 as proposed by the House and $997,391,000 as proposed by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	House	Senate	Conference
Inflation	−1,000	−1,000	−1,000
Base operating support	−6,600	−6,600	−6,600
Expense/investment		−500	−300
Travel	−205	−530	−405
Transportation	−500		−500
Stock fund refund	−4,200		
Recruiting/advertising	−1,846		−923
WC-130 augmentation	+2,524	+2,624	+2,624
FERS economic adjustment	−6,395		
FERS population adjustment	−3,777		
Work-year pricing		−3,871	−10,172
Full-time support (AGR)	−3		
Paid drill strength	−1,488		
Civilian technician growth		−10,989	
Total	−23,490	−20,866	−17,276

WC-130 Augmentation/Hurricane Reconnaissance. Report language was included in the Supplemental Appropriations Act, 1987, which permitted the conversion of the 815th Air Force Reserve Squadron provided that actions were taken to guarantee sufficient hurricane reconnaissance. Four additional WC-130s were provided the Air Force Reserve to create a twelve aircraft squadron and resulted in a combined active and reserve Air Force flying hour program of 1,600 hours in support of hurricane reconnaissance coverage.

Because the House was still concerned that the Department was not maintaining sufficient weather reconnaissance capability and trained personnel to provide such coverage for its installations and populations, the House directed the Air Force to convert four additional aircraft of the 815th to a dual mission weather reconnaissance and tactical airlift capability. Further, the House directed the Air Force to man these dual capable aircraft resulting in the 815th squadron retaining its trained weather reconnaissance personnel as well as providing needed tactical airlift support. The Senate supported the action taken in the fiscal year 1987 supplemental which supports the one active weather squadron augmented by four reserve weather aircraft.

The conferees agree to the Senate position provided that actions are taken to guarantee additional hurricane reconnaissance is available if required. The Air Force is directed to retain sufficient 815th weather reconnaissance personnel and equipment to the level necessary to protect Defense installations and the population living in the East and Gulf Coast areas of the United States.

Additional funds are provided in the Military Personnel, Operation and Maintenance, and Guard and Reserve equipment (for the Improved Weather Reconnaissance System) appropriations to fully support the personnel and equipment of the Air Force Reserve portion of the hurricane reconnaissance mission. It is the conferees' intent that the Air Force fully man the 815th four weather reconnaissance aircraft.

The conferees also support the House position which directs the Department of Defense to conduct a joint Air Force, Navy, and Department of Commerce study to evaluate operational uses of aircraft reconnaissance data with the primary goal of deciding the complementary versus redundancy roles of aircraft and remote sensing platforms; examine the military requirements for aircraft derived meteorological data including tactical and theater reconnaissance and the role of precise weather intelligence in control of low level conflicts; and to evaluate the vulnerability of satellite platforms performing atmospheric data collection.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

The conferees agree to provide $1,856,542,000 instead of $1,855,978,000 as proposed by the House and $1,838,951,000 as proposed by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	House	Senate	Conference
Inflation	−3,700	−3,700	−3,700
Based operating support	−2,700	−2,700	−2,700
Expense/investment		−300	
Travel	−7,021	−3,018	7,588
Recruiting/advertising	−500		−250
FERS economic adjustment	−7,026		
FERS population adjustment	−4,149		
Work-year pricing		−6,962	−11,175
Armories	+12,500		+12,500
Full-time support (AGR)	−881		
Civilian technicians	+7,303	−6,521	+7,303
Total	−6,174	−23,201	−5,610

Armories. The conferees agree to provide $12,500,000 for federal funding for modifying, repairing, or renovating armories. Since keeping these armories in adequate condition is essential to the morale of the Guard members and the mission of the Guard, the conferees support the House position in encouraging the Defense Department to budget for the federal portion to upgrade Army National Guard armories.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

The conferees agree to provide $1,958,063,000 instead of $1,950,191,000 as proposed by the House and $1,958,737,000 as proposed by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	House	Senate	Conference
Inflation	−2,800	−2,800	−2,800
Expense/investment		−3,500	−1,200
Travel	−218	−1,102	−818
Stock fund refund	−6,300		
Recruiting/advertising	1,323		−661
T-33 contract	+5,000		+5,000
Minot AFB		+2,400	+2,400
FERS economic adjustment	−13,673		
FERS population adjustment	−8,076		
Work-year pricing		−7,490	−21,749
Full-time support (AGR)	−13		
Paid-drill strength	−297		
Civilian technicians	+4,899	−1,763	+4,899
Total	−22,801	−14,255	−14,929

Minot Air Force Base. The conferees agreed to the Senate position to support a new Air National Guard civil engineering unit at Minot Air Force Base, North Dakota.

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

The conferees agree to provide $4,099,000 as proposed by the Senate instead of $4,095,000 as proposed by the House.

CLAIMS, DEFENSE

The conferees agree to provide $193,574,000, the authorization level, instead of $273,574,000 as proposed by the House. The Senate abolished this appropriation, reduced the funds and included bill language to transfer responsibility to the services. The Senate also recommended that claims be paid by the Service that generates such a claim.

Because the House was concerned that the adjudicated NATO-SOFA maneuver damage claims were not being paid in a timely manner, it earmarked funds in the bill to be used only for this purpose.

The conferees instruct the Defense Department to bring this backlog of NATO-SOFA maneuver damage claims under control in fiscal year 1988. Transfer authority available to the Defense Department is available and should be utilized to pay all outstanding claims. If these claims are not paid as they are adjudicated, the Congress will take action, probably in line with the House or Senate actions this year, during its consideration of the fiscal year 1989 budget request.

The conferees also support the House position and request that a report on the status of these claims be submitted to the Appropriations Committees by March 31, 1988.

COURT OF MILITARY APPEALS

The conferees agree to provide $3,241,000 as proposed by the House and Senate. The conferees agree to the reduction breakdown as proposed by the Senate.

ENVIRONMENTAL RESTORATION, DEFENSE

The conferees agree to provide $402,800,000 as proposed by the Senate instead of $392,800,000 as proposed by the House.

HUMANITARIAN ASSISTANCE

The conferees agree to provide $13,000,000 as proposed by the Senate instead of $10,000,000 as proposed by the House. The conferees further agree to the Senate bill language which extends the appropriation availability for one year and requires the Department of Defense to notify the Appropriations Committees 21 days prior to the shipment of humanitarian relief transported and distributed to countries not previously authorized by Congress.

TITLE III—PROCUREMENT

The conferees agree to the following amounts for the Procurement accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
Army:				
Aircraft	2,473,959	2,587,357	2,672,582	2,718,406
Missiles	2,458,466	2,263,628	2,358,150	2,332,237
Weapons, tracked combat vehicles	3,152,537	3,140,637	3,231,313	3,207,187
Ammunition	2,194,275	1,978,413	2,211,723	2,273,592
Other	5,870,860	5,133,387	4,890,326	5,093,549
Total, Army	16,150,097	15,103,422	15,364,094	15,624,971
Navy:				
Aircraft	9,924,883	9,580,206	8,765,346	9,522,299
Weapons	6,502,332	5,365,860	5,944,502	5,967,019
Ships	11,065,355	8,171,655	16,234,255	16,155,355
Other	4,983,827	5,012,295	4,722,334	4,872,461
Coastal defense augmentation		20,000		20,000
Marine Corps	1,402,440	1,273,332	1,332,827	1,295,599
Total, Navy	33,878,837	29,423,348	36,999,264	37,832,733
Air Force:				
Aircraft	14,191,371	11,382,355	13,013,735	12,956,827
Missiles	9,772,693	7,810,893	7,780,295	7,290,771
Other	8,570,482	8,082,632	7,913,593	8,010,827
Total, Air Force	32,534,546	27,275,880	28,707,623	28,258,425
National Guard and Reserve Equipment		912,000	916,000	1,200,000
Defense Agencies	1,292,391	1,195,833	1,194,034	1,266,263
Defense Production Act purchases	30,800	13,000	13,000	13,000
Total Procurement	83,886,671	73,923,483	83,194,015	84,195,392

POLYACRYLONITRILE (PAN) CARBON FIBERS

The conferees strongly support the initiative of the Secretary of Defense to ensure that defense contractors of the United States expand procurement of polyacrylonitrile (PAN) from domestic sources. Given the importance of PAN carbon fibers in present and future defense programs, it is imperative that the United States becomes self-sufficient in meeting critical defense needs as soon as possible. The conferees, therefore, recommend bill language that requires the Department of Defense to achieve 15 percent of the total Department of Defense domestic sourcing of PAN by 1988, 15 percent by 1989, 20 percent by 1990, 25 percent by 1991; and 50 percent by 1992.

The conferees further believe that the Department of Defense methodology of selecting high technology programs and designating them for domestic PAN carbon fiber use is the correct approach. The conferees accordingly recommend that this current policy be expanded to include all new programs utilizing PAN carbon fibers until the domestic source requirement is met.

INDUSTRIAL SPACE FACILITY

The conferees agree that the report directed by the House should be submitted by the Department of Defense by March 21, 1988.

PRECISION OPTICAL COMPONENTS

The conferees are concerned about recent actions by the Army that overturn guidance issued by the Office of the Secretary of Defense relating to procurement of precision optical components from the United States industrial base. The conferees recommend that the proposed Army action be deferred pending a thorough review of the availability of precision opticals from United States suppliers; issuance of a Department of Defense-wide policy governing such acquisitions; and submission of a report to the Committees on Appropriations on the findings and policy recommendations of the Department.

AIRCRAFT PROCUREMENT, ARMY

The conferees agree to the following amounts for the Aircraft Procurement, Army, account:

(In thousands of dollars)

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, ARMY				
AIRCRAFT				
FIXED WING				
GOLDEN KNIGHTS REPLACEMENT AIRCRAFT	13,599	13,599	13,599	13,599
C-20 AIRCRAFT	---	20,000	---	20,000
CESSNA SKYLANE	194	---	194	194
RC-12D RECON AIRPLANE	45,452	39,452	45,452	39,452
ROTARY				
EH-60A HELICOPTER (QUICKFIX) (MYP)	20,706	1,950	20,706	1,950
EH-60A HELICOPTER (QUICKFIX) (MYP) (AP-CY)	9,600	9,600	9,600	9,600
AH-64 ATTACK HELICOPTER (APACHE)	654,585	752,785	811,000	811,000
AH-64 ATTACK HELICOPTER (APACHE) (AP-CY)	---	36,000	36,000	36,000
UH-60 (BLACKHAWK) (MYP)	245,020	273,744	297,820	285,000
UH-60 (BLACKHAWK) (MYP) (AP-CY)	208,400	208,400	208,400	208,400
TOTAL, AIRCRAFT	1,197,556	1,355,530	1,442,771	1,425,195
MODIFICATION OF AIRCRAFT				
OV-1 SURVEILLANCE AIRPLANE (MOHAWK)	17,484	---	17,484	11,300
OV-1 SURVEILLANCE AIRPLANE (AP)	---	---	---	6,184
AIRPLANE, RECON, RU-21H (GR MOD)	3,174	3,174	3,174	3,174
AH-64 MODS	78,751	68,451	68,451	68,451
CH-47 CARGO HELICOPTER MODS (MYP)	168,317	163,317	163,317	163,317
CH-47 CARGO HELICOPTER MODS (MYP) (AP-CY)	63,600	63,600	63,600	63,600
OH-58 OBSERVATION HELICOPTER (KIOWA)	37,011	27,011	28,811	27,011
UH-1 UTILITY HELICOPTER (IROQUOIS)	9,416	9,416	9,416	9,416
UH-60 (BLACKHAWK) MODS	33,798	33,798	33,798	33,798
ARMY HELICOPTER IMPROVEMENT PROG (AHIP)	48,100	149,100	48,100	138,100
ARMY HELICOPTER IMPROVEMENT PROG (AHIP) (AP-CY)	---	22,000	---	22,000
AIRBORNE AVIONICS	972	972	972	972
ASE MODIFICATIONS CLOSE COMBAT	96	96	96	96
ACFT 9WW	25,797	25,797	25,797	25,797
SOF AIRCRAFT MODIFICATIONS	121,792	---	101,700	54,900
TOTAL, MODIFICATION OF AIRCRAFT	608,308	566,732	564,716	628,116
SPARES AND REPAIR PARTS	512,122	512,122	512,122	512,122
SUPPORT EQUIPMENT AND FACILITIES				
GROUND SUPPORT AVIONICS				
AIRCRAFT SURVIVABILITY EQUIP (MYP)	68,692	65,692	65,692	65,692
AIRCRAFT SURVIVABILITY EQUIP (MYP) (AP-CY)	12,000	12,000	12,000	12,000
OTHER SUPPORT				
AVIONICS SUPPORT EQUIPMENT	23,563	23,563	23,563	23,563
COMMON GROUND EQUIPMENT	28,125	28,125	28,125	28,125
AIR TRAFFIC CONTROL	2,885	2,885	2,885	2,885
INDUSTRIAL FACILITIES	17,640	17,640	17,640	17,640
WAR CONSUMABLES	3,068	3,068	3,068	3,068
TOTAL, SUPPORT EQUIPMENT AND FACILITIES	155,973	152,973	152,973	152,973
TOTAL, AIRCRAFT PROCUREMENT, ARMY	2,473,959	2,587,357	2,672,582	2,718,406

AH-64 APACHE AIRCRAFT

The conferees agree that 18 AH-64 Apache attack aircraft shall be assigned to the National Guard, as proposed by the Senate.

OV-1 SURVEILLANCE AIRCRAFT MODIFICATIONS

The Senate bill included $17,484,000, the budget request, for OV-1 modifications. The House bill denied the entire request based on violation of full funding and premature procurement.

The conference agreement provides the budget request. Of the total, $6,184,000 is provided on a new advance procurement line for the Block II mod program. Before obligating these funds, the Army is directed to submit a complete Block II program profile, properly funded in accordance with Departmental policies and procedures. The submission shall include a justification for the use of long lead funding, program milestones, delivery schedule, and results of tests to date.

The remaining $11,300,000 for the UPD-7 upgrade may be obligated only after the Army has submitted a complete program plan and profile, including milestones and results of tests to date.

OH-58 MODIFICATION

The conferees agree to provide $27,011,000 for OH-58 modifications, as proposed by the House. The conferees direct that these funds be used for no other purpose than that for which they were budgeted and justified to Congress.

SPECIAL OPERATIONS FORCES MODIFICATIONS

The conferees agree to $54,900,000 for special operations forces modifications, including $11,200,000 for FLIR's for previously modified aircraft. The conferees direct the Army to submit for approval an allocation of the remaining amount. If the Army proposes to use a portion of the funds for advance procurement, a reprogramming shall be submitted to establish a new P-1 line.

MISSILE PROCUREMENT, ARMY

The conferees agree to the following amounts for Missile Procurement, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
MISSILE PROCUREMENT, ARMY				
Other missiles:				
Surface-to-Air Missile System:				
Chaparral	34,189	30,189	30,189	30,189
Air defense SYS heavy	59,391	59,391		
Air defense SYS heavy (AP)		33,500	5,000	33,500
Other missile support	4,505	4,505	4,505	4,505
Patriot (MYP)	851,442	832,442	832,442	832,442
Patriot (MYP) (AP-CY)	40,100	40,100	40,100	40,100
Stinger (MYP)	154,153	135,953	125,953	125,953
Stinger (MYP) (AP-CY)	45,500	45,500	45,500	45,500
Stinger pedestal mount	55,833	55,833	43,633	43,633
Air-to-surface missile system: laser hellfire system	168,358	168,358	203,358	203,358
Antitank/assault missile system: tow 2 (MYP)	131,239	109.039	159,739	159,739
Multiple launch rocket system (MYP)	424,429	399,429	416,229	416,229
Multiple launch rocket system (MYP) (AP-CY)	22,700			
Army tactical missile system (ATACMS)	15,125	7,325		7,325
Army tactical missile system (ATACMS) (AP-CY)	1,800	1,800	1,800	1,800
Total, other missiles	2,008,764	1,923,364	1,908,448	1,944,273
Modification of missiles:				
Modifications				
Patriot	40,000	16,300	40,000	29,000
Chaparral	31,228	31,228	31,228	31,228
Hawk	35,671	35,671	35,671	35,671
Tow	18,021	18.021	18.021	18.021
Dragon	7,258	7,258	7,258	7,258
Lance	15,338		15,338	
Pershing	9,293	9,293	9,293	9,293
MLRS	4,506	4,506	4,506	4,506
Total, modification of missiles	161,315	122,277	161,315	134,977
Spares and repair parts	246,600	176,600	246,600	211,600
Support equipment and facilities air defense targets	21,363	21,363	21,363	21,363
Items less than $2.0M (missiles)	2,140	1,740	2,140	1,740
Production base support	11,574	11,574	11,574	11,574
Classified programs	6,710	6,710	6,710	6,710
Total, support equipment and facilities	41,787	41,387	41,787	41,387
Total, Missile Procurement, Army	2,458,466	2,263,628	2,358,150	2,332,237

CHAPARRAL

The conferees agree to provide $30,189,000 for initial procurement of Rosette Scan Seeker (RSS) Chaparral missiles, to rescind $13,000,000 of fiscal year 1986 funds as proposed by the Senate, and to refrain from rescinding $28,500,000 of unused fiscal year 1987 funds. The conferees also agree to provide $31,228,000 for Chaparral Modifications, of which $17,900,000 is for new RSS units for retrofitting onto inventory missiles. The sum of fiscal year 1987 and funds thus made available for RSS initial production is $76,589,000.

Both the House and Senate stated their disagreement with the Army's proposed acquisition plan, based on the lack of a proven technical data package (TDP) and on the inadequate time allowed to select and facilitize a second source. The conferees direct the Army to modify that plan to incorporate the following points: $70,237,000 of the funds available are to be used to procure a negotiated initial Lot I buy from the developer, with stringent requirements for ensuring the validity of the TDP; the remaining $6,352,000 are to be used to competitively select and begin facilitization of a second source; fiscal year 1989 funds are to be requested for Lot IIA, for completing second source facilitization, and for an educational Lot IIB buy from the second source, which will have been provided a validated TDP; full head-to-head competition is to take place beginning with Lot III fiscal year 1990 procurement. Given the urgency which the Army assigns to upgrading its air defenses, the contract for Lot I production is to be awarded not later than April 1, 1988. A revised program acquisition plan for RSS Chaparral is to be submitted with the fiscal year 1989 budget request.

FORWARD AREA AIR DEFENSE

LINE-OF-SIGHT FORWARD-HEAVY

The conferees agree to provide for Line-of-Sight Forward-Heavy the sums of $33,500,000 for advance procurement and $99,000,000 for RDT&E. Included in RDT&E are funds for purchase and operational test of the pre-production fire units.

The conferees extend their sincere congratulations to the Army for the speed and thoroughness with which candidates were evaluated and a winner chosen. Last year, the conferees directed a date certain for selection, based on the extreme urgency of fielding an adequate air defense system. That urgency remains, and immediate steps must be taken to begin production of units which will meet the near term requirements, while operational testing proceeds in parellel. Accordingly, the conferees agree to delete Senate report language which restricts obligation of advance procurement funds, to delete Senate bill language which restricts obligation of procurement funds, and to set aside the restrictions contained in Section 111(d) of the National Defense Authorization act for Fiscal Years 1988 and 1989. The conferees agree that prior to awarding a contract for procurement of the full objective system, the Army is to submit a report to the Congress which outlines acquisition strategy, cost data, and performance warranties by the contractor, and an operation test plan approved by the Director for Operational Test and Evaluation.

TOW 2

The conferees agree to provide $131,239,000 for procurement of 9,416 TOW 2 missiles. The conferees also agree to provide an additional $28,500,000 for an additional 2,500 missiles, subject to authorization.

The most recent proposal by the Army is that it be allowed to award a multi-year procurement (MYP) contract to the current sole source producer. Previously, the Army had wished to pursue a second source strategy. The conferees agree that the documentation submitted by the Army is flawed, and that its economic analysis is inadequate to support making a choice between the two approaches. On the other hand, if an MYP turns out to be justified, much time would be lost if MYP authority has not been provided in the fiscal year 1988 appropriation. The conferees have therefore provided bill language which allows MYP of TOW 2, provided that the Secretary of Defense first certifies that a valid economic analysis has established that MYP is less costly than second source competition.

LASER HELLFIRE

The conferees agree to provide $168,358,000 for procurement of 5,000 Laser Hellfire missiles. The conferees also agree to provide an additional $35,000,000 for an additional 1,000 missiles, subject to authorization. The conferees direct the Army to budget for at least 6,000 missiles per year over the next five years, starting with the fiscal year 1989 budget.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

The conferees agree to the following amounts for the Procurement of Weapons and Tracked Combat Vehicles, Army, account:

[in thousands of dollars]

	Budget	House	Senate	Conference
PROCUREMENT OF W&TCV, ARMY				
Tracked Combat Vehicles:				
Bradley Fighting Vehicles (MYP)	699,400	684,400	681,000	681,000
Bradley Fighting Vehicles (MYP) (AP-CY)	37,100	35,500	35,500	35,500
Bradley FVS Training Devices (MOD)	5,900	5,900	5,900	5,900
Field Artillery Ammunition Support VEH	28,000	68,400	28,700	28,700
Recovery Vehicle, MED, FT, M88A1 (AP-CY)	24,100	24,100	24,100	24,100
Abrams Tank Series Roll (MYP)	1,354,700	1,354,700	1,451,150	1,451,150
Abrams Tank Series Roll (MYP) AP-CY)	156,000	166,000	156,000	166,000
M1 Series Tank Training Devices	4,700	4,700	4,700	4,700
Modification of Tracked Combat Vehicles:				
Carrier, MOD	42,600	36,300	42,600	36,300
BFVS Series (MOD)	52,100	45,100	52,100	45,100
Howitzer, MED SP FT 155MM M109 SER (MOD)	28,200	1,374		1,374
Howitzer, MED SP FT 155MM M109 SER (MOD) (AP-CY)		12,726	12,726	12,726
Tank, Combat, FT, 105MM, Gun, M60SER (MOD) (MYP)	23,300	23,300	108,300	90,000
Tank, MI Series (MOD)	37,500	30,200	34,100	30,200
9ww	700	700	700	700
Host Nation Support	29,700	29,700	29,700	29,700
Support Equipment and Facilities:				
Spares and Repair parts	398,400	418,400	371,700	371,700
Items Less Than $2.0M (TCV-WTCV)	1,900	1,900	1,900	1,900
Production Based Support (TCV-WTCV)	28,731	28,731	28,731	28,731
Regional Maintenance Training Sites-equip	17,100	17,100	17,100	17,100
Total, Traced, Combat Vehicles	2,970,831	2,989,231	3,086,707	3,062,581
Weapons and Other Combat Vehicles:				
Howitzer, Light, Towed, 105MM, M119	29,900	37,700	29,900	29,900
Squad Automatic Weapon (SAW) 5.56MM	12,100	12,100	12,100	12,100
Grenade Launcher, Auto, 40MM, MK19-3	13,800		1,000	1,000
Launcher, Smoke Grenade	1,900	1,900	1,900	1,900
Mortar 120MM	20,900			
M16 Rifle	26,100	26,100	26,100	26,100
Sniper Weapon System	1,900	1,900	1,900	1,900
Personal Defense Weapon, 9MM	5,300	5,300	5,300	5,300
VEH Rapid Fire WPN SYS-Bushmaster (MYP)	25,800	22,400	22,400	22,400
VEH Rapid Fire WPN SYS-Bushasmter (MYP) (AP-CY)	2,100	2,100	2,100	2,100
Modification of Weapons and Other COMBA:				
M16A1 Rifle MODS	5,400	5,400	5,400	5,400
Modifications Under $2.0M (WOCV-WTCV)	4,500	4,500	4,500	4,500
Support Equipment and Facilities:				
Spares and Repair Parts	12,000	12,000	12,000	12,000
Items Less Than $2.0M (WOCV-WTCV)	3,300	3,300	3,300	3,300
Production Base Support (WOCV-WTCV)	16,706	16,706	16,706	16,706
Total, Weapons and Other Combat Vehicles	181,706	151,406	144,606	144,606
Total, Procurement of W&TCV, Army	3,152,537	3,140,637	3,231,313	3,207,187

ARMORED RECOVERY VEHICLE

The conferees agree to provide $24,100,000 for advance procurement of the M88A2 armored recovery vehicle. The conferees further agree that these funds may be obligated for long lead items that are common with the M88A1 recovery vehicle currently in production to the maximum extent possible.

The conferees agree with the Senate's concern with the potential weight growth of the M-1 series tank and therefore jointly direct the Secretary of the Army to (1) certify to the Committees on Appropriations the maximum weight growth of the M1 series tank and (2) conduct all testing of follow-on recovery candidates systems, including the M88A2, at that maximum weight.

The conferees fully expect that the ARV-90 candidate system shall be fully tested and a side-by-side analysis conducted of the M88A2 and the ARV-90. The results of these tests shall be submitted to the Secretary of Defense who shall certify that the tests were adequate, that the results are accurate, and that the chosen system is the more cost-effective. The certification shall be submitted prior to entering a low rate initial production contract.

The Army shall take no contract action that would prevent either candidate system from being selected as the follow-on armored recovery vehicle.

PROCUREMENT OF AMMUNITION, ARMY

The conferees agree to the following amounts for the Procurement of Ammunition, Army, account:

(In thousands of dollars)

	Budget	House	Senate	Conference
PROCUREMENT OF AMMUNITION, ARMY				
AMMUNITION				
ATOMIC MATERIEL				
NUCLEAR WEAPONS SUPPORT MATERIEL........................	2,366	4,266	2,366	2,366
CONTROLLED ITEMS				
CTG, 5.56MM, BALL M193..................................	8,181	8,181	8,181	8,181
CTG, 5.56MM, TRACER.....................................	---	2,200	---	2,200
CTG, 5.56MM, TRACER CLIP................................	1,182	1,182	1,182	1,182
CTG, 5.56MM, BLANK M200.................................	16,263	16,263	16,263	16,263
CTG, 5.56MM, BLK M200, LKD F/SAW........................	5,914	5,914	5,914	5,914
CTG, 5.56MM, BALL M16-A2................................	8,082	8,082	8,082	8,082
CTG, 5.56MM, PLASTIC M862...............................	2,661	2,661	2,661	2,661
CTG, 5.56MM, TRACER M16-A2..............................	4,929	4,929	4,929	4,929
CTG, 7.62MM, 4 BALL M80/1 TRCR M62 LKD..................	14,291	14,291	14,291	14,291
CTG, 7.62MM, BLANK M82 LKD/M13..........................	13,010	13,010	13,010	13,010
CTG, CAL .45, BALL M1911................................	1,281	---	1,281	1,281
CTG, CAL .50, PLASTIC LKD 4 BALL/1 TRACER...............	2,267	2,267	2,267	2,267
CTG, 20MM, LKD TP-T M220 SERIES MLB M14A2...............	12,616	12,616	12,616	12,616
CTG, 20MM, LKD 4 TP M55A2/1TP-T M220....................	4,041	4,041	4,041	4,041
CTG, 25MM, HEI-T M792 W/F...............................	6,899	---	---	---
CTG, 25MM, TPT LKD M793 MLB M28.........................	11,039	11,039	11,039	11,039
CTG, 25MM, AP TRAINING RD...............................	---	15,000	---	15,000
CTG, 40MM, HEDP M430....................................	9,856	4,856	4,856	4,856
CTG, 40MM, TP F/MK19....................................	28,485	28,485	28,485	28,485
CTG, 40MM, GREEN STAR PARACHUTE.........................	2,267	2,267	2,267	2,267
CTG, 40MM, PRAC M781....................................	3,154	3,154	3,154	3,154
CTG, 40MM, WHITE STAR CLUSTER M585 F/LCHR M7............	6,505	6,505	6,505	6,505
CTG, 40MM, RED STAR, PARACHUTE..........................	1,675	1,675	1,675	1,675
CTG, 40MM, CS M651......................................	2,563	2,563	2,563	2,563
CTG, 60MM, ILLUM LWCMS XM721............................	7,787	7,787	7,787	7,787
CTG, 60MM, SMK WPLWCMS XM722............................	4,533	4,533	4,533	4,533
CTG, 60MM, HE M720W/M734 MOF............................	26,809	26,809	26,809	26,809
60MM METAL PARTS..	---	---	---	9,600
CTG, 81MM, HE, M821 W/FUZE M734 MO......................	60,222	60,222	60,222	60,222
CTG, 81MM, 1/10 RNG, PRAC,M880..........................	4,830	4,830	4,830	4,830
CTG, 4.2-INCH, HE M329A2 W/O FUZE.......................	19,712	33,412	19,712	19,712
CTG, 120MM, HE, XM933, W/FUZE M734 MO...................	12,222	---	---	---
CTG, 120MM, HE W/PD FUZE................................	4,435	4,435	---	4,435
CTG, 120MM, ILLUM, XM930................................	19,023	---	---	---
CTG, 120MM, SMOKE, XM929................................	9,856	---	---	---
CTG, 120MM, TNG 1/10....................................	2,070	2,070	---	2,070
CTG, 105MM, BLANK M395..................................	3,154	3,154	3,154	3,154
CTG, 105MM, ILLUM, F/105, M314..........................	18,530	18,530	18,530	18,530
CTG, 105MM, TP-T, M490..................................	4,928	---	4,928	4,928
CTG, 105MM, DS-TP M724..................................	37,848	25,448	25,448	25,448
CTG, 105MM, APFSDS-T M833...............................	32,526	32,526	32,526	32,526
CTG, 120MM, APFSDS-T M829...............................	77,273	77,273	77,273	77,273
CTG, 120MM, HEAT-MP-T,M830 (MYP)........................	53,026	53,026	53,026	53,026
CTG, 120MM, TP-T M831 (MYP).............................	63,573	63,573	63,573	63,573
CTG, 120MM, TPCSDS-T, M865 (MYP)........................	83,680	83,680	83,680	83,680
CTG, SUBCAL 35MM, F/TANK................................	1,971	1,971	1,971	1,971
PROJ, 155MM, HE,ICM M483................................	98,735	98,735	98,735	98,735
PROVE-OUT M483..	---	5,600	---	5,600
M42/M46 GRENADE PARTS...................................	---	---	---	13,300
PROJ, 155MM, ILLUM M485.................................	43,565	43,565	43,565	43,565
PROJ, 155MM, SMK, WP, M825..............................	34,004	23,404	23,404	23,404
PROJ, 155MM, HE, ADAM M731..............................	45,438	29,700	---	29,700
PROJ, 155MM, HE, RAAMS M718.............................	31,653	16,000	9,170	16,000
PROJ, 155MM, BASEBLEED, XM864...........................	70,125	30,000	40,125	70,125
PROJ, 155MM, HE, COPPERHEAD (EA)........................	100,560	117,860	100,560	117,860
PROJ, 155MM CHEM GB-2...................................	59,335	59,335	59,335	59,335
PROJ, 155MM, TRAINING, M804.............................	14,489	14,489	14,489	14,489
CHARGE, PROPELLING, M155MM, GREEN BAG M3................	---	8,600	---	---
CHARGE, PROPELLING, M155MM, RED BAG M203................	108,911	108,911	108,911	108,911
CHARGE, PROPELLING, M155MM, RED BAG M119................	19,713	39,413	19,713	19,713
PROJ, 8-INCH, HE, RAP, M650.............................	42,382	42,382	42,382	42,382
FUZE, PROXIMITY, M732...................................	24,246	---	---	---
FUZE, PD M739/M739A1....................................	---	9,700	---	---
FUZE, MTSQ M577/M577A1..................................	43,171	43,171	43,171	43,171
FUZE, MTSQ M582/M582A1..................................	11,729	11,729	11,729	11,729
PRIMER, PERC, M82.......................................	2,562	2,562	2,562	2,562
TRAINING DEVICE, MINE SYSTEM............................	5,026	5,026	5,026	5,026
GROUND IMP MINE SCAT SYS AP M74(MYP)....................	6,505	---	---	---
GROUND IMP MINE SCAT SYS AT M75(MYP)....................	5,323	42,523	5,323	15,000
CANISTER MINE PRACTICE XM88 (VOLCANO)...................	1,577	577	577	577
CANISTER MINE (VOLCANO) XM87............................	34,497	18,697	18,697	18,697
MTR RKT 5 IN MK22 MOD4..................................	13,700	5,000	5,000	5,000

(In thousands of dollars)

	Budget	House	Senate	Conference
LINE CHARGE M58A3 (MICLIC)	29,273	20,573	20,573	20,573
MODULAR PACK MINE SYSTEM	62,489	51,849	51,849	51,849
PURSUIT DETERRENT MUNITION	12,123	12,123	12,123	12,123
DEMOLITION MUNITIONS & OTHER	28,485	22,374	28,485	28,485
CTG, 105MM HERA XM913	7,885	---	---	---
LIGHTWEIGHT MULTI-PURPOSE WEAPON	66,136	60,136	60,136	60,136
LIGHT WGT MULTI PURPOSE SYSTEM TRNR	3,154	---	---	---
HYDRA 70 RKT, HE/RS (M151/M433)	7,786	7,786	7,786	7,786
HYDRA 70 RKT, SMOKE, XM264	7,096	---	---	---
HYDRA 70 RKT, MPSM PRAC M267 WHD	14,095	14,095	14,095	14,095
HYDRA 70 RKT, HE/PD (M151/M423/MK66)	6,899	6,899	6,899	6,899
HYDRA 70 ROCKET XM274 SIG PRACTICE	38,243	23,943	38,243	30,000
GRENADE, HAND, ALL TYPES	1,675	1,675	1,675	1,675
GRENADE, SMOKE SCREENING IR M76	11,138	8,738	8,738	8,738
SIGNALS, ALL TYPES	15,967	15,967	15,967	15,967
SIMULATORS, ALL TYPES	6,406	6,406	6,406	6,406
MISCELLANEOUS				
AMMO COMPONENTS/SUPPORT, ALL TYPES	21,684	21,684	21,684	21,684
CAD/PAD	4,731	4,731	4,731	4,731
ITEMS LESS THAN $2.0M (MISC-AMMO)	7,295	7,295	7,295	7,295
SPARES AND REPAIR PARTS	986	986	986	986
AMMUNITION PECULIAR EQUIPMENT	8,870	8,870	8,870	8,870
NITROGUANIDINE (LB)	12,814	12,814	12,814	12,814
WAR RESERVE STOCKPILING(EXPL/PROPELLANTS)	35,000	---	---	---
AMMO 9WW/ELT	2,858	2,858	2,858	2,858
CLASSIFIED PROGRAMS	77,864	77,864	77,864	77,864
TOTAL, AMMUNITION	2,025,733	1,845,371	1,708,181	1,845,650
AMMUNITION PRODUCTION BASE SUPPORT				
PRODUCTION BASE SUPPORT				
PROVISION OF INDUSTRIAL FACILITIES	132,961	105,361	132,961	137,561
COMPONENTS FOR PROVE-OUT	16,164	8,264	16,164	8,264
LAYAWAY OF INDUSTRIAL FACILITIES	19,417	19,417	19,417	19,417
RDX FACILITY	---	---	335,000	262,700
TOTAL, AMMUNITION PRODUCTION BASE SUPPORT	168,542	133,042	503,542	427,942
TOTAL, PROCUREMENT OF AMMUNITION, ARMY	2,194,275	1,978,413	2,211,723	2,273,592

MORTAR TIME FUZES

The conferees agree with House report language which encouraged the Army to expedite the testing of electronic time fuzes for mortar projectiles and report on its overall procurement strategy. The conferees further agree that the Army shall complete conversion of the technical data package to American engineering standards for the M772 fuze.

155MM ARTILLERY AMMUNITION

The conference agreement provides the higher House-proposed funding level for the M731 ADAM projectile and the M718 RAAMS projectile. The conferees direct the Army to report to the House and Senate Committees on Appropriations on the production status of these rounds, and address how the Army is responding to production and load-assemble-pack difficulties with these rounds. This report should be provided no later than March 1, 1988. The conferees further direct the Army to report to the House and Senate Committees on Appropriations on the fiscal year 1988 unit costs of the M483 ICM, the ADAM, and the RAAMS, by March 1, 1988, explaining any changes from budget estimates submitted to Congress for fiscal year 1988. This information will be valuable to the Committees in evaluation of the fiscal year 1989 Army production plan and budget. No additional approval is necessary for the Army to proceed with production of these rounds.

COPPERHEAD

The conference agreement provides $117,860,00 for Copperhead procurement. The conferees agree that a portion of these funds may be used for establishment and qualification of a second source for Copperhead upon certification that a second source strategy is in the best interest of the Government and cost-effective.

PROVISION OF INDUSTRIAL FACILITIES

The conference agreement provides $137,561,000 for provision of industrial facilities, specifically denying the budgeted projects for HMX facility design and sensor fuzed weapon fuze facility.

The conference agreement includes $20,000,000 for facilitization projects at the Riverbank Army Ammunition Plan, in accordance with authorization conference action. The Army is directed to submit to the Committees on Appropriations of the House and Senate for prior approval an itemization of the specific equipment to be procured with these funds. The conferees agree that the Riverbank AAP shall be considered and specifically addressed in the ammunition production base policy directed in the House report. The conferees anticipate continued production activity at the Riverbank facility and direct that the workforce be retained at no less than the current level.

In order to maintain the near term production level at Riverbank, the conferee agreement also includes $13,300,000 for M42/6 grenades and $9,600,000 for 60mm mortar metal parts. This is a one-time expenditure to provide a rolling stock inventory.

OTHER PROCUREMENT, ARMY

The conferees agree to the following amounts for Other Procurement, Army:

(In thousands of dollars)

	Budget	House	Senate	Conference
OTHER PROCUREMENT, ARMY				
TACTICAL AND SUPPORT VEHICLES				
TACTICAL VEHICLES				
TACTICAL TRAILERS/DOLLY SETS	42,399	26,399	26,399	26,399
MOTORCYCLE, GED, 2W, ROUGH TERRAIN	7,648	7,648	7,648	7,648
SEMITRAILER BB/CONT 22 1/2T M871 C/S	10,296	10,296	10,296	10,296
SEMITRAILER, LOW BED, 40T M870A1 (C/S)	6,766	6,766	6,766	6,766
SEMITRAILER, LOW BED HET, XM1000	7,943	---	---	---
SEMITRAILER, TANK, 5000G	6,373	6,373	6,373	6,373
SEMITRAILER, TANK, 7500G, BULKHAUL	10,983	10,983	10,983	10,983
HI MOB MULTI-PURP WHLD VEH (HMMWV)(MYP)	109,333	106,233	109,333	106,233
SMALL UNIT SUPPORT VEHICLE (SUSV)	38,046	18,046	38,046	38,046
TRUCK, 5T, 6X6, ABT (MYP)	280,360	280,360	280,360	280,360
TRUCK, 10T, 8X8, ABT (MYP)	131,297	239,297	131,297	239,297
TRUCK, TRACTOR, LINE HAUL, M915A1	40,693	40,693	20,700	20,700
TRUCK, TRACTOR, HET, (C/S)	13,238	---	---	---
MODIFICATION OF IN-SERVICE EQUIPMENT	1,961	1,961	1,961	1,961
SHOP EQUIPMENT, AUTO MAINT & REP	1,176	1,176	1,176	1,176
ITEMS LESS THAN $2.0M (TAC VEH)	1,908	1,908	1,908	1,908
NON-TACTICAL VEHICLES				
PASSENGER CARRYING VEHICLES	11,570	11,570	11,570	11,570
GENERAL PURPOSE VEHICLES	13,434	13,434	13,434	13,434
TRUCK, CARGO, PICKUP, 4X2	4,021	4,021	4,021	4,021
TRUCK, CARRYALL	3,628	3,628	3,628	3,628
SPECIAL PURPOSE VEHICLES	7,157	7,157	7,157	7,157
SUPPORT EQUIPMENT AND FACILITIES				
SPARES AND REPAIR PARTS	118,565	118,565	45,200	45,200
PRODUCTION BASE SUPPORT (TAC)	1,765	1,765	1,765	1,765
TOTAL, TACTICAL AND SUPPORT VEHICLES	870,560	918,279	740,021	844,921
COMMUNICATIONS AND ELECTRONICS EQUIPMENT				
TELECOMM EQUIP - READ CMD COMM				
JCSE EQUIPMENT (USREDCOM)	3,689	3,689	3,689	3,689
CLASSIFIED PROJECT 9WW	9,709	9,709	9,709	9,709
TELECOMM EQUIP - JOINT TACTICAL COMM PR				
TRI-TAC EQUIPMENT	183,532	155,000	125,500	145,500
MOBILE SUBSCRIBER EQUIP (MSE)	1,019,800	1,019,800	1,019,800	1,019,800
MOD OF IN-SVC EQ (TRI-TAC)	12,426	12,426	12,426	12,426
TELECOMM EQUIP-COMBAT SUPPORT COMM				
SINCGARS FAMILY	23,499	---	23,499	23,499
IMP HF RADIO FAMILY	11,651	11,651	2,700	7,000
OPTICAL LONG HAUL TRAN SYS	9,906	9,906	9,906	9,906
PWR SUPPLY PP-6148/U	2,160	2,160	2,160	2,160
SOF MOD RADIOS	2,485	2,485	2,485	2,485
ANTENNA GROUP OE-254	5,049	5,049	5,049	5,049
SMALL UNIT TRANSCEIVER	4,660	4,660	4,660	4,660
MOD OF IN-SVC EQUIP (CSC)	955	955	955	955
SWASIA COMM INFRASTRUCTURE	31,455	31,455	31,455	31,455
ITEMS LESS THAN $2.0M (CSC-C-E)	6,517	6,517	6,517	6,517
TELECOMM EQUIP - STARCOM NON-DCS				
AR TELECOM AUTO PR (ATCAP)	5,436	5,436	5,436	5,436
C-E FACILITIES/PROJECTS	4,660	4,660	4,660	4,660
SOUTHCOM C3 UPGRADE	8,107	8,107	8,107	8,107
LONG-HAUL COM (DCS)				
TELECOMM EQUIP - SATCOM-GRD ENVIRON				
DIGITAL EQUIPMENT (DSCS)	14,271	14,271	14,271	14,271
INTERCONNECT FACILITY (DSCS)	3,787	3,787	3,787	3,787
JAM RESISTANT SECURE COM (JRSC)	8,931	8,931	8,931	8,931
DSCS OPERATIONS CONTROL SYS (DOCS)	63,299	63,299	63,299	63,299
MOD IN-SVC EQUIP (DSCS)	1,262	1,262	1,262	1,262
MPK SAT UHF TERM, AN/PSC-3	4,078	4,078	4,078	4,078
VEH SAT UHF TERM, AN/VSC-7	1,128	1,128	1,128	1,128
SINGLE CHANNEL OBJECT TACT TERM (SCOTT)	1,165	1,165	1,165	1,165
MOD IN-SVC EQUIP (TAC SAT)	3,398	3,398	3,398	3,398
TELECOMM EQUIP - EUCOM C3 SYSTEM				
EUCOM C3 (NWS)	16,213	16,213	16,213	16,213

(In thousands of dollars)

	Budget	House	Senate	Conference
PACOM C3(NWS)	19,417	19,417	19,417	19,417
USAREUR TACTICAL COMD & CONTROL SYS (UTACCS)	9,126	9,126	9,126	9,126
TELECOMM EQUIP - COMSEC EQUIPMENT				
IFF COMSEC	4,466	4,466	4,466	4,466
TRUNK ENCRYPTION DEVICES (TED)	9,999	9,999	9,999	9,999
AUTO KEY DC KGX-93/TSEC	1,068	1,068	1,068	1,068
SEC VO IMPRV PRG (COMSEC)	19,029	19,029	19,029	19,029
DED LOOP ENCRYP DEV KG-84	16,407	16,407	16,407	16,407
ADDS COMSEC KEY GENERATOR (KG-87)	680	---	680	---
COMSEC MODULE, TSEC/KGV-13	17,766	5,000	17,766	5,000
FREQ MODULE, KGV-10/TSEC	6,505	6,505	6,505	6,505
TEMPEST (COMSEC)	1,165	1,165	1,165	1,165
TSEC/KGV-11/SECURE MODULE	388	388	388	388
ITEMS LESS THAN $2.0M (COMSEC)	4,256	4,256	4,256	4,256
TELECOMM EQUIP - BASE COMM				
INFO SYSTEMS CONUS/WESTERN HEMISPHERE	27,669	15,000	27,669	20,000
INFORMATION SYSTEMS (EUCOM)	8,738	8,738	8,738	8,738
INFORMATION SYSTEMS (PACOM)	7,961	7,961	7,961	7,961
TMDE FOR TELECOMM				
CALIBRATION SETS EQUIPMENT	21,261	21,261	21,261	21,261
TMDE MODERNIZATION	14,951	14,951	14,951	14,951
OTHER ELECT SYS/EQUIP - INTELLIGENCE SU				
4TH PSYOP GROUP	12,136	12,136	12,136	12,136
ALL SOURCE ANALYSIS SYSTEM (ASAS) - TIARA	53,794	34,600	---	34,600
SINGLE SOURCE PROCESSOR - SIGINT	3,810	3,810	3,810	3,810
REAR ECHELON COMINT SYSTEM (RECS)	27,669	---	---	---
COMMANDERS TACTICAL TERMINAL	20,388	---	12,388	12,388
TAC ELEC SURV SYS	3,397	3,397	3,397	3,397
MANPACK RADIO DF SYSTEM (MRDFS)	5,243	5,243	5,243	5,243
MOD IN SER EQ (INT SPT) TIARA	29,066	18,238	26,500	18,238
ITEMS LESS THAN $2.0M (INT SPT-C-E)	5,932	4,923	5,932	4,923
FT DEVENS TRAINING SUPPORT	485	485	485	485
TROJAN	25,436	---	25,436	25,436
OTHER ELECT SYS/EQUIP - GEN DEF INTEL P				
OTHER ELECT SYS/EQUIP - AUTO DATA PROCE				
INTELLIGENCE DATA HANDLING SYSTEM (IDHS)	24,978	22,151	10,197	25,151
TECH RECON AND SURV SYSTEM (TECRAS)	4,696	---	4,696	---
ITEMS LESS THAN $2 MILLION (FCI/S&IA-C-E)	1,792	1,792	1,792	1,792
ITEMS LESS THAN $2 MILLION (GDIP-C-E)	11,133	---	11,133	---
AMC INFORMATION PROCESSING EQUIPMENT (IPE)	18,543	13,000	18,543	13,000
ADV FIELD ARTILLERY TACT DATA SYS	77,668	---	26,000	26,000
ARMY DATA DISTRIBUTION SYSTEM (ADDS)	116,600	100,000	100,000	100,000
TRADOC AUTOMATION	2,342	2,342	2,342	2,342
LIFE CYCLE SOFTWARE SUP. (LCSS)	9,174	9,174	9,174	9,174
SUPERCOMPUTERS	27,378	27,378	27,378	27,378
HQ AUTOMATION SYSTEMS	20,389	10,089	20,389	20,389
MEDICAL AUTOMATION SYSTEMS	2,233	2,233	2,233	2,233
PERSONNEL AUTOMATION SYSTEMS	24,582	1,482	10,000	10,000
TRAINING AUTOMATION SYSTEMS	2,427	---	2,427	2,427
LOGISTICS AUTOMATION SYSTEMS	9,529	---	9,529	9,529
RESERVE COMPONENT AUTOMATION SYSTEMS	23,100	23,100	23,100	23,100
FORWARD ENTRY DEVICE	22,815	22,815	22,815	22,815
MANUEVER CONTROL SYS (MCS)	96,113	96,113	96,113	96,113
CORPS/THEATER ADP SVC CTR (CTASC)	17,475	9,475	9,475	9,475
TACT ARMY CMBT COMPT SY(TACCS)	30,781	30,781	30,781	30,781
FWD AREA AIR DEFENSE CMD & CTL (FAAD C2)	76,300	---	---	---
CSS LOG APPLC AUTO MARK/READ SYMBS(LOG MAR)	21,222	21,222	21,222	21,222
WWMCCS INFORMATION SYSTEM (WIS)	23,272	2,445	2,445	2,445
AUDIO VISUAL				
AFRTS (AUDIO VISUAL)	5,049	5,049	5,049	5,049
ITEMS LESS THAN $2 MILLION (A/V-C-E)	9,126	9,126	9,126	9,126
TACTICAL ELEC NEWS GATHERING EQUIP	2,955	2,955	2,955	2,955
OTHER ELECT SYS/EQUIP - ELECTRONIC WARFARE				
TACTICAL DECEPTION (TAC-D)	4,602	---	4,602	---
MOD IN-SVC EQUIP (EW)	2,815	2,815	2,815	2,815
ITEMS LESS THAN $2.0M (EW-C-E)	777	777	777	777
OTHER ELECT SYS/EQUIP - TACTICAL ELECTR				
BATTERY CHARGER PP-7286/U	1,941	1,941	1,941	1,941
POWER SUPPLY, PP-6224	3,200	3,200	3,200	3,200
COMPUTER/INDICATOR, CP-696/PD	3,800	3,800	3,800	3,800

(In thousands of dollars)

	Budget	House	Senate	Conference
METEROLOGICAL DATA SYS (FAMAS)	1,068	1,068	1,068	1,068
PHYSICAL SECURITY EQUIPMENT	5,817	5,817	5,817	5,817
FACILITY INTRUSION DETECTION SYSTEM	5,339	2,000	5,339	5,339
NAVSTAR USER EQUIPMENT	23,787	23,787	23,787	23,787
POSITION/AZIMUTH DETERMINING SYS (PADS)	21,650	21,650	21,650	21,650
NIGHT VISION GOGGLES	138,100	138,100	138,100	138,100
AIMING LIGHT INFRARED, AN/PAQ-4	1,456	1,456	1,456	1,456
NIGHT VISION SIGHT INDIV WPN AN/PVS-4	14,500	12,709	12,709	12,709
RADIAC SET AN/VDR-2	5,145	5,145	5,145	5,145
RRV TA/DESIGN AERIAL RECON SYS (TADARS)	179,448	---	---	---
UNMANNED AERIAL VEHICLE FAMILY	42,426	---	---	---
MULTIFUNCTION RADAR TRANSPONDER BEACON	4,660	---	4,660	---
JOINT STARS (ARMY)	36,892	31,892	36,892	31,892
ELECTRONIC MAINTENANCE SHOPS	11,553	11,553	11,553	11,553
TEST SET, RADAR, AN/TPM-25	2,524	2,524	2,524	2,524
MODIFICATION OF IN-SERVICE EQ (TAC EL)	32,500	32,500	32,500	32,500
ITEMS LESS THAN $2 MILLION (TACT ELEC-C-E)	6,408	6,408	6,408	6,408
TMDE FOR TACTICAL ELECTRONICS				
INTERMEDIATE FORWARD TEST EQUIP	27,572	27,572	---	27,572
TMDE FOR STE/ICE	2,233	2,233	2,233	2,233
CORE ELECTRONIC AUTO TEST (STE-X)	2,039	2,039	2,039	2,039
OTHER ELECT SYS/EQUIP - SUP EQUIP AND F				
SPARES AND REPAIR PARTS	162,403	158,349	394,900	412,600
SPARES AND REPAIR PARTS	9,306	8,300	---	---
SPARES AND REPAIR PARTS	315,864	270,645	---	---
SPECIAL PROGRAMS	209,200	199,200	196,200	196,200
PRODUCTIVITY INVESTMENT FUNDING	27,166	27,166	27,166	27,166
PR ENH CAP INV PR/QWK RT INV PR(PECIP/QRIP	8,771	8,771	8,771	8,771
PRODUCTION BASE SUPPORT (C-E)	5,243	5,243	5,243	5,243
TOTAL, COMMUNICATIONS AND ELECTRONICS EQUIPMENT	3,843,313	3,090,148	3,124,633	3,177,739
OTHER SUPPORT EQUIPMENT				
CHEMICAL DEFENSIVE EQUIPMENT				
DECONTAMINATE APP PWR DR LT WT XM17	3,949	3,949	3,949	3,949
MASK, PROTECTIVE, NBC	51,036	51,036	51,036	51,036
CHEMICAL AGENT MONITOR	19,348	19,348	---	12,000
SIMP COLL PROT EQUIP XM20	4,245	4,245	4,245	4,245
BRIDGING EQUIPMENT				
RIBBON BRIDGE ERECTION BOAT	588	18,888	18,888	18,888
BRIDGE, FLOAT-RIBBON, INTERIOR BAY	202	202	202	202
BRIDGE, FLOAT-RIBBON, RAMP	197	197	197	197
BRIDGE, FLOAT-RIBBON, TRANSPORTER	10,879	10,879	10,879	10,879
ITEMS LESS THAN $2.0M(BRIDGING)	105	105	105	105
ENGINEER (NON-CONSTRUCTION) EQUIPMENT				
MIXER/PUMPER UNIT (MPU) TEXS	8,884	---	8,884	8,884
MARKING SYS, CLEAR LANE	1,283	1,283	1,283	1,283
DETECTING SET, MINE, AN/PSS-12	4,837	4,837	4,837	4,837
MINE PLOW(BLADE)	10,859	9,000	10,859	9,000
MINE CLEARING ROLLER	3,060	3,060	---	3,060
REMOTE CONTROL UNIT (MOPMS)	9,280	9,280	9,280	9,280
M-9 ARMORED COMBAT EARTHMOVER (ACE)	65,954	63,054	53,954	63,054
ITEMS LESS THAN $2.0M (ENG NON-CONST)	1,743	1,743	1,743	1,743
COMBAT SERVICE SUPPORT EQUIPMENT				
AIR CONDITIONERS VARIOUS SIZE/CAPACITIES	15,004	15,004	15,004	15,004
FIELD KITCHEN,MOBILE, TRL MTD	15,499	15,499	15,499	15,499
MODULAR FIELD KITCHEN	4,151	4,151	---	---
DIVING EQUIPMENT	3,751	3,751	3,751	3,751
FIRETRUCKS	13,228	13,228	13,228	13,228
HEATER DUCT TYPE	2,962	4,962	2,962	2,962
LAUNDRY UNIT/TRL MTD	5,824	5,824	5,824	5,824
TAG PRINTING AND BINDING EQUIPMENT	4,640	2,640	---	2,640
PRINT PLANT, SW TRANSPORTABLE	2,369	2,369	---	1,200
ITEMS LESS THAN $2.0M (CSS-EQ)	6,872	6,872	6,872	6,872
MODIFICATIONS OF IN SERVICE EQUIP (CSE)	4,936	4,936	4,936	4,936
PETROLEUM EQUIPMENT				
TANK ASSEMBLY FAB COLL POL 50000 G	6,022	3,898	6,022	3,898
TANK ASSEMBLY FAB COLLAPSIBLE POL 10000G	4,235	4,235	4,235	4,235
TANK/PUMP UNIT LIQ DISP F/TRK MOUNTING	4,412	4,412	4,412	4,412
LABORATORY,PETROLEUM,SEMI-TRLR MTO	1,679	1,679	1,679	1,679

(In thousands of dollars)

	Budget	House	Senate	Conference
PUMP ASSY LIQ GAS WHL 4 IN OUT 350 GPM	2,764	2,764	2,764	2,764
SWA PETROLEUM DISTRIBUTION SYSTEM	41,771	41,771	41,771	41,771
ITEMS LESS THAN $2.0M (POL)	5,035	5,035	5,035	5,035
WATER EQUIPMENT				
WTR PUR UNIT REV OS 3000 GPH (ROWPU)	20,336	20,336	20,336	20,336
WATER PUR UNIT, REV OSMOSIS, 600GPH (ROW	11,451	11,451	11,451	11,451
TACTICAL WATER DISTR SYS	9,180	9,180	9,180	9,180
PUMP CENTRIFUGAL, 65GPM	1,580	1,580	1,580	1,580
ITEMS LESS THAN $2.0M (WATER EQ)	3,850	3,850	3,850	3,850
MEDICAL EQUIPMENT				
DEPLOYABLE MEDICAL SYSTEM (DMS)	82,823	82,823	---	---
CBT SUP EQUIP MEDICAL	44,980	44,980	118,896	118,896
MEDICAL SUPPORT EQUIPMENT	60,004	60,004	60,004	60,004
MAINTENANCE EQUIPMENT				
SHOP EQ ELECTRICAL RPR SEMI-TRL MTD	9,600	9,600	9,600	9,600
STEAM CLEANER	1,974	1,974	1,974	1,974
SHOP EQUIP, CANVAS AND GLASS SHELTER MTD	5,232	5,232	5,232	5,232
ITEMS LESS THAN $2.0M (MAINT EQ)	2,764	2,764	2,764	2,764
CONSTRUCTION EQUIPMENT				
DISTRIBUTER, WATER SP MIN 2500G SEC/NON-SE	5,627	5,627	5,627	5,627
DIST, WATER, 6000G, SEMI-TRL MTD (CCE)	3,356	3,356	3,356	3,356
TRACTOR CRAWLER T-11 SIZE W/RIPPER (CCE)	7,009	---	---	---
SMALL EMPLACEMENT EXCAVATOR (SEE)	38,598	38,598	29,700	29,700
MODS OF IN SERVICE EQUIP (CONST EQUIP)	198	198	198	198
ITEMS LESS THAN $2.0M (CONST EQUIP)	12,768	12,768	9,768	11,268
RAIL FLOAT CONTAINERIZATION EQUIPMENT				
LANDING, CRAFT, UTILITY	24,600	24,600	24,600	24,600
TUG, HARBOR, INLAND WATERWAYS	8,391	2,391	---	---
TUG INLAND AND COASTAL WATERWAYS	11,057	11,057	---	---
CAUSEWAY SYSTEMS	22,013	22,013	---	---
MODIFICATIONS OF IN-SERV EQ (FLOAT/RAIL)	4,344	4,344	4,344	4,344
ITEMS LESS THAN $2.0M (FLOAT/RAIL)	3,356	3,356	3,356	3,356
GENERATORS				
GEN AND ASSOCIATED EQUIP	44,248	44,248	44,248	44,248
MATERIEL HANDLING EQUIPMENT				
TRUCK, FORK LIFT, CBD, PT, 4000 LB	8,391	8,391	8,391	8,391
TRUCK, FORK LIFT, DE, PT, RT, 6000 LB	18,164	10,000	18,164	18,164
TRUCK, FORK LIFT, DE, PT, RT, 4000 LB	3,751	3,751	3,751	3,751
65 TON CRANE	34,649	24,849	24,849	24,849
ITEMS LESS THAN $2.0M (MHE)	2,666	2,666	2,666	2,666
SPARES AND REPAIR PARTS	48,272	46,685	43,300	45,000
PRODUCTION BASE SUPPORT (OTH)	6,992	6,992	6,992	6,992
OSD PRODUCTIVITY INVESTMENT FUNDING	3,353	3,353	3,353	3,353
SPECIAL EQUIPMENT FOR USER TESTING	17,177	17,177	17,177	17,177
HOST NATION SUPPORT - EUROPE	40,276	38,276	40,276	38,276
NATIONAL TRAINING CTR SUP	34,649	34,649	14,649	34,649
TRAINING DEVICES, NONSYSTEM	137,882	137,882	137,882	137,882
NON-CENTRALLY MANAGED ITEMS	19,823	19,823	19,823	19,823
TOTAL, OTHER SUPPORT EQUIPMENT	1,156,987	1,124,960	1,025,672	1,070,889
TOTAL, OTHER PROCUREMENT, ARMY	5,870,860	5,133,387	4,890,326	5,093,549

TEN-TON TRUCKS

The conference agreement provides $239,297,000 for procurement of 1,388 Heavy Expanded Mobility Tactical Trucks (HEMTT), as proposed by the House. The multiyear procurement general provision in the conference bill (Sec. 8033) allows the Army to enter a two year multiyear contract for HEMTT. The conferees agree with the statement in the Senate report that assigns a high priority to the continued production of HEMTT. The conferees believe that the Army should sustain the existing production rate in fiscal year 1989. The conferees anticipate an amendment to the existing fiscal year 1989 budget request reflecting this priority.

SMALL UNIT SUPPORT VEHICLE

The Conferees agree to the Senate recommendation of $38,046,000. This amount permits the Army to procure the planned inventory of these vehicles.

SINCGARS SECOND SOURCE PRODUCTION

The Conferees agree with the Army plan to initiate a form-fit-function second source procurement of the SINCGARS ground radio in fiscal year 1988. The Conferees intend that the second source selection process for SINCGARS results in the lowest possible life cycle costs and delivery to the field at the earliest possible time. The second source SINCGARS must achieve complete interoperability with the current SINCGARS system.

To satisfy these concerns, the Conferees direct the General Accounting Office to monitor and report to the Appropriations Committees on the second source selection. The Army must report the specific second source contract plans to the Appropriations Committees at least thirty days prior to contract award.

From the funds available in the fiscal year 1986 appropriation for SINCGARS, not more than $52,000,000 may be obligated in fiscal year 1988 towards the SINCGARS second source acquisition program.

COMMANDER'S TACTICAL TERMINAL

The conferees agree to restore the $12,388,000 deleted in fiscal year 1988 and $14,700,000 rescinded in fiscal year 1987 for Commander's Tactical Terminal. However, the conferees also agree that none of these funds shall be available for obligation nor shall any production contract be entered into pending (1) successful completion of scheduled tests, and (2) concurrence by the Committees on Appropriations of the House and Senate.

LIGHT FIELD ARTILLERY TACTICAL DATA SYSTEM

The Conferees include bill language directing the Army to procure the Light Field Artillery Tactical Data System (LFATDS), also referred to as LTACFIRE, for the seven Army Light Divisions. The amount of $24,300,000 authorized and appropriated in fiscal year 1986 for this purpose is available and may only be obligated for this program. Any additional funding for necessary support or procurement of peripheral equipment for the seven division sets will be funded from appropriate accounts. The Army shall identify and report to the Committee on Appropriations on the necessary support or peripheral equipment provided. As reported by the General Accounting Office (GAO), LFATDS has met all of its design requirements and is ready for fielding to the Light Divisions.

The Secretary of Defense is directed to submit a program plan for LEATDS by February 15, 1988 for approval by the Committees on Appropriations of the House and Senate. This plan shall include the fielding of LFATDS to the Light Divisions and the ASARC/DAB schedule for AFTDS.

ADVANCED FIELD ARTILLERY TACTICAL DATA SYSTEM

The conferees recommend $26,000,000 for the Advanced Field Artillery Tactical Data System. Prior to obligation of these funds, however, the CEP must be successfully completed as certified by the ASARC and the DAB, the ASARC and the DAB must formally approve the production decision, and the Committees on Appropriations of the House and Senate must approve an acquisition strategy and schedule submitted to them by the DAB.

FACILITY INTRUSION DETECTION SYSTEM

The conferees recommend $5,339,000 for the Facility Intrusion Detection System (FIDS) program as budgeted. The conferees, however, direct the Army to submit a report to the Committees on Appropriations by March 31, 1988 including (1) identification of the Department of Defense (DOD) requirement for this equipment by Service and by classes of system according to relative size and capability; (2) the five year budget plan and acquisition strategy for meeting these requirements; and (3) a cost effectiveness analysis of the FIDS family of equipment for the Department of Defense compared to a nondevelopmental item (NDI) approach to meet these requirements.

AQUILA

The conferees agree that $25,000,000 in unobligated fiscal year 1987 Aquila funds shall be used for additional efforts on the Aquila program. The remaining prior year procurement funds are rescinded. The conferees also agree that the Aquila program shall be considered as part of the remotely piloted vehicle consolidated program office.

SPARES AND REPAIR PARTS

The conferees agree to consolidate the three existing "spares and repair parts" line items within the "Communications and Electronics" budget activity into one "spares and repair parts" line for this and future budgets. The conferees expect that all information currently provided for spares and repair parts in back-up books will continue to be provided under the consolidated line, and that future budget back-up books will also include distributions of initial spares by P-1 line item.

CHEMICAL AGENT MONITOR

The Conferees agree to provide $12,000,000 for the production of Chemical Agent Monitors. This level of funding will ensure uninterrupted production at the lead U.S. domestic source. The Conferees request that the Army report to the House and Senate Committees on Appropriations the procurement strategy for this item, to include justification for dual source procurement, planned annual procurement quantities, total Department of Defense inventory requirements, and producer production capabilities. No action on awarding a follow-on or second source contract should proceed until this report has been submitted.

ARMORED COMBAT EARTHMOVER

The conferees are aware of the new approach to the design of hydraulic circuits as demonstrated on the M9 Armored Combat Earthmover (ACE). This innovative and advanced technology promises to have merit by eliminating the problems associated with conventional hydraulic systems. This technology appears to have broad application to the various hydraulic requirements of the Department of Defense. Therefore, the conferees direct the Army to use up to $5,000,000 within available funds in Research, Development, Test, and Evaluation, Army to gather RAM data on up to three M9 vehicles or similar vehicles equipped with the fluidtronics technology. The Department of Defense will provide a preliminary report to both committees on the results of this evaluation at its conclusion.

TUG BOAT ACQUISITION AND OPERATIONS

The Conferees agree with the Senate recommendation to defer funds for fiscal year 1988 Tug boat procurement. The Army may proceed to award available fiscal year 1987 funds for the Inland and Coastal Waterway tug.

The Conferees share the concern of the Senate report regarding the conduct of the Army's port handling mission. The Department of Defense should report to the House and Senate Committees on Appropriations on alternatives to the current Army plan for manning and operating these craft. The Army has twice attempted to transfer this mission to other elements in the Department of Defense better suited to undertake this activity. This report should specifically address transfer of this mission to the Military Sealift Command, which currently operates tug boats for the Navy. The report should also consider potential economies of scale achievable through consolidation of this activity within the Department of Defense, and the impact of such a transfer on Army personnel and operations requirements. This report should be provided to the Committee no later than March 31, 1988.

NATIONAL TRAINING CENTER SUPPORT

The Conferees agree to provide the budget request of $34,649,000 for support of Army training center activities. The Conferees share the concerns expressed in the Senate report regarding the development of the Combat Manuever Training Center in Germany. This program was not discussed in detail in the President's Budget Request, even though it represents a major, and costly, new initiative. The Secretary of the Army should report to the House and Senate Committees on Appropriations the Army's plan for the development of this center. The report should address the justification for such a facility, total program cost, planned utilization of the center, annual operations costs, military construction costs, and a schedule for program completion. This report should be submitted by February 1, 1988. No funds should be obligated for the Combat Manuever Training Center until 30 days after the submission of this report to the Committees.

REALIGNMENT OF GENERAL DEFENSE INTELLIGENCE PROGRAMS (GDIP)

The conferees have realigned various funding lines of the General Defense Intelligence Program, which are included in the Other Procurement, Army appropriation. Details of this realignment are contained in the classified annex to this conference report.

AIRCRAFT PROCUREMENT, NAVY

The conferees agree to the following amounts for Aircraft Procurement, Navy:

(In thousands of dollars)

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, NAVY				
COMBAT AIRCRAFT				
BA-1 COMBAT AIRCRAFT				
A-6E/F (ATTACK) INTRUDER (MYP)	702,244	587,800	---	500,000
A-6E/F (ATTACK) INTRUDER (MYP) (AP-CY)	109,917	109,917	---	109,917
EA-6B (ELECTRONIC WARFARE) PROWLER	336,062	456,700	482,762	456,700
EA-6B (ELECTRONIC WARFARE) PROWLER (AP-CY)	17,826	22,713	17,826	22,713
AV-8B (V/STOL) HARRIER	564,159	437,000	564,159	437,000
AV-8B (V/STOL) HARRIER (AP-CY)	64,040	150,000	64,040	150,000
F-14A/D (FIGHTER) TOMCAT	676,764	676,764	650,000	650,000
F-14A/D (FIGHTER) TOMCAT (AP-CY)	84,289	84,289	84,289	84,289
F/A-18 (FIGHTER) HORNET (MYP)	2,316,610	2,248,710	2,248,710	2,248,710
F/A-18 (FIGHTER) HORNET (MYP) (AP-CY)	155,982	140,000	155,982	140,000
CH/MH-53E (HELO) SUPER STALLION (MYP)	210,687	204,687	210,687	210,687
CH/MH-53E (HELO) SUPER STALLION (MYP) (AP-CY)	21,799	21,799	21,799	21,799
AH-1W (HELICOPTER) SEA COBRA	172,663	225,550	100,000	225,550
SH-60B (ASW HELO) SEAHAWK	98,727	98,727	98,727	98,727
SH-60B (ASW HELO) SEAHAWK (AP-CY)	26,273	26,273	26,273	26,273
SH-60F (CV ASW HELO)	279,733	264,700	279,733	264,700
SH-60F (CV ASW HELO) (AP-CY)	29,646	29,646	29,646	29,646
P-3C/G (PATROL) ORION	146	---	146	---
EX COMPETITION	179,815	---	---	---
E-2C (EARLY WARNING) HAWKEYE	370,160	350,160	350,160	350,160
E-2C (EARLY WARNING) HAWKEYE (AP-CY)	30,035	30,035	30,035	30,035
SH-2F (ASW HELO) SEASPRITE	1,649	---	---	---
TOTAL, COMBAT AIRCRAFT	6,449,226	6,165,470	5,414,974	6,056,906
AIRLIFT AIRCRAFT				
BA-2 AIRLIFT AIRCRAFT				
C-2 (MYP)	5,776	---	---	---
TOTAL, AIRLIFT AIRCRAFT	5,776	---	---	---
TRAINER AIRCRAFT				
BA-3 TRAINER AIRCRAFT				
T-45TS GOSHAWK	328,758	328,758	328,758	328,758
T-45TS GOSHAWK (AP-CY)	29,452	29,452	29,452	29,452
TOTAL, TRAINER AIRCRAFT	358,210	358,210	358,210	358,210
OTHER AIRCRAFT				
BA-4 OTHER AIRCRAFT				
E-6A	189,202	174,202	111,100	174,202
E-6A (AP-CY)	137,716	137,716	---	137,716
HH-60H	42,525	103,000	42,525	103,000
TOTAL, OTHER AIRCRAFT	369,443	414,918	153,625	414,918
MODIFICATION OF AIRCRAFT				
BA-5 MODIFICATION OF AIRCRAFT				
A-3 SERIES	969	969	969	969
A-4 SERIES	6,149	6,149	6,149	6,149
A-6 SERIES (MYP)	132,978	219,478	219,478	219,478
EA-6 SERIES	21,274	21,274	21,274	21,274
A-7 SERIES	97	97	97	97
AV-8 SERIES	97	97	97	97
F-4 SERIES	97	97	97	97
RF-4 SERIES	97	97	97	97
F-14 SERIES	83,334	83,334	83,334	83,334
F-5 SERIES	97	97	97	97
OV-10 SERIES	1,974	1,974	1,974	1,974
F-16N SERIES	---	5,000	---	5,000
F-18 MODS	1,995	1,995	1,995	1,995
H-46 SERIES	29,801	29,801	29,801	29,801
H-53 SERIES	22,737	22,737	22,737	22,737
SH-60 SERIES	1,058	14,058	1,058	14,058
H-1 SERIES	6,826	6,826	6,826	6,826
H-2 SERIES	19,608	45,108	19,608	55,000
H-3 SERIES	26,229	26,229	26,229	26,229

(In thousands of dollars)

	Budget	House	Senate	Conference
EP-3 SERIES	47,003	47,003	47,003	47,003
P-3 SERIES	127,365	136,865	127,365	136,865
S-3 SERIES	74,772	74,772	74,772	74,772
ES-3 SERIES	---	50,000	115,200	80,000
E-2 SERIES	22,439	39,639	22,439	39,639
TRAINER A/C SERIES	1,635	1,635	1,635	1,635
EC-130 SERIES	7,367	7,367	7,367	7,367
C-130 SERIES	4,550	44,550	4,550	4,550
FEWSG	3,380	3,380	3,380	3,380
CARGO/TRANSPORT A/C SERIES	2,163	2,163	2,163	2,163
VARIOUS	1,004	1,004	1,004	1,004
POWER PLANT CHANGES	3,163	3,163	3,163	3,163
MISC FLIGHT SAFETY CHANGES	823	823	823	823
COMMON ECM EQUIPMENT	16,708	16,708	16,708	16,708
COMMON AVIONICS CHANGES	765	---	765	765
TOTAL, MODIFICATION OF AIRCRAFT	668,554	914,489	870,254	915,146
AIRCRAFT SPARES AND REPAIR PARTS				
BA-6 AIRCRAFT SPARES				
SPARES AND REPAIR PARTS	1,511,913	1,436,913	1,433,000	1,436,913
AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES				
BA-7 AIRCRAFT SUPPORT EQUIPMENT AND FAC				
COMMON GROUND EQUIPMENT	436,106	413,606	413,606	413,606
AIRCRAFT INDUSTRIAL FACILITIES	25,998	25,998	25,998	25,998
WAR CONSUMABLES	43,978	34,923	40,000	34,923
OTHER PRODUCTION CHARGES	29,567	29,567	29,567	29,567
SPECIAL SUPPORT EQUIPMENT	26,112	86,112	26,112	86,112
TOTAL, AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES	561,761	590,206	535,283	590,206
GENERAL REDUCTION	---	-300,000	---	-250,000
TOTAL, AIRCRAFT PROCUREMENT, NAVY	9,924,883	9,580,206	8,765,346	9,522,299

AV-8B (HARRIER) AIRCRAFT

The Senate recommended funding 32 aircraft in fiscal year 1988 and advance procurement for continuing an annual procurement strategy, while the House recommended funding 24 aircraft and multi-year procurement in 1989. The conferees agree to provide $437,000,000 to procure 24 AV-8B aircraft in fiscal year 1988, and recommend $150,000,000 for advance procurement, the same as the House.

The conferees believe, however, that it is premature to recommend a multi-year procurement for AV-8B beginning in fiscal year 1989 given an uncertain fiscal environment and the lack of a formal request for multi-year procurement from the Navy. The conferees expect the Navy to examine multi-year for the AV-8B, and submit a request for multi-year financing if it finds that such a plan would meet the established cost saving and other program requirement for such procurement.

AH-1W HELICOPTERS

The conferees agree to provide $225,550,000 to purchase 34 AH-1W Cobra attack helicopters, as proposed by the House, which will fulfill the Marine Corps' new AH-1W requirements. If additional funds are required, to execute the conferees' direction a reprogramming request should be submitted.

SH-60B HELICOPTERS

The conferees agree to provide $98,727,000 to procure six SH-60B helicopters. The conferees also agree that the following items be competitively procured for these six helicopters:

ARC-182 Transceivers;

Lightweight ASW combat system mission tape recorders, which are capable of recording raw ASW acoustic data and video displays;

ALE-39 Dispenser;

ALE-144 two-phased Infrared sets;

M-60 Machine Guns; and

ALQ-156 pulse doppler radars.

HH-60 HELICOPTERS

The conferees agree to provide $103,000,000 to procure nine HH-60 combat search and rescue helicopters and buyout the program in fiscal year 1988 as proposed by the House.

F-16N MODIFICATIONS

The Navy currently employs a video camera and recorder which fails to provide sufficient information thus limiting mission analysis and evaluation. To correct this situation and ensure that the Navy's adversary aircraft squadrons are provided the opportunity to improve their flight training analysis and evaluations, the conferees agree to provide $5,000,000 to competitively procure combat system mission recorders by September 30, 1988 which are capable of simultaneously recording at least two hours of information from all primary sensor data including multiple heads up and heads down displays, bus data, voice and other weapons data. The funds provided are to begin this modification program for the F-16N's that have been delivered to the fighter weapons school.

SH-60B MODIFICATIONS

The conferees agree to provide $14,058,000 for the SH-60B modification program. These funds are to be used only for the procurement of the following equipment:

ARC-182 Transceivers;

Lightweight ASW combat system mission tape recorders which are capable of recording raw ASW acoustic data and video displays;

ALE-39 Dispenser;

ALQ-144 two-phased Infrared sets;

M-60 Machine Guns; and

ALQ-156 pulse doppler radar.

With regard to the ALQ-156 pulse doppler radar, the Navy should purchase these systems in conjunction with the Department of the Army since they currently procure these systems for the CH-47 helicopter program.

H-2 MODIFICATIONS

The conferees agree to provide $55,000,000 for the H-2 modification, provided that the additional funds be used only for six upgrade kits, lightweight ASW combat system mission recorders, which are capable of recording raw ASW acoustic data and video displays, a software integration facility, flight crew trainers, and publications. Additionally, the Committee directs that the procurement of eight acoustic processors include the technical data package and that remaining units be competitively procured and built in the United States.

P-3C MODIFICATIONS

The conferees agree to provide $136,865,000 for P-3 modifications of which $9,500,000 is available only for the procurement of the sonobuoy reference system.

ES-3 MODIFICATIONS

When the President's budget was submitted to Congress, the strategy for procurement of an airframe to replace the over-age EA-3B carrier based tactical SIGINT aircraft had not yet been finalized. The procurement line "EX Competition" was a plan for new procurement of ES-3 or E2-C aircraft to fill this critical mission area; the ES-3 Conversion in Lieu of Procurement plan, however, was chosen as the most cost effective and offers the most rapid replacement of the EA-3B.

The conferees support this procurement strategy and accordingly agree to provide $80,000,000 to initiate the ES-3 modification program.

E-2C MODIFICATIONS

Subsequent to the submission of the budget, the Navy discovered wing cracks on its E-2C aircraft. Consequently, the conferees agree to provide $39,639,000 for the E-2C modification program which provides an additional $17,200,000 and is available only for the procurement of E-2C center wing sections.

COMMON ECM EQUIPMENT

The conferees agree with the Senate language regarding the ALQ-126B contract options and note that $35,000,000 is the level required to exercise the contract option in fiscal year 1988. The conferees agree that $35,000,000 within the total amounts appropriated for Navy aircraft procurement shall be used to procure ALQ-126B electronic countermeasure systems and associated support equipment.

WEAPONS PROCUREMENT, NAVY

The conferees agree to the following amounts for Weapons Procurement, Navy:

(In thousands of dollars)

	Budget	House	Senate	Conference
WEAPONS PROCUREMENT, NAVY				
BALLISTIC MISSILES				
POSEIDON	181	181	181	181
TRIDENT I	6,986	6,986	6,986	6,986
TRIDENT II	1,931,344	1,462,344	1,931,344	1,721,344
TRIDENT II (AP-CY)	319,987	319,987	319,987	319,987
MODIFICATION OF MISSILES				
SUPPORT EQUIPMENT AND FACILITIES				
MISSILE INDUSTRIAL FACILITIES	194	194	194	194
TOTAL, BALLISTIC MISSILES	2,258,692	1,789,692	2,258,692	2,048,692
OTHER MISSILES				
STRATEGIC MISSILES				
BGM-109 TOMAHAWK	915,936	787,211	775,936	775,936
BGM-109 TOMAHAWK (AP-CY)	78,006	71,400	71,400	71,400
TACTICAL MISSILES				
AIM/RIM-7 F/M SPARROW	---	90,000	79,000	79,000
AIM-9L/M SIDEWINDER	43,320	25,833	25,833	25,833
AIM-54A/C (PHOENIX)	397,996	359,897	327,296	343,596
SGM-84A HARPOON (MYP)	110,660	102,284	110,660	142,660
SGM-84A HARPOON (MYP) (AP-CY)	51,034	---	31,000	---
AGM-88A HARM (MYP)	194,728	194,728	187,128	187,128
SM-2 MR	583,098	583,098	583,098	583,098
RAM	44,931	24,931	44,931	44,931
STINGER	21,072	17,765	17,765	17,765
SIDEARM	25,381	25,381	25,381	25,381
HELLFIRE	44,154	44,154	44,154	44,154
LASER MAVERICK	111,807	8,700	---	263,200
IIR MAVERICK (MYP)	103,458	65,790	55,458	60,000
PENGUIN (AP-CY)	3,455	3,455	3,455	3,455
AERIAL TARGETS	92,804	104,104	92,804	104,104
DRONES AND DECOYS	63,634	24,767	24,767	24,767
OTHER MISSILE SUPPORT	19,157	19,157	19,157	19,157
MODIFICATION OF MISSILES				
TOMAHAWK MODS	6,458	6,458	6,458	6,458
AIM-9 SIDEWINDER MOD	773	773	773	773
AIM-54A/C PHOENIX MOD	584	584	584	584
AGM-84A HARPOON MOD	3,865	3,865	3,865	3,865
STANDARD MISSILES MOD	3,833	3,833	3,833	3,833
SUPPORT EQUIPMENT AND FACILITIES				
WEAPONS INDUSTRIAL FACILITIES	6,216	6,216	9,216	9,216
FLEET SATELLITE COMMUNICATIONS	213,858	123,858	213,858	123,858
DEFENSE METEOROLOGICAL SATELLITE PROGRAM	19,333	19,333	19,333	19,333
ORDNANCE SUPPORT EQUIPMENT				
ORDNANCE SUPPORT EQUIPMENT	218,436	218,436	218,436	218,436
TOTAL, OTHER MISSILES	3,377,987	2,936,011	2,995,579	3,201,921
TORPEDOES AND RELATED EQUIPMENT				
TORPEDO MK-48 ADCAP	243,444	243,444	243,444	243,444
ADV LIGHTWEIGHT TORPEDO	222,402	40,000	108,402	108,402
MOBILE TARGET MK-30 (MYP)	31,495	31,495	31,495	31,495
ASROC	9,522	9,522	9,522	9,522
VERTICAL LAUNCHED ASROC	57,521	---	---	---
MOD OF TORPEDOES AND RELATED EQUIP				
MOBILE MINE MK-67	2,858	2,858	2,858	2,858
CAPTOR MODS	11,825	38,000	11,825	38,000
SWIMMER WEAPON SYSTEM	1,332	1,332	1,332	1,332
SUPPORT EQUIPMENT				
TORPEDO SUPPORT EQUIPMENT	33,348	33,348	33,348	33,348
ASW RANGE SUPPORT	20,638	20,638	20,638	20,638
TOTAL, TORPEDOES AND RELATED EQUIPMENT	634,385	420,637	462,864	489,039

(In thousands of dollars)

	Budget	House	Senate	Conference
OTHER WEAPONS				
GUNS AND GUN MOUNTS				
MK-15 CLOSE IN WEAPONS SYSTEM	28,023	28,023	28,023	28,023
MK-19/40MM MACHINE GUN	1,201	---	---	---
25MM GUN MOUNT	4,091	4,091	4,091	4,091
SMALL ARMS AND WEAPONS	9,568	9,568	9,568	9,568
MODIFICATION OF GUNS AND GUN MOUNTS				
CIWS MODS	45,186	45,186	45,186	45,186
5"/54 GUN MOUNT MODS	6,414	6,414	6,414	6,414
3"/50 GUN MOUNT MODS	275	275	275	275
MK 75 76MM GUN MOUNT MODS	4,060	4,060	4,060	4,060
MODS UNDER $2,000,000	1,654	1,654	1,654	1,654
SUPPORT EQUIPMENT				
GUN SUPPORT EQUIPMENT	1,068	1,068	1,068	1,068
TOTAL, OTHER WEAPONS	101,540	100,339	100,339	100,339
SPARES AND REPAIR PARTS	129,728	119,181	127,028	127,028
TOTAL, WEAPONS PROCUREMENT, NAVY	6,502,332	5,365,860	5,944,502	5,967,019

AIM-54 A/C

The conferees agree to provide $343,596,000 for procurement of AIM-54 A/C Phoenix missiles, and instruct the Navy to procure the maximum number of missiles possible with these funds.

HARPOON

The conferees agree to provide $142,660,000 for procurement of 124 Harpoon missiles, to provide no funds for Harpoon advance procurement, and to concur in the denial by the House of multi-year procurement of Harpoon. The conferees concur in the directives of the House concerning the Standoff Land Attack Missile version of Harpoon.

LASER MAVERICK

The conferees agree to provide $263,200,000 for procurement of Laser Maverick, offset by recissions of $147,400,000 of fiscal year 1986 and $153,000,000 of fiscal year 1987 funds authorized and appropriated for Laser Maverick. The fiscal year 1988 funds provided fall within the authorization level previously approved. The conferees take this action based on recent information provided by the Navy which indicates that technical and operational effectiveness issues have been satisfactorily resolved. The conferees anticipate that the funds provided will be sufficient to procure at least 2,000 new missiles and to retrofit 850 missiles previously produced.

IIR MAVERICK

The conferees agree to provide $60,000,000 for procurement of IIR Maverick, and instruct the Navy to procure the maximum number of missiles possible with these funds.

HARM MISSILE

LOW COST SEEKER

The conferees agree to provide $187,128,000 for procurement of HARM missiles as proposed by the Senate, instead of $194,728,000 as proposed by the House.

The conferees concur in the language of the Senate concerning Navy plans to second source the control section of the HARM missile.

The conferees concur in the directives of the House concerning a pilot production buy of the Low Cost Seeker (LCS) to be funded in fiscal year 1989, followed by production buys of at least 200, 400 and 800 units in fiscal years 1990, 1991 and 1992, as planned by the Navy, funded in AGM-88A procurement lines. The conferees direct that a contract for LCS development and production be awarded not later than January 31, 1988.

FLEET SATELLITE COMMUNICATIONS

The conferees recommend $123,858,000 for Fleet Satellite Communications. The Navy indicates that there is a critical requirement for another satellite in the Fleet Satellite Communications constellation. The Navy further indicates that it will use the recommended amount to incrementally fund one follow-on satellite to prevent a slip in the IOC of that satellite. The conferees understand, however, that the Navy plans to procure the remaining 9 follow-on satellites under a multiyear contract, which probably would result in lower unit costs. The conferees further understand that while the Navy is planning to incrementally fund—rather than fully fund—one follow-on satellite, to meet a critical need in the constellation, it is planning at the same time to place satellite number eight from the current generation in storage.

The conferees therefore direct the Navy prior to obligation of FY 88 funds to submit to the Committee on Appropriations for approval a report which (1) demonstrates the critical requirement in the constellation; (2) sets forth explicit launch plans for satellite number eight of the current generation, (3) sets forth Navy procurement and launch plans for the follow-on generation, and (4) justifies specifically single year procurement of one satellite and multiyear procurement of the remaining nine satellites, if that is the Navy plan.

The conferees intend that the critical requirements of the constellation be met, and are not opposed to incremental funding of the follow-on satellite if that approach is necessary in this case. The conferees, therefore, urge the Navy to submit the report including the required information to the Appropriations Committees at the earliest possible date.

The conferees also direct the Navy to take special note of House report language on "Multi-Year Procurement of Satellites" as it formulates its procurement plans for the follow-on generation. In particular, the Navy should carefully scrutinize the cost effectiveness of and the potential of incurring large storage costs of any future commitment to a large scale multi-year satellite procurement satellite.

MK-50 TORPEDO

The conferees agree to provide $108,402,000 to procure 16 second source qualification torpedoes as proposed by the Senate. Additionally, the conferees direct the General Accounting Office to perform a cost effectiveness analysis with respect to the component breakout of the MK-50 afterbody. The review should also examine the merits of separately breaking out the closed loop propulsion system.

CAPTOR MINE MODIFICATION

The conferees agree to provide $38,000,000 to be used solely for the buyout of the Captor Mine modification as proposed by the House.

MK-46 TORPEDO PROGRAM

The conferees on the fiscal year 1987 Continuing Resolution agreed to provide a total of $180,036,000 for the MK-46 torpedo and modification program. The conferees emphasized the fact that this appropriation was substantially higher than the amounts recommended by either the House or the Senate. The Conference Report, dated October 15, 1986, directed that the Navy use the fiscal year 1987 appropriations and all prior year savings and excess funds for the fiscal year 1988 portion (the third year) of the

MK-46 multiyear contract. The conferees also encouraged the Department to submit a reprogramming if additional funding was required. Prior to the conference, the Navy had taken a tentative decision in August 1986 to cancel the third year of the multiyear contract, but the Department thought it not necessary to advise the conferees of their decision. The House Appropriations Committee continued monitoring the Navy actions with respect to the MK-46 program. In March, 1987 Chairman Chappell sent a letter expressing his concern over the cancellation and the Navy's ignoring of the conferees direction. Exhaustive testimony was received concerning this issue and numerous meetings were conducted in an attempt to get all the facts. During the course of gathering this data, the Navy finally revealed its tentative decision to cancel, made in August, 1986. A final decision was not taken until finalization of the fiscal year 1988 budget which was submitted months after the conferees' direction was issued. This blatant disregard of the conference direction cannot and will not be tolerated.

The conferees expect the following actions to be taken forthwith:

Purchase 300 MK-46 using $45,700,000 from the FY 1987 MK-50 program and $6,600,000 from the Department of the Navy's Stinger program. These torpedoes should be used as war reserves and if they become excess to requirements they should be used for foreign military sales.

Accelerate the spares with initial procurement (SAIP) buyout program by one year using the following funds: $17,000,000 from the FY 1987 MK-46 torpedo program; $18,000,000 from the FY 1987 MK-48 Spares program; $4,700,000 from the FY 1987 MK-50 Spares program; and $1,000,000 from the FY 1987 VLA Spares program.

The conferees want to make it perfectly clear that they expect the Department to expeditiously comply with this direction. If there is no movement in this regard the Department can fully expect the conferees to legislate this issue in a way that will go far beyond the scope of this issue.

SPARE AND REPAIR PARTS

During the course of the House's review of the MK-46 Torpedo program it was determined that a severe spare problem is being experienced leaving many units in an unserviceable condition. To alleviate this problem the conferees, in addition to the $40,700,000 of prior year funds that are to be set aside for the MK-46 spares, agree to provide $127,028,000 for weapons spares and repair parts of which not less than $35,000,000 is to be used solely to procure, with initial production, MK-46 spare and repair parts. The conferees approve the reprogramming or transferring of funds from the Operation and Maintenance appropriation if it is necessary to execute the conferees' direction.

SHIPBUILDING AND CONVERSION, NAVY

The conferees agree to the following amounts for Shipbuilding and Conversion, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
SHIPBUILDING AND CONVERSION, NAVY				
Fleet ballistic missile ships—BA–1:				
Trident (nuclear)	1,193,700	1,123,700	1,123,700	1,123,700
Trident (nuclear) (AP–CY)	137,100	137,100	137,100	137,100
Total, fleet ballistic missile ships	1,330,800	1,260,800	1,260,800	1,260,800
Other warships—BA–2:				
CVN aircraft carrier (nuclear)	644,000	617,000	6,325,000	6,325,000
SSN–688 class submarine (nuclear)	1,519,400	1,459,400	1,459,400	1,459,400
SSN–688 class submarine (nuclear) (AP–CY)	217,500	217,500	217,500	217,500
SSN–21 (AP–CY)	257,600	257,600	257,600	257,600
CV SLEP	685,655	685,655	685,655	685,655
CV SLEP (AP–CY)	44,100	44,100	44,100	44,100
CG–47 Aegis cruiser (MYP)	1,926,500	1,926,500	4,127,000	4,127,000
CG–47 Aegis cruiser (MYP) (AP–CY)	11,000	11,000		
DDG–51 (MYP)	2,122,300			
DDG–51 (MYP) (AP–CY)	74,600	5,500	5,500	5,500
Total, other warships	7,502,655	5,224,255	13,121,755	13,121,755
Amphibious ships—BA–3:				
LHD–1 amphibious assault ship	740,700	671,400	720,700	720,700
LHD–1 amphibious assault ship (AP–CY)	32,200	32,200	32,200	32,200
LSD–41 cargo variant	324,200	258,000	324,200	258,000
Total, amphibious ships	1,097,100	961,600	1,077,100	1,010,900
Mine warefare and patrol ships—BA–4: MCM mine countermeasures ship	297,300			
Auxiliaries, craft, and prior-year program—BA–3:				
TAO fleet oiler	279,100	256,400	269,100	256,400
AO (jumbo)	44,100	44,100	44,100	44,100
Service craft	12,500	12,500	12,500	12,500
Strategic Sealift	43,400	43,400	43,400	43,400
LCAC landing craft (AP–CY)	43,700	33,700	36,500	36,500
Sealift enhancement	17,800			
Outfitting	202,900	202,900	183,900	183,900
Post delivery	140,900	132,000	132,000	132,000
TACS crane ship	53,100		53,100	52,100
Total, auxiliaries, craft, and prior–year program	837,500	725,000	774,600	761,900
Inflation savings, FY87				
Total, shipbuilding and conversion, Navy	11,065,355	8,171,655	16,234,255	16,155,355

FRIGATE MODERNIZATION PROGRAM

The conferees are concerned about the lack of current plans for modernization of Navy frigates. These ships provide critical antisubmarine warfare (ASW) protection for convoys, amphibious operations, underway replenishment groups and carrier battle groups.

The FF-1052 (KNOX Class) now comprises almost half of the Navy's frigate fleet. With the lead ship in this class nearing 20 years of age, its effectiveness is a matter of concern in the face of the increasing Soviet submarine threat.

To preserve a qualitative edge over the growing Soviet submarine threat, a plan for modernization of Navy frigate assets is required. The key elements of this plan should include: a modernized ASW sensor and weapons suite capable of defeating the projected Soviet submarine threat of the 1990s and beyond and improved survivability to allow effective operations in a missile environment.

A promising option for meeting these requirements is a modernization program for the 1052 class that could be accomplished in a timely fashion and which could provide service life extension to provide 40 cumulative years of service life.

Accordingly, the conferees direct the Navy to review this and other options for a frigate modernization program taking into account, the projected acoustic and electromagnetic threats and the attendant impact of such a program on the shipbuilding industrial base. The conferees expected the Navy to report its findings and recommendations to the Appropriations Committees no later than March 31, 1988.

MHC COASTAL MINE HUNTER

The Navy did not request any funds for the MHC Coastal Mine Hunter program. Concerns have been raised over the continued delays and problems associated with both mine countermeasures ship programs. At this time, the Navy does not intend to select a second source for the MHC program until fiscal year 1989. The conferees believe that this is unacceptable considering the continuation delays in these programs and current threat. The conferees have identified $27,000,000 in unobligated 1984 MSH funds which the Navy is directed to be used solely for qualifying a second MHC source during fiscal year 1988.

YP-683 CLASS MINE COUNTERMEASURE CONVERSION PROGRAM

Although the U.S. Navy is procuring both the ocean going MCM and the MHC for the coastal waters, it will be many years before adequate numbers of ships are delivered to perform mine sweeping missions near U.S. harbors and ports.

Because of this serious shortfall the conferees believe the Navy should examine a parallel and complimentary program to the MCM and MHC programs for port and harbor mine hunting missions.

Accordingly, the Secretary of the Navy is directed to use prior year (fiscal year 1986) funds to outfit the last fiscal year 1986 YP-683 yard craft with a lightweight, off-the-shelf mine countermeasures system for use in a national emergency.

T-A9 FLEET OILER

The conferees agree to provide a total of $256,400,000 for the fleet oiler program, but do not agree to the restriction on obligation of funds as proposed by the House. The conferees agree with the House language which directs the Navy to procure U.S. built totally enclosed survival system (survival craft and launch systems) for installation on these ships.

LANDING CRAFT AIR CUSHION (LCAC)

The conferees agree to provide $36,500,000 for the Landing Craft Air Cushion (LCAC) program as proposed by the Senate. It is the conferees' intention that $2,800,000 be used solely for an arctic configured LCAC.

T-ACS CRANE SHIP

The conferees agree to provide $53,100,000 for the T-ACS crane ship program as proposed by the Senate provided that the Navy procure U.S. built totally enclosed survival system for installation on these ships.

POST DELIVERY

The conferees agree to the House language which directs the shock testing of MCM-1 during fiscal year 1988 using available post delivery funds.

OTHER PROCUREMENT, NAVY

The conferees agree to the following amounts for Other Procurement, Navy:

(In thousands of dollars)

	Budget	House	Senate	Conference
OTHER PROCUREMENT, NAVY				
SHIPS SUPPORT EQUIPMENT				
SHIP PROPULSION EQUIPMENT				
LM-2500 GAS TURBINE	11,852	11,852	11,852	11,852
ALLISON 501K GAS TURBINE	2,426	2,426	2,426	2,426
LM2500 SPECIAL SUPPORT EQUIPMENT	973	973	973	973
STEAM PROPULSION IMPROVEMENT PROGRAM	11,147	11,147	11,147	11,147
OTHER PROPULSION EQUIPMENT	9,864	9,864	9,864	9,864
GENERATORS				
OTHER GENERATORS	4,328	4,328	4,328	4,328
PUMPS				
OTHER PUMPS	9,195	9,195	9,195	9,195
AIR COMPRESSORS				
HIGH PRESSURE AIR COMPRESSOR	3,229	3,229	3,229	3,229
OTHER AIR COMPRESSORS	255	255	255	255
PROPELLERS				
SUBMARINE PROPELLERS	3,773	3,773	3,773	3,773
OTHER PROPELLERS AND SHAFTS	8,666	8,666	8,666	8,666
NAVIGATION EQUIPMENT				
ELECTRICALLY SUSPENDED GYRO NAVIGATOR	14,701	14,701	14,701	14,701
CARRIER NAVIGATION SYSTEM	4,873	4,873	4,873	4,873
OTHER NAVIGATION EQUIPMENT	5,143	5,143	5,143	5,143
UNDERWAY REPLENISH EQUIP				
UNDERWAY REPLENISHMENT EQUIPMENT	6,132	6,132	6,132	6,132
PERISCOPES				
TYPE 18 PERISCOPE	2,272	2,272	2,272	2,272
TYPE 8 PERISCOPES	7,626	7,626	7,626	7,626
PERISCOPES AND ACCESSORIES	859	859	859	859
OTHER SHIPBOARD EQUIPMENT				
FIREFIGHTING EQUIPMENT	14,563	13,608	36,563	36,563
COMMAND AND CONTROL SWITCHBOARDS	2,230	2,230	2,230	2,230
POLLUTION CONTROL EQUIPMENT	4,237	4,237	4,237	4,237
SUBMARINE SILENCING EQUIPMENT	1,240	1,240	1,240	1,240
SURFACE SHIP SILENCING EQUIPMENT	8,855	8,855	8,855	8,855
SUBMARINE BATTERIES	13,276	13,276	13,276	13,276
STRATEGIC PLATFORM SUPPORT EQUIPMENT	85,297	85,297	75,300	75,300
DSSP EQUIPMENT	7,879	7,879	7,879	7,879
SEALIFT SUPPORT EQUIPMENT	51,791	63,791	51,791	63,791
AIR CONDITIONERS	2,152	2,152	2,152	2,152
MINESWEEPING CABLE	737	737	737	737
HM&E ITEMS UNDER $2 MILLION	35,810	35,810	28,500	28,500
SURFACE IMA	15,529	15,529	15,529	15,529
DEGAUSSING EQUIPMENT	1,353	1,353	1,353	1,353
RADIOLOGICAL CONTROLS	314	314	314	314
MINI/MICROMINI ELECTRONIC REPAIR	1,002	1,002	1,002	1,002
CHEMICAL WARFARE DETECTORS	9,347	9,347	9,347	9,347
SUBMARINE LIFE SUPPORT SYSTEM	2,643	2,643	2,643	2,643
HM&E ENGINEERED MAINTENANCE	391	391	391	391
SHIPBOARD ENERGY CONSERVATION	903	903	903	903
REACTOR PLANT EQUIPMENT				
REACTOR POWER UNITS	82,035	82,035	82,035	82,035
REACTOR COMPONENTS	232,039	232,039	232,039	232,039
OCEAN ENGINEERING				
DIVING AND SALVAGE EQUIPMENT	18,208	18,208	18,208	18,208
NAVAL SPECIAL WARFARE EQUIPMENT	30,653	45,653	30,653	45,653
SMALL BOATS				
SMALL BOATS	17,213	27,213	15,200	25,200
TRAINING EQUIPMENT				
OTHER SHIPS TRAINING EQUIPMENT	2,404	2,404	2,404	2,404
PRODUCTION FACILITIES EQUIPMENT				
CALIBRATION EQUIPMENT	576	576	576	576
PRODUCTION SUPPORT FACILITIES	29,105	29,105	18,600	18,600
OPERATING FORCES IPE	4,620	4,620	4,620	4,620
TOTAL, SHIPS SUPPORT EQUIPMENT	783,716	819,761	775,891	812,891

(In thousands of dollars)

	Budget	House	Senate	Conference
COMMUNICATIONS AND ELECTRONICS EQUIPMENT				
SHIP RADARS				
AN/SPS-67	7,753	7,753	7,753	7,753
AN/SPS-40	26,108	26,108	26,108	26,108
AN/SPS-48	47,714	45,814	47,714	45,814
AN/SPS-49	18,249	18,249	18,249	18,249
AN/SYS-()	8,661	8,000	8,661	8,000
MK 23 TARGET ACQUISITION SYSTEM	26,347	26,347	19,800	19,800
RADAR SUPPORT	12,707	11,707	12,707	11,707
SHIP SONARS				
AN/SQS-26/53/53A	10,901	10,901	10,901	10,901
AN/SQQ-89 SURFACE ASW COMBAT SYS	154,644	208,440	154,644	154,644
AN/BQQ-5	25,865	25,865	25,865	25,865
TB-16 TOWED ARRAY (MYP)	5,665	5,665	5,665	5,665
SURF SONAR WINDOWS AND DOMES	6,068	6,068	6,068	6,068
SONAR SUPPORT EQUIPMENT	5,158	5,158	5,158	5,158
SONAR SWITCHES AND TRANSDUCERS	30,415	30,415	30,415	30,415
FBM SYSTEM SONARS	4,337	4,337	4,337	4,337
ASW ELECTRONIC EQUIPMENT				
SUBMARINE ACOUSTIC WARFARE SYSTEMS	29,318	29,318	29,318	29,318
SURFACE SHIP TORPEDO DEFENSE	10,038	10,038	10,038	10,038
ACOUSTIC COMMUNICATIONS	367	367	367	367
AN/BSY-1	42,755	42,755	42,755	42,755
SOSUS	54,332	54,332	54,332	54,332
AN/SQR-17 ACOUSTIC PROCESSOR	12,823	12,823	12,823	12,823
AN/SQR-17 TORPEDO DETECTION PROCESSOR	---	12,000	---	---
AN/SQR-18 TOWED ARRAY SONAR	10,891	10,891	10,891	10,891
AN/SQR-15 TOWED ARRAY SONAR	699	699	699	699
SURTASS	18,337	18,337	18,337	18,337
ASW OPERATIONS CENTER	3,870	3,870	3,870	3,870
CARRIER ASW MODULE	16,983	16,983	16,983	16,983
ELECTRONIC WARFARE EQUIPMENT				
AN/SLQ-32	75,108	75,108	75,108	75,108
AN/WLR-1	5,540	5,540	5,540	5,540
AN/WLR-8	6,338	6,338	6,338	6,338
OFFBOARD DECEPTION DEVICES	26,988	7,463	7,463	7,463
EW SUPPORT EQUIPMENT	4,896	4,896	4,896	4,896
FLEET EW SUPPORT GROUP	3,438	3,438	3,438	3,438
C3 COUNTERMEASURES	7,424	7,424	7,424	7,424
RECONNAISSANCE EQUIPMENT				
COMBAT CRYPTOLOGIC SUPPORT CONSOLE	9,457	9,457	9,457	9,457
COMBAT DF	52,720	52,720	52,720	52,720
OUTBOARD	27,801	27,801	27,801	27,801
NAVAL INTELLIGENCE PROCESSING SYSTEM	10,078	10,078	10,078	10,078
SUBMARINE SURVEILLANCE EQUIPMENT				
AN/WLQ-4 DEPOT	9,924	9,924	9,924	9,924
AN/WLQ-4 IMPROVEMENTS	18,831	18,831	18,831	18,831
AN/BLD-1 (INTERFEROMETER)	6,718	22,500	6,718	22,500
SUBMARINE SUPPORT EQUIPMENT PROGRAM	2,877	2,877	2,877	2,877
OTHER SHIP ELECTRONIC EQUIPMENT				
NAVY TACTICAL DATA SYSTEM	93,199	83,000	93,199	88,000
TACTICAL FLAG COMMAND CENTER	12,975	12,975	12,975	12,975
MINESWEEPING SYSTEM REPLACEMENT	4,927	4,927	4,927	4,927
OMEGA SHIPBOARD EQUIPMENT	3,299	3,299	3,299	3,299
NAVSTAR GPS RECEIVERS	13,212	13,212	13,212	13,212
HF LINK-11 DATA TERMINALS	1,944	1,944	1,944	1,944
ARMED FORCES RADIO AND TV	5,311	5,311	5,311	5,311
STRATEGIC PLATFORM SUPPORT EQUIPMENT	77,704	77,704	77,704	77,704
TRAINING EQUIPMENT				
OTHER NAVELEX TRAINING EQUIPMENT	1,706	1,706	1,706	1,706
OTHER NAVSEA TRAINING EQUIPMENT	1,193	1,193	1,193	1,193
AVIATION ELECTRONIC EQUIPMENT				
MATCALS	22,806	21,556	21,556	21,556
SHIPBOARD AIR TRAFFIC CONTROL	10,577	10,577	10,577	10,577
AUTOMATIC CARRIER LANDING SYSTEMS	15,567	1,680	---	1,680
TACAN	4,821	4,821	4,821	4,821
AIR STATION SUPPORT EQUIPMENT	7,619	7,619	7,619	7,619
MICROWAVE LANDING SYSTEM	6,327	---	---	---
FACSFAC	41,429	41,429	41,429	41,429
RADAR AIR TRAFFIC CONTROL	1,235	1,235	1,235	1,235
MK XII AIMS IFF	12,908	18,208	12,908	18,208

(In thousands of dollars)

	Budget	House	Senate	Conference
OTHER SHORE ELECTRONIC EQUIPMENT				
NAVAL SPACE SURVEILLANCE SYSTEM	8,956	8,956	8,956	8,956
SPACE SYSTEM PROCESSING	2,152	2,152	2,152	2,152
NCCS ASHORE	17,058	17,058	17,058	17,058
RADIAC	7,437	7,437	7,437	7,437
OVER THE HORIZON RADAR	88,059	88,059	88,059	88,059
GPETE	19,027	19,027	19,027	19,027
INTEG COMBAT SYS TEST FACILITY	5,778	5,778	5,778	5,778
CALIBRATION STANDARDS	7,041	7,041	7,041	7,041
EMI CONTROL INSTRUMENTATION	8,556	8,556	8,556	8,556
SHORE ELEC ITEMS UNDER $900K	14,172	14,172	14,172	14,172
SHIPBOARD COMMUNICATIONS				
SHIPBOARD HF COMMUNICATIONS	3,818	3,818	3,818	3,818
SHIPBOARD UHF COMMUNICATIONS	6,853	6,853	6,853	6,853
PORTABLE RADIOS	7,320	5,320	7,320	5,320
SHIP COMMUNICATIONS AUTOMATION	9,368	9,368	9,368	9,368
SHIP COMM ITEMS UNDER $900K	5,313	5,313	5,313	5,313
SEALIFT SHIP COMMUNICATIONS	3,754	3,000	3,754	3,000
SUBMARINE COMMUNICATIONS				
SHORE LF/VLF COMMUNICATIONS	1,122	1,122	1,122	1,122
VERDIN	820	820	820	820
SSN INTEGRATED COMMUNICATIONS	1,237	1,237	1,237	1,237
SUBMARINE COMMUNICATION ANTENNAS	13,269	12,000	13,269	12,000
SATELLITE COMMUNICATIONS				
SATCOM SHIP TERMINALS	31,212	31,212	31,212	31,212
SATCOM SHORE TERMINALS	4,910	4,910	4,910	4,910
SHORE COMMUNICATIONS				
JCS COMMUNICATIONS EQUIPMENT	4,468	4,468	4,468	4,468
ELECTRICAL POWER SYSTEMS	1,063	1,063	1,063	1,063
SHORE HF COMMUNICATIONS	10,311	10,311	10,311	10,311
DCS TECH CONTROL IMPROVEMENTS	1,342	1,342	1,342	1,342
VOICE FREQ CARRIER TELEGRAPH	1,883	1,883	1,883	1,883
WORLDWIDE WIDEBAND COMM	2,338	2,338	2,338	2,338
WWMCCS COMMUNICATIONS EQUIPMENT	1,594	1,594	1,594	1,594
SHORE COMMUNICATIONS AUTOMATION	10,201	10,201	10,201	10,201
SHORE COMM ITEMS UNDER $900K	1,745	1,745	1,745	1,745
CRYPTOGRAPHIC EQUIPMENT				
SINGLE AUDIO SYSTEM	10,072	10,072	10,072	10,072
TSEC/KY-71/72 (STU-II/STU-IIM)	39,019	39,019	39,019	39,019
TSEC/KG-84	52,070	52,070	52,070	52,070
TSEC/KY-57/58 (VINSON)	15,587	5,000	15,587	5,000
TSEC/KYV-5 (ANDVT)	38,366	38,366	38,366	38,366
TSEC/KG-81 (WALBURN)	1,453	1,453	1,453	1,453
TRITAC CRYPTO	23,125	22,000	23,125	22,000
TSEC/KGV-11	4,585	4,585	4,585	4,585
COMMON FILL DEVICES	589	589	589	589
SIGNAL SECURITY	369	369	369	369
CRYPTOGRAPHIC ITEMS UNDER $2 MILLION	12,392	12,392	12,392	12,392
CRYPTOLOGIC EQUIPMENT				
CRYPTOLOGIC COMMUNICATIONS EQUIP	1,153	1,153	1,153	1,153
SHIPS SIGNAL EXPLOITATION SPACE	4,074	4,074	4,074	4,074
CRYPTOLOGIC ITEMS UNDER $2 MILLION	3,901	3,901	3,901	3,901
CRYPTOLOGIC RESERVES EQUIPMENT	1,265	1,265	1,265	1,265
CRYPTOLOGIC FIELD TRAINING EQUIP	435	435	435	435
SHORE CRYPTOLOGIC SUPPORT SYSTEM	1,264	1,264	1,264	1,264
OTHER ELECTRONIC SUPPORT				
WAR RESERVE	746	746	746	746
ELEC ENGINEERED MAINT (NAVSEA)	531	531	531	531
ELEC ENGINEERED MAINT (NAVELEX)	1,560	1,560	1,560	1,560
LARGE SCREEN DISPLAY	---	1,000	---	1,000
REGENCY NET PACIFIC	---	-5,800	---	-5,800
TOTAL, COMMUNICATIONS AND ELECTRONICS EQUIPMENT	1,712,635	1,724,229	1,663,419	1,656,886
AVIATION SUPPORT EQUIPMENT				
SONOBUOYS				
AN/SSQ-36 (BT)	4,098	4,098	4,098	4,098
AN/SSQ-53 (DIFAR)	58,713	45,013	58,713	58,713
AN/SSQ-57 (SPECIAL PURPOSE)	2,786	2,786	2,786	2,786
AN/SSQ-62 (DICASS)	18,685	18,685	18,685	18,685
AN/SSQ-77 (VLAD)	33,364	33,364	33,364	33,364
GENERAL INCREASE, SONOBOUYS	---	100,000	---	50,000

(In thousands of dollars)

	Budget	House	Senate	Conference
AIR LAUNCHED ORDNANCE				
SKIPPER	36,973	36,973	36,973	36,973
GENERAL PURPOSE BOMBS	80,338	63,974	63,974	63,974
LASER GUIDED BOMB KITS	4,428	4,428	4,428	4,428
WALLEYE	10,729	10,729	10,729	10,729
ROCKEYE	6,783	8,283	6,783	8,283
ZUNI ROCKET	29,457	26,957	29,457	26,957
2.75 INCH ROCKET	19,133	19,133	19,133	19,133
PARACHUTE FLARES	731	731	731	731
MACHINE GUN AMMUNITION	15,435	14,435	14,435	14,435
PRACTICE BOMBS	50,425	20,225	36,925	36,925
CARTRIDGES + CARTRIDGE ACTUATED DEVICES	7,705	7,705	7,705	7,705
AIRCRAFT ESCAPE ROCKETS	4,717	4,717	4,717	4,717
AIRBORNE EXPENDABLE COUNTERMEASURES	25,535	24,035	25,535	24,035
MARINE LOCATION MARKERS	6,567	6,567	6,567	6,567
DEFENSE NUCLEAR AGENCY MATERIAL	1,477	1,477	1,477	1,477
BIGEYE CHEMICAL WEAPON	10,209	---	---	---
JATOS	4,149	4,149	4,149	4,149
GATOR	19,751	---	12,743	6,400
MISC AIR LAUNCHED ORDNANCE	1,618	1,618	1,618	1,618
AIRCRAFT SUPPORT EQUIPMENT				
WEAPONS RANGE SUPPORT EQUIPMENT	46,829	46,829	46,829	46,829
EXPEDITIONARY AIRFIELDS	15,709	15,709	15,709	15,709
AIRCRAFT REARMING EQUIPMENT	35,277	35,277	35,277	35,277
CATAPULTS AND ARRESTING GEAR	47,022	47,022	37,000	42,000
METEOROLOGICAL EQUIPMENT	26,071	26,071	20,100	20,100
OTHER PHOTOGRAPHIC EQUIPMENT	1,841	1,841	1,841	1,841
MISC SURVIVAL EQUIPMENT	9,602	9,602	9,602	9,602
AIRBORNE MINE COUNTERMEASURES	15,940	15,940	15,940	15,940
LAMPS MK-III SHIPBOARD EQUIPMENT	23,327	23,327	23,327	23,327
REWSON PHOTOGRAPHIC EQUIPMENT	37	37	37	37
STOCK SURVEILLANCE EQUIPMENT	3,207	3,207	3,207	3,207
OTHER AVIATION SUPPORT EQUIPMENT	13,864	13,864	13,864	13,864
TOTAL, AVIATION SUPPORT EQUIPMENT	692,532	698,808	628,458	674,615
ORDNANCE SUPPORT EQUIPMENT				
SHIP GUN AMMUNITION				
3 /50 GUN AMMUNITION	3,207	3,207	3,207	3,207
5 /38 GUN AMMUNITION	6,100	6,100	6,100	6,100
5 /54 GUN AMMUNITION	53,401	46,001	46,001	46,001
16 INCH GUN AMMUNITION	16,531	14,931	14,931	14,931
CIWS AMMUNITION	41,119	41,119	41,119	41,119
76MM GUN AMMUNITION	5,912	5,912	5,912	5,912
OTHER SHIP GUN AMMUNITION	21,847	20,247	20,247	20,247
SHIP GUN SYSTEM EQUIPMENT				
GUN FIRE CONTROL EQUIPMENT	13,914	13,914	13,914	13,914
SHIP MISSILE SYSTEMS EQUIPMENT				
MK-92 FIRE CONTROL SYSTEM	7,038	7,038	7,038	7,038
MK-92 CORT	---	78,000	---	78,000
HARPOON SUPPORT EQUIPMENT	38,021	38,021	28,600	38,021
TERRIER SUPPORT EQUIPMENT	48,535	48,535	48,535	48,535
TARTAR SUPPORT EQUIPMENT	64,226	64,226	64,226	64,226
POINT DEFENSE SUPPORT EQUIPMENT (MYP)	14,117	14,117	14,117	14,117
AIRBORNE ECM/ECCM	1,045	1,045	1,045	1,045
AEGIS SUPPORT EQUIPMENT	4,233	4,233	4,233	4,233
SURFACE TOMAHAWK SUPPORT EQUIPMENT	50,937	50,937	50,937	50,937
SUBMARINE TOMAHAWK SUPPORT EQUIPMENT	5,521	5,521	5,521	5,521
VERTICAL LAUNCH SYSTEM	56,029	56,029	56,029	56,029
FBM SUPPORT EQUIPMENT				
STRATEGIC PLATFORM SUPPORT EQUIPMENT	66,745	66,745	66,745	66,745
ASW SUPPORT EQUIPMENT				
MK-117 FIRE CONTROL SYSTEM	68,405	68,405	61,200	61,200
SUBMARINE ASW SUPPORT EQUIPMENT	1,003	1,003	1,003	1,003
SURFACE ASW SUPPORT EQUIPMENT	15,543	15,543	15,543	15,543
ASW RANGE SUPPORT EQUIPMENT	5,714	5,714	5,714	5,714
OTHER ORDNANCE SUPPORT EQUIPMENT				
EXPLOSIVE ORDNANCE DISPOSAL EQUIP	12,752	12,752	12,752	12,752
SWIMMER WEAPONS SYSTEMS	4,096	4,096	4,096	4,096
UNMANNED SEABORNE TARGET	2,003	2,003	2,003	2,003
ANTI-SHIP MISSILE DECOY SYSTEMS	7,575	7,575	7,575	7,575
CALIBRATION EQUIPMENT	3,563	3,563	3,563	3,563

(In thousands of dollars)

	Budget	House	Senate	Conference
STOCK SURVEILLANCE EQUIPMENT	1,780	1,780	1,780	1,780
OTHER ORDNANCE TRAINING EQUIPMENT	2,339	2,339	2,339	2,339
OTHER EXPENDABLE ORDNANCE				
SMALL ARMS AND LANDING PARTY AMMO	35,680	35,680	35,680	35,680
PYROTECHNIC AND DEMOLITION MATERIAL	25,463	25,463	25,463	25,463
QUICKSTRIKE	13,129	13,129	13,129	13,129
FLEET MINE SUPPORT EQUIPMENT	18,022	18,022	18,022	18,022
MINE NEUTRALIZATION DEVICES	3,329	3,329	3,329	3,329
DEFENSE NUCLEAR AGENCY MATERIAL	9,594	9,594	9,594	9,594
SHIPBOARD EXPENDABLE COUNTERMEASURES	21,074	20,374	20,374	20,374
TOTAL, ORDNANCE SUPPORT EQUIPMENT	769,542	836,242	741,616	829,037
CIVIL ENGINEERING SUPPORT EQUIPMENT				
PASSENGER CARRYING VEHICLES	10,226	5,060	5,060	5,060
ARMORED SEDANS	185	185	---	---
TRUCKS	31,120	19,312	19,312	19,312
TRAILERS	2,135	2,135	2,135	2,135
CRUSH, MIX, BATCH, PAVE EQUIPMENT	2,645	1,984	2,645	1,984
DRILLING AND BLASTING EQUIPMENT	2,377	2,294	2,377	2,294
EARTH MOVING EQUIPMENT	6,939	6,939	6,939	6,939
LIGHTING AND POWER GENERATING EQUIP	1,642	1,642	1,642	1,642
MISC CONSTRUCTION AND MAINTENANCE EQUIP	4,709	3,532	4,709	3,532
FIRE FIGHTING EQUIPMENT	8,430	8,430	8,430	8,430
WEIGHT HANDLING EQUIPMENT	8,020	6,737	8,020	6,737
AMPHIBIOUS EQUIPMENT	9,923	9,923	9,923	9,923
COMBAT CONSTRUCTION SUPPORT EQUIPMENT	8,539	8,539	8,539	8,539
MOBILE UTILITIES SUPPORT EQUIPMENT	7,646	5,424	7,646	5,424
COLLATERAL EQUIPMENT	1,571	1,571	1,571	1,571
OCEAN CONSTRUCTION EQUIPMENT	2,184	2,184	2,184	2,184
FLEET MOORINGS	4,528	4,528	4,528	4,528
POLLUTION CONTROL EQUIPMENT	1,914	1,914	1,914	1,914
OTHER CIVIL ENG SUPPORT EQUIPMENT	2,067	2,067	2,067	2,067
TOTAL, CIVIL ENGINEERING SUPPORT EQUIPMENT	116,800	94,400	99,641	94,215
SUPPLY SUPPORT EQUIPMENT				
FORKLIFT TRUCKS	19,519	9,708	14,500	9,708
OTHER MATERIALS HANDLING EQUIPMENT	1,571	1,571	1,571	1,571
AUTOMATED MATERIALS HANDLING SYSTEMS	11,513	11,513	11,513	11,513
OTHER SUPPLY SUPPORT EQUIPMENT	13,056	10,056	13,056	10,056
SPECIAL PURPOSE SUPPLY SYSTEMS	76,346	76,346	76,346	76,346
TOTAL, SUPPLY SUPPORT EQUIPMENT	122,005	109,194	116,986	109,194
PERSONNEL AND COMMAND SUPPORT EQUIPMENT				
TRAINING DEVICES				
SUBMARINE SONAR TRAINERS	1,212	1,212	1,212	1,212
SURFACE COMBAT SYSTEM TRAINERS	18,910	18,910	18,910	18,910
SUBMARINE COMBAT SYSTEM TRAINERS	20,511	20,511	20,511	20,511
SHIP SYSTEM TRAINERS	15,011	15,011	15,011	15,011
TRAINING SUPPORT EQUIP	2,636	2,636	2,636	2,636
TRAINING DEVICE MODIFICATIONS	3,088	3,088	3,088	3,088
COMMAND SUPPORT EQUIPMENT				
COMMAND SUPPORT EQUIPMENT	8,927	8,927	8,927	8,927
EDUCATION SUPPORT EQUIPMENT	1,228	1,228	1,228	1,228
MEDICAL SUPPORT EQUIPMENT	15,020	15,020	15,020	15,020
INTELLIGENCE SUPPORT EQUIPMENT	73,275	69,195	71,175	70,475
ITEMS UNDER $2 MILLION	1,508	1,508	1,508	1,508
OPERATING FORCES SUPPORT EQUIPMENT	14,586	14,586	7,300	7,300
NAVAL RESERVE SUPPORT EQUIPMENT	162	162	162	162
OCEANOGRAPHIC SUPPORT EQUIPMENT	15,774	15,774	25,774	25,774
PHYSICAL SECURITY EQUIPMENT	47,238	45,520	40,000	40,000
COMPUTER ACQUISITION PROGRAM				
COMPUTER ACQUISITION PROGRAM	229,324	181,287	175,700	175,700
PRODUCTIVITY PROGRAMS				
PRODUCTIVITY INVESTMENT FUND (PIF)	1,990	1,990	1,990	1,990
PROD ENHANCING INCENTIVE FUND (PEIF)	7,371	7,371	7,371	7,371
TOTAL, PERSONNEL AND COMMAND SUPPORT EQUIPMENT	477,771	423,936	417,523	416,823
SPARES & REPAIR PARTS				
SPARES AND REPAIR PARTS	308,826	305,725	278,800	278,800
TOTAL, OTHER PROCUREMENT, NAVY	4,983,827	5,012,295	4,722,334	4,872,461

NAVY SPECIAL WARFARE EQUIPMENT

Last year the conferees in the Continuing Resolution for fiscal year 1987 directed the Navy to determine whether there were any small submersible vehicles available on the commercial market. The conferees intended that the Navy purchase a vehicle to assess its performance as it relates to the operational and inherent technological requirements of an advanced swimmer delivery system. Since the Navy has been successful in its market survey the conferees agree to provide $45,653,000 for naval special warfare equipment. Additionally, the conferees direct that $15,000,000 of the recommended amount be used only for the purchase of a small submersible vehicle or supporting subsystems. The Navy should report its acquisition decision to the House and Senate Committees on Appropriations within 30 days of contract award. This report should address vessel cost, supplier, schedule for conversion, and Navy operational and testing plans.

SMALL BOATS

The conferees are concerned that our civilian manned ships ("T" ship program) are not equipped with state of the art survival systems. Accordingly, the conferees agree to provide $25,200,000 for small boats provided that $10,000,000 is solely for the purchase of U.S. built totally enclosed survival systems. Additionally, the conferees direct the Navy to submit no later than March 1, 1988 a plan and funding profile to equip each "T" type (civilian-manned) ship with U.S. built totally enclosed survival systems. It should be noted that this plan will be discussed at length in the Other Procurement, Navy hearings.

The conferees agree with the Senate position deleting funds for sail training craft procurement. These craft should be funded with non-appropriated assets available to the Navy Academy.

NAVY TACTICAL DATA SYSTEM

The conferees recommended $88,000,000 for the Navy Tactical Data System and direct that none of these funds be made available for reprogramming from this line.

AUTOMATIC CARRIER LANDING SYSTEM

The Conferees recommend $1,680,000 for the Automatic Carrier Landing System. Available prior year funds under this line should be made available for necessary modifications of existing systems consistent with the direction provided in the Senate report.

MK XII AIMS IFF

The conferees recommend $18,208,000 for the MK XII AIMS IFF program. This recommendation provides for the procurement of the remaining requirement of the SN-501 UPX Video Synchronizer.

MK-92 FIRE CONTROL SYSTEM UPGRADE—CORT

In an effort to improve the anti-aircraft warfare system of our FFG-7 class frigates, the conferees agree to provide $78,000,000 for six MK-92 CORT systems and direct the Navy to proceed expeditiously with both the contact award and any remaining testing.

CLOSE-IN WEAPON SYSTEM AMMUNITION

The conferees agree that the procurement strategy for close-in weapon system ammunition shall address both depleted uranium and tungsten penetrators.

SONOBUOYS

The conferees agree to an unallocated increase of $50,000,000 for procurement of sonobuoys. The Navy shall report to the Committees on the allocation of this increase.

The House report directed termination of the sonobuoy rolling stock surge program beginning in fiscal year 1988. The conferees agree with Senate report language directing the Navy to review its surge production capabilities and report to the Committees. The conferees agree that the Navy's report shall include a phase-out plan for the rolling stock inventory, whether or not termination is the Navy's recommendation. The conferees further agree that the phase-out does not have to begin before fiscal year 1989.

The conferees approve the Navy's fiscal year 1988 procurement strategy for sonobuoys but expect a detailed and responsive review and report on the House study of this program when the fiscal year 1989 budget is submitted. The report shall include corrective actions taken and planned.

DEADEYE

The conference agreement includes an amendment to a House general provision (Sec. 8091) which requires that previously appropriated funds for the Deadeye five inch guided projectile may be obligated only after the Secretary of the Navy certifies to the Committees on Appropriations of the House of Representatives and the Senate that (1) the program is funded in the fiscal year 1989 five year budget, (2) that it will be competitively procured, and (3) that the procurement unit cost will be no more than $29,000, under a firm fixed price contract.

The conferees believe that this certification can be made at the end of the Phase II second source qualification effort with a competitive down-selection to two producers. Therefore, $48,000,000 in fiscal 1987 funds, intended for use in Phase III, will not be needed and are rescinded in the bill.

REALIGNMENT OF GENERAL DEFENSE INTELLIGENCE PROGRAMS (GDIP)

The conferees have realigned various funding lines of the General Defense Intelligence Program, which are included in the Other Procurement, Navy appropriation. Details of this realignment are contained in the classified annex to this conference report.

PROCUREMENT, MARINE CORPS

The conferees agree to the following amounts for the Procurement, Marine Corps, account:

(In thousands of dollars)

	Budget	House	Senate	Conference
PROCUREMENT, MARINE CORPS				
AMMUNITION				
SMALL ARMS AMMO:				
CTG 5.56MM BALL M855	21,589	21,589	21,589	21,589
CTG 9MM BALL M882	6,762	6,762	6,762	6,762
CTG 40MM HE DP M433	4,329	4,329	4,329	4,329
MACHINE GUN AMMO:				
CTG 5.56MM LINKED (SAW)	6,311	6,311	6,311	6,311
CTG CAL 50 LINKED	1,156	1,156	1,156	1,156
CTG 40MM LINKED M430 HE DP	19,866	19,866	19,866	19,866
CTG 7.62MM LINKED M80	4,195	4,195	4,195	4,195
MORTAR AMMO:				
CTG 60MM HE M888	4,116	4,116	4,116	4,116
CTG 81MM HE M821	36,197	36,197	36,197	36,197
CTG 81MM HE M889	62,017	62,017	62,017	62,017
CTG 81MM SMK M819	11,474	11,474	11,474	11,474
CTG 81MM ILLUM M853	1,001	1,001	1,001	1,001
CTG 60MM SMOKE WP XM722	4,041	4,041	4,041	4,041
CTG 60MM ILLUM XM721	4,000	4,000	4,000	4,000
GRENADES:				
GRENADE SMOKE SCREEN (IR)	5,000	5,000	5,000	5,000
GRENADE SMOKE SCREEN (RP)	548	548	548	548
SIGNAL ILLUM WSP	3,015	3,015	3,015	3,015
CTG 40MM WS PARA	1,897	1,897	1,897	1,897
GRENADE HAND FRAG	6,729	6,729	6,729	6,729
GRENADE HAND SMOKE GREEN	1,294	1,294	1,294	1,294
GRENADE HAND SMOKE YELLOW	1,742	1,742	1,742	1,742
SIGNAL ILLUM GRD GRN	1,365	1,365	1,365	1,365
SIGNAL SMOKE GRD GREEN PARA	2,108	2,108	2,108	2,108
FLARE SURFACE TRIP	1,712	1,712	1,712	1,712
ROCKETS:				
ROCKET 83MM (SMAW)	---	---	3,700	---
ROCKET 5 INCH MOTOR	1,148	1,148	1,148	1,148
LIGHT ANTI ARMOR WEAPON AT-4	12,981	12,981	21,581	12,981
ROCKET 83MM HEAA	12,315	12,315	---	12,315
TRAINING AMMO:				
CTG 40MM TP F/MK19	9,985	9,985	9,985	9,985
CTG 40MM PRAC M781	1,259	1,259	1,259	1,259
CTG 81MM TP XM879	3,517	3,517	3,517	3,517
LINE CHARGE PRAC (TRLR) MTD	2,166	2,166	2,166	2,166
LINE CHARGE PRAC LVT MTD	2,131	2,131	2,131	2,131
CTG 5.56MM BLANK LKD (SAW)	3,902	3,902	3,902	3,902
CTG 5.56MM BLANK M200	7,305	7,305	7,305	7,305
CTG 7.62MM BLANK LINKED	2,480	2,480	2,480	2,480
CTG 120MM TP-T M831	4,261	---	---	---
CTG 120MM TPCSDS-T M865	2,451	---	---	---
ROCKET 83MM PRACTICE F/HEAA	1,120	1,120	1,120	1,120
155MM AMMO:				
PROJ 155MM ADAM-L M692	2,001	2,001	2,001	2,001
PROJ 155MM ADAM-S M731	2,001	2,001	2,001	2,001
PROJ 155MM RAAMS-L M718	14,698	14,698	14,698	14,698
PROJ 155MM RAAMS-S M741	35,028	35,028	35,028	35,028
PROJ 155MM HE ICM (DP)M483	2,004	2,004	2,004	2,004
CHARGE PROP 155MM WHITE BAG M4A2	12,963	12,963	12,963	12,963
ANTI-ARMOR AMMO:				
CTG 120MM APFSDS-T M829	7,784	---	---	---
CTG 120MM HEAT M830	29,014	---	---	---
8 INCH AMMO:				
FUZES:				
PRIMER PERCUSSION M82	733	733	733	733
PROXIMITY M732A1	4,513	---	4,513	---
AMMO MODERNIZATION	14,775	14,775	14,775	14,775
OTHER SUPPORT				
ITEMS LESS THAN $2 MILLION	5,886	5,886	5,886	5,886
TOTAL, AMMUNITION	410,885	362,862	367,360	362,862
WEAPONS AND COMBAT VEHICLES				
TRACKED COMBAT VEHICLES				
AAV7A1 PIP	21,702	21,702	21,702	21,702
MODIFICATION KITS (TRKD VEH)	490	490	490	490
M-1 MAIN BATTLE TANK (MYP)	1,144	1,144	1,144	1,144
M-1 MAIN BATTLE TANK (MYP) (AP-CY)	24,441	24,441	24,441	24,441
M1 TANK TRAINER	8,947	8,947	8,947	8,947
ITEMS LESS THAN $2 MILLION (TRKD VEH)	75	75	75	75

(In thousands of dollars)

	Budget	House	Senate	Conference
ARTILLERY AND OTHER WEAPONS				
POS AZIMUTH DETERM SYS (PADS)	9,637	9,637	9,637	9,637
ITEMS LESS THAN $2 MILLION (ATL-CTH)	1,077	1,077	1,077	1,077
WEAPONS				
9MM HANDGUN	5,191	5,191	5,191	5,191
MACHINE GUN, AUTO SAW 5.56MM	3,029	---	3,029	---
M-16 5.56MM RIFLE	8,859	8,859	8,859	8,859
XM-4 CARBINE	1,005	---	---	---
MK-19 40MM MACHINE GUN	3,583	3,583	---	---
MORTAR, MED. EXTENDED RANGE	5,262	5,262	5,262	5,262
TOTAL, WEAPONS AND COMBAT VEHICLES	94,442	90,408	89,854	86,825
GUIDED MISSILES AND EQUIPMENT				
GUIDED MISSILES				
HAWK (MYP)	136,974	132,324	123,974	122,974
HAWK (MYP) (AP-CY)	24,350	---	24,350	20,000
HAWK MOD	30,129	30,129	30,129	30,129
STINGER (MYP)	137,356	93,005	117,356	93,005
DRAGON MISSILE SYSTEM	7,890	7,890	7,890	7,890
TOW (MYP)	26,940	26,940	38,440	38,440
OTHER SUPPORT				
MODIFICATION KITS	761	761	761	761
TOTAL, GUIDED MISSILES AND EQUIPMENT	364,400	291,049	342,900	313,199
COMMUNICATIONS AND ELECTRONICS EQUIPMENT				
MANPACK RADIOS				
VEHICLE MOUNTED RADIOS AND EQUIPMENT				
VEHICLE MTD RADIOS & EQUIPMENT	3,224	3,224	3,224	3,224
TELEPHONE AND TELETYPE EQUIPMENT				
UNIT LEVEL CIRCUIT SWITCH (ULCS)	64,549	64,549	64,549	64,549
TACT COMM CENTER EQUIP	9,887	9,887	9,887	9,887
AN/PSG( ) DIGITAL COMM TERMINAL	17,316	17,316	17,316	17,316
REPAIR AND TEST EQUIPMENT				
CALIBRATION FACILITY ELECTRONIC	8,740	8,740	8,740	8,740
ELECTRONIC TEST EQUIP (TEL)	2,169	2,169	2,169	2,169
AN/GRM-114A TEST SET, RADIO	850	850	850	850
OTHER COMM/ELEC EQUIPMENT				
ANDVT/TACTERM	2,420	2,420	2,420	2,420
OTHER SUPPORT (TEL)				
TEST CALIB + MAINT SPT	97	97	97	97
MODIFICATION KITS (TEL)	1,948	1,948	1,948	1,948
ITEMS LESS THAN $2 MILLION (TEL)	1,966	1,966	1,966	1,966
COMMAND + CONTROL SYSTEMS (NON-TEL)				
TACTICAL AIR OPER MODULE (TAOM)	71,623	67,923	71,623	71,623
AN/UYQ 4 SEMI AUTO,DIRECT AIR SUPPORT CENTRAL	5,747	5,747	5,747	5,747
RADAR + EQUIPMENT (NON-TEL)				
INTELL/COMM EQUIPMENT (NON-TEL)				
INTELLIGENCE SUPPORT EQUIPMENT	4,420	4,420	4,420	4,420
REPAIR + TEST EQUIPMENT (NON-TEL)				
ELECTRONIC TDME REPAIR FACILITY	1,749	1,749	1,749	1,749
CALIBRATION FACILITY	5,600	5,600	5,600	5,600
STE/ICE SIMPL TEST EQ	1,423	1,423	1,423	1,423
MECH TEST TMDE	97	97	97	97
ELECTRONIC TEST EQUIP (NONTEL)	97	97	97	97
OTHER COMM/ELEC EQUIPMENT (NON-TEL)				
NIGHT VISION EQUIPMENT	16,686	16,686	16,686	16,686
ADP EQUIPMENT	41,015	41,015	41,015	41,015
OTHER SUPPORT (NON-TEL)				
TEST CALIB & MAINT SPT (NON-TEL)	97	97	97	97

(In thousands of dollars)

	Budget	House	Senate	Conference
MODIFICATION KITS (NONTEL)............................	12,614	12,614	12,614	12,614
ITEMS LESS THAN $2 MILLION (NONTEL)..................	1,401	1,401	1,401	1,401
TOTAL, COMMUNICATIONS AND ELECTRONICS EQUIPMENT.....	275,735	272,035	275,735	275,735
SUPPORT VEHICLES				
ADMINISTRATIVE VEHICLES				
COMMERCIAL PASSENGER VEHICLES.........................	2,464	2,464	2,464	2,464
COMMERCIAL CARGO VEHICLES.............................	9,599	9,599	9,599	9,599
TACTICAL VEHICLES				
5/4T TRUCK HMMWV......................................	2,881	2,881	2,881	2,881
LOGISTICS VEHICLE SYSTEM..............................	17,661	17,661	17,661	17,661
TRAILERS, ALL TYPES...................................	2,881	2,881	2,881	2,881
OTHER SUPPORT				
MODIFICATION KITS.....................................	3,168	3,168	3,168	3,168
ITEMS LESS THAN $2 MILLION............................	862	862	862	862
TOTAL, SUPPORT VEHICLES.............................	39,516	39,516	39,516	39,516
ENGINEER AND OTHER EQUIPMENT				
ENGINEER AND EQUIPMENT				
ENVIRONMENTAL CONTROL EQ ASSORT.......................	2,834	2,834	2,834	2,834
HEAVY RT CRANE..	34,976	34,976	34,976	34,976
LIGHT RT CRANE..	11,625	11,625	11,625	11,625
TRACTORS, ALL TYPES...................................	28,785	28,785	28,785	28,785
CONTAINER HNDLR, ROUGH TERR...........................	8,118	8,118	8,118	8,118
FORKLIFTS, ALL TYPES..................................	27,839	27,839	27,839	27,839
LAUNDRY UNIT, FIELD...................................	3,240	3,240	3,240	3,240
FIELD BATH SHOWER UNIT................................	2,255	2,255	2,255	2,255
FIELD WIRING HARNESS..................................	4,351	4,351	4,351	4,351
FUEL & WATER PUMP & STORAGE MODULE....................	10,572	10,572	10,572	10,572
AMPHIBIOUS ASSAULT FUEL SYSTEM........................	2,346	2,346	2,346	2,346
TACT AIRFIELD FUEL DISP SYS...........................	1,899	1,899	1,899	1,899
TOPOGRAPHIC-SURVEY EQUIPMENT..........................	908	908	908	908
WET GAP BRIDGE SYSTEM.................................	5,628	5,628	5,628	5,628
POWER EQUIPMENT ASSORTED..............................	1,272	1,272	1,272	1,272
MATERIALS HANDLING EQUIPMENT.				
COMMAND SUPPORT EQUIPMENT.............................	6,792	6,792	6,792	6,792
HQ SPT EQ...	3,374	3,374	3,374	3,374
GARRISON MOBILE ENGR EQUIP............................	3,838	3,838	3,838	3,838
AUTO MAT HANDLING EQUIP...............................	959	959	959	959
HQMC ITEMS..	327	327	327	327
MATERIEL HANDLING EQUIP...............................	2,290	2,290	2,290	2,290
GENERAL PROPERTY				
LTWT DECONTAMINAION SYSTEM............................	3,409	3,409	3,409	3,409
TRN DEVICES (AUDIO VISUAL)............................	1,440	1,440	1,440	1,440
TRN DEVICES (SIMULATORS)..............................	9,862	9,862	9,862	9,862
CONTAINER FAMILY......................................	3,002	3,002	3,002	3,002
CHEMICAL ALARM SYSTEM.................................	916	916	916	916
OTHER SUPPORT				
ITEMS LESS THAN $2 MILLION............................	4,913	4,913	4,913	4,913
TOTAL, ENGINEER AND OTHER EQUIPMENT.................	187,770	187,770	187,770	187,770
SPARES & REPAIR PARTS				
SPARES AND REPAIR PARTS...............................	29,692	29,692	29,692	29,692
TOTAL, SPARES AND REPAIR PARTS......................	29,692	29,692	29,692	29,692
TOTAL, PROCUREMENT, MARINE CORPS....................	1,402,440	1,273,332	1,332,827	1,295,599

83MM ROCKET (SMAW)

The conferees agree to provide $12,315,000 for initial procurement of 3,355 High Explosive Antiarmor (HEAA) rounds for the Shoulder-Launched Multipurpose Assault Weapon (SMAW). Further, the conferees agree to provide $34,962,000 for Marine Corps Ground Combat/Supporting Arms Systems [PE26623M] of which $7,424,000 will be used for the development of anti-tank rounds for the SMAW.

The conferees further direct that none of the funds provided for the development or procurement of any anti-tank round for the SMAW shall be obligated or expended until the Under Secretary of Defense for Aquisition has certified to the Committees on Appropriations that the antiarmor rounds for the SMAW fall within the approved programs of the Department of Defense Antiarmor Master Plan and that the development and procurement of the rounds are fully funded in the fiscal year 1989-1994 Five Year Defense Plan (FYDP).

The conferees further agree that the next annual DoD Antiarmor Master Plan shall be modified to reflect the implementation of the GAO recommended uniformed methodology for assessing and comparing the peformance of antitank weapons and ammunition. The conferees also direct that future budgets shall identify all ground antiarmor development in three general program elements; Light, Medium and Heavy Antiarmor Weapons development. All funds requested for development of any component of a ground antiarmor weapon will be identified within one of these program elements. These program elements shall be uniform for all services and defense agencies. The DoD antiarmor master plan shall also be amended to include these changes.

MARINE CORPS AMMUNITION

The conferees agree that all ammunition lines in the table above are matters of special interest

TOW II

The conferees agree to provide $26,940,000 for the procurement of 2,680 TOW missiles. Further, the conferees provide an additional appropriation of $11,500,000 only for TOW II missiles, subject to authorization.

HAWK

The conference agreement provides the necessary authority and funding for a multiyear contract for the Hawk missile system. The conferees are not yet convinced, however, that multiyear procurement is the most cost effective compared to other strategies. The conferees direct, therefore, that none of the funds may be obligated for a multiyear contract until the Secretary of Defense certifies that such a contract is the most cost effective procurement strategy, that other strategies have been investigated, and that the proposed contract complies with all provisions of law.

COASTAL DEFENSE AUGMENTATION

To ensure that the Coast Guard's 270 foot medium endurance cutters are able to conduct the antisubmarine warfare mission in support of the national maritime strategy, the conferees agree to provide $20,000,000 and direct that funds provided are to be used to develop and install a prototype ASW system which includes the following proposed equipment suite:

SQR-17A DIFAR/DICASS sonobuoy processor;
APR-78 shipboard sonobuoy receivers;
SQR-18A tactical towed array sonar;
automated approach aids to allow for helicopter recovery during restricted visibility; and
ASW datalink system consisting of palletized equipment for the H-60 helicopter, including a SKR-4 shipboard datalink receiver.

AIRCRAFT PROCUREMENT, AIR FORCE

The conferees agree to the following amounts for the Aircraft Procurement, Air Force, account:

(In thousands of dollars)

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, AIR FORCE				
COMBAT AIRCRAFT				
STRATEGIC OFFENSIVE				
TACTICAL FORCES				
F-15 D/E	1,384,200	1,186,456	1,334,200	1,309,200
F-15 D/E (AP-CY)	154,200	154,200	154,200	154,200
F-16 C/D (MYP)	2,223,668	2,048,668	2,173,668	2,148,668
F-16 C/D (MYP) (AP-CY)	475,900	475,900	475,900	475,900
OTHER COMBAT AIRCRAFT				
MC-130H	356,500	309,500	329,000	329,000
MC-130H (AP-CY)	15,800	15,800	15,800	15,800
AC-130U GUNSHIP	217,800	---	---	---
AC-130U GUNSHIP (AP-CY)	59,200	18,200	18,200	18,200
TOTAL, COMBAT AIRCRAFT	4,887,268	4,208,724	4,500,968	4,450,968
AIRLIFT AIRCRAFT				
STRATEGIC AIRLIFT				
TACTICAL AIRLIFT				
C-17	617,900	550,000	589,000	589,000
C-17 (AP-CY)	66,300	66,300	66,300	66,300
OTHER AIRLIFT				
C-27	65,900	65,900	---	---
TOTAL, AIRLIFT AIRCRAFT	750,100	682,200	655,300	655,300
TRAINER AIRCRAFT				
UPT TRAINERS				
TOTAL, TRAINER AIRCRAFT	---	---	---	---
OTHER AIRCRAFT				
HELICOPTERS				
MISSION SUPPORT AIRCRAFT				
CIVIL AIR PATROL A/C	600	1,500	600	1,500
TR-1/U-2	10,700	10,700	10,700	10,700
TOTAL, OTHER AIRCRAFT	11,300	12,200	11,300	12,200
MODIFICATION OF INSERVICE AIRCRAFT				
STRATEGIC AIRCRAFT				
B-52	270,700	238,700	253,900	238,700
FB-111	800	800	800	800
B-1B	4,600	4,600	4,600	4,600
TACTICAL AIRCRAFT				
A-7	700	700	10,700	10,700
A-10	13,600	12,240	12,240	12,240
F/RF-4	10,400	10,400	10,400	10,400
F-5	4,300	4,300	4,300	4,300
F-15	161,200	97,400	161,200	123,500
F-16	76,300	76,300	76,300	76,300
F-111	253,100	253,100	253,100	253,100
TR-1A	10,900	9,867	9,867	9,867
T/AT-37	12,400	12,400	12,400	12,400
AIRLIFT AIRCRAFT				
C-5	16,900	16,900	16,900	16,900
C-9	2,700	2,700	2,700	2,700
C-137	1,800	1,800	1,800	1,800
C-141	17,100	11,565	17,100	17,100
TRAINER AIRCRAFT				
T-38	13,800	13,800	13,800	13,800
T-43	400	400	400	400

(In thousands of dollars)

	Budget	House	Senate	Conference
OTHER AIRCRAFT				
KC-10A (ATCA)	13,200	13,200	13,200	13,200
C-130	217,500	197,877	217,500	217,500
C-135	629,500	766,100	591,900	766,100
E-3	27,700	27,700	27,700	27,700
H-1	1,700	1,700	1,700	1,700
H-3 AIRCRAFT SYSTEM	200	200	200	200
HH-53 AIRCRAFT	400	400	400	400
OTHER AIRCRAFT	62,000	62,000	62,000	62,000
OTHER MODIFICATIONS				
CLASSIFIED PROJECTS	83,728	73,300	53,728	72,900
TOTAL, MODIFICATION OF INSERVICE AIRCRAFT	1,907,628	1,910,449	1,830,835	1,971,307
AIRCRAFT SPARES AND REPAIR PARTS				
SPARES AND REPAIR PARTS	2,965,967	2,285,406	2,465,967	2,375,687
AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES				
COMMON GROUND EQUIPMENT	221,275	198,166	198,275	198,166
INDUSTRIAL RESPONSIVENESS	40,000	40,000	40,000	40,000
WAR CONSUMABLES	50,000	50,000	50,000	50,000
OTHER PRODUCTION CHARGES	3,135,933	1,816,543	3,075,733	2,985,732
COMMON ECM EQUIPMENT	221,900	178,667	185,357	217,467
TOTAL, AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES	3,669,108	2,283,376	3,549,365	3,491,365
TOTAL, AIRCRAFT PROCUREMENT, AIR FORCE	14,191,371	11,382,355	13,013,735	12,956,827

C-27

The conferees have not provided funding for the C-27 program, a new initiative for off-the-shelf aircraft in support of low intensity conflicts. The conferees believe that the requirements for the C-27 need refinement. In addition, the current procurement strategy virtually precludes United States aircraft manufacturers. In connection with the fiscal year 1989 budget submission the managers request the Air Force to better define the precise operating requirements for the C-27 aircraft and refocus the procurement strategy to encourage the participation of U.S. manufacturers.

F-15 MODIFICATIONS

The Senate funded the budget estimate of $58,000,000 to equip F-15s with the joint tactical information distribution system (JTIDS), which the House had denied due to concern with the system's reliability.

The conferees have provided $20,000,000 for JTIDS modifications but direct that none of the funds be obligated or expended until the system has demonstrated consistent reliability and attained a level of at least 400 hours mean time between failures.

Further, the conferees agree to provide $6.1 million within funds available for F-15 modifications to procure chaff and flare dispensers for F-15 aircraft.

F-111 ECM PODS

In February 1987, due to its excessive cost, the Air Force canceled the program to provide an internal electronic countermeasure suite for F-111 aircraft. The Air Force's proposed alternative plan to upgrade F-111 ECM capabilities is to purchase additional ALQ-131 Block II pods.

The conferees support the Air Force's effort to upgrade F-111 ECM capabilities. Accordingly, the conferees have transferred $38,800,000 requested in the Research, development, test and evaluation, Air Force account to the Aircraft procurement, Air Force account for the purchase of additional pods. In addition, the conferees approve the use of not to exceed $80,400,000 appropriated for the ALQ-XXX and ALQ-184 systems in fiscal year 1986 for the purchase of the additional 72 ALQ-131 Block II pods.

OTHER PRODUCTION CHARGES

The conferees agree that within the funding provided for other production charges the following changes from the budget are reflected:

TR-1 reengining	+$10,000,000
TR-1 ASARS modification	+30,000,000
NAVSTAR GPS	−25,200,000

Other changes have been addressed in the classified annex.

SPARES AND REPAIR PARTS

INITIAL SPARES

The Conferees agree with the following reductions from the budget request for initial spares

Program	Amount
F-15 Engines	$19,200,000
F-16 Engines	21,500,000
AC-130 U	9,100,000
C-17 Engines	39,500,000
C-27	4,600,000
Classified Program	15,405,000
Total	109,305,000

REPLENISHMENT SPARES

The conferees have also made reductions totaling $480,775,000 in replenishment spares. Included in the total is $258,000,000 requested for spares for the B-1B's troubled defensive electronic countermeasures suite, the ALQ-161. Although the additional reductions are not specifically targeted, the conferees note that the General Accounting Office has identified savings of approximately $220,000,000 in replenishment spares, primarily due to program changes or use of prior year funds to satisfy requirements.

PRIOR YEAR SAVINGS

The Committee of conference has approved the following rescissions of prior year funds, based primarily on contract savings and program slippages.

Program	1986	1987
F-15	$6,500,000	$9,500,000
F-16	5,800,000	32,900,000
MC-130H		8,900,000
C-5B	6,000,000	273,000,000
T-46A	169,921,000	151,000,000
B-52 modifications		13,000,000
A-10 modifications	1,200,000	
F-4 modifications	7,400,000	20,000,000
F-15 modifications		25,800,000
F-16 modifications	2,200,000	
C-135 modifications	9,800,000	13,000,000
Spares and repair parts	18,300,000	112,500 000
Common ground equipment	8,500,000	
Other production charges	42,900,000	
Total	278,521,000	659,600,000

MISSILE PROCUREMENT, AIR FORCE

The conferees agree to the following amounts for Missile Procurement, Air Force:

(In thousands of dollars)

	Budget	House	Senate	Conference
MISSILE PROCUREMENT, AIR FORCE				
BALLISTIC MISSILES				
STRATEGIC				
PEACEKEEPER (M-X)	1,259,949	864,000	864,000	864,000
MISSILE REPLACEMENT EQUIPMENT - BALLIST				
MISSILE REPLACEMENT EQ-BALLISTIC	54,559	53,850	53,850	53,850
TOTAL, BALLISTIC MISSILES	1,314,508	917,850	917,850	917,850
OTHER MISSILES				
STRATEGIC				
AIR LAUNCH CRUISE MISSILE	2,347	2,347	2,347	2,347
TACTICAL				
AIM-7F/M SPARROW	99,462	99,462	84,462	84,462
AIM-9L/M SIDEWINDER	53,051	69,051	53,051	61,051
AGM-130 POWERED GBU-15	43,754	---	---	---
AGM-65D MAVERICK (MYP)	354,605	325,000	254,605	290,000
AGM-88A HARM	422,945	359,654	373,645	367,000
RAPIER	31,200	31,200	31,200	31,200
AMRAAM	832,882	680,800	659,000	670,000
GRD LAUNCH CRUISE MISSILE	70,792	---	---	---
TARGET DRONES				
TARGET DRONES	11,040	11,040	11,040	11,040
INDUSTRIAL FACILITIES				
INDUSTRIAL FACILITIES	13,517	13,517	13,517	13,517
MISSILE REPLACEMENT EQUIPMENT - OTHER				
MISSILE REPLACEMENT EQ-OTHER	7,610	7,285	7,285	7,285
TOTAL, OTHER MISSILES	1,943,205	1,599,356	1,490,152	1,537,902
MODIFICATION OF INSERVICE MISSILES				
MM II/III MODIFICATIONS	119,223	51,700	103,700	80,000
AGM-88A HARM	2,245	2,245	2,245	2,245
AIR LAUNCH CRUISE MISSILE	7,381	7,381	7,381	7,381
GRD LAUNCH CRUISE MISSILE	15,400	---	---	---
PEACEKEEPER (M-X)	1,311	1,311	1,311	1,311
MODIFICATIONS UNDER $2.0M	232	232	232	232
TOTAL, MODIFICATION OF INSERVICE MISSILES	145,792	62,869	114,869	91,169
MISSILE SPARES + REPAIR PARTS				
SPARES AND REPAIR PARTS	224,116	164,248	207,522	164,248
OTHER SUPPORT				
SPACE PROGRAMS				
SPACEBORNE EQUIP (COMSEC)	23,682	23,682	23,682	23,682
GLOBAL POSITIONING (MYP)	92,605	92,605	79,805	92,605
SPACE SHUTTLE OPERATIONS (MYP)	108,051	88,451	88,451	88,451
DEF METEOROLOGICAL SAT PROG (MYP)	5,746	5,746	5,746	5,746
DEF METEOROLOGICAL SAT PROG (MYP) (AP-CY)	91,700	83,879	65,900	65,900
DEFENSE SUPPORT PROGRAM (MYP)	328,743	328,743	328,743	328,743
DEFENSE SUPPORT PROGRAM (MYP) (AP-CY)	63,100	63,100	63,100	63,100
DEFENSE SATELLITE COMM SYSTEM (MYP)	75,870	65,389	71,900	71,900
SPACE BOOSTERS (MYP)	306,412	306,412	306,412	306,412
SPACE BOOSTERS (MYP) (AP-CY)	168,000	168,000	168,000	168,000
SPACE DEFENSE SYSTEM (AP-CY)	21,800	---	---	---
MEDIUM LAUNCH VEHICLE	197,900	182,600	182,600	182,600
SPACE RECOVERY PROGRAM	---	---	316,000	---
SPECIAL PROGRAMS				
OTHER PROGRAMS	24	24	24	24
IONDS (MYP)	22,483	22,483	22,483	22,483
SPECIAL PROGRAMS	2,273,465	2,114,565	2,142,365	2,087,065
SPECIAL UPDATE PROGRAMS	1,236,200	1,236,200	436,200	436,200
CLASSIFIED PROGRAMS	1,129,291	284,691	748,491	636,691
TOTAL, OTHER SUPPORT	6,145,072	5,066,570	5,049,902	4,579,602
TOTAL, MISSILE PROCUREMENT, AIR FORCE	9,772,693	7,810,893	7,780,295	7,290,771

AGM-65D MAVERICK

The conferees agree to provide $290,000,000 for procurement of AGM-65D Maverick missiles, and instruct the Air Force to procure the maximum number of missiles possible with these funds.

AGM-88A HARM

The conferees agree to provide $367,000,000 for procurement of AGM-88A HARM missiles, and instruct the Air Force to procure the maximum number of missiles possible with these funds.

AMRAAM

The conferees agree to provide $670,000,000 for procurement of AMRAAM missiles.

Currently, the Air Force is funding two AMRAAM producers, with the leader now facilitized and producing at a higher rate than the follower. Because fiscal constraints dictated lower funding than was originally budgeted, the numbers of fiscal year 1988 missiles, and the funds for build-up of production rates, allocated to the two producers will necessarily differ from the previous plan. The conferees direct the Air Force to make these allocations in such manner as to ensure that competitive incentives remain maximized and that total acquisition costs over the life of the program are minimized.

DEFENSE METEOROLOGICAL SUPPORT PROGRAM (DMSP)

The conferees agree to the Senate proposal of $65,900,000 for the Defense Meteorological Support Program as opposed to the House proposal of $83,879,000. The funding level recommended is for an annual buy of the satellites for the DMSP program.

MEDIUM LAUNCH VEHICLE

The conferees have provided $182,600,000 for the Delta II medium launch vehicle. This reflects a $15,300,000 reduction below the budget estimate based on contract savings and is sufficient to fund seven vehicles in 1988.

OTHER PROCUREMENT, AIR FORCE

The conferees agree to the following amounts for Other Procurement, Air Force:

(In thousands of dollars)

	Budget	House	Senate	Conference
OTHER PROCUREMENT, AIR FORCE				
MUNITIONS AND ASSOCIATED EQUIPMENT				
ROCKETS + LAUNCHERS				
2.75 INCH ROCKET MOTOR	17,305	17,305	17,305	17,305
2.75 INCH ROCKET HEAD - WP	7,234	7,234	7,234	7,234
LIGHT ANTI-TANK TACTICAL AT-4	1,961	1,961	1,961	1,961
ITEMS LESS THAN $2,000,000	3,519	3,519	3,519	3,519
CARTRIDGES (THOUSANDS)				
9MM PARABELLUM	591	591	591	591
5.56 MM	2,915	4,315	2,915	2,915
20 MM COMBAT	12,369	16,669	12,369	12,369
20MM TRAINING	13,986	17,086	13,986	13,986
30 MM TRAINING	81,705	69,705	69,705	69,705
40MM HE GRENADES	2,002	2,002	2,002	2,002
CART CHAFF RR-170	3,354	3,354	3,354	3,354
SIGNAL MK-4 MOD 3	1,362	1,362	1,362	1,362
MXU-4A/A ENGINE STARTER	7,694	7,694	5,700	5,700
CART IMP 3000 FT/LBS	3,780	3,780	3,780	3,780
ITEMS LESS THAN $2,000,000	9,195	9,195	9,195	9,195
BOMBS				
TIMER ACTUATOR FIN FUZE	3,988	3,988	3,988	3,988
BSU-49 INFLATABLE RETARDER	9,322	9,322	7,100	7,100
BSU-50 INFLATABLE RETARDER	4,252	4,252	4,252	4,252
BOMB 2000 LB HIGH EXPLOSIVE	5,775	5,775	5,775	5,775
BOMB HARD TARGET 2000LB	32,567	32,567	32,567	32,567
BOMB PRACTICE 25 POUND	16,393	10,893	10,893	10,893
MK-84 BOMB-EMPTY	2,157	2,157	2,157	2,157
MECHANICAL DIVERTERS	9,807	---	---	---
CBU-87(COMBINED EFFECTS MUNITION)	277,120	277,120	267,120	267,120
BIGEYE	14,753	---	---	---
ITEMS LESS THAN $2,000,000	25	25	25	25
TARGETS				
ITEMS LESS THAN $2,000,000	1,248	1,248	1,248	1,248
OTHER ITEMS				
FLARE, IR MJU-7B	9,013	9,013	9,013	9,013
PARACHUTE FLARE LUU-2 B/B	3,702	3,702	3,702	3,702
FLARE IR (B1B)	1,962	---	1,962	---
MJU-10B	18,642	10,842	10,842	10,842
SPARES AND REPAIR PARTS	4,234	4,234	4,234	4,234
MODIFICATIONS	587	26,587	587	26,587
ITEMS LESS THAN $2,000,000	18,700	18,700	18,700	18,700
FUZES				
FMU-139	39,967	28,967	39,967	34,467
ITEMS LESS THAN $2,000,000	7	7	7	7
OTHER WEAPONS				
M-203 GRENADE LAUNCHER	24	24	24	24
MACHINE GUN, 7.62MM, M-60	61	61	61	61
9MM HANDGUN	4,146	4,146	4,146	4,146
HOST NATION SUPPORT WEAPONS	1,445	1,445	1,445	1,445
TOTAL, MUNITIONS AND ASSOCIATED EQUIPMENT	648,869	620,847	584,793	603,331
VEHICULAR EQUIPMENT				
PASSENGER CARRYING VEHICLES				
SEDAN, 4 DR 4X2	3,355	3,073	3,355	3,073
STATION WAGON, 4X2	1,961	1,961	1,961	1,961
BUS, 28 PASSENGER	4,195	4,195	4,195	4,195
BUS INTERCITY	1,230	1,230	1,230	1,230
BUS, 44 PASSENGER	4,320	1,894	---	1,894
AMBULANCE, BUS	2,596	2,596	2,596	2,596
MODULAR AMBULANCE	3,925	3,925	3,925	3,925
14-20 PASSENGER BUS	474	474	474	474
LAW ENFORCEMENT VEHICLE	1,918	1,918	1,918	1,918

(In thousands of dollars)

	Budget	House	Senate	Conference
CARGO + UTILITY VEHICLES				
TRUCK, STAKE/PLATFORM	10,361	8,521	10,361	10,361
TRUCK, CARGO-UTILITY, 3/4T, 4X4	7,544	3,230	7,544	5,400
TRUCK, CARGO-UTILITY, 1/2T, 4X2	4,265	3,102	4,265	3,102
TRUCK, PICKUP, 1/2T, 4X2	6,693	6,693	6,693	6,693
TRUCK, PICKUP, COMPACT	3,562	3,562	3,562	3,562
TRUCK MULTI-STOP 1 TON 4X2	7,285	7,285	7,285	7,285
TRUCK, PANEL, 4X2	2,865	2,865	2,865	2,865
TRUCK CARRYALL	6,951	6,951	6,951	6,951
TRUCK, CARGO, 2 1/2T, 6X6, M-35	17,651	15,083	17,651	17,651
TRUCK CARGO 5T M-923.M-925	4,670	4,670	4,670	4,670
HIGH MOBILITY VEHICLE (MYP)	3,414	3,414	3,414	3,414
TRUCK TRACTOR, OVER 5T	11,121	4,424	4,424	4,424
TRUCK, DUMP 5 TON	6,450	6,450	6,450	6,450
TRUCK, UTILITY	3,694	3,694	3,694	3,694
ITEMS LESS THAN $2,000,000	14,683	14,683	14,683	14,683
SPECIAL PURPOSE VEHICLES				
TRUCK MAINT 4X2	3,932	3,267	3,267	3,267
TRUCK, TELEPHONE MAINTENANCE	4,998	2,448	2,448	2,448
TRUCK, TANK, 1200 GAL	2,678	2,040	2,040	2,040
TRUCK, TANK, FUEL, M-49	4,135	2,644	4,135	4,135
TRACTOR, A/C TOW, MB-4	3,196	3,196	3,196	3,196
TRACTOR, TOW, FLIGHTLINE	800	800	800	800
TRACTOR, DOZER	5,523	5,523	5,523	5,523
MISSILE MAINT UNIT	2,450	---	---	---
MOBILE ARM RECON VEHICLE	21,970	---	---	---
ITEMS LESS THAN $2,000,000	18,275	18,275	18,275	18,275
FIRE FIGHTING EQUIPMENT				
TRUCK WATER P-18	6,335	6,335	6,335	6,335
ITEMS LESS THAN $2,000,000	3,741	3,741	3,741	3,741
MATERIALS HANDLING EQUIPMENT				
TRUCK F/L 4000 LB GED/DED 144 INCH	3,120	3,120	3,120	3,120
TRUCK, F/L 6000 LB	3,505	3,156	3,505	3,156
TRUCK, F/L 10,000 LB	5,005	5,005	5,005	5,005
LARGE CAPACITY LOADER	4,357	4,357	4,357	4,357
CONTAINER, LIFT, TRUCK	3,570	3,570	3,570	3,570
ITEMS LESS THAN $2,000,000	3,812	3,812	3,812	3,812
BASE MAINTENANCE SUPPORT				
LOADER, SCOOP	4,882	4,882	4,882	4,882
DISTRIBUTOR, WATER 1500 GALLON	1,814	1,814	1,814	1,814
CLEANER, RUNWAY/STREET	17,626	17,626	17,626	17,626
CRANE, 7-50 TON	796	796	796	796
SPARES AND REPAIR PARTS	3,262	3,262	3,262	3,262
MODIFICATIONS	382	382	382	382
ITEMS LESS THAN $2,000,000	8,017	8,017	8,017	8,017
CAP VEHICLES	---	800	---	800
TOTAL, VEHICULAR EQUIPMENT	273,364	224,761	234,074	232,830
ELECTRONICS AND TELECOMMUNICATIONS EQUIP				
COMM SECURITY EQUIPMENT(COMSEC)				
SPACE SYSTEMS (COMSEC)	9,051	9,051	9,051	9,051
TEMPEST EQUIPMENT	562	562	562	562
TAC SECURE VOICE	10,866	10,866	10,866	10,866
DCS SECURE VOICE (COMSEC)	24,728	13,391	13,391	13,391
SECURE DATA	37,249	28,055	28,055	28,055
TRI-TAC (COMSEC)	14,690	14,690	14,690	14,690
SPARES AND REPAIR PARTS	6,548	6,548	6,548	6,548
MODIFICATIONS (COMSEC)	304	304	304	304
INTELLIGENCE PROGRAMS				
INTELLIGENCE DATA HANDLING SYS	20,934	558	20,934	558
INTELLIGENCE TRAINING EQUIPMENT	8,867	8,867	8,867	8,867
INTELLIGENCE COMM EQUIP	17,051	5,322	42,051	5,322
COBRA JUDY	488	---	488	---
COBRA SHOE	3,151	---	3,151	---
ITEMS LESS THAN $2,000,000	7,195	7,195	7,195	7,195
ELECTRONICS PROGRAMS				
TRAFFIC CONTROL/LANDING	15,444	10,599	10,599	10,599

(In thousands of dollars)

	Budget	House	Senate	Conference
TACTICAL AIR CONTROL SYS IMPROVE	119,881	150,000	89,881	135,000
WEATHER OBSERV/FORCAST	60,758	53,700	60,758	57,200
DEFENSE SUPPORT PROGRAM	18,418	18,418	18,418	18,418
OTH-B RADAR	121,769	121,769	121,769	121,769
SAC COMMAND AND CONTROL	18,528	18,528	13,500	13,500
LAUNCH CONTROL CENTER COMMUNICATIONS	12,292	12,292	6,194	8,100
CHEYENNE MOUNTAIN COMPLEX	18,198	9,698	9,698	9,698
PAVE PAWS/SLBM WARNING SYSTEMS	1,582	1,582	1,582	1,582
BMEWS MODERNIZATION	1,441	1,441	1,441	1,441
SPACETRACK	914	914	914	914
NAVSTAR GPS	16,559	16,559	16,559	16,559
USAFE COMMAND/CONTROL SYSTEM	1,941	1,941	1,941	1,941
PACAF COMMAND/CONTROL	3,190	3,190	1,157	1,157
DEFENSE METEOROLOGICAL SAT PROG	10,176	10,176	10,176	10,176
CARIBBEAN BASIN RADAR NETWORK	4,722	4,722	4,722	4,722
MARS/USAF-FAA RADAR UPGRADE	26,422	26,422	1,300	26,422
TAC SIGINT SUPPORT	29,783	29,783	29,783	29,783
DIST ERLY WARNING RDR/NORTH WARNING	2,812	2,812	2,812	2,812
TACTICAL GROUND INTERCEPT FACILITY	2,274	---	---	---
TR-1 GROUND STATIONS	4,954	---	---	---
AIR BASE OPERABILITY	5,240	2,007	2,007	2,007
CMDR'S TACTICAL TERMINALS(CTT)/TEREC	3,963	3,963	3,963	3,963
NUDET DETECTION SYSTEM (NDS)	12,391	12,391	12,391	12,391
TACTICAL WARNING SYSTEMS SUPPORT	4,723	4,723	4,723	4,723
NORTH ATLANTIC DEFENSE C3	32,663	---	---	---
SPECIAL COMM-ELECTRONICS PROJECTS				
AUTOMATIC DATA PROCESSING EQUIP	120,380	114,480	110,000	110,000
WWMCCS/WIS ADPE	25,719	4,041	4,041	4,041
MAC COMMAND AND CONTROL SUPPORT	42,444	42,444	42,444	42,444
GLCM COMMUNICATIONS	2,705	2,705	2,705	2,705
AIR FORCE PHYSICAL SECURITY SYSTEM	23,018	17,018	14,000	14,000
WEAPONS STORAGE/SECURITY	25,259	---	18,400	18,400
RANGE IMPROVEMENTS	141,331	151,331	166,331	176,331
C3 COUNTERMEASURES	4,626	4,312	4,312	4,312
JOINT SURVEILLANCE SYSTEM	4,045	4,045	4,045	4,045
SPACE SHUTTLE	163	163	163	163
BASE LEVEL DATA AUTO PROGRAM	29,709	29,709	29,709	29,709
SATELLITE CONTROL FACILITY	113,679	103,376	108,528	103,376
CONSTANT WATCH	17,105	17,105	17,105	17,105
CONSOLIDATED SPACE OPS CENTER	8,124	8,124	2,000	5,100
CMD CENTER PROCESSING/DISPLAY SYS	1,095	1,007	1,095	1,007
HAMMER ACE	720	720	720	720
SAMTO TEST RANGES I&M	65,048	61,601	61,601	61,601
AIR FORCE COMMUNICATIONS				
PROGRAM 698AJ	1,714	1,714	1,714	1,714
INFORMATION TRANSMISSION SYSTEMS	11,854	11,854	11,854	11,854
TELEPHONE EXCHANGE	30,987	30,987	30,987	30,987
JOINT TACTICAL COMM PROGRAM	176,766	166,000	134,800	151,000
USREDCOM	4,453	4,453	4,453	4,453
USCENTCOM	22,733	22,733	22,733	22,733
AUTOMATED TELECOMMUNICATIONS PRG	12,693	12,693	12,693	12,693
SATELLITE TERMINALS	19,564	11,021	11,021	11,021
DCA PROGRAMS				
WIDEBAND SYSTEMS UPGRADE	41,844	41,844	41,844	41,844
MINIMUM ESSENTIAL EMER COMM NET	52,226	---	36,100	36,100
DCS SECURE VOICE EQUIPMENT	4,630	4,630	4,630	4,630
ORGANIZATION AND BASE				
TACTICAL C-E EQUIPMENT	55,156	51,687	51,687	51,687
RADIO EQUIPMENT	45,447	44,762	44,762	44,762
FIBER OPTICS	3,374	2,066	2,066	2,066
TV EQUIPMENT (AFRTV)	4,486	4,486	4,486	4,486
CCTV/AUDIOVISUAL EQUIPMENT	4,180	4,180	4,180	4,180
E + I REQUIREMENTS	1,242	1,242	1,242	1,242
SPARES AND REPAIR PARTS	268,684	268,684	208,700	238,700
ITEMS LESS THAN $2,000,000	8,905	8,905	8,905	8,905
MODIFICATIONS				
COMM-ELECTRONICS CLASS IV	27,865	27,865	27,865	27,865
TACTICAL EQUIPMENT	32,716	22,120	22,120	22,120
ANTIJAM VOICE	7,019	7,019	7,019	7,019
CAP COMMO/ELECT	---	500	---	500
TOTAL, ELECTRONICS AND TELECOMMUNICATIONS EQUIP	2,176,430	1,936,665	1,875,501	1,937,906

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(In thousands of dollars)

	Budget	House	Senate	Conference
OTHER BASE MAINTENANCE AND SUPPORT EQUIP				
TEST EQUIPMENT				
BASE/ALC CALIBRATION PACKAGE	55,032	55,032	55,032	55,032
NEWARK AFS CALIBRATION PACKAGE	2,927	2,927	2,927	2,927
TEST EQUIPMENT-GEN PURP	4,560	4,560	4,560	4,560
ITEMS LESS THAN $2,000,000	36,411	36,411	36,411	36,411
PERSONAL SAFETY AND RESCUE EQUIP				
AUTOMATIC LIFE PERSERVER	3,953	3,953	3,953	3,953
NIGHT VISION GOGGLES	15,622	15,622	15,622	15,622
BREATHING APPARATUS TWO HOUR	2,391	2,391	2,391	2,391
CHEMICAL/BIOLOGICAL DEF PROG	115,444	115,444	105,444	105,444
ITEMS LESS THAN $2,000,000	3,807	3,807	3,807	3,807
DEPOT PLANT + MATERIALS HANDLING EQ				
BASE MECHANIZATION EQUIPMENT	30,860	30,860	30,860	30,860
AIR TERMINAL MECHANIZATION EQUIP	7,198	7,198	7,198	7,198
ITEMS LESS THAN $2,000,000	10,083	10,083	10,083	10,083
ELECTRICAL EQUIPMENT				
GENERATORS-MOBILE ELECTRIC	12,776	12,776	12,776	12,776
FLOOD LIGHTS	11,559	11,559	11,559	11,559
ITEMS LESS THAN $2,000,000	8,431	4,295	4,295	4,295
BASE SUPPORT EQUIPMENT				
BASE PROCURED EQUIPMENT	21,510	21,510	21,510	21,510
MEDICAL/DENTAL EQUIPMENT	110,980	110,980	101,000	101,000
AIR BASE OPERABILITY	6,185	6,185	6,185	6,185
PALLET, AIR CARGO, 108"X88"	2,059	2,059	2,059	2,059
BLADDERS FUEL	2,555	2,555	2,555	2,555
PHOTOGRAPHIC EQUIPMENT	5,284	5,284	5,284	5,284
PRODUCTIVITY ENHANCEMENT	10,661	9,797	9,797	9,797
PRODUCTIVITY INVESTMENTS	1,911	1,911	1,911	1,911
MOBILITY EQUIPMENT	42,994	41,405	41,405	41,405
WARTIME HOST NATION SUPPORT	7,950	7,950	7,950	7,950
SPARES AND REPAIR PARTS	9,901	9,901	9,901	9,901
ITEMS LESS THAN $2,000,000	16,578	15,348	15,348	15,348
SPECIAL SUPPORT PROJECTS				
INTELLIGENCE PRODUCTION ACTIVITY	24,532	143,526	24,532	112,537
SCIENTIFIC/TECHNICAL INTELLIGENCE	7,693	---	7,693	---
TECH SURV COUNTERMEASURES EQ	2,068	2,068	2,068	2,068
DEFENSE DISSEMINATION SYSTEM	8,617	---	6,400	---
AF TECHNICAL APPLICATION CENTER	15,667	---	15,667	---
PHOTO PROC/INTERPRET SYS	898	898	898	898
SELECTED ACTIVITIES	4,675,854	4,432,294	4,469,454	4,444,644
SPECIAL UPDATE PROGRAM	142,033	142,033	142,033	120,633
SPECIAL APPLICATION PROGRAM	239	239	239	239
INDUSTRIAL PREPAREDNESS	5,107	4,373	4,373	4,373
MISC EQUIPMENT	18,468	12,104	6,604	12,104
MODIFICATIONS	11,021	11,021	7,441	7,441
TOTAL, OTHER BASE MAINTENANCE AND SUPPORT EQUIP	5,471,819	5,300,359	5,219,225	5,236,760
TOTAL, OTHER PROCUREMENT, AIR FORCE	8,570,482	8,082,632	7,913,593	8,010,827

LAUNCH CONTROL CENTER COMMUNICATIONS

The Conferees recommended $8,100,000 for the Launch Control Center Communications program. The allowance permits the Air Force to procure the planned inventory of these systems.

MARS/USAF-FAA RADAR UPGRADE

The conferees recommended $26,422,000 for the MARS/USA-FAA Radar Upgrade with the understanding that the Air Force share of this program is limited to fifty percent of procurement cost.

RANGE IMPROVEMENTS

The conferees recommend $176,331,000 for Range Improvements. The recommended amount includes $10,000,000 for two AN/MLQ-T4 Ground Jammers and $25,000,000 for an Air Combat Maneuvering Instrumentation System range to be located within the Alaska Air Command. A portion of the $25,000,000 may be used for aircraft instrumentation subsystem pods.

WEAPONS STORAGE SECURITY SYSTEMS

The Conferees agree to the Senate recommendation of $18,400,000 for the procurement of weapons storage vaults. The Air Force should resolve the issue of military construction funding for additional NATO sites prior to any further procurement of storage vaults in NATO beyond fiscal year 1988.

JOINT TACTICAL COMMUNICATIONS PROGRAM

The conferees recommend $151,000,000 for the Joint Tactical Communications Program and include no earmarking for the distribution of these funds.

MINIMUM ESSENTIAL EMERGENCY COMMUNICATIONS NET

The conferees recommend $36,100,000 for the Minimum Essential Emergency Communications Net program. The conferees understand that with this amount the Air Force will complete procurement of relay nodes (Towers) for the Ground Wave Emergency Network Program.

CHEMICAL/BIOLOGICAL DEFENSE PROGRAM

The Conferees recommend $105,444,000 for the Chemical/Biological Defense Program. The reduction from the budget request reflects only program delays. The Conferees do not intend to slow the implementation of planned chemical protection upgrades.

MODIFICATIONS

The conferees recommend $7,441,000 for the Modifications program. The conferees fully support the Sea Water Parachute Release System (SEAWARS) Class V Modification and understand that the amount recommended meets requirements for fiscal year 1988. The Air Force should, however, employ the reprogramming process if further funds are required to meet requirements.

REALIGNMENT OF GENERAL DEFENSE INTELLIGENCE PROGRAMS (GDIP)

The conferees have realigned various funding lines of the General Defense Intelligence Program, which are included in the Other Procurement, Air Force appropriation. Details of this realignment are contained in the classified annex to this conference report.

NATIONAL GUARD AND RESERVE EQUIPMENT

The conferees agree to the following amounts for the Reserve and National Guard:

[In thousands of dollars]

	Budget	House	Senate	Conference
NATIONAL GUARD AND RESERVE EQUIPMENT, DEFENSE				
Reserve, Army, Miscellaneous Equipment		90,000	80,000	85,000
Reserve, Navy:				
Miscellaneous equipment			40,000	40,000
AN/SQR-17A		10,000		10,000
Seabees			15,000	15,000
P-3C aircraft		193,800		193,800
Reserve, Marine corps: KC-130 T aircraft			40,000	40,000
Reserve, Air Force:				
Miscellaneous equipment			35,000	35,000
C-5A simulator		12,300		12,300
Weather reconnaissance system		4,800		4,800
C-130H aircraft		150,000	150,000	150,000
NATIONAL GUARD EQUIPMENT				
Guard, Army:				
Miscellaneous equipment			150,000	100,000
FIST-V		20,000		20,000
C-23 aircraft		100,000		60,000
M113 APC		65,000	65,000	65,000
Cannon Replacement Program		28,100		28,100
Guard, Air Force:				
Miscellaneous equipment			30,000	30,000
C-130H aircraft		150,000	150,000	150,000
MH-60G helicopters and support equipment		88,000	117,000	117,000
HC-130 aircraft			44,000	44,000
Total, National Guard and Reserve Equipment, Defense		912,000	916,000	1,200,000

AN/SQR-17A ACOUSTIC PROCESSORS

The conferees agree to provide $10,000,000 to procure AN/SQR-17A acoustic processors for the Mobile In-Shore Undersea Warfare group as proposed by the House.

C-5A SIMULATOR

The conferees reaffirm the House language agreeing with the Air Force plan to locate the C-5A simulator at Westover Air Force Base, Massachusetts.

CANNON REPLACEMENT PROGRAM

In approving $28,100,000 for the cannon replacement program, the conferees also approve the fiscal year 1987 reprogramming to start this program.

PROCUREMENT, DEFENSE AGENCIES

The conferees agree to the following amounts for Procurement, Defense Agencies:

[In thousands of dollars]

	Budget	House	Senate	Conference
PROCUREMENT, DEFENSE AGENCIES				
Major equipment, OSD:				
Motor vehicles	320	320	320	320
Remotely piloted vehicles (RPV)		45,400		45,400
Major equipment, OSD/WHS	138,124	138,124	106,600	106,600
Major equipment, DNA:				
Vehicles	249	249	249	249
Other capital equipment	4,088	4,088	4,088	4,088
Major equipment, DCA:				
WWMCCS ADP systems	22,151	7,981	7,981	7,981
Items less than $2 million	25,463	25,463	25,463	25,463
Major equipment, DLA:				
Materials handling equipment	8,587	8,587	8,587	8,587
Vehicles	1,060	1,060	18060	1,060
Mechanized materials handling systems	14,351	14,351	14,351	14,351
ADP equipment	45,032		34,791	30,000
Telecommunications equipment	20,213	12,182	12,182	12,182
Other major equipment	5,514	5,514	5,514	5,514
Items less than $2 million	2,399	2,399	2,399	2,399
Major equipment, DMA:				
Vehicles	368	368	368	368
Other capital equipment	15,310	15,310	15,310	15,310
Major equipment, DIS: Vehicles	3,119	3,119	3,119	3,119
Major equipment, USUHS: Items less than $2 million	834	834	834	834
Major equipment, DCAA: Items less than $2 million	8,072	8,072	8,072	8,072
Major equipment, DRSP: Items less than $2 million	352,481	292,881	318,090	317,881
Major equipment, DIG: Items less than $2 million	7,263	7,263	7,263	1,426
Classified programs	617,393	602,268	617,393	655,059
Total, procurement, Defense agencies	1,292,391	1,195,833	1,194,034	1,266,263

STANDARD TELEPHONE UNIT III (STU-III)

The conferees are very supportive of this program, which will provide enhanced security to prevent classified information from being compromised. The conferees disagree with the House position regarding the Standard Telephone Unit III (STU-III) program. It is the understanding of the conferees that the production rate for future STU-III telephones is not incompatible with the availability of adequately secured locations.

REMOTELY PILOTED VEHICLES

The conferees agree to provide $45,400,000 for procurement of Remotely Piloted Vehicles (RPV). Of the amount provided, up to $38,800,000 shall be provided to the Department of the Navy to execute a fixed price contract option to procure four Pioneer RPV's. The conferees further agree that the restrictions placed on obligation and expenditure of funds for research and development of RPV's contained in Title IV of the bill shall not apply to fiscal year 1988 procurement funds.

TITLE IV—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The conferees agree to the following amounts for the Research, Development, Test and Evaluation accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
RECAPITULATION				
Total, RDTE, Army	5,511,172	4,445,362	4,937,166	4,687,513
Total, RDTE, Navy	10,448,112	8,634,560	9,535,619	9,493,546
Total, RDTE, Air Force	18,623,383	16,119,705	14,322,604	15,002.095
Total, RDTE, Defense agencies	8,811,532	6,198,116	7,656,566	7,631,825
Total, RDTE, development test and evaluation	178,217	192,410	169,337	182,116
Total, Operational test and evaluation	104,221	57,221	83,221	70,221
Total, RDTE	43,676,637	35,647,374	36,704,513	37,067,316

The conferees agree to the following language:

FIXED PRICE RDT&E CONTRACTING

The conferees agree with the strong concern of the House over the increasing use of fixed price-type contracts for engineering development and separate practices within the department over this issue. Rising dollar values for such contracts in a declining budget environment is likely to lead to unnecessary and wasteful contract renegotiation including termination or renegotiation cost. In order to prevent such problems, the department or the Congress may be compelled to reduce funding for other programs not on the basis of relative merit, but to maintain the government's credibility as a reliable business partner. While this may seem desirable, it could skew funding priorities for development away from the primary goal of achieving improvements in high priority military requirements.

As a consequence, the conferees accept compromise bill language in this area. The language requires the Under Secretary of Defense for Acquisition to make determinations in writing concerning program risk prior to awarding a fixed-price type development contract with a total contract value of greater than $10,000,000. Due in part to inconsistencies in practice among the services, the bill states that this authority may not be delegated below the level of Assistant Secretary of Defense. The conferees also agree with House language directing a single, DOD-wide policy on this issue, and with language encouraging the Navy to review its policy in particular.

In order to reduce the appearance of congressional micromanagement of acquisition policy, the conferees agree to require quarterly reports of obligations under such contracts instead of the more rigorous requirement of prior certification to Congress proposed by the House. However, the conferees express their willingness to impose more severe restrictions in the future if policy and practice are not more uniform among the services and in accord with DOD Directive 5000.1, which states that "contract type shall be consistent with all program characteristics including risk. Fixed price contracts are normally not appropriate for research and development phases".

The conferees may also consider an extension of the full funding principle into the RDT&E accounts for fixed-price RDT&E programs in the future. This would be similar to the milestone budgeting concept, and would strengthen the government's ability to follow through on implied future program commitments.

As directed by the House, the department is to submit a list of major fixed-price RDT&E contracts included in the fiscal year 1989 budget request, by service.

REPROGRAMMING PROCEDURES

The House recedes from directing improvements in the reprogramming process at this time through report language guidance. However, the conferees agree to consider such improvements in the near future.

ADVANCED AIR-TO-AIR MISSILE TECHNOLOGY

The conferees note the existence of similar development work relating to advanced air-to-air missile technology in both the Navy and the Air Force. While the Navy's Advanced Air-to-Air Missile (AAAM) program is reportedly underfunded, the Air Force has at least $32,212,000 budgeted in fiscal year 1988 for similar work. The conferees agree that this work should be combined into a joint effort through the Navy's existing program.

Therefore, the conferees recommend $17,000,000 for the AAAM program as proposed by the Senate, instead of $17,309,000 as proposed by the House. If more funds are required for the AAAM program during fiscal year 1988, the conferees would welcome a reprogramming request for initial Air Force funding for the program. In the Air Force, the following specific reductions are recommended, in order to delete funding for the specific projects described:

[Dollars in thousands]

P.E.	Project	Recommended reduction
62302F	Rocket propulsion	−$4,807
63302F	Advanced air-launched motor	−2,714
63363F	Advanced missile technology integration	−1,000
63369F	Variable flow ducted ramjet engine	−4,222
63369F	Multi-spectral seeker	−6,000
63601	Advanced Seeker Technology for Air-to-Air Missiles (ASTAAM)	−13,469
Total		32,212

The conferees do not agree with report language proposed by the House restricting obligation of AAAM funds until the Air Force agrees to a joint development effort. Instead, the conferees state their firm intent to prevent future RDT&E funding for advanced air-to-air missile technology, targeted for applications in the next decade, which are not included as part of the Navy-led AAAM program.

TEAL RUBY

The conferees agree to delete RDT&E funding for the Teal Ruby program contained in the Air Force and Defense Agencies account due to the uncertain future of the program. Significant launch schedule slips have led to increasing doubts about the benefits of Teal Ruby once it is launched. However, the conferees do not disagree with continued storage for the payload, out of available Air Force funding, until the program's future becomes more clear.

MILSTAR SATELLITE

The House included language in the classified annex to its report that was highly critical of the Air Force MILSTAR satellite program. The House reported that pervasive problems are being experienced, including: cost overruns due, in part, to repeated changes to acquisition schedules, inadequate funding; poor contracting procedures; and a lack of management attention at the senior levels of the Departments of Defense and Air Force.

The conferees fully endorse the fundings of the House. Moreover, the conferees are concerned that hundreds of millions of dollars, perhaps as much as a billion dollars, could be wasted over the next decade due to production inefficiencies resulting from gaps in the acquisition schedule. In a fiscally constrained environment such waste cannot be tolerated. The conferees believe that MILSTAR should be accorded the high priority it clearly warrants and, therefore, agree to provide an increase of $25,000,000 to the fiscal year 1988 request and direct that the out year acquisition and launch schedule be accelerated as discussed in the classified annex to this conference report. While the Air Force, as the DOD executive agent, must assume most of the burden of realigning the required funds in the out years, the conferees believe that the other military services, who also will benefit from MILSTAR, should provide some portion of the necessary assets. The conferees have, therefore, financed the increase in fiscal year 1988 by assessing the Army and Navy RDT&E accounts a total of $25,000,000. The Secretary of Defense is directed to report by March 1, 1988 to the Committees on Appropriations of the House and the Senate the steps being taken to address the deficiencies addressed in the House classified annex and the classified annex to this report.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

The conferees agree to the following amounts for Research, Development, Test and Evaluation, Army:

(In thousands of dollars)

	Budget	House	Senate	Conference
Research Development Test & Eval Army				
Technology Base				
Defense Research Sciences	114,411	163,729	174,900	169,000
University Research Initiatives	84,554	---	---	---
Materials	11,715	11,715	11,715	11,715
Electronic Survivability and Fuzing Technology	51,746	40,282	47,000	43,451
Missile Technology	28,878	28,000	26,951	26,951
Laser Weapons Technology	11,167	8,958	11,167	10,000
Tank and Automotive Technology	23,363	22,720	23,363	22,720
Ballistics Technology	30,948	26,948	26,948	26,948
Chemical and Smoke Munitions	45,444	45,444	45,444	45,444
Joint Service Small Arms Program	13,593	13,593	13,593	13,593
Weapons and Munitions Technology	24,931	21,931	24,931	21,931
Electronics and Electronic Devices	21,775	21,775	21,775	21,775
Night Vision Investigations	22,584	22,584	22,584	22,584
Human Factors Engineering in Systems Development	15,372	14,622	15,372	14,622
Environmental Quality Technology	9,923	9,923	9,923	9,923
Non-System Training Devices	4,011	4,011	4,011	4,011
Military Disease Hazards Technology	49,435	46,435	49,435	46,435
Command, Control and Communications Technology	16,792	10,000	10,000	10,000
Computer and Software Technology	8,227	8,227	8,227	8,227
Military Engineering Technology	42,426	39,926	37,500	37,500
Manpower/Personnel/Training Technology	15,581	15,581	15,581	15,581
Logistics Technology	42,603	35,859	37,159	35,859
Medical Technology	60,762	60,762	55,000	55,000
Classified Programs	73,932	52,004	73,932	52,004
Total, Technology Base	824,173	725,029	766,511	725,274
Advance Technology Development				
Logistics Advanced Technology	16,475	10,000	10,000	10,000
Medical Advanced Technology	39,164	33,656	35,000	33,656
Aviation Advanced Technology	48,708	38,100	40,000	39,000
Weapons and Munitions Advanced Technology	24,914	24,914	24,914	24,914
Combat Vehicle and Automotive Advanced Technology	48,774	48,774	41,612	41,612
Command, Control and Communications Technology	7,485	7,485	7,485	7,485
Human Factors/Personnel/Training Advanced Technology	38,164	29,486	34,000	29,486
Materiels and Structures	8,185	8,185	8,185	8,185
Acquired Immune Deficiency Syndrome (AIDS) Research	5,000	5,000	11,500	11,500
Operational Enhancements	7,757	7,757	7,757	7,757
Missile and Rocket Components	20,321	20,321	18,000	18,000
High Energy Laser and Directed Energy Components	7,831	---	7,831	---
Army Development and Employment Activity	11,936	11,936	5,968	11,936
Landmine Warfare & Barrier Developments	10,675	10,675	10,675	10,675
Joint Service Small Arms Program	10,820	10,820	10,820	10,820
Night Vision Advanced Development	23,653	23,653	23,653	23,653
Engineering Systems	4,699	4,699	3,902	3,902
Advanced Electronic Devices	7,089	7,089	7,089	7,089
Army Battlefield Technology Integration	12,221	12,221	5,955	9,100
CB Defense/Smoke Advanced Technology Demonstration	4,734	3,564	3,564	3,564
Advanced Tactical Computer Science Technology	6,117	6,117	6,117	6,117
Classified Programs	35,989	---	35,989	---
Total, Advance Technology Development	400,711	324,452	360,016	318,451
Strategic Programs				
Classified Programs	98,136	95,136	98,136	106,136
Tactical Programs				
Antitactical Missile System	29,501	5,243	26,501	26,501
Surface-to-Surface Missile Rocket System	29,560	---	29,560	24,000
Advanced Anti-Tank Weapon System	59,146	30,566	36,066	33,566
Landmine and Barrier Systems	15,797	15,797	15,797	15,797
Smoke Munitions & Materiel Concepts	9,707	9,707	9,707	9,707
Armored Family of Vehicles - Advanced Development	9,814	---	1,000	1,000
Identification-Friend or Foe Developments	18,270	10,000	15,000	10,000
Aircraft Survivability Equipment	6,767	---	---	---
Army Data Distribution System	33,855	28,000	28,000	28,000
Electronic Warfare Vulnerability/Susceptibility	15,464	---	---	---
Remotely Piloted Vehicles and Drones	11,546	5,546	---	---

(In thousands of dollars)

	Budget	House	Senate	Conference
Air Defense Command, Control and Intell - Adv Dev.....	4,337	4,337	4,337	4,337
Soldier Support and Survivability....................	3,864	3,864	3,864	3,864
Medical Defense Against Chemical Warfare...............	27,112	27,112	27,112	27,112
Forward Area Air Defense Systems......................	131,608	110,000	157,000	157,000
SOF Equipment Advanced Development....................	20,421	20,421	15,000	15,000
Night Vision Systems Advanced Development.............	4,944	4,944	4,944	4,944
Airborne Adverse Weather Weapons System...............	97,726	30,000	80,000	80,000
Aviation Advanced Development.........................	3,041	3,041	3,041	3,041
Weapons and Munitions Advanced Development............	10,785	3,399	3,399	3,399
Chemical Systems Advanced Development.................	15,325	15,325	15,325	15,325
Logistics and Engineer Equipment Advanced Development.	20,505	20,505	17,000	17,000
Combat Service Support Computer System Evaluation.....	1,195	1,195	1,195	1,195
Chemical/Biological Defense Equipment Advanced Develop	6,485	6,485	6,485	6,485
Medical Systems Advanced Development..................	21,863	21,863	21,863	21,863
Aircraft Weapons......................................	9,789	9,789	9,789	9,789
Aircraft Propulsion System............................	135,073	125,000	---	---
Advanced Technology Light Helicopter Series...........	267,212	10,000	---	---
Helicopter modernization program......................	---	---	150,000	170,000
STINGER...	4,820	4,820	4,820	4,820
GRASS BLADE...	12,798	---	10,000	5,000
Army Tactical Missile System (ATACMS).................	112,208	102,208	102,208	102,208
Mobility..	35,267	---	28,100	5,000
Medium Tactical Truck.................................	---	10,000	---	10,000
Smoke Munitions & Materiel............................	10,072	10,072	10,072	10,072
Joint Tactical Information Distribution System........	4,307	4,307	4,307	4,307
Identification Friend or Foe (IFF) Equipment Develop..	19,073	19,073	17,000	17,000
Night Vision Devices..................................	15,271	18,271	15,271	15,271
Aircraft Survivability Equipment......................	8,001	---	---	---
Combat Feeding, Clothing, and Equipment...............	1,333	1,333	1,333	1,333
Nonsystem Training Devices Engineering................	32,539	22,000	22,000	22,000
Physical Security.....................................	6,784	3,002	6,784	3,002
Education and Training Systems Development............	5,447	5,447	5,447	5,447
Special Purpose Detectors.............................	1,430	1,430	1,430	1,430
Meteorological Equipment and Systems..................	1,339	1,339	598	598
Remotely Piloted Vehicles.............................	32,620	10,000	---	---
Unmanned Aerial Vehicles - Eng Dev....................	8,284	8,284	---	---
Air Defense Command, Control and Intell - Eng Dev.....	108,016	91,116	91,116	91,116
Automatic Test Equipment Development..................	8,884	8,884	7,000	7,000
Medical Chemical Defense Life Support Material........	7,705	7,705	7,705	7,705
Joint Surveillance/Target Attack Radar System (JSTARS)	23,396	18,396	18,396	18,396
Joint Interoperability of Tactical Command & Control..	18,360	15,360	15,000	15,000
Aviation Engineering Development......................	12,165	12,165	10,000	10,000
Weapons and Munitions Engineering Development.........	111,904	111,904	109,302	111,904
Chemical Systems Engineering Development..............	15,325	15,325	14,325	14,325
Logistics and Engineer Equip Engineering Development..	14,830	14,830	12,000	12,000
Command, Control, Communications Systems Eng Dev......	15,851	15,851	14,000	14,000
Chem/Bio Defense Equip Engineering Dev................	24,122	24,122	23,122	23,122
Medical Materiel/Medical Biological Defense Equipment.	13,453	13,453	13,453	13,453
Landmine Warfare/Barrier Engineering Development......	7,343	11,343	14,843	14,843
Joint CB Point of Contact, Test and Assessment........	6,403	6,403	6,403	6,403
Adv Field Artillery Tactical Data System..............	40,857	---	31,712	14,800
Combat Vehicle Improvement Program....................	103,968	97,351	127,768	122,768
Air Defense C2I Mods..................................	14,637	4,000	14,637	4,000
Maneuver Control System...............................	13,973	13,973	13,973	13,973
155mm Self-Propelled Howitzer Improvements............	46,978	30,000	30,000	30,000
Aircraft Modifications................................	18,429	18,429	15,000	15,000
Equipment Upgrade.....................................	15,137	35,137	6,327	26,327
Special Operations Forces Equipment...................	95,472	70,472	80,500	80,500
Aircraft Engine Component Improvement Program.........	6,144	6,144	6,144	6,144
Missile/Air Defense Product Improvement Program.......	60,527	60,527	35,000	35,000
Other Missile Product Improvement Program.............	43,250	43,250	40,000	40,000
Joint Tactical Communications Program (TRI-TAC).......	15,102	15,102	13,000	13,000
EUCOM C3 Systems......................................	1,289	1,289	1,289	1,289
Classified Programs...................................	686,410	433,465	686,410	617,624
Consolidated EW Programs..............................	---	81,950	92,877	85,000
Total, Tactical Programs..............................	2,882,235	2,021,671	2,462,657	2,361,105
Intelligence & Communications				
SATCOM Ground Environment.............................	86,725	76,125	75,000	75,000
Communications Security (COMSEC)......................	5,217	5,217	5,217	5,217

(In thousands of dollars)

	Budget	House	Senate	Conference
Mapping and Geodesy	7,459	6,959	6,459	6,459
NAVSTAR Global Positioning System (User Equipment)	13,732	10,000	10,000	10,000
Classified Programs	11,081	11,081	11,081	11,081
Total, Intelligence & Communications	124,214	109,382	107,757	107,757
Defensewide Mission Support				
Kwajalein Missile Range	170,374	148,374	160,000	151,000
Army Test Ranges and Facilities	199,864	190,000	195,000	192,500
Army Technical Test Instrumentation and Targets	84,939	70,000	54,939	62,500
Army User Test Instrumentation and Threat Simulators	78,332	60,000	59,186	59,186
Support of Development Testing	19,309	19,309	19,309	19,309
Materiel Systems Analysis	25,179	20,000	25,179	22,500
Exploitation of Foreign Items	4,392	4,392	4,392	4,392
Support of Operational Testing	54,016	50,000	50,000	50,000
Programwide Activities	88,514	88,514	83,000	83,000
International Cooperative Research and Development	1,093	1,093	1,093	1,093
Technical Information Activities	6,285	5,500	6,285	5,500
Munitions Standardization, Effectiveness and Safety	14,334	14,334	14,334	14,334
RDT&E Support for Nondevelopmental Items	7,842	7,842	7,842	7,842
Productivity Investments	38,382	35,000	38,382	35,000
Real Property Maintenance - RDT&E	168,485	155,000	155,000	155,000
Base Operations - RDT&E	186,087	175,000	180,000	177,500
Management Headquarters (R&D)	13,372	8,000	11,244	9,600
Industrial Preparedness	20,904	19,904	20,904	20,904
Total, Defensewide Mission Support	1,181,703	1,072,262	1,086,089	1,071,160
Conventional Defense Initiatives				
Guard/Reserve Unique R&D	---	5,000	---	3,000
Stinger System Safeguard	---	4,000	---	3,000
AH-64 Apache Upgrade	---	25,000	20,000	---
UH-60 Blackhawk Upgrade	---	25,000	20,000	---
Chemical Mask Improved Drinking Sys	---	600	---	600
Multipurpose Individual Munition Evaluation	---	5,000	13,000	11,000
Rifle Launched Anti-tank Round Evaluation	---	3,000	---	2,000
Weasel Evaluation	---	3,000	---	1,000
Ground Launched HELLFIRE	---	5,000	---	5,000
Total, Conventional Defense Initiatives	---	75,600	53,000	25,600
Consultants, Studies & Analyses	---	---	---	---
General Reduction, Special Access	---	-20,000	---	-20,000
M-60 Prototype Program	---	38,000	---	---
20mm PIVAD ammunition	---	1,800	---	---
Misc. Classified Programs	---	---	3,000	---
FERS Adjustment	---	-7,970	---	-7,970
Maxi Cube Cargo Handling System	---	10,000	---	10,000
MILSTAR TRANSFER	---	---	---	-10,000
Total, Research Development Test & Eval, Army	5,511,172	4,445,362	4,937,166	4,687,513

LOGISTICS ADVANCED TECHNOLOGY

The conferees have been advised of Army plans to initiate testing of a new ammunition container (AMCON) system at the Aberdeen Proving Ground. The conferees are supportive of this effort, and in order to accelerate evaluation of this system, the conferees direct that not less than $406,000 be made available in fiscal year 1988 from PE 6.30.01A, Logistics Advanced Technology, for the purchase of 24 flatrack containers and associated kits for the Army test program.

ARMY DEVELOPMENT AND EMPLOYMENT ACTIVITY

The conferees agree to provide $11,936,000 for Army Development and Employment Activity (ADEA) as proposed by the House, instead of $5,968,000 as proposed by the Senate.

The conferees do not agree to the language of the Senate report concerning ADEA, and agree that ADEA efforts are to continue as envisioned in the fiscal year 1988 budget.

ARMY BATTLEFIELD TECHNOLOGY INTEGRATION

The conferees agree to provide $9,100,000 for Army Battlefield Technology Integration, instead of $12,221,000 as proposed by the House or $5,955,000 as proposed by the Senate. The conferees agree that development and demonstration of the Tactical Robotics Vehicle may be continued only as they relate to the role of that vehicle limited to reconnaissance. No funds provided for fiscal year 1988 and 1989 are to be used for development of the vehicle as a weapons platform or carrier.

ADVANCED ANTI-TANK WEAPON SYSTEM

The conferees agree to provide $33,566,000 for Advanced Anti-Tank Weapon System (AAWS), instead of $30,566,000 as proposed by the House or $36,066,000 as proposed by the Senate. Of the funds provided, $30,566,000 are to continue development of AAWS-Medium, and $3,000,000 are to study the requirement for an AAWS-Heavy. That study is to include examination of the operational and organizational concept for AAWS-H, and the other AAWS-Heavy issues raised by the Senate in its report on the fiscal 1988 Defense Appropriations Act.

It is reasonable to assume that Ground Launched HELLFIRE (GLH) is a strong candidate for the AAWS-H mission, given the fact that the HELLFIRE weapon is already developed and is being competitively produced and deployed to the field, and given the severe fiscal constraints which will force curtailment of new developments and the search for wider applications of existing systems. The conferees direct that GLH be evaluated fully and fairly as an AAWS-H candidate. The conferees direct that the Army, as a separate action, study and report by June 30, 1988 on the relative costs and impacts of equipping all its divisions with GLH to fill the AAWS-H requirement.

The conferees strongly agree with the concerns raised by the Senate on the costly proliferation of separate and redundant antiarmor weapons programs among the services and about the desire on the part of the services to maintain a one man crew for medium antiarmor weapons, and with the Senate's direction to operationally evaluate and test doctrine for two-man medium antitank weapons. The conferees further direct the Department to modify the antiarmor master plan to incorporate the GAO recommendations for assessing and comparing the performance of antiarmor weapons.

AVIATION ADVANCE DEVELOPMENT

The House report included language concerning funding for the Aircrew Integrated Helmet System. The conferees direct that within the funds made available for Army RDT&E for fiscal year 1988, $1,800,000 be allocated for Project DB45, P.E. 6.38.01A, of which not less than $1,000,000 will be dedicated to the Aircrew Integrated Helmet System.

HELICOPTER MODERNIZATION

The conferees agree to provide a total of $170,000,000 for Helicopter Modernization. Of the sum provided, not less than $100,000,000 are available for development of the T-800 engine. The remainder is to be applied to LHX, to AH-64 Upgrade and to HU-60 Upgrade, in whatever amounts the Department determines are suitable.

MOBILITY

PALLETIZED LOADING SYSTEM HEAVY TRUCK

The conference agreement provides $5,000,000 for a competitive, performance specification, non-developmental item testing and evaluation of a Palletized Loading System heavy truck. These funds are contained in the budget line titled "Mobility." The conferees agree that, prior to obligating these funds, the Army shall submit to the Committee on Appropriations a procurement strategy for this program. The Army shall also submit a total plan for its ammunition handling system that shows how ammunition is transported and stored from the manufacturing factory to the gun tube.

EXPENDABLE JAMMERS

The conferees concur in the direction of the House that project DL 14, Expendable Jammers, contained in P.E. 6.47.50A, Tactical Electronic Countermeasures Systems, be fully funded at the fiscal year 1988 budget request.

WEAPONS AND MUNITIONS ENGINEERING DEVELOPMENT

The conferees agree to provide $111,904,000 for Weapons and Munitions Engineering Development, as proposed by the House, instead of $109,302,000 as proposed by the Senate.

The sum provided includes $103,512,000 for SADARM. The conferees concur with the directives of the House concerning SADARM in their entirety.

The conferees to not agree to the language of the Senate report concerning 120mm Mortar ammunition.

ADVANCED FIELD ARTILLERY TACTICAL DATA SYSTEM (AFATDS)

The Conferees agree to provide $14,800,000 for continuation of Army Fire Support C3 Modernization. This funding is for the AFATDS program office support and the software upgrade of the LFATDS program. The Conferees further agree that $3,200,000 of this funding is provided solely for the software maturation of the LFATDS (LTACFIRE) and that the contract for this purpose must be awarded by April 1, 1988. The established cap of $46,100,000 for the AFATDS development effort shall not be exceeded until the CEP has been successfully completed. Such completion must be certified by formal ASARC/DAB review and the DAB must submit a revised acquisition strategy and schedule for review and approval of the Committees on Appropriations of the House and Senate. The impact of these developments on the Army Command and Control System (ACCS) program must be reflected in the revised AFATDS fielding strategy.

COMBAT VEHICLE IMPROVEMENT PROGRAM

The conferees agree to provide $122,768,000 for Combat Vehicle Improvement Program, instead of $97,351,000 as proposed by the House or $127,768,000 as proposed by the Senate. Of the funds provided, $18,800,000 are for accelerating the development of M-A1 Block II enhancements, and $5,000,000 are for continued development of a generic environmental control system for combat vehicles and small shelters.

EQUIPMENT UPGRADE

The conferees agree to provide $26,327,000 for Equipment Upgrade, and agree with the position of the Senate concerning the 106mm recoilless rifle.

GROUND LAUNCHED HELLFIRE

The conferees concur in the House position of providing a total of $13,000,000 for Ground Launched HELLFIRE (GLH). The conferees direct that these funds are to be derived from $5,000,000 appropriated for program element 6.43.10 A and $8,000,000 to be transferred from funds available for the Balanced Technology Initiative (BTI). Because GLH has multiservice applicability, up to $3,000,000 of the transferred BTI funds may be used for Navy and Marine Corps applications. The remainder of the $13,000,000 is for Army applications and is to be available, as stated by the House, for GLH development and low rate initial production, and for no other purpose.

WOOD RESEARCH

The House and Senate reports contained language concerning research on wood-fiber based materials and products. The conferees agree to the language of the House.

HEAVY VERTICAL LIFT

The House and Senate addressed, with different language, the Multi-Helicopter External Lift System (MHELS). The conferees agree that the Army is to provide a report by April 1, 1988, which addresses the results of an evaluation of MHELS, the costs and benefits of further development of MHELS, heavy lift requirement, and the options under consideration to meet those requirements.

M-1 TANK REPLACEMENT TRACK

The House provided report language concerning Army efforts to find a cost-effective replacement track for the M-1 tank. One possible outcome of the current program is a contract for a new track to be produced by a foreign/U.S. team both offshore and domestically, following first article testing. Because the manufacturing processes in such a case would differ between the foreign and domestic sources, the conferees agree that a first article test prior to starting domestic production is reasonable. On the other hand, operational and cost considerations point to the desirability of maximizing the domestic share of total production. Accordingly, the conferees direct that any required first article testing be completed and domestic production begin not later than April 1, 1989, and that no less than 80 percent of total program production be accomplished in the United States.

Research, Development, Test and Evaluation, Navy

The conferees agree to the following amounts for the Research, Development, Test and Evaluation, Navy account:

(In thousands of dollars)

	Budget	House	Senate	Conference
Research Development Test & Eval Navy				
Technology Base				
University Research Initiatives	24,572	---	---	---
In-House Independent Laboratory Research	22,627	22,627	22,627	22,627
Defense Research Sciences	333,602	312,337	326,440	319,389
Anti-Air Warfare/Anti-Surface Warfare Technology	66,273	54,273	54,273	54,273
Electronic Warfare Technology	14,454	---	---	---
Surface Ship Technology	13,624	12,953	13,624	12,953
Aircraft Technology	21,318	20,700	21,318	20,700
Marine Corps Landing Force Technology	15,915	15,915	15,915	15,915
Command, Control, and Communications Technology	20,352	20,352	16,000	16,000
Mission Support Technology	32,290	32,290	28,000	28,000
Systems Support Technology	65,601	60,601	56,000	56,000
ASW Technology	92,569	92,569	92,569	92,569
Mine and Special Warfare Technology	14,909	14,909	14,909	14,909
Submarine Technology	14,123	14,123	14,123	14,123
Nuclear Propulsion	47,600	39,783	43,000	41,392
Ocean and Atmospheric Support Technology	25,727	25,727	25,727	25,727
Independent Exploratory Development	15,390	15,390	15,390	15,390
Total, Technology Base	840,946	754,549	759,915	749,967
Advance Technology Development				
Avionics	3,755	3,755	3,755	3,755
Aircraft Propulsion	5,886	5,886	5,886	5,886
Advanced Aircraft Subsystems	11,807	11,807	11,807	11,807
Naval Airship	45,189	45,189	10,000	25,000
Electromagentic Radiation Source Elimination Tech	5,865	5,865	5,865	5,865
Ship Propulsion System	11,022	7,022	11,022	9,022
Electric Drive	14,480	14,480	14,480	14,480
Human Factors Engineering	4,794	2,588	4,794	2,588
Medical Development	17,445	17,445	17,445	19,545
Manpower and Personnel Systems	4,019	3,105	4,019	3,105
Generic Logistics R&D Technology Demonstrations	29,400	27,400	29,400	27,400
Education and Training	7,699	5,175	7,699	5,175
Marine Corps Advanced Manpower/Training Systems	3,214	1,901	3,214	1,901
Simulation and Training Devices	8,457	8,457	8,457	8,457
Navy Logistic Productivity	981	981	---	981
ARIADNE	11,062	11,062	11,062	11,062
Advanced Anti-Submarine Warfare Technology	22,759	22,759	22,759	22,759
Advanced Technology Transition	50,638	50,638	48,000	48,000
Total, Advance Technology Development	258,472	245,515	219,664	226,788
Strategic Programs				
Air Defense Initiative	47,200	---	35,000	---
Tactical Space Operations	3,470	3,470	2,000	2,000
SSBN Survivability	7,089	7,089	7,089	7,089
TRIDENT II	1,098,463	1,000,000	1,098,463	1,050,463
Strategic Technical Support	3,506	3,506	3,506	3,506
Fleet Ballistic Missile System	39,565	39,565	28,565	28,565
SSBN Security Technology Program	39,680	39,680	39,680	39,680
TRIDENT	31,595	31,595	31,595	31,595
Extremely Low Frequency (ELF) Communications	3,233	3,233	3,233	3,233
Navy Strategic Communications	86,445	80,668	86,445	80,668
Naval Space Surveillance	693	693	693	693
Minimum Essential Emergency Communications Network	1,048	1,048	1,048	1,048
World-Wide Military Command and Control Systems	8,127	8,127	8,127	8,127
Total, Strategic Programs	1,370,114	1,218,674	1,345,444	1,256,667
Tactical Programs				
Integrated Aircraft Avionics	2,375	16,000	9,000	9,000
Electronic Warfare Advanced Development	62,350	---	---	---
Air/Ocean Tactical Applications	13,971	9,000	13,971	11,500
T-45 Training System	96,015	91,579	96,015	94,579
Aviation Life Support Systems (Adv)	3,621	3,621	3,621	3,621
CV ASW Module	5,115	---	---	---
Air ASW	8,523	8,523	8,523	8,523
V-22A	3,988	3,988	3,988	3,988

(In thousands of dollars)

	Budget	House	Senate	Conference
A-6F	124,023	111,023	---	111,023
Airborne Mine Countermeasurers	8,975	8,975	8,975	8,975
Tactical Airborne Reconnaissance	8,570	8,570	8,570	8,570
Aircraft Survivability and Vulnerability	15,342	9,850	10,000	9,850
Advanced A/L Air-to-Surface Missile System	37,446	37,446	---	32,584
IIR Maverick	482	---	---	---
Advanced Air-to-Air/Surface-to-Air Missile	76,131	76,131	65,000	65,000
NATO AAW Systems	10,199	---	8,000	6,000
Low Cost Anti-Radiation Seeker	14,642	24,642	14,642	14,642
Advanced Air-to-Air Missile (AAAM)	34,619	17,309	17,000	17,000
Battle Group AAW Coordination	11,476	6,476	8,000	8,000
Surface Mine Countermeasures	15,339	15,339	15,339	15,339
Advanced Submarine ASW Development	8,298	8,298	8,298	8,298
Surface Ship Torpedo Defense	27,339	27,339	25,000	25,000
Catapults	7,357	---	5,000	5,000
Shipboard System Component Development	13,966	9,935	10,000	10,000
Ship Combat Survivability	29,426	20,000	29,426	27,000
Submarine Arctic Warfare Support Equipment Program	2,008	2,008	2,008	2,008
PILOT FISH	74,459	74,459	74,459	74,459
RETRACT LARCH	92,886	---	92,886	92,886
Non-Acoustic Anti-Submarine Warfare (ASW)	20,397	10,018	10,018	10,018
Advanced ASW Target	13,670	9,800	13,670	9,800
RETRACT JUNIPER	30,672	27,672	27,672	27,672
Radiological Control	2,925	2,925	2,925	2,925
Surface ASW	21,073	29,922	32,752	45,000
Submarine Tactical Warfare Systems	9,035	9,035	6,000	6,000
Ship Development	10,379	---	4,000	4,000
Attack Submarine Development	12,899	112,899	100,000	112,899
Advanced Nuclear Reactor Components System Development	91,360	91,360	70,000	80,680
Physical Security	8,699	8,699	8,699	8,699
CHALK EAGLE	89,451	89,451	89,451	89,451
Shipboard Laser Weapon	1,432	---	---	---
Combat System Integration	10,109	10,109	10,109	10,109
Joint Advanced Systems	231,550	226,550	226,550	226,550
Mine Development	17,382	17,382	24,000	24,000
CHALK PINE	189,495	---	189,495	189,495
Conventional Munitions	34,014	34,014	21,400	21,400
Marine Corps Assault Vehicles	12,206	12,206	12,206	12,206
Tactical Nuclear Weapons Development	11,499	2,280	5,499	2,280
Marine Corps Ground Combat/Support System	7,926	5,930	1,636	1,636
Joint Service Explosive Ordnance Development	11,643	11,643	11,643	11,643
Ocean Engineering Systems Development	1,503	1,503	1,503	1,503
ASW Oceanography	7,430	7,430	7,430	7,430
ASW Signal Processing	18,431	18,431	18,431	18,431
Advanced Marine Biological System	5,711	5,711	5,711	5,711
Fleet Tactical Development and Evaluation Program	4,800	4,800	4,800	4,800
Ocean Engineering Technology Developments	13,661	13,661	13,661	13,661
Container Off-Loading and Transfer System (COTS)	1,528	1,528	1,528	1,528
Naval Special Warfare	19,943	19,943	17,943	19,943
Navy Energy Program	7,721	7,721	7,721	7,721
Facilities Improvement	9,957	9,957	9,957	9,957
Merchant Ship Naval Augmentation Program	3,006	---	---	---
Marine Corps Combat Services Support	13,373	9,850	9,850	9,850
Defense Suppression	4,546	4,546	4,546	4,546
LINK HAZEL	11,500	---	11,500	4,000
LINK LAUREL	53,843	53,843	53,843	53,843
LINK SPRUCE	283,855	285,000	283,855	283,855
RETRACT MAPLE	65,028	---	65,028	72,028
LINK PLUMERIA	14,080	---	7,000	7,000
CHALK WEED	8,819	6,324	6,324	6,324
RETRACT ELM	39,041	29,000	39,041	39,041
CHALK POINSETTIA	15,000	15,000	15,000	15,000
LINK EVERGREEN	74,228	---	74,228	74,228
Fixed Distribution Systems	75,997	75,997	70,997	70,997
Anti-Submarine Warfare Environmental Acoustic Support	13,495	13,495	13,495	13,495
Special Processes	40,423	29,648	40,423	40,423
Standard Avionics Development	16,836	7,388	8,000	7,388
IFF System Development	36,201	36,201	26,000	26,000
LAMPS	16,920	16,920	16,920	16,920
Helicopter Development	11,226	---	13,500	13,500
AV-8B Aircraft (Engineering)	13,052	37,352	13,052	37,352
Support Equipment	72,942	54,429	65,000	62,000
P-3 Modernization Program	126,902	100,000	100,000	100,000

(In thousands of dollars)

	Budget	House	Senate	Conference
Airborne Electronic Warfare - Eng	32,010	---	---	---
Advanced Self-Protection System	16,427	---	---	---
Carrier Inner Zone ASW Helicopter	581	---	---	---
Aircraft Propulsion	289	---	---	---
Electronic Warfare Simulator Development	41,103	41,103	35,000	35,000
C/MH-53E	20,124	4,803	14,700	9,803
Acoustic Search Sensors	47,859	36,519	40,976	40,976
V-22	465,662	465,662	465,662	465,662
Aviation Life Support Systems (Eng)	22,308	22,308	20,000	20,000
Aircraft Engine Component Improvement Program	35,832	35,832	32,000	32,000
MK-92 Fire Control System Upgrade	3,516	3,516	3,516	3,516
AEGIS Area Air Defense	7,384	7,384	7,384	7,384
AEGIS Combat System Engineering	90,420	80,000	104,420	104,420
SEA LANCE	114,341	90,000	108,000	108,000
Advanced Medium Range Air-to-Air Missile	27,191	10,000	27,191	25,000
Air-to-Air Missile Systems Engineering	22,197	20,000	20,000	20,000
Vertical Launch ASROC	18,475	18,475	44,975	44,975
Close-In Weapon System (PHALANX)	7,648	3,000	7,648	5,324
NATO SEA SPARROW	4,707	1,000	3,000	3,000
Standard Missile Improvements	40,416	25,000	35,000	30,000
TOMAHAWK	47,436	63,536	45,000	45,000
5"Rolling Air Frame Missile	14,172	14,172	13,000	13,000
SSN-688 Class Vertical Launch System	21,395	15,000	21,395	18,395
New Threat Upgrade	29,945	20,000	20,000	20,000
Submarine Communications	3,451	3,451	3,451	3,451
Submarine Sonar Development	34,518	34,518	34,518	34,518
Air Control	17,314	17,314	14,000	14,000
Chemical Warfare Countermeasures	5,839	5,839	5,839	5,839
EMSP	69,467	65,000	55,000	65,000
Radar Surveillance Equipment	8,419	8,419	7,000	7,000
Intelligence Systems	31,114	10,000	---	---
Submarine Support Equipment Program	20,633	15,000	15,000	15,000
Ship Survivability	7,892	7,892	7,892	7,892
Combat Information Center Conversion	27,824	18,000	10,000	10,000
Submarine Combat System	342,532	290,000	322,732	319,000
SSN-21 Developments	213,242	213,242	210,000	210,000
Submarine Tactical Warfare System	43,300	35,000	43,300	43,300
Physical Security (Engineering)	11,154	11,154	11,154	11,154
Ship Subsystem Development/Land Based Test Site	70,414	50,000	50,000	50,000
Shipboard Electronic Warfare Improvements	40,193	---	---	---
Standard Embedded Computer Resources	29,397	16,110	1,110	16,110
AN/SQS-53C	11,427	11,427	11,427	11,427
LINK BIRCH	5,296	2,486	3,000	3,000
Mine Development	10,587	10,587	10,587	10,587
Gun Ammunition Improvement	10,266	10,266	9,266	10,266
Unguided Conventional Air-Launched Weapons	3,183	1,726	3,183	1,726
Surface Electro-Optical Systems	14,311	---	12,000	12,000
Bomb Fuze Improvement	8,781	8,781	8,781	8,781
Advanced Lightweight Torpedo (ENG)	85,172	100,000	140,600	140,600
Joint Service Explosive Ordnance Development	5,432	5,432	5,432	5,432
Marine Corps Assault Vehicles	16,035	26,035	16,035	21,035
Marine Corps Ground Combat/Supporting Arms Systems	4,648	4,648	---	---
MK-48 ADCAP (Engineering)	32,238	22,238	22,238	22,238
Anti-Submarine Warfare Oceanographic Equipment	1,146	1,146	1,146	1,146
CHALK BANYAN	28,613	13,000	13,000	13,000
Theatre Mission Planning Center	28,342	28,342	---	28,342
Initial Trainer Acquisition	112,030	---	70,000	---
Navy Energy Program	4,398	4,398	4,398	4,398
Surface ASW System Improvement	27,279	---	---	---
Air Warfare Training Devices	1,927	---	500	---
Surface Warfare Training Devices	17,198	17,198	17,198	17,198
Marine Corps Combat Services Support	19,836	23,359	19,836	23,359
Marine Corps Intelligence/Electronics Warfare System	13,306	11,306	11,306	11,306
Marine Corps Command/Control/Communications Systems	20,037	10,337	20,037	10,337
Battle Group Passive Horizon Extension System Trainer	17,230	---	---	---
Intelligence	3,953	3,953	3,953	3,953
LINK CYPRESS	169,217	---	169,217	169,217
Medical Developments	3,544	3,544	3,544	3,544
JINTACCS MC	2,015	2,015	2,015	2,015
Electro-Magnetic Spectrum Management	6,593	2,000	2,000	2,000
Management and Technical Support	12,329	7,000	7,000	7,000

(In thousands of dollars)

	Budget	House	Senate	Conference
C2 Surveillance/Reconnaissance Support	6,456	6,456	6,456	6,456
A-6 Squadrons	2,773	---	1,000	500
F/A-18 Squadrons	17,316	10,000	12,000	12,000
Early Warning Aircraft Squadrons	33,369	28,000	21,369	21,369
Aviation Support CVW	7,303	1,800	7,303	1,800
Fleet Telecommunications (Tactical)	8,219	6,000	6,000	6,000
Undersea Surveillance Systems	30,576	30,576	30,576	30,576
Ship-Towed Array Surveillance Systems	6,226	6,226	6,226	6,226
Special Projects	13,978	10,000	10,000	10,000
Navy Cover and Deception Program	6,762	---	---	---
Electronic Warfare (EW) Readiness Support	6,458	---	---	---
Counter C3 Development	9,797	---	---	---
HARM Improvement	---	3,800	---	3,800
ASW Combat Systems Integration	14,399	14,399	14,399	14,399
Aircraft Equipment Reliability/Maintenance Program	2,032	2,032	2,032	2,032
Laboratory Fleet Support	5,511	5,511	5,511	5,511
F-14 Upgrade	184,770	144,000	184,000	164,000
Tactical Intelligence Processing	2,081	2,081	2,081	2,081
Electronic Warfare Counter Response	54,613	---	---	---
Operational Reactor Development	35,497	20,000	35,497	27,749
Marine Corps Telecommunications	8,306	8,306	8,306	8,306
Marine Corps Ground Combat/Supporting Arms Systems	56,485	54,342	29,681	34,962
Marine Corps Combat Services Support	4,996	4,996	3,497	3,497
Marine Corps Intelligence/Electronics Warfare Systems	15,299	9,999	9,999	9,999
Marine Corps Command/Control/Communications Systems	25,164	16,379	16,379	16,379
TACIT RAINBOW	14,689	14,689	10,689	10,689
Joint Tactical Communications Program (TRI-TAC)	4,601	2,455	4,601	2,455
Skipper	---	---	9,200	9,200
SSN-688 Upgrade	---	15,000	10,000	13,000
Quick Reaction Surveillance System	---	15,000	---	15,000
Consolidated EW Programs	---	186,273	211,109	198,691
Total, Tactical Programs	6,129,941	4,895,877	5,537,206	5,662,086
Intelligence & Communications				
Warfare Support Systems	46,517	30,146	34,316	30,146
Tactical Command Systems	42,337	15,000	25,000	25,000
Transfer Support Systems	384,206	275,000	300,000	287,500
Navigation Systems	2,645	---	---	---
NAVSTAR GPS	79,891	50,000	53,500	53,500
Navy Command and Control Top Level Warfare Requirement	4,720	3,000	3,000	3,000
MILSTAR Satellite Communications System	4,600	4,600	4,600	4,600
Classified Programs	563,145	472,845	513,000	502,845
Total, Intelligence & Communications	1,128,061	850,591	933,416	906,591

(In thousands of dollars)

	Budget	House	Senate	Conference
Defensewide Mission Support				
Environmental Protection	8,882	8,882	8,882	8,882
Range Instrumentation Systems Development (RISD)	8,893	8,893	8,893	8,893
Air/Ocean Equipment Engineering	2,156	2,156	2,156	2,156
Target Systems Development	95,644	70,000	75,000	75,000
Personnel, Training, Simulation, and Human Factors	3,107	1,000	1,000	1,000
Studies and Analysis Support - MC	1,929	1,929	1,929	1,929
Studies and Analysis Support - Navy	5,410	3,917	3,410	3,410
Marine Corps Operations Analysis Group, CNA	4,454	4,454	4,454	4,454
Center for Naval Analyses	19,880	19,880	17,000	19,880
Fleet Tactical Development and Evaluation	16,885	13,000	12,000	12,500
Marine Corps Operational Test and Evaluation	1,311	1,311	1,311	1,311
Technical Information Services	2,697	2,697	2,697	2,697
Marine Corps Development Center Support	13,145	5,000	8,000	5,000
International RDT&E	4,014	4,014	1,314	1,314
RDT&E Laboratory and Facilities Management Support	52,665	40,000	52,665	52,665
RDT&E Instrumentation and Materiel Support	41,835	25,000	41,835	41,835
RDT&E Ship and Aircraft Support	92,944	76,944	92,944	92,944
Test and Evaluation Support	325,343	310,000	310,000	310,000
Operational Test and Evaluation Capability	8,953	8,953	8,953	8,953
Marine Corps Tact Exploit of National Capabilities	979	979	979	979
Productivity Investments	3,283	3,283	3,283	3,283
Weather Service	969	969	969	969
Defense Meteorological Satellite Program (DMSP)	4,107	4,107	59,107	44,107
Industrial Preparedness	43,393	43,393	36,393	43,393
Total, Defensewide Mission Support	762,878	660,761	755,174	747,554
Conventional Defense Initiatives				
Laser Communication	---	50,000	20,000	20,000
Electro Magnetic Catapult	---	6,000	---	---
Acoustic Video Processor/ADA Implementation	---	8,600	8,600	8,600
Small Rotary Engine RPV	---	1,000	---	1,000
Total, Conventional Defense Initiatives	---	65,600	28,600	29,600
General Reduction, Special Access	---	-50,000	---	-30,000
Naval Oceanographic Prog.	---	---	3,000	3,000
Adv Deep Water ASW Mine Dev.	---	---	1,900	---
AN/SQR-17 Torpedo Detective Processor	---	---	---	12,000
FERS Adjustment	---	-7,007	---	-7,007
R&D Civilians End Strength Cap	---	---	-6,400	-6,400
Navy budget amendment (H. doc. 100-122)	-42,300	---	-42,300	-42,300
MILSTAR TRANSFER	---	---	---	-15,000
Total, Research Development Test & Eval, Navy	10,448,112	8,634,560	9,535,619	9,493,546

NATIONAL CENTER FOR PHYSICAL ACOUSTICS

In fiscal year 1987, funds were provided to the Institute of Technology Development for the National Center for Physical Acoustics for construction, support and equipment. It is now necessary for the Center to begin acquiring highly qualified personnel so that a core staff is in place to begin the planning and organization of the Center. Therefore, the conferees have included $1,800,000 in the accompanying bill to fund these necessary expenses.

The Navy assisted in the planning and equipping of the National Center for Physical Acoustics and funds have been included this year to continue thew close involvement of the Navy in the planning, organization and use of the Center. An announcement has been made of plans to begin the construction of a large cavitation channel to measure acoustic and hydrodynamic performance of large scale models of ships. The conferees expect the operation of the cavitation channel and the Acoustics Center to complement each other and that the cavitation channel operations fully utilize the expertise of the Acoustic Center.

The conferees are convinced of the need for the involvement of the Acoustics Center, for which funds were provided in fiscal year 1987, and the necessity for it to be fully utilized in order for the Navy to more fully develop its acoustics research capability which is essential from a national defense standpoint. The Committees on Appropriations are to be kept fully informed on the progress of both the National Center for Physical Acoustics and the cavitation channel.

MEDICAL DEVELOPMENT (ADVANCED)

The conferees agree to provide $19,545,000 for Medical Development (Advanced), instead of $17,445,000 as proposed by both the House and Senate. The addition of $2,100,000 is specifically included for continued development of the National Bone Marrow Donor Registry. This activity was included in the House bill under the Navy Operations and Maintenance account, and is transferred to the RDT&E account at the request of the Navy and with the concurrence of the Senate. Bill language is included to this effect.

EMPRESS II AND ORGANOTIN PAINT

The conferees agree to bill language proposed by the Senate restricting the use of the EMPRESS II facility for electromagnetic pulse testing in the Chesapeake Bay, and also agree to bill language proposed by the House retaining the modified ban on the use of organotin antifouling paint by the U.S. Navy. In light of public and worker health and safety issues, as well as environmental issues surrounding these proposed activities, the conferees believe such restrictions are justified and in the public interest.

CLOSE-IN WEAPON SYSTEM

The conferees agree to provide $5,324,000 for Close-In Weapon System instead of $3,000,000 as proposed by the House or $7,648,000 as proposed by the Senate. None of the recommended reduction is to be applied against Phalanx Block I, and no funds may be obligated for the CIWS 2000 project until evaluation of the Goalkeeper system is completed by the U.S. Navy. The conferees understand that Goalkeeper, which is a foreign system already in production, might satisfy the Navy's requirement for advanced close-in weapons systems. Of the amount provided, $1,500,000 is available only for evaluation of the Goalkeeper system.

CATAPULTS

The conferees agree to provide $5,000,000 for Catapults, as proposed by the Senate instead of no funds as proposed by the House, and agree that $3,500,000 is to be allocated to accelerate development of the electomagnetic catapult, as stated in the Senate report.

ATTACK SUBMARINE DEVELOPMENT

The conferees agree to provide $112,899,000 for Attack Submarine Development proposed by the House instead of $100,000,000 as proposed by the Senate.

The conferees wish to emphasize that these funds are to be transferred to, and under the control of, the Director, Defense Advanced Research Projects Agency (DARPA), and that overall program direction is to be guided by the advisory board recommended by the House, which will have as its chairman a representative from the OP-098 organization within the Navy. These and other provisions are contained in section 211 of the Defense Authorization Act for fiscal years 1988 and 1989. Changes and additions to the authorization act are included in this bill, and the conferees expect implementation of the provisions of law without delay.

It is intended that the funds for this new program be used primarily for revolutionary developments in attach submarine HM&E and non-nuclear propulsion technologies, and bill language is included which earmarks $90,000,000 for this objective. This primary work is to include technologies such as boundary layer control, advanced materials, structures, automated control systems, high temperature superconductors, and quiet propulsors. While sensors, weapons, acoustic signatures, and nonacoustic signatures can be expected to be favorably influenced by the successful implementation of HM&E technologies, these funds are not intended for weapon or sensor development. The intent is to increase the submarine technology base sufficiently to provide the Navy with design options which are not now feasible, and to serve as a hedge against technological surprise in this area.

However, the conferees do not wish to necessarily deny funding for sensors, weapons, electronics, and countermeasures. The remaining $22,899,000 may not be obligated until submission of a program plan, as described below. If this plan considers such items to be of sufficient priority, then some or all of the $22,899,000 may be obligated for those activities. If not, they should be used for other high-priority items in the program plan.

In order to foster a vigorous program of development in the Navy's technology base, a significant portion of this amount should be set aside to fund additional HM&E work in the Office of Naval Technology. However, the allocation of funds to program element 62.31.4N, "ASW Technology", is inappropriate since P.E. 62.31.4N is for weapon and sensor development, and not HM&E/propulsion systems.

The conferees agree that the Director of DARPA shall direct the Chairman of the program's advisory board to submit by March 15, 1988, a five-year program plan to the Congress which addresses the specific technologies to be pursued, foreign technology exploitation, anticipated military benefits, and related funding requirements and schedules. Commitment on the part of both DARPA and the Navy is crucial to the success of this long-term program; therefore, the conferees expect the Department to budget sufficient out-year funds to aggressively continue this effort.

While the initial phase of this program is expected to be limited to 6.2 and some 6.3 efforts, the Congress would like to review the concepts for the funding and the implementation of testbed(s) in the out-years. Hence, Senate language recommending the overhaul of a retiring submarine as a testbed for this program is not agreed to by the conferees. Appropriate testbed candidates should be discussed in the program plan for future consideration.

In noting the aforementioned purpose of this program, the conferees agree with the House position earmarking $1,100,000 for advanced batteries, and specify that particular attention should be given to technologies which could lead to weight savings of up to 50 tons. The conferees do not agree with Senate language earmarking $10,520,000 for superconductivity projects or $12,000,000 for investigating the feasibility of RPV's for attack submarine missions. These two activities may be funded out of the $22,899,000 if included as a high priority in the program plan.

SUPPORT EQUIPMENT

The conferees agree that $60,000,000 of the $62,000,000 provided for Support Equipment must be allocated to the Consolidated Automated Support System (CASS) project.

INITIAL TRAINER ACQUISITION

The conferees agree to provide no RDT&E funding for Initial Trainer Acquisition, as proposed by the House, instead of $70,000,000 as proposed by the Senate. $60,000,000 is provided in the Aircraft Procurement Navy (APN) account. The conferees agree that this activity is more appropriately funded in the procurement account, and approve this one-time waiver of the full funding principle in order to complete the transfer. The Navy is directed to include the remainder of funding in the fiscal year 1989 budget request, in accord with the full funding principle.

TOMAHAWK

The conferees agree to provide $45,000,000 for the Tomahawk program and $28,342,000 for the Tomahawk Theater Mission Planning Center, in spearate budget lines. The conferees do not agree with the consolidation of this effort, as accomplished in authorization action. The House recedes from its proposal to provide increased funding for Tomahawk due to budget constraints.

SKIPPER

The conferees agree to the Senate position to appropriate $9,200,000 to establish a separate program element for the Skipper weapon system. The conferees direct that the funds provided shall be used only for Skipper enhancements including the Laser Guided Training Round as mandated last year by the Senate in its report on the fiscal year 1987 Defense Appropriations Act, and as endorsed by the joint committee of conference on the fiscal year 1987 Continuing Appropriations Resolution. The conferees direct that $5,400,000 of this amount be allocated to the Laser Guided Training Round program and that its development be accelerated. The conferees expect no further delays in executing these programs as directed.

LASER COMMUNICATIONS

The conferees agree with the position of the Senate that the $20,000,000 provided for Laser Communications is only for developments of a satellite-borne, one way laser for drugs and devices necessary to prevent implantation of the fertilized ovum and medical procedures necessary to the termination of an ectopic pregnancy. The House language prohibited the use of both local and Federal funds for abortions. The Senate amendment is identical to language that has been carried in District of Columbia Appropriations Acts annually since fiscal year 1980.

The conference action amends language in section 130 proposed by the House which prohibits the District government from renewing or extending sole source contracts without opening them to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85). The Senate amendment exempted several agencies from the competitive bidding requirement The conference agreement amends the Senate language and exempts only the District of Columbia Public Schools from the competitive bidding requirement. The conferees request the Board of Education to submit quarterly reports showing, for each specific instance where sole source contracts were renewed or extended without going through the competitive bidding process, the name of the company or person receiving the contract, the month and year the contract was first issued and the original amount of the contract, the current amounts involved, the number of times the contract has been extended or renewed, and the reasons for not going through the competitive bidding process.

The conference action deletes language proposed by the House as section 131 and stricken by the Senate. The conferees are cognizant of recent news media accounts speculating on possible corruption in the District government. These allegations are serious if proven to be true. The language that is being deleted expressed the sense of Congress that the pattern of corruption by individuals in the District government is deplorable.

Corrupt behavior by public or private officials, which violates the trust placed in them by taxpayers or shareholders, is abhorent and should not be tolerated. These actions should not and will not be excused at any level of government. It serves no purpose to single out the District government other than to give the false impression that the vast majority of District government employees are not hard-working dedicated public servants, which they are. The conferees agree that corruption anywhere is deplorable.

The conference action deletes language proposed by the Senate as a new section 131 requiring the Federal government to compensate the District government if the District's Employment Security Building located at 500 C Street, N.W., is condemned and the District is required to vacate the property. The conferees agree that no action whatsoever is to be taken by the Federal government or any other organization to condemn, vacate or raze the Employment Security Building until after December 31, 1988, unless such action is approved in advance by the House and Senate Subcommittees on District of Columbia Appropriations.

The conference action includes language in section 131 which clarifies the level of activities at which sequestration will apply if it becomes necessary to sequester new budget authority for Federal appropriations provided in the District of Columbia Appropriations Act, 1988, or thereafter. For purposes of the definition required by Section 252(a)(1)(B)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended, the term "program, project, and activity" shall be synonymous with and refer to each account making Federal appropriations in the Act. The conferees agree that each of the Federal appropriations (e.g. the four appropriations in this particular Act) be treated as a separate account for sequestration purposes. The conferees believe the method used for sequestration in fiscal year 1986 was completely illogical. The sequestration percentage was applied to the aggregate total of Federal appropriations to the District government. There were six separate appropriation accounts but amounts were sequestered from only three of the six accounts resulting in a higher percentage reduction in those three accounts than was contemplated or intended. In an effort to correct the unfairness of that sequestration and in the absence of corrective action at the Federal level, the District government attempted to sequester a proportionate share from one of the accounts and was promptly taken to court by the administrators of that account and ordered by the court to pay the sequestered amount with interest. The purpose of the language in section 131 is to avoid a similar situation.

The conferees have serious concerns as to whether sequestration should be applied to the account "Federal Payment for Water and Sewer Services." The amount appropriated in this account is for water and sewer services supplied by the District government to Federal government facilities located in the Washington, D.C. area. It is a payment for potable water consumed, for water services, and for sanitary sewer services rendered to the Federal government. It is to pay the District government for treating and providing the water and the services; it is not for a discretionary program or activity. It is the simple fact of paying the bill.

The conference action deletes language proposed by the Senate in section 132 requiring the District's $50,000 ceremonial fund to be audited as part of the District's Comprehensive Annual Financial Report. Subsequent to Senate action on H.R. 2713, the District on December 1, 1987 approved D.C. Law 7-115, the District of Columbia Ceremonial Funds Amendment Act of 1987, which provides for standards for public reporting, including itemization, on the use of the ceremonial fund.

The conference agreement includes language that excludes the Federal payment from apportionment and requires that payment be made to the District by the Secretary of the Treasury within fifteen days after the beginning of the fiscal year or fifteen days after the date of the enactment of the appropriating Act, if later. It is the express intent of the conferees that this language not preclude subsequent sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended. Should sequestration become necessary after funds are disbursed from the Federal Treasury, the District government is directed to refund to the Federal Treasury, upon the Secretary's request, such amounts as are necessary to comply with the sequestration order. The refund is to be charged proportionately to each Federal appropriation account that is not specifically exempt from sequestration; and not to the aggregate total of Federal funds appropriated as was done in fiscal year 1986.

The conference agreement includes language that provides for automatic quarterly apportionments of the Federal Payment for Water and Sewer Services appropriation and requires the Secretary of the Treasury to pay the District on the first day of the beginning of each quarter.

The conference action includes language which prohibits the use of any funds available to the District of Columbia for billing agencies or establishments for water and sewer services traditionally funded under the account "Federal Payment for Water and Sewer Services" unless and until existing statutes are amended to specifically provide for such billing.

The conference action includes language that exempts Federal funds from the apportionment process except to the extent specifically provided by statute.

The conference action includes language which requires the President's annual budgets to include the Mayor's estimates for water and water services and sewer services.

The conference agreement deletes language included by the Senate in section 133 that would have stopped payment to the District of Columbia of funds authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, after December 31, 1987 if on that date the District Council had not repealed D.C. Law 6-170, the Prohibition of Discrimination in the Provision of Insurance Act of 1986. The conferees are aware of D.C. Bill 7-364 introduced November 23, 1987 in the District Council. The conferees intend that the Council give early consideration to this bill and other proposals, and give all views a fair hearing on this matter. The Council should consider the impact of the present law as well as Bill 7-364 and other proposals on the cost and availability of insurance coverage to District residents and businesses, including the impact on the insurance industry in the City. If appropriate and timely action is not taken with respect to this matter the Congress may revisit the issue in the future.

TITLE II—FISCAL YEAR 1987 SUPPLEMENTAL APPROPRIATIONS

DISTRICT OF COLUMBIA FUNDS

The conference action inserts a new "Title II" and heading for fiscal year 1987 supplemental appropriations as proposed by the Senate. There are no Federal funds involved in this supplemental; it is funded entirely with increases in local revenue collections above the level projected at the time the District's regular appropriations bill for fiscal year 1987 was considered and approved by the Congress. The conferees note that this supplemental was not submitted to the Congress in time to be considered in the House version of H.R. 2713.

Governmental Direction and Support.—The conference action appropriates an additional $3,115,000 for fiscal yar 1987 for various departments and offices and rescinds $1,056,000 and two positions as proposed by the Senate.

Economic Development and Regulation.—The conference action appropriates an additional $309,000 for fiscal year 1987 for varius departments and offices as proposed by the Senate. The conference action also approves a redirection of $68,000 within the Department of Employment Services as proposed by the Senate to provide three-months funding for employment training at the People's Involvement Corporation. The conference action also rescinds $5,281,000 in budget authority as proposed by the Senate.

Public Safety and Justice.—The conference action appropriates an additional $60,355,000 and 33 positions for fiscal years 1987 for various departments and offices as proposed by the Senate.

Public Education System.—The conference action appropriates an additional $4,810,000 for fiscal year 1987 of which $2,250,000 is for the public schools; $1,354,000 is for the University of the District of Columbia; $1,146,000 to remain available until expended is for the newly-established District of Columbia School of Law; and $60,000 is for the Educational Institution Licensure Commission as proposed by the Senate. The conference action also rescinds $300,000 appropriated in fiscal year 1987 for the Public Library as proposed by the Senate and $400,000 in fiscal year 1987 appropriation for the District of Columbia Teachers' Retirement Fund to adjust for a dual payment to the Fund. The conference action deletes bill language which would have amended H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591 (100 Stat. 3341-184) relative to the Antioch School of Law. The Senate amendment was included in the Supplemental Appropriations Act 1987 (Public Law 100-71, approved July 11, 1987) (101 Stat. 474-475) as Sec. 516.

Human Support Services.—The conference action appropriates an additional $5,545,000 for fiscal year 1987 as proposed by the Senate for the Department of Recreation and the disability compensation fund. The conference action also rescinds $4,067,000 approved in fiscal year 1987 for the Department of Human Services and the Department of Recreation as proposed by the Senate.

Public Works.—The conference action appropriates an additional $1,140,000 and 31 positions for fiscal year 1987 for the Department of Public Works and rescinds $6,400,000 appropriated in fiscal year 1987 for the Washington Metropolitan Area Transit Authority and the Department of Public Works as proposed by the Senate.

Repayment of Loans and Interest.—The conference action rescinds $3,488,000 in fiscal year 1987 budget authority as proposed by the Senate.

Repayment of General Fund Deficit.—The conference action deletes language proposed by the Senate which would have reduced the amount by which the District government is required to reduce the accumulated general fund deficit in fiscal year 1987. The Senate language would have required that $15,000,000 be used to reduce the deficit. The District Appropriations Act for fiscal year 1987 inluded $20,000,000 for this purpose.

Personal Services.—The conference action appropriates an additional $1,800,000 for fiscal year 1987 for optical and dental benefits as proposed by the Senate.

Capital Outlay.—The conference action appropriates an additional $20,585,000 for five projects for fiscal year 1987 as proposed by the Senate.

General Provisions.—The conference action adds language to the bill which deems the appropriations made in Title II to be available for the fiscal year ending September 30, 1987. This language in effect ratifies all obligations and expenditures made in anticipation of the enactment of the District's fiscal year 1987 supplemental request as approved in Title II of this Act.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT

Amendment No. 5: Section 101(d) of House Joint Resolution 395 provides appropriations for programs, projects and activities provided for in the Energy and Water Development Appropriation Act, 1988. The House version of the joint resolution provides appropriations for programs, projects and activities at a rate of operations and to the extent and in the manner provided for in H.R. 2700 as passed by the House of Representatives on June 24, 1987. The Senate version of the joint resolution provides appropriations for programs, projects and activities at the rate and in the manner provided for in H.R. 2700 as passed by the Senate on November 18, 1987. Included are certain additional provisions and exceptions provided for in the joint resolution.

The conference agreement on House Joint Resolution 395 incorporates some of the provisions of both the House and Senate versions of the Energy and Water Development Appropriation Act, 1988, and has the effect of enacting the Act into law. The language and allocations set forth in House Report 100-162 and Senate Report 100-159 shall be complied with unless specifically addressed in this joint resolution and statement of the managers to the contrary. Report language included by the House which is not changed by the report of the Senate, and Senate report language which is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. The Energy and Water Development Appropriation Act, 1988, put in place by this joint resolution incorporates the following agreements of the managers.

TITLE I—DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The summary tables at the end of this section set forth the conference agreement with respect to the individual appropriations, programs and activities of the Corps of Engineers. Additional items of conference agreement are discussed below.

GENERAL INVESTIGATIONS

Appropriates $138,767,000 for general investigations instead of $148,712,000 as proposed by the House and $141,450,000 as proposed by the Senate.

The Secretary of the Army is directed to proceed with the feasibility study for the demonstration project at Sunset Harbor, California, in a timely manner. The study is to demonstrate that the financing mechanism provided in Sec. 916 of P.L. 99-662 together with other cost-sharing provisions of P.L. 99-662 will repay all Federal as well as non-Federal costs for wetlands restoration, navigation features, protection of the Seal Beach Naval Weapons Station and other project purposes of this multiple purpose project.

The conference agreement for coordination studies with other agencies includes $600,000 for Section 22 studies in the States of Minnesota and North Dakota. The conference agreement also includes $50,000 under coordination studies with other agencies for a study to address solutions to the wastewater disposal problems in the vicinity of Tolay Lake in Sonoma County, California.

The conferees encourage the Corps of Engineers to work with the Interstate Commission on the Potomac River Basin on issues of mutual interest such as flood control, water supply and quality, navigation and recreation.

The conferees are aware that recent information presented by the Corps and the Bureau in a series of three fact-finding hearings in Sacramento reveals that the region may be under a greater threat from serious flooding than was previously believed. It is also clear that any improvements which may be made to increase the level of flood control on the American River may not by itself alleviate the flood danger to the northern part of Sacramento County east and west of the Natomas East Main Drainage Canal, which includes the Natomas area and the Dry Creek watershed. The conferees therefore urge the Corps of Engineers to examine potential flood control improvements to the Natomas and the Dry Creek watershed concurrent to the Corps' evaluation of improving flood protection on the American River. The conferees further recognize that there may be additional flood protection afforded by a primarily peak-flow flood control facility (the so-called "dry dam") on the North Fork of the American River above Folsom Dam. The conferees therefore direct the Corps of Engineers to include further assessments of the relationship between such a peak-flow flood control facility and the operation of Folsom Dam as they may pertain to incidental water, power and recreational benefits. Within this assessment, the Corps should include its analysis of the current and projected water supply demands in the American River basin.

The conferees direct the Corps of Engineers to expedite completion of the District Engineer's feasibility report of the Miami Harbor Channel, Florida, study and issuance of the Division Engineer's notice and to proceed with the engineering and design stage within thirty days thereafter. The conferees strongly recommend that the Corps consider contracting out the engineering and design work.

The agreement includes $250,000 to initiate the feasibility phase of the Lackawanna River Basin comprehensive study, Pennsylvania, in FY 1988.

The conferees are aware of the possible need of additional funds in connection with the ongoing studies involving the Northern California Streams and urge the Corps of Engineers to reprogram any required additional funds.

The conferees intend that the Corps of Engineers, within appropriated funds, will study the impact on navigation in and recreation activities on the White River and its tributaries, Arkansas, of operating, during low water periods, the reservoirs under its jurisdiction on the White River and its tributaries, which are wholly or partially located in the State of Arkansas, in such a manner as to insure a continuous flow of water in the White River and its tributaries downstream from said reservoirs so as to maintain a water level in the White River and its tributaries to attain optimum use of the White River and its tributaries for navigation and recreation purposes. The conferees expect this study to be completed and to be submitted to the appropriate committees of the Congress not later than January 31, 1989.

The conferees have provided $300,000 for the continued development and testing of the Water Resources-Based Economic Development Computer Model by the RedArk Development Authority. The conferees note that the Corps has been slow to release previous appropriations for this project and direct the prompt allocation of these funds to this project after enactment of this legislation.

The Corps of Engineers is directed to allocate $300,000 to Rural Enterprises, Inc., a non-profit technology transfer corporation to transfer and utilize technology from the research laboratories from the Corps of Engineers.

The committee of conference urges the Corps, within available funds, to begin a reconnaissance study of flooding problems in Miami, Oklahoma, along the mainstream of the Neosho River, under the "Grand (Neosho) River, Kansas and Oklahoma" study authority during fiscal year 1988.

The conferees recommend that the Corps of Engineers initiate two new reconnaissance studies entitled the "Louisiana Comprehensive Coastal Plan" and the "Mississippi River Delta Study" requiring funds in the amounts of $250,000 and $500,000 respectively. These reconnaissance studies should be completed in 12 months within available funds.

Restores language proposed by the House and stricken by the Senate, amended to provide for a feasibility study for Sunset Harbor, California, and providing a limitation on funds available for research and development activities.

Inserts language proposed by the Senate regarding a study of the South Fork of the Sangamon River, Illinois.

Restores language proposed by the House and stricken by the Senate amended regarding the following items in the general investigation program: Indiana Shoreline Erosion, including preconstruction engineering and design, Indiana; Greenwood Lake, New Jersey; East Bank Stabilization, New Jersey; Beatties Dam, New Jersey; Olcott Harbor Improvements, New York; Atlantic Coast of New York City from Rockaway Inlet to Norton Point, New York (Coney Island Area); Red River Waterway, Shreveport, Louisiana to Index, Arkansas; Beaver Lake, Arkansas; Brunswick County Beaches, North Carolina; Westwego to Harvey Canal, Louisiana; McCook and Thornton Reservoirs (CUP), Illinois; Miami Harbor, Florida (cleanup); St. Petersburg, Florida (coastal areas); Little River, Horatio, Arkansas; Denison Dam-Lake Texoma, Texas and Oklahoma; Arthur Kill extension to Fresh Kills, near Carteret, New Jersey; Roanoke River Upper Basin, Virginia; and Raritan River Basin, Green Brook Sub-Basin, New Jersey.

Deletes language proposed by the Senate regarding studies for raising Pine Flat Dam, Kings River, California. Funding for the study is provided as part of the general investigations program.

CONSTRUCTION, GENERAL

Appropriates $1,200,175,000 for construction, general instead of $1,150,142,000 as proposed by the House and $1,166,136,000 as proposed by the Senate.

The resolution includes language to direct the Secretary of the Army to construct, under the authority of section 14, Public Law 79-526, 10,000 feet of streambank protection along the west shoreline of the city of Guntersville, Alabama, on Guntersville Lake, for the purpose of reducing and eliminating erosion on park lands operated and maintained by the city. Rapid erosion is endangering continued use of the park and its facilities. The total cost for the protection measures are estimated to be $430,000 and the non-Federal cost-share shall be in accordance with section 603 of the WRDA 1986 (Public Law 99-662).

The conferees direct the Secretary of the Army to accelerate design of Locks and Dams 4 and 5 on the Red River Waterway project so that the first phase of construction can be initiated on both Locks and Dams in April 1990 and construction can be completed by 1994. The Secretary is directed to report to the Committee during the fiscal year 1989 budget hearings on the accelerated schedule including projected dates that plans and specifications for each phase of construction will be complete and the estimated project funding requirements by pool necessary to meet this schedule.

The conferees are concerned with the procedures developed by the Secretary of the Army whereby binding local cost-sharing agreements [LCA] are not executed until after Federal appropriations are made for a project. While the conferees recognize that the Corps of Engineers is operating for the first time under newly established criteria, it should be pointed out that Public Law 99-662 clearly shifted the burden for commitment to water resource projects away from the Federal Government to the State and local level. Further, the Corps and water development interests have generally known and have been working under this new concept since enactment of the 1985 supplemental appropriations bill in August 1985. Therefore, the conferees feel that execution of an LCA should occur earlier in the process and that since the preconstruction engineering and design costs are to be cost shared, this should happen during the PED timeframe. In the future, the conferees will expect the Corps of Engineers to have an LCA executed before the final year of preconstruction engineering and design. In this way, the Committees and the Congress will have a clear picture of a project's status.

The conference agreement includes funding for the following projects in the Continuing Authorities Program:

Section 107—Small Navigation Projects.—Channel Island Harbor, California, $100,000; Gary, Indiana, small boat harbor, $50,000; Michigan City, Indiana, small boat harbor, $132,000; Tongue Point, Astoria, Oregon, $1,750,000; and Yellow Bend Port, Arkansas, $1,000,000.

Section 103—Small Beach Erosion Control Projects.—Sand Island Shore Protection, Hawaii, $550,000; and Sims Park, Euclid, Ohio, $1,400,000.

Section 205—Small Flood Control Projects.—Kankakee River and vicinity of Wilmington, Illinois, $1,500,000; Carter Lake, Iowa and Nebraska, $35,000; East Fork River at Bedford, Iowa, $1,000,000; and Mill Creek, Fort Smith, Arkansas, $1,000,000.

The conferees agree with the Senate report language regarding the Columbia River Basin Fish Bypass Program.

The conferees do not agree with House report language relating to the Missouri National Recreation River, Nebraska and South Dakota.

The Port of Cleveland is a general cargo port located on Lake Erie at the mouth of the Cuyahoga River on land leased from the City of Cleveland. Currently, the City is engaged in a shoreline adjustment project that will build a small harbor of refuge for small craft in the area immediately adjacent to the Port of Cleveland. The City has informed the Port of its intention to terminate the lease in five years. Consequently, the Port intends to move its facilities westward to the area bounded by Pier 20. The Army Corps of Engineers shall provide the Port of Cleveland with technical assistance to develop engineering plans that will prepare the Port for its move. The plans shall be completed by the end of FY 1988. The Army Corps of Engineers, working with the Port of Cleveland and appropriate entities as the Port shall designate, shall conduct a study of the Cuyahoga River that will include an evaluation of: (1) navigation problems associated with congestion of the river which is increasingly shared by small craft and large commercial vessels; (2) shoreline erosion caused by the use of bow thrusters and other factors; (3) the deterioration of the breakwall leading to the Coast Guard Station at the mouth of the river; (4) channel construction in the federal navigation channel; (5) necessary corrections of the navigation problems in the area known as Collision Bend, which is located below the Eagle-Scranton Road Bridge; and (6) any other information which is pertinent to the satisfactory and prompt completion of the Cleveland Harbor project. The local sponsor of the Cleveland Harbor project will provide the Army Corps of Engineers with design plans for the Pier 34 portion of the project and related elements no later than 60 days after the completion of a local cooperative agreement. The funds necessary for the deepening and widening of the east entrance channel to the Port of Cleveland are to remain available until expended, depending upon lake levels.

Consistent with the foregoing and previous findings, Congress hereby finds the project justified and that funds expended by the Ohio Department of Natural Resources on the project known as North Coast Harbor are eligible for a Section 215 agreement as amended for all elements of the project. The Army Corps of Engineers shall inform the Congress of any delays in the project. Funds not expended due to delays are to remain available until expended to allow completion of all the project elements. Moreover, all funds appropriated by Congress herein shall be made available until expended.

The conferees have provided $5,000,000 for the initial purchase of land at the Parker Lake site and construction of the access road and project facilities.

The conferees have provided $500,000 to complete the design and construction of the bridge over Mud Creek at Eufaula Lake, Oklahoma.

The conference agreement includes $3,000,000 from available funds for railroad rehabilitation at Malheur and Harney Lakes in Oregon to remedy damage caused by flooding.

Restores language proposed by the House and stricken by the Senate amended relating to the Red River Waterway, Mississippi River to Shreveport, Louisiana project; Cooper River Seismic modification, South Carolina; a regional public park along the Miami River in the Allapatah community across from Curtis Park, Florida, Guntersville Lake, Alabama; Sandy Hook to Barnegat Inlet, including Sea Bright to Ocean Township and Asbury Park to Manasquan, New Jersey; New Melones Lake, California; Barbourville and Harlan, Kentucky (Levisa/Tug Forks of Big Sandy River and Upper Cumberland River, West Virginia, Virginia and Kentucky); Walnut and Cherry Street Bridges, Massillon, Ohio; Mill Creek, Fort Smith, Arkansas; Cape May Inlet to Lower Township, New Jersey; Ouachita River

Levees, Louisiana; Gentilly, Minnesota; Century Park, Lorain, Ohio; Community Park, Sheffield Lake, Ohio; Tangier Island, Virginia; Presque Isle Peninsula, Erie, Pennsylvania; Shelburne Bay, Vermont; Parker Lake Project, Oklahoma; the Mud Creek Bridge Replacement Project at Eufaula Lake, Oklahoma; Cleveland Harbor, Ohio; Saxon Harbor, Wisconsin; Lower San Joaquin River, California; Des Moines Recreational River and Greenbelt, Iowa; and Port Austin Harbor, Michigan.

Inserts language proposed by the Senate providing for repair and rehabilitation of certain works in the vicinity of the East Side Levee and Sanitary District, East St. Louis, Illinois.

Inserts language proposed by the Senate providing for planning, design and engineering of appropriate works to alleviate high groundwater problems on lands owned by the Cochiti Pueblo, New Mexico.

Inserts language proposed by the House and stricken by the Senate in Amendment No. 24 relating to the Des Moines Recreational River and Greenbelt project in Iowa.

Inserts language proposed by the House and stricken by the Senate in Amendment No. 25 relating to the Lower San Joaquin River, California, project.

Inserts language proposed by the Senate in Amendment No. 58 regarding the Hudson River channel deepening project, New York. The managers understand discussions and negotiations are underway among various community groups and interested parties, including the Port Authority of New York and New Jersey and the Battery Park City Authority, on a number of issues, including the siting of the ferry terminal. This amendment is in no way intended to prejudice those discussions, and it is expected that they will continue.

Inserts language proposed by the Senate in Amendment No. 59 relating to flooding on the Salmon River in Idaho.

Deletes language proposed by the Senate in Amendment No. 60 relating to Harry S Truman Dam and Reservoir in Missouri.

FLOOD CONTROL AND COASTAL EMERGENCIES

Appropriates $20,000,000 for Flood Control and Coastal Emergencies instead of $26,000,000 as proposed by the House and Senate.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI AND TENNESSEE

Appropriates $317,704,000 for Flood Control, Mississippi River and tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri and Tennessee instead of $326,399,000 as proposed by the House and $315,130,000 as proposed by the Senate.

There is a continuing problem of flooding in the delta portion of the Abiaca Creek Watershed which is a responsibility of the Corps of Engineers. The Soil Conservation Service has to date constructed 13 floodwater retarding structures and 11 grade control structures in the hill section of the watershed. The main channel in the delta is currently protected by small private levees on either side of the channel which frequently fail, causing flooding and sedimentation problems to the cropland on both sides of the channel. This watershed should be included as a part of the joint Soil Conservation Service—Corps of Engineers Demonstration Erosion Control Project for the Yazoo Basin. Funds provided the Corps of Engineers will be used to initiate investigations in this watershed to determine the best combination of structural measures to solve the flooding and sedimentation problems in the delta section.

The conferees understand that there is no adequate, safe access for small boats along an 83-mile reach of the Mississippi River in west Tennessee. The conferees have also been informed that the State of Tennessee is willing to provide 50 percent of the $400,000 estimated cost. Therefore, the conference agreement includes $200,000 under channel improvement to construct a boat launching facility in Lauderdale County, Tennessee.

Within available funds, the conferees recommend up to $2,500,000 for the U.S. Army Corps of Engineers to initiate construction to correct the water seepage surrounding the Ensley levee at Memphis Harbor, Tennessee.

Restores language proposed by the House and stricken by the Senate amended directing the Secretary of the Army to acquire necessary interests in real estate in furtherance of the development of the Atchafalaya Basin Floodway System, Louisiana.

The conferees believe the most efficient and economical approach to the acquisition of land and interest within the Atchafalaya Basin Floodway System is to make all acquisitions from a single landowner at one time, concurrently. This includes the acquisition of fee simple interests in land, excluding mineral rights. Acquisition should begin, as expeditiously as possible, in the Northern part of the Basin. In accordance with Public Laws 99-88 and 99-662, the Corps should begin the acquisition of full, comprehensive easements or fee simple ownership where appropriate. Fifty percent of the funds appropriated for this purpose shall be used for fee simple acquisition as opportunities become available.

Inserts language proposed by the Senate directing the completion of the reevaluation of alternative plans and submission of the final report on the Mississippi River, East Bank, Natchez, Mississippi, project.

OPERATION AND MAINTENANCE, GENERAL

Deletes language proposed by the House and stricken by the Senate regarding administration of laws pertaining to preservation of navigable waters as this language is contained in the "General Regulatory Functions" account of the Corps of Engineers.

Appropriates $1,400,000,000 for Operation and Maintenance, General as proposed by the Senate instead of $1,413,093,000 as proposed by the House.

Inserts language proposed by the Senate amended to provide not to exceed $8,000,000 for national emergency preparedness programs.

Inserts language proposed by the Senate providing that none of the funds available under "Operation and Maintenance, General" shall be used for expenses of the Department of the Army regulatory activities.

As the Senate debate of November 13, 1987, reflects, we are concerned that there is still a dispute between the Ouachita Regional Water District (ORWD) in Arkansas and the Corps of Engineers over the terms of Ouachita's longstanding right to market water from DeGray Lake. The conferees are vitally interested in the prompt resolution of this matter in a manner that will reaffirm ORWD's right to market this water supply. The conferees direct the Corps to make every effort to resolve this matter fairly and expeditiously. The conferees believe that the terms suggested by ORWD to the Corps on November 25 are reasonable.

Deletes language proposed by the House and stricken by the Senate amended allocating $388,000 for a Water Resources Information and Visitor Center at Crowder Point, Eufaula Lake, Oklahoma; allocating $159,000 for a visitor center facility at Lake Texoma, Oklahoma; and inserts language directing the Secretary of the Army to undertake the Sauk Lake, Minnesota, and Yaquina North Jetty, Oregon, projects in fiscal year 1988.

The conferees have provided $3,700,000 for the operation and maintenance of the Eufaula Lake project, which includes $388,000 to construct a facility to serve as a Visitors Center at Crowder Point on Eufaula Lake and to house offices, operations and displays related to the overall development of the Arkansas and Red River basins.

The conferees have provided $4,950,000, an increase of $309,000 for the operation and maintenance of the Denison Dam (Lake Texoma), Texas and Oklahoma, project. Within the additional funds, $150,000 is provided for needed dredging work where Pennington Creek enters the reservoir, and an additional $159,000 is provided for the Visitors Center project.

Deletes language proposed by the Senate directing the Secretary of the Army to prepare a revised master plan for recreation and resource management for the Abiquiu Dam and Reservoir, New Mexico.

The conference agreement includes $10,000,000 for operation and maintenance and rehabilitation requirements of the New York State Barge Canal as authorized by section 1105 of P.L. 99-662.

GENERAL REGULATORY FUNCTIONS

Appropriates $55,262,000 for General Regulatory Functions as proposed by the House instead of $60,000,000 as proposed by the Senate.

The conferees agree that no further increases in this program will be considered until the Corps of Engineers submits to the appropriate Congressional committees a plan to recover all Department of the Army—Civil regulatory expenses, including but not limited to application, filing, and service fees to recover all costs of processing commercial and public utility applications and the reimbursement of costs resulting from Federal or state agencies requesting special information, studies or procedures. In addition, the Secretary of the Army shall work with the General Accounting Office to ensure that effective auditing and cost accounting procedures which meet standards acceptable to the Comptroller General are established at the earliest possible time.

Deletes language proposed by the Senate providing that $5,000,000 shall be available for obligation only after the Secretary of the Army submits a legislative proposal to recover the costs of Department of Army regulatory programs.

GENERAL EXPENSES

Appropriates $115,200,000 for General Expenses instead of $128,200,000 as proposed by the House and Senate.

ADMINISTRATIVE PROVISIONS

Deletes language proposed by the House and Senate providing $2,000 for official reception and representation expenses.

GENERAL PROVISIONS, CORPS OF ENGINEERS

Restores language proposed by the House and stricken by the Senate directing the Secretary of the Army to initiate construction and reimburse non-Federal interests for work completed on the North Branch of Chicago River, Illinois, project.

Restores language proposed by the House and stricken by the Senate directing the Secretary of the Army to proceed with development of the Cross-Florida Barge Canal Conservation Management plan.

Restores language proposed by the House and stricken by the Senate authorizing a flood control project along San Timoteo Creek in the vicinity of Loma Linda, California.

Inserts language proposed by the Senate clarifying the authorization of the Souris River Basin project to allow the United States' contribution to be adjusted for inflation and fluctuations in the exchange rate.

Inserts language proposed by the Senate increasing the authorized project cost of the Puerco River and tributaries, Gallup, New Mexico, project.

Inserts language proposed by the Senate restricting the use of funds available for "General Regulatory Functions".

Inserts language proposed by the Senate modifying the authorization for the McClellan-Kerr Arkansas River navigation project.

Inserts language proposed by the Senate increasing the authorized project cost of the Noyes, Minnesota, project.

Inserts language relating to aircraft authorized for use by the Chief of Engineers.

Inserts language relating to the transfer of Federal townsites.

TYPE OF PROJECT	GENERAL INVESTIGATIONS - STATE AND PROJECT	CONFERENCE ALLOWANCE	
		INVESTIGATIONS	PLANNING
120	ALABAMA		
240 {N}	MONTGOMERY TO GADSDEN, COOSA RIVER NAVIGATION, AL	---	1,000,000
280 {FDP}	VALLEY CREEK, WARRIOR RIVER AND TRIBUTARIES, AL	200,000	---
340	ALASKA		
440 {FC}	HOMER SPIT STORM DAMAGE REDUCTION, AK	---	148,000
450 (N)	KODIAK HARBOR	---	50,000
500 {FDP}	RIVERS AND HARBORS, AK	1,064,000	---
600	AMERICAN SAMOA		
605 {BE}	COCONUT POINT, NU'UULI, TUTUILA ISLAND	---	50,000
610 {BE}	TUTUILA ISLAND CANNERIES TO BREAKERS POINT	---	150,000
620	ARIZONA		
660 {RCP}	ALAMO LAKE, AZ	100,000	---
670 (FDP)	CLIFTON, AZ	---	500,000
700 {FC}	HOLBROOK, AZ	---	400,000
720 {FDP}	NAVAJO INDIAN RESERVATION, AZ	100,000	---
740 {FC}	NOGALES WASH, AZ	---	100,000
760 {FC}	OLD CROSS CUT CANAL, AZ	100,000	---
780 {FC}	RILLITO, AZ	---	300,000
820	ARKANSAS		
900 {FDP}	ARKANSAS RIVER BASIN, AR & OK	700,000	---
920 {SPEC}	BEAVER LAKE, AR	400,000	---
1,060 {FC}	LITTLE RIVER, HORATIO	---	75,000
1120 {FC}	NORTH LITTLE ROCK, AR {DARK HOLLOW}	---	300,000
1140 {FDP}	OUACHITA RIVER BASIN, AR & LA	340,000	---
1240 {COM}	WHITE RIVER BASIN AUTHORIZATION REPORT, AR & MO	400,000	---
1320	CALIFORNIA		
1380 {N}	AVALON BAY HARBOR, CATALINA ISLAND	150,000	---
1400 {N}	BOLSA CHICA SUNSET HARBOR, CA	900,000	---
1420 {FC}	CACHE CREEK, CA	---	280,000
1440 {FC}	CALIENTE CREEK, CA	---	100,000
1460 {FDP}	CALLEGUAS CREEK, CA	200,000	---
1480 {SPE}	COAST OF CALIFORNIA, STORM AND TIDAL WAVES, CA	1,100,000	---
1520 {FC}	COYOTE CREEK	---	150,000
1560 {FC}	GUADALUPE RIVER, CA	---	625,000
1580 {FDP}	IMPERIAL AND SAN DIEGO COUNTY STREAMS - SALTON SEA, CA	500,000	---
1600 {N}	LOS ANGELES - LONG BEACH HARBORS, CA	600,000	---
1620 {FDP}	LOS ANGELES COUNTY DRAINAGE AREA REVIEW, CA	650,000	---
1640 {FDP}	MARIN COUNTY SHORELINE,CA. SAN RAFAEL CANAL	100,000	---
1660 {N}	MORRO BAY HARBOR, CA	100,000	---
1700 {N}	NEWPORT BAY {UPPER}	250,000	---
1740 {FDP}	NORTHERN CALIFORNIA STREAMS, AMERICAN RIVER WATERSHED.	200,000	---
1760 {FDP}	NORTHERN CALIFORNIA STREAMS, BLUE RIDGE, CA	100,000	---
1780 {FDP}	NORTHERN CALIFORNIA STREAMS, DRY CREEK, CA	75000	---
1800 {FDP}	NORTHERN CALIFORNIA STREAMS, SACRAMENTO METRO AREA, CA	450,000	---
1840 {N}	NOYO RIVER AND HARBOR {BREAKWATER}, CA	---	450,000
1860 {N}	NOYO RIVER AND HARBOR {CHANNEL EXTENSION}, CA	---	130,000
1880 {N}	OCEANSIDE HARBOR, CA	---	350,000
1890 {FC}	PINE FLAT DAM, KINGS RIVER	---	300,000
1920 {FDP}	RANCHO PALOS VERDES	250,000	---
1940 {N}	REDONDO BEACH {KING HARBOR}, CA	---	136,000
1980 {FDP}	SACRAMENTO-SAN JOAQUIN DELTA, CA	210,000	---
2000 {FDP}	SAN FRANCISCO BAY SHORELINE, CA	600,000	---
2080 {FDP}	SAN JOAQUIN RIVER BASIN, KAWEAH RIVER, CA	260,000	---
2100 {FDP}	SAN JOAQUIN RIVER BASIN, TULE RIVER, CA	260,000	---
2105 (FDP)	SAN LORENZO RIVER	200,000	---
2120 {FDP}	SANTA ANA RIVER BASIN AND ORANGE COUNTY, CA	650,000	---
2140 {FC}	SANTA ANA RIVER MAINSTEM, CA	---	5,400,000
2180 {RDP}	SANTA BARBARA HARBOR, CA	100,000	---
2200 {N}	SANTA MONICA BREAKWATER	200,000	---
2220 {N}	VENTURA MARINA REVIEW, CA	210,000	---
2240 {FDP}	WALNUT CREEK BASIN, CA	150,000	---
2280	COLORADO		
2360 {FDP}	FOUNTAIN CREEK AND TRIBUTARIES - NORTH OF PUEBLO, CO..	140,000	---

TYPE OF PROJECT	GENERAL INVESTIGATIONS - STATE AND PROJECT	CONFERENCE ALLOWANCE	
		INVESTIGATIONS	PLANNING
2440	COMM N. MARIANAS		
2480 {N}	NORTHERN MARIANA ISLAND HARBOR, CNMI	---	350,000
2520	CONNECTICUT		
2560 {COM}	CONNECTICUT RIVER BASIN, AUTH REPORTS, CT, MA, NH & VT	274,000	---
2600 {N}	NEW HAVEN HARBOR, CT	---	100,000
2640 {COM}	WEST CENTRAL CONNECTICUT COASTAL FLOODING, CT	100,000	---
2800	DIST OF COLUMBIA		
2840 (FC)	WASHINGTON, DC & VICINITY	---	900,000
2900	FLORIDA		
3040 {SP}	BREVARD COUNTY, FL	157,000	---
3060 {SP}	BROWARD COUNTY, FL	100,000	---
3140 (N)	CANAVERAL HARBOR, FL	75,000	---
3160 {FDP}	CENTRAL AND SOUTHERN FLORIDA, HILLSBORO CANAL, FL	250,000	---
3220 {N}	CLEARWATER SPOIL DISPOSAL, FL	100,000	---
3240 {FDP}	COAST OF FLORIDA EROSION AND STORM EFFECTS STUDY, FL	1,000,000	---
3300 {SP}	DAYTONA BEACH SHORES	50,000	---
3340 {SP}	FLAGLER COUNTY, FL	100,000	---
3360 {N}	FORT PIERCE HARBOR, FL	---	100,000
3640 {BE}	MANATEE COUNTY,FL SEC 201, AUTH 1975	---	100,000
3700 {N}	MIAMI HARBOR, FL. {CLEANUP}	---	200,000
3720 {N}	MIAMI HARBOR CHANNEL,FL	---	170,000
3740 {BE}	MONROE COUNTY, FL	100,000	---
3760 {SPE}	NORTHWEST FLORIDA WATER SUPPLY, FL	200,000	---
3840 {N}	PORT EVERGLADES HARBOR, FL	72,000	---
3845 {BE}	SARASOTA COUNTY BEACHES (VENICE/CASPERSON)	---	200,000
3980 {BE}	ST. JOHNS COUNTY, FL	---	100,000
4000 {FDP}	ST. JOHNS RIVER, FL	200,000	---
4020 {FDP}	ST. MARYS RIVER BASIN, FL & GA	136,000	---
4060 {RDP}	ST. PETERSBURG HARBOR, FL	75,000	---
4080 {FDP}	ST. PETERSBURG {COASTAL AREAS}	250,000	---
4100 {FDP}	SUWANNEE RIVER, FL	300,000	---
4160 {N}	TAMPA BAY {PORT SUTTON}, FL	---	125,000
4180 {SP}	VIRGINIA KEY BARRIER ISLAND PARK	50,000	---
4200 {SP}	WATSON ISLAND PARK BEACH EROSION	50,000	---
4280	GEORGIA		
4320 {N}	APALACHICOLA, CHATTAHOOCHEE, FLINT RIVERS, GA, AL & FL	320,000	---
4380 {N}	BRUNSWICK HARBOR, GA	439,000	---
4520 {FDP}	METROPOLITAN MACON AREA, GA	150,000	---
4600 {FDP}	SAVANNAH RIVER BASIN, GA, SC & NC	300,000	---
4620 {RCP}	SAVANNAH RIVER BELOW AUGUSTA, GA	50,000	---
4780	HAWAII		
4820 {FC}	ALENAIO STREAM, HI	---	300,000
4840 {FDP}	HARBORS AND RIVERS IN HAWAII, HI	60,000	---
4860 {FDP}	HARBORS AND RIVERS IN HAWAII, KEOPU-HIENALOLI STREAM	102,000	---
4880 {FDP}	HILO BAY METRO AREA, HI	77,000	---
4960	IDAHO		
5000 {FDP}	COLUMBIA RIVER AND TRIBUTARIES, ID, MT, OR, & WA	1,327,000	---
5040 {FDP}	MUD LAKE, ID	180,000	---
5060 {FDP}	PALOUSE RIVER AND TRIBUTARIES, ID & WA	100,000	---
5080 {FDP}	UPPER SNAKE RIVER & TRIBUTARIES, ID & WY	971,000	---
5120	ILLINOIS		
5160 {FDP}	ALEXANDER AND PULASKI COUNTIES, IL	250,000	---
5240 {FDP}	CHICAGO - SOUTH END OF LAKE MICHIGAN, IL & IN	400,000	---
5320 {FDP}	DES PLAINES RIVER, IL	550,000	---
5360 {FDP}	ILLINOIS RIVER BETWEEN HENRY AND NAPLES, IL	300,000	---
5380 {SP}	ILLINOIS SHORE EROSION, IL	550,000	---
5420 {N}	LOCKS AND DAMS 52 AND 53, IL & KY	---	2,500,000

TYPE OF PROJECT		GENERAL INVESTIGATIONS - STATE AND PROJECT	CONFERENCE ALLOWANCE INVESTIGATIONS	PLANNING
5460	{FC}	LOVES PARK, IL	---	350,000
5520	{FC}	MCCOOK AND THORNTON RESERVOIRS {CUP}	---	150,000
5600	{FC}	O'HARE RESERVOIR {CUP}, IL	---	400,000
5610	{FDP}	WEST FRANKFORT AND VICINITY	---	200,000
5760		INDIANA		
5840	{FC}	FORT WAYNE METROPOLITAN AREA, IN	---	250,000
5880	{FC}	LITTLE CALUMET RIVER, PHASE I, IN	---	250,000
5920	{COM}	WABASH RIVER COMP STY, IN & IL - WABASH RIVER		
5940		NAVIGATION	250,000	---
5980		IOWA		
6140	{FC}	MUSCATINE ISLAND LEVEE & DRAINAGE DISTRICT, IA	---	150,000
6180	{FC}	PERRY CREEK, IA	---	174,000
6205	(FC)	WEST DES MOINES	---	325,000
6320		KANSAS		
6340	{FDP}	UPPER LITTLE ARKANSAS RIVER	---	400,000
6400	{FDP}	ARK RIVER AND TRIBS, GREAT BEND, KS TO TULSA, OK {REMA	500,000	---
6420	{FDP}	BLUE RIVER BASIN, KS & MO	135,000	---
6440	{FC}	DOUGLASS LAKE, KS	---	500,000
6520	{FDP}	GRAND {NEOSHO} RIVER, KS & OK, ABOVE JOHN REDMOND DAM	300,000	---
6600	{FDP}	TURKEY CREEK BASIN, KS & MO	200,000	---
6740		KENTUCKY		
6840	{N}	CUMBERLAND-TENNESSEE RIVERS, KY, GA, AL, MS, NC, TN	1,470,000	---
6860	{FC}	FISHTRAP RESERVOIR	---	100,000
6870	(FC)	FRANKFORT, KY.; SOUTH FRANKFORT	---	200,000
6920	{FDP}	KENTUCKY RIVER & TRIBS, STATION CAMP CREEK, KY	50,000	---
6940	{FDP}	KENTUCKY RIVER AND TRIBUTARIES, KY	420,000	---
6980	{FDP}	OHIO RIVER MAIN STEM {HYDROPOWER}, KY, IL, IN, OH, PA	2,031,000	---
7080		LOUISIANA		
7140	{FDP}	AMITE RIVER AND TRIBUTARIES, LA	400,000	---
7220	{N}	BAYOU LAFOURCHE AND LAFOURCHE - JUMP WATERWAY, LA	52,000	---
7260	{N}	GULF INTRACOASTAL WATERWAY, LA & TX SECTION	425,000	---
7340	{FDP}	LAKE PONTCHARTRAIN - WEST SHORE, LA	175,000	---
7380	{FDP}	LOUISIANA COASTAL AREA, LA - HURRICANE PROTECTION	275,000	---
7400	{FDP}	LOUISIANA COASTAL AREA - LAND LOSS AND MARSH		
7420	{FDP}	CREATION	276,000	---
7460	{FDP}	LOUISIANA COASTAL AREA, LA-SHORE & BARRIER ISLAND		
7480		EROSION	165,000	---
7500	{FDP}	MERMENTAU, VERMILION AND CALCASIEU RIVERS & BAYOU TECH	510,000	---
7520	{FDP}	MISSISSIPPI RIVER - GULF OUTLET - BANK EROSION, LA	200,000	---
7600	{FC}	RED RIVER WATERWAY, SHREVEPORT,LA TO VICINITY INDEX,AR	---	350,000
7640	{FDP}	UPPER BAYOU TECHE, LA	125,000	---
7700	{FDP}	WEST BANK OF THE MISSISSIPPI RIVER IN THE VICINITY OF		
7720		NEW ORLEANS	500,000	---
7740	{FDP}	W. BANK HURRICANE PROTETION WESTWEGO TO HARVEY CANAL	---	1,000,000
7750		MAINE		
7755	{FC}	ANDROSCOGGIN RIVER BASIN AND TRIBS	---	150,000
7760	{FDP}	PENOBSCOT, KENNEBEC, AND SACO RIVER BASINA, MA & N.H.	400,000	---
7900		MARYLAND		
7940	{BE}	ATLANTIC COAST OF MD AND ASSATEAGUE ISLAND, VA	---	800,000
7980	{SP}	CHESAPEAKE BAY (SHORELINE EROSION) MD & VA	500,000	---
8020	{FDP}	MONONGAHELA-YOUGHIOGHENY RIVER BASIN, MD, PA & WV	850,000	---
8050		MARSHALL ISLANDS		
8055	(SP)	COASTAL RESOURCE ATLAS & INVENTORY REPORTS	250,000	---
8080		MASSACHUSETTS		
8140	{FC}	BROCKTON	---	200,000
8200	{FC}	MASSACHUSETTS COASTAL, ROUGHANS POINT, REVERE, MA	---	117,000
8240	{N}	NEPONSET RIVER	---	50,000
8250	(BE)	NORTH BEACH IN CHATHAM	150,000	---
8260	{COM}	SOUTHEASTERN NEW ENGLAND AUTH. REPORTS, MA, RI & CT	540,000	---

TYPE OF PROJECT	GENERAL INVESTIGATIONS - STATE AND PROJECT	CONFERENCE ALLOWANCE	
		INVESTIGATIONS	PLANNING
8320	MICHIGAN		
8460 {N}	INLAND ROUTE, MI	150,000	---
8520 {BE}	LAKE SUPERIOR SHORELINE EROSION	1,000,000	---
8600 {FDP}	SAGINAW RIVER, MI	1,200,000	---
8720 {FDP}	ST. JOSEPH RIVER BASIN, MI	320,000	---
8820	MINNESOTA		
8900 {N}	DULUTH - SUPERIOR HARBOR, MN & WI	---	245,000
9040 {FDP}	MINNESOTA RIVER VALLEY, MN	250,000	---
9060 {FC}	MISSISSIPPI RIVER AT ST. PAUL	---	500,000
9080 {FDP}	RAINEY RIVER BASIN	400,000	---
9100 {FC}	ROOT RIVER AT HOUSTON, MN	---	247,000
9140 {FDP}	WILD RICE, MARSH RIVERS, MN	250,000	---
9180	MISSISSIPPI		
9240 {N}	GULFPORT HARBOR, MS	---	800,000
9260 {FDP}	LOWER PEARL BASIN FLOW DISTRIBUTION, MS & LA	200,000	---
9280 {FDP}	MISSISSIPPI GULF COASTAL AREAS,MS	121,000	---
9300 {N}	PASCAGOULA HARBOR, MS	---	900,000
9340 {FDP}	PEARL RIVER BASIN, MS & LA	230,000	---
9360 {FC}	PEARL RIVER, SHOCCOE DAM, MS	---	900,000
9380 {FDP}	TOMBIGBEE RIVER AND TRIBUTARIES, MS & AL	700,000	---
9420	MISSOURI		
9460 {FC}	BRUSH CREEK, KANSAS CITY, MO	---	350,000
9500 {FC}	CAPE GIRARDEAU - JACKSON METRO AREA, MO	---	600,000
9540 {FDP}	CREVE COEUR CREEK, MO	270,000	---
9560 {FDP}	CUIVRE RIVER AREA, MO	400,000	---
9580 {FDP}	GRAND RIVER BASIN, MO & IA	310,000	---
9660 {FC}	MALINE CREEK, MO	---	885,000
9680 {FDP}	MERAMEC RIVER BASIN, MO	175,000	---
9740 {FDP}	OSAGE RIVER BASIN, MO, ABOVE HARRY S. TRUMAN DAM	80,000	---
9780 {FC}	STE. GENEVIEVE, MISSOURI	---	450,000
9800 {FDP}	ST. JOSEPH, MO AND VICINITY	150,000	---
9860 {FDP}	ST. LOUIS METROPOLITAN AREA, MO & IL	434,000	---
10000	NEBRASKA		
10040 {SPEC}	ELM CREEK, DECATUR	100,000	---
10080 {SPEC}	PLATTE RIVER BANK STABILIZATION DEMONSTRATION PROJECT.	300,000	---
10100 {FDP}	PLATTE RIVER BASIN, CO, NE & WY	80,000	---
10220	NEVADA		
10260 {FDP}	LAS VEGAS WASH AND TRIBUTARIES, NV	253,000	---
10280 {FC}	TRUCKEE MEADOWS, NV	---	1,340,000
10320	NEW HAMPSHIRE		
10360 {FDP}	ASHUELOT RIVER, NH	215,000	---
10400 {FDP}	MASCOMA RIVER, NH	215,000	---
10440	NEW JERSEY		
10500 {FDP}	BEATTIES DAM	400,000	---
10600 {N}	DELAWARE RIVER COMPREHENSIVE NAVIGATION STUDY, NJ, PA		
10620	& DE	780,000	---
10660 {N}	DELAWARE RIVER VICINITY OF CAMDEN, NJ {BECKETT ST.}	---	170,000
10680 {SP}	EAST BANK STABILIZATION	400,000	---
10700 {FDP}	ELIZABETH RIVER AND TRIBUTARIES, NJ	100,000	---
10740 {FDP}	GREENWOOD LAKE	650,000	---
10760 {FDP}	HACKENSACK RIVER BASIN, NJ & NY	300,000	---
10860 {FC}	LOWER SADDLE RIVER, NJ	---	500,000
10900 {N}	NEW JERSEY IWW, NJ	50,000	---
11000 {FDP}	PASSAIC RIVER BASIN STUDY, NJ & NY {PHASE 1}	1,152,000	---
11020 {FC}	PASSAIC RIVER MAINSTEM	---	750,000
11040 {FDP}	PINE BROOK, MANALAPAN	75,000	---
11060 {FDP}	POPLAR BROOK	200,000	---
11100 {FC}	RAMAPO RIVER AT OAKLAND, NJ	---	250,000
11120 {FC}	RAMAPO AND MAHWAH RIVERS AT MAHWAH, NJ & SUFFERN, NY.	---	230,000
11160 {FC}	RARITAN RIVER BASIN, GREEN BROOK SUB-BASIN, NJ	---	1,400,000

	TYPE OF PROJECT	GENERAL INVESTIGATIONS - STATE AND PROJECT	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
11240		NEW MEXICO		
11340	(FC)	MID RIO GRANDE BERNALILLO TO BELEN, NM	---	400,000
11360	(FDP)	PECOS RIVER AND TRIBUTARIES - ROSWELL, NM	350,000	---
11380	(FDP)	PECOS RIVER AND TRIBUTARIES - CARLSBAD, NM	150,000	---
11400	(FDP)	RIO GRANDE AND TRIBUTARIES, NM & CO	525,000	---
11420	(FC)	RIO GRANDE FLOODWAY, SAN ACACIA TO BOSQUE DEL APACHE	---	390,000
11500		NEW YORK		
11540	(N)	ARTHUR KILL CHANNEL EXT. - TO FRESH KILLS, STATEN ISL.	---	800,000
11560	(N)	ARTHUR KILL CHANNEL-HOWLAND HOOK MARINE TERMINAL	---	323,000
11620	(N)	BUFFALO HARBOR	---	900,000
11680	(FDP)	BUFFALO METRO AREA, NY	300,000	---
11700	(FDP)	CATTARAUGUS CREEK, NY	114,000	---
11710	(N)	DUNKIRK HARBOR	---	100,000
11780	(COM)	GENESEE RIVER BASIN AUTH REPORT, NY	164,000	---
11820	(N)	GOWANUS CREEK CHANNEL, NY	---	150,000
11920	(FDP)	LONG BEACH	400,000	---
11940	(FDP)	MOOSE AND BLACK RIVERS, NY	260,000	---
11980	(N)	NY HARBOR & ADJACENT CH., PORT JERSEY, NJ & NY	---	300,000
12000	(N)	OLCOTT HARBOR IMPROVEMENTS, NY	350,000	---
12040	(BE)	ROCKAWAY INLET TO NORTON POINT	---	800,000
12060	(FC)	SAW MILL RIVER AT ELMSFORD AND GREENBURGH, NY	---	119,000
12080	(N)	SHINNECOCK INLET, NY	---	54,000
12200	(FC)	WESTCHESTER CO. STREAMS - MAMARONECK & SHELDRAKE RIVER	---	400,000
12220	(FC)	WESTCHESTER CO. STREAMS - TOWN OF MAMARONECK	---	75,000
12260		NORTH CAROLINA		
12300	(BE)	BRUNSWICK COUNTY	---	150,000
12320	(FDP)	EASTERN NORTH CAROLINA ABOVE CAPE LOOKOUT, NC	390,000	---
12380	(FDP)	HAMLET CITY LAKE	50,000	---
12420	(N)	MOREHEAD CITY HARBOR, NC	125,000	---
12440	(FDP)	NEUSE RIVER, NC	735,000	---
12500	(SP)	WEST ONSLOW BEACH & NEW RIVER INLET	110,000	---
12560	(N)	WILMINGTON HARBOR - NORTHEAST (CAPE FEAR) RIVER, NC	---	195,000
12600		NORTH DAKOTA		
12680	(FC)	SHEYENNE RIVER FLOOD CONTROL PROJECT, ND	---	439,000
12720		OHIO		
12840	(FDP)	CENTRAL OHIO SURVEY, OH	185,000	---
12860	(FDP)	CENTRAL OHIO SURVEY, GRANDVIEW HEIGHTS INTERIM, OH	100,000	---
12900	(FC)	FAIRFIELD, OH	---	100,000
12940	(FC)	HOLES CREEK AT WEST CARROLLTON AND MORAINE, OH	---	175,000
13000	(FC)	LOGAN, OH	---	100,000
13020	(N)	LORAIN HARBOR, OH	---	124,000
13040	(FDP)	METROPOLITAN REGION OF CINCINNATI, OH	600,000	---
13160	(FC)	NELSONVILLE, OH	---	200,000
13180	(FC)	NORTH CHILLICOTHE, OH	---	300,000
13200	(SPE)	OHIO RIVER BETWEEN RIVERMILE 40-491 (WATERFRONT		
13220		DEVELOPMENT)	150,000	---
13260	(FDP)	SANDUSKY RIVER, OH	325,000	---
13300	(FDP)	VERMILION RIVER, OH	142,000	---
13420		OKLAHOMA		
13460	(COM)	ARK RIV & TRIBS, SC&SE AREAS OF OK-COMPREHENSIVE STUDY	419,000	---
13580	(FC)	DENISON DAM (LAKE TEXOMA) TX & OK (RESTUDY)	500,000	---
13600	(FC)	FRY CREEK LOCAL PROTECTION, BIXBY, OK	---	330,000
13660	(SPE)	LUKFATA LAKE, OKLAHOMA	50,000	---
13680	(FDP)	NORTH CANADIAN RIVER ABOVE LAKE OVERHOLSER, OK	210,000	---
13720	(COM)	RED RIVER BASIN, OK, AR, LA & TX (COMPREHENSIVE STUDY)	660,000	---
13760		OREGON		
13840	(N)	COOS BAY, OR (DEEP DRAFT NAVIGATION)	100,000	---
13980	(FDP)	UMPQUA RIVER & TRIBUTARIES, OR	374,000	---
14000	(COM)	WILLAMETTE RIVER BASIN, OR	745,000	---
14060		PENNSYLVANIA		
14110	(SPEC)	CHESAPEAKE BAY - SESQUEHANNA RIVER FLOW		
14115		REALLOCATION, PA & MD	300,000	---
14260	(FDP)	LACKAWANNA RIVER BASIN COMP, PA	250,000	---
14280	(FC)	LOCK HAVEN, PA	---	1,049,000

TYPE OF PROJECT	GENERAL INVESTIGATIONS - STATE AND PROJECT	CONFERENCE ALLOWANCE	
		INVESTIGATIONS	PLANNING
14340 {FC}	PROMPTON LAKE, PA {MOD}	---	1,000,000
14380 {N}	SCHUYLKILL RIVER {MOUTH TO PENROSE AVENUE}, PA	---	150,000
14400 {FC}	SUSQUEHANNA BASIN AT HARRISBURG, PA	---	965,000
14460 {FC}	WYOMING VALLEY LEVEE RAISING, PA	---	1,800,000
14500	PUERTO RICO		
14540 {FDP}	ARECIBO RIVER, PR	100,000	---
14560 {FDP}	GUANAJIBO RIVER, PR	250,000	---
14600 {FDP}	GUAYANILLA RIVER BASIN	100,000	---
14720 {FC}	RIO PUERTO NUEVO, PR	---	2,500,000
14880	SOUTH CAROLINA		
14960 {BE}	FOLLY BEACH SC	---	180,000
15120	SOUTH DAKOTA		
15180 {SPE}	JAMES RIVER FLOOD CONTROL	150,000	---
15340 {FDP}	WATERTOWN AND VICINITY, SD	175,000	---
15400	TENNESSEE		
15460 {FDP}	METROPOLITAN REGION OF NASHVILLE, TN	235,000	---
15520	TEXAS		
15570 {FDP}	BEALS CREEK, TEX. RECOMM	75,000	---
15580 {N}	BRAZOS ISLAND HARBOR, TX {42-FOOT PROJECT}	---	330,000
15620 {N}	BRAZOS RIVER DIVERSION CHANNEL, TX	380,000	---
15640 {FDP}	BRAZOS RIVER & TRIBS. {FT. BEND & BRAZORIA COUNTIES}	350,000	---
15660 {FDP}	BRAZOS RIVER AND TRIBUTARIES, TX & NM	642,000	---
15700 {FDP}	CAMERON COUNTY, TX	600,000	---
15820 {RCP}	DALLAS FLOODWAY, TX (SEC. 216 - REVEIW OF COMP. PROJ.)	100,000	---
16000 {FDP}	HILLEBRANDT BAYOU AND TRIBUTARIES, TX	170,000	---
16040 {SPEC}	LAKE WORTH {SILT REMOVAL}	---	250,000
16120 {FDP}	LITTLE FOSSIL CREEK, VICINITY OF HALTOM CITY, TX	75,000	---
16380 {FC}	RIO GRANDE BASIN, CO, NM & TX - REEVALUATION OF		
16400	OPERATING PLAN	250,000	---
16520 {FC}	SIMS BAYOU AT HOUSTON, TX	---	850,000
16540 {N}	TEXAS CITY CHANNEL, TX {50-FOOT PROJECT}	---	500,000
16560 {MP}	CHANNEL TO LIBERTY, TRINITY RIVER PROJECT, TX	---	150,000
16580 {FC}	UPPER WHITE OAK BAYOU AND TRIBUTARIES, VICINITY OF HOU	---	1,050,000
16620	UTAH		
16680 {FDP}	BEAR RIVER BASIN, UT, ID & WY	400,000	---
16720 {FDP}	GREAT SALT LAKE, UTAH	300,000	---
16740 {FDP}	JORDAN RIVER BASIN, UT	230,000	---
16860	VIRGINIA		
16900 {FDP}	COVINGTON, VIRGINIA	124,000	---
16980 {FC}	ROANOKE RIVER UPPER BASIN, VA, HEADWATERS AREA	---	395,000
17040 {FDP}	UPPER JAMES RIVER BASIN , VIRGINIA	150,000	---
17060 {BE}	VIRGINIA BEACH, VA {HURRICANE PROTECTION}	---	500,000
17220	WASHINGTON		
17260 {N}	BELLINGHAM HARBOR, WA	110,000	---
17280 {N}	BLAIR AND SITCUM WATERWAYS, WA	---	700,000
17300 {FC}	CENTRALIA, WA	---	400,000
17380 {N}	GRAYS HARBOR CHEHALIS AND HOQUIAM RIVERS, WA	---	700,000
17400 {N}	LA CONNER, WA	100,000	---
17440 {N}	OLYMPIA HARBOR, WA	110,000	---
17460 {COM}	PUGET SOUND AND ADJACENT WATERS, WA	395,000	---
17640	WEST VIRGINIA		

TYPE OF PROJECT	GENERAL INVESTIGATIONS - STATE AND PROJECT	CONFERENCE ALLOWANCE INVESTIGATIONS	PLANNING
{COM}	KANAWHA RIVER BASIN {AUTHORIZATION REPORTS}, WV, VA...	905,000	---
{N}	KANAWHA RIVER, WV............................	400,000	---
{FDP}	MIDDLE ISLAND CREEK BASIN IN DODDRIDGE & TYLER CNTYS..	250,000	---
{FDP}	MOOREFIELD, WEST VIRGINIA.....................	130,000	---
{FDP}	PETERSBURG, WEST VIRGINIA.....................	150,000	---
{FDP}	SOUTH BRANCH POTOMAC RIVER, WEST VIRGINIA.............	240,000	---
	WISCONSIN		
{FDP}	MISSISSIPPI RIVER/BLACK RIVER/LA CROSSE RIVER.........	100,000	---
	REVIEW OF AUTHORIZED PROJECTS		
	REVIEW FOR DEAUTHORIZATION............................	500,000	---
	COORDINATION STUDIES WITH OTHER AGENCIES..............	8,150,000	---
	NATIONWIDE STUDIES		
	SECTION 719 PROJECT EVALUATION & SELECTION CRITERIA...	300,000	---
	COLLECTION AND STUDY OF BASIC DATA		
	STREAM GAGING {U.S. GEOLOGICAL SURVEY}................	535,000	---
	PRECIPITATION STUDIES {NATIONAL WEATHER SERVICE}......	380,000	---
	INTERNATIONAL WATER STUDIES...........................	1,600,000	---
	FLOOD PLAIN MANAGEMENT SERVICES.......................	9,200,000	---
	HYDROLOGIC STUDIES....................................	260,000	---
	SCIENTIFIC AND TECHNICAL INFORMATION CENTERS..........	130,000	---
	COASTAL DATA COLLECTION...............................	2,200,000	---
	TRANSPORTATION SYSTEMS................................	700,000	---
	ENVIRONMENTAL DATA STUDIES............................	235,000	---
	TOTAL...	15,240,000	---
	RESEARCH AND DEVELOPMENT..............................	19,700,000	---
	SUBTOTAL, GENERAL INVESTIGATIONS......................	105,602,000	53,165,000
	APPLICATION OF PRIOR YEAR UNOBLIGATED FUNDS...........	-20,000,000	---
	TOTAL, GENERAL INVESTIGATIONS.........................	138,767,000	

TYPE OF PROJECT:

{N}	NAVIGATION
{FC}	FLOOD CONTROL
{BE}	BEACH EROSION CONTROL
{MP}	MULTIPLE-PURPOSE, INCLUDING POWER
{FDP}	FLOOD DAMAGE PREVENTION
{SP}	SHORELINE PROTECTION
{SPEC}	SPECIAL
{COMP}	COMPREHENSIVE
{RDP}	RESTUDY OF DEFERRED PROJECT
{RCP}	REVIEW OF COMPLETED PROJECT
{PHASE I}	AUTHORIZED FOR PHASE I STAGE OF ADVANCE ENGINEERING AND DESIGN IN THE WATER RESOURCES DEVELOPMENT ACT OF 1974 OR 1976

	TYPE OF PROJECT	CONSTRUCTION, GENERAL - STATE AND PROJECT	CONFERENCE ALLOWANCE
100		ALABAMA	
250	(N)	BLACK WARRIOR AND TOMBIGBEE RIVERS, VICINITY OF	
300		JACKSON, AL	100,000
350	(N)	MOBILE HARBOR, AL	16,200,000
450	(FC)	THREEMILE CREEK, AL	5,000,000
550	(FC)	VILLAGE CREEK, AL	3,000,000
600	(N)	WILLIAM BACON OLIVER LOCK AND DAM, AL	22,000,000
700		ALASKA	
850	(FC)	CHENA RIVER LAKES, AK	4,000,000
900	(MP)	SNETTISHAM, AK	11,000,000
940	(N)	ST. PAUL ISLAND HARBOR	3,000,000
1250		ARIZONA	
1400	(FC)	PHOENIX ARIZONA AND VICINITY, AZ (STAGE 2)	22,500,000
1450	(FC)	SANTA ROSA WASH (TAT MOMOLIKOT DAM), AZ	7,000,000
1550		ARKANSAS	
1650	(FC)	FOURCHE BAYOU BASIN, LITTLE ROCK, AR	2,300,000
1700	(N)	MCCLELLAN-KERR ARK RIVER NAV SYSTEM LOCKS AND DAMS,	
1750		AR & OK	4,350,000
1800	(N)	OUACHITA AND BLACK RIVERS, AR & LA	2,500,000
1900		CALIFORNIA	
2000	(FC)	CACHE CREEK SETTLING BASIN	250,000
2050	(FC)	CORTE MADERA CREEK, CA	1,700,000
2100	(FC)	DRY CREEK (WARM SPRINGS) LAKE, CA	8,200,000
2150	(FC)	FAIRFIELD VICINITY STREAMS, CA	3,900,000
2200	(FC)	LOWER SAN JOAQUIN RIVER AND TRIBUTARIES, CA	1,002,000
2250	(FC)	MERCED COUNTY STREAMS, CA	2,400,000
2300	(MP)	NEW MELONES LAKE, CA	4,300,000
2350	(N)	OAKLAND INNER & OUTER HARBOR, CA	7,700,000
2400	(FC)	PAJARO RIVER, CA	1,865,000
2500	(FC)	REDBANK AND FANCHER CREEK, CA	1,900,000
2550	(N)	RICHMOND HARBOR, CA	700,000
2650	(FC)	SACRAMENTO RIVER FLOOD CONTROL PROJECT, CA (DEF CORR)	2,800,000
2700	(FC)	SACRAMENTO RIVER BANK PROTECTION PROJECT, CA	10,500,000
2750	(N)	SACRAMENTO RIVER DEEPWATER SHIP CHANNEL, CA	3,000,000
2800	(FC)	SACRAMENTO RIVER AND MAJOR AND MINOR TRIBUTARIES, CA	98,000
2900	(N)	SAN FRANCISCO BAY TO STOCKTON, CA	2,700,000
2950	(FC)	SAN LUIS REY RIVER, CA	5,500,000
3100	(FC)	SWEETWATER RIVER, CA	4,913,000
3150	(FC)	WALNUT CREEK, CA	5,100,000
3200	(FC)	WHITEWATER RIVER FLOODWARNING SYSTEM	300,000
3250	(FC)	WILDCAT AND SAN PABLO CREEKS, CA	5,360,000
3350		COLORADO	
3450	(FC)	CHATFIELD LAKE, CO	300,000
3500	(FC)	FOUNTAIN CREEK AT PUEBLO, CO	2,500,000
3600	(FC)	WESTERLY CREEK, CO	550,000
4400		FLORIDA	
4550	(BE)	BROWARD COUNTY, FL (REIMB)	556,000
4600	(FC)	CENTRAL AND SOUTHERN FLORIDA, FL	17,000,000
4650	(N)	CROSS-FLORIDA BARGE CANAL (LAND ACQUISITION)	10,000,000
4750	(FC)	DADE COUNTY, FL	3,000,000
4800	(FC)	DADE COUNTY, NORTH OF HAULOVER BEACH PARK, FL	2,534,000
4850	(BE)	DUVAL COUNTY, FL	3,100,000
4950	(FC)	FOUR RIVER BASINS, FL	800,000
5000	(FC)	INDIAN RIVER CTY - VERO BEACH COMPONENT	550,000
5050	(N)	JACKSONVILLE HARBOR, MILL COVE, FL	2,968,000
5060	(SP)	KISSIMMEE RIVER DEMONSTRATION	2,000,000
5070	(SP)	MIAMI RIVER PARK	5,000,000
5100	(N)	MANATEE HARBOR, FL	550,000
5200	(BE)	PINELLAS COUNTY, FL	3,000,000
5450		GEORGIA	
5550	(FC)	OATES CREEK, RICHMOND COUNTY, GA	400,000
5600	(MP)	RICHARD B. RUSSELL DAM AND LAKE, GA & SC	23,000,000
5650	(N)	SAVANNAH HARBOR, GA	2,150,000

TYPE OF PROJECT	CONSTRUCTION, GENERAL - STATE AND PROJECT	CONFERENCE ALLOWANCE
5850	GUAM	
5950 (FC)	AGANA RIVER, GU..	2,000,000
6050	HAWAII	
6150 (FC)	KAHOMA STREAM, MAUI, HI..................................	2,400,000
6450	ILLINOIS	
6600 (N)	BRANDON ROAD LOCK AND DAM, ILLINOIS RIVER, IL (REHAB).	1,914,000
6700 (FC)	EAST ST LOUIS & VIC,IL....................................	1,000,000
6750 (FC)	GALLATIN CNTY. STREAMBANK EROSION, AREA 1 - OHIO RIV..	100,000
6800 (FC)	KASKASKIA ISLAND DRAINAGE AND LEVEE DISTRICT, IL......	2,100,000
6850 (N)	LOCK AND DAM 26, MISSISSIPPI RIVER, ALTON, IL & MO....	75,000,000
6900 (N)	LOCK AND DAM 26, SECOND LOCK, IL & MO.................	4,000,000
6950 (FC)	MAUVAISE TERRE DRAINAGE AND LEVEE DISTRICT, IL........	419,000
7100 (FC)	MUCK LEVEE,IL...	12,000
7150 (FC)	NORTH BRANCH CHICAGO RIVER, IL...........................	4,650,000
7200 (FC)	ROCKFORD, IL..	544,000
7250 (N)	SMITHLAND LOCKS AND DAM, IL, IN & KY.....................	342,000
7300 (FC)	SOUTH QUINCY LEVEE AND DRAINAGE DISTRICT, IL..........	2,500,000
7350 (N)	UPPER MISS RVR SYSTEM ENVIR MANGMENT PLAN, IL, IA,	
7400	MO, MN, & WI..	5,168,000
7550	INDIANA	
7650 (FC)	EVANSVILLE, IN..	4,500,000
7800	IOWA	
7950 (FC)	DES MOINES RECREATION RIVER AND GREENBELT (DRAG), IA..	750,000
8000 (FC)	LAKE RED ROCK..	1,750,000
8050 (FC)	MISSOURI RIVER LEVEE SYSTEM, IA, NE, KS & MO..........	1,500,000
8100 (FC)	SAYLORVILLE LAKE,IA 1958 ACT.............................	1,500,000
8150 (FC)	WATERLOO..	500,000
8250	KANSAS	
8350 (FC)	GREAT BEND, KS..	1,600,000
8400 (FC)	HALSTEAD, KS..	500,000
8500	KENTUCKY	
8600 (FC)	BIG SOUTH FORK NATIONAL RIVER AND RECREATION AREA, KY	
8650	& TN...	3,583,000
8700 (FC)	CAMPGROUND LAKE..	250,000
8800 (FC)	PAINTSVILLE LAKE, KY......................................	600,000
8850 (FC)	SALYERSVILLE..	300,000
8900 (FC)	SOUTHWESTERN JEFFERSON COUNTY, KY........................	6,500,000
8950 (FC)	TAYLORSVILLE LAKE, KY.....................................	1,300,000
9000 (FC)	YATESVILLE LAKE, KY.......................................	7,000,000
9100	LOUISIANA	
9250 (BE)	FT. LIVINGSTON GRAND TERRE ISLAND........................	500,000
9300 (FC)	GRAND ISLE AND VICINITY, LA..............................	822,000
9350 (FC)	LAKE PONTCHARTRAIN AND VICINITY, LA (HURRICANE	
9400	PROTECTION...	17,000,000
9450 (FC)	LAROSE TO GOLDEN MEADOW, LA (HURRICANE PROTECTION)....	3,800,000
9500 (N)	MISSISSIPPI RIVER, BATON ROUGE TO THE GULF OF MEXICO..	33,500,000
9550 (N)	MISSISSIPPI RIVER - GULF OUTLET, LA......................	500,000
9600 (N)	MISSISSIPPI RIVER SHIP CHANNEL, GULF TO BATON ROUGE...	8,300,000
9700 (FC)	NEW ORLEANS TO VENICE, LA (HURRICANE PROTECTION).......	3,500,000
9750 (FC)	OUACHITA RIVER LEVEES (BAUCOMVILLE AREA)................	120,000
9800 (FC)	PEARL RIVER, SLIDELL, ST. TAMMANY PARISH, LA...........	210,000
9850 (N)	RED RIVER WATERWAY, EMERGENCY BANK PROTECTION, LA, AR	
9900	1968, 1976 ACTS..	5,000,000
9950 (N)	RED RIVER WATERWAY, MISSISSIPPI RIVER TO SHREVEPORT...	103,690,000
10050	MAINE	
10150 (N)	JONESPORT HARBOR, ME......................................	2,340,000
10200 (FC)	ST. JOHN RIVER BASIN......................................	300,000
10300	MARYLAND	
10400 (N)	BALTIMORE HARBOR AND CHANNELS, MD & VA (50 FT	
10450 (N)	BALTIMORE HARBOR AND CHANNELS, MD & VA (50-FT DEEP)...	34,900,000

TYPE OF PROJECT	CONSTRUCTION, GENERAL - STATE AND PROJECT	CONFERENCE ALLOWANCE
10550	MASSACHUSETTS	
10800 (BE)	REVERE BEACH, MA	1,850,000
10850 (FC)	TOWN BROOK, QUINCY AND BRAINTREE, MA	5,500,000
11350	MINNESOTA	
11450 (FC)	BASSETT CREEK, MN	3,600,000
11500 (FC)	CHASKA, MN	250,000
11600 (FC)	GENTILLY	360,000
11700 (FC)	MANKATO AND NORTH MANKATO, MN	8,000,000
11850 (FC)	SOUTH FORK ZUMBRO RIVER AT ROCHESTER, MN	3,000,000
12000	MISSISSIPPI	
12150 (FC)	SOWASHEE CREEK, MS	6,000,000
12250 (FC)	TOMBIGBEE RIVER AND TRIBUTARIES, MS & AL	3,500,000
12350	MISSOURI	
12450 (FC)	BLUE RIVER CHANNEL, MO	3,800,000
12550 (FC)	HANNIBAL	200,000
12600 (MP)	HARRY S. TRUMAN DAM AND RESERVOIR, MO	6,000,000
12700 (FC)	LITTLE BLUE RIVER LAKES, MO	2,150,000
12800 (N) 12850	MISS RIVER BTWN THE OHIO AND MO RIVERS (REG WORKS), MO & IL	3,800,000
13100	NEBRASKA	
13200 (FC)	MISSOURI NATIONAL RECREATIONAL RIVER, NE & SD	100,000
13250 (FC)	PAPILLION CREEK AND TRIBUTARIES LAKES, NE	2,500,000
13350	NEW HAMPSHIRE	
13450 (N)	PORTSMOUTH HARBOR AND PISCATAQUA RIVER, NH & ME	7,000,000
13550	NEW JERSEY	
13650 (N)	BARNEGAT INLET, NJ	6,000,000
13700 (BE)	CAPE MAY INLET TO LOWER TOWNSHIP, NJ	4,500,000
13750 (FC)	LIBERTY STATE PARK LEVEE AND SEAWALL, NJ	6,000,000
13900 (BE)	SANDY HOOK TO BARNEGAT INLET	2,300,000
14000	NEW MEXICO	
14100 (FC)	ACEQUIAS IRRIGATION SYSTEM	1,700,000
14150 (FC)	ALAMOGORDO, NM	660,000
14250 (FC)	ALBUQUERQUE NORTH DIVERSION CHANNELS, NM (DEF CORR)	354,000
14350 (FC)	PUERCO RIVER AT GALLUP, NM	460,000
14400 (FC)	RIO GRANDE FLOODWAY, TRUTH OR CONSEQUENCES UNIT, NM	300,000
14500	NEW YORK	
14600 (FC)	ARDSLEY, NY	1,300,000
14650 (BE)	EAST ROCKAWAY INLET - ROCKAWAY INLET AND JAMAICA BAY	4,055,000
14700 (FC)	ELLICOTT CREEK, NY	4,240,000
14880 (N)	HEMPSTEAD HARBOR	65,000
14900 (N)	KILL VAN KULL AND NEWARK BAY CHANNEL, NY & NJ	52,000,000
14950 (N)	MORICHES INLET, NY	3,609,000
15000 (N)	NEW YORK HARBOR COLLECTION AND REMOVAL OF DRIFT, NY/NJ	4,880,000
15050 (N)	PORT ONTARIO, NY	500,000
15150	NORTH CAROLINA	
15300 (N)	AIWW-REPL FED HWY BRIDGES,NC 1970,76 ACTS	230,000
15350 (FC)	B. EVERETT JORDAN DAM AND LAKE, NC	10,600,000
15400 (FC)	CAROLINA BEACH AND VICINITY, NC	800,000
15450 (FC)	FALLS LAKE, NC	6,000,000
15600	NORTH DAKOTA	
15700 (FC)	LAKE DARLING, SOURIS RIVER, ND	20,500,000
15800	OHIO	
15950 (N)	CLEVELAND HARBOR	11,000,000
16050 (N)	GENEVA-ON-THE-LAKE, OH	1,487,000
16200 (N)	MAUMEE BAY	130,000

	TYPE OF PROJECT	CONSTRUCTION, GENERAL - STATE AND PROJECT	CONFERENCE ALLOWANCE
16250	{FC}	MILL CREEK, OH	18,000,000
16300	{FC}	MOHAWK DAM, MUSKINGUM RIVER LAKES, OH {DAM SAFETY}	1,800,000
16450	{FC}	MUSKINGUM RIVER LAKES, OH {REHAB}	600,000
16500	{FC}	NEWARK, OH	2,400,000
16600	{FC}	RENO BEACH HOWARD FARMS, OH	250,000
16650	{FC}	WALNUT & CHERRY ST. BRIDGES, MASSILLON	1,100,000
16800		OKLAHOMA	
16900	{FC}	ARCADIA LAKE, OK	4,600,000
17100	{MP}	EUFAULA LAKE, OKLAHOMA {BRIDGE REPLACEMENT}	500,000
17200	{FC}	MINGO CREEK, OK	2,400,000
17250	{FC}	PARKER LAKE, OKLAHOMA, MUDDY BOGGY CREEK	5,000,000
17260	{FC}	SKIATOOK LAKE	2,000,000
17500		OREGON	
17590	(N)	THE DALLES	510,000
17600	{N}	BONNEVILLE NAVIGATION LOCK, OR & WA	36,000,000
17700	(MP)	BONNEVILLE SECOND POWERHOUSE, OR & WA	6,000,000
17750	{FC}	ELK CREEK LAKE, OR	35,000,000
17800	{FC}	LOWER COLUMBIA RIVER BASIN BANK PROTECTION, OR & WA	1,100,000
17850	{FC}	WILLAMETTE RIVER BASIN BANK PROTECTION, OR	1,100,000
17950		PENNSYLVANIA	
18100	{FC}	COWANESQUE LAKE, PA {MODIFICATION}	138,000
18250	{FC}	FRANCIS E. WALTER DAM, PA {MODIFICATION}	1,000,000
18300	{N}	GRAYS LANDING, LOCK AND DAM 7, MONOGAHELA RIVER, PA	6,800,000
18400	{N}	MONTGOMERY LOCKS AND DAM, OHIO RIVER, PA {REHAB}	7,700,000
18450	{N}	POINT MARION, LOCK AND DAM 8, MONONGAHELA RIVER, PA/WV	1,100,000
18500	{BE}	PRESQUE ISLE PENINSULA, PA {NOURISHMENT}	1,250,000
18510	{BE}	PRESQUE ISLE PENINSULA (PERMANENT REPAIR)	500,000
18650	{FC}	TAMAQUA, PA	900,000
18750	{FC}	TURTLE CREEK, PA	200,000
18850		PUERTO RICO	
18950	{N}	PONCE HARBOR, PR	6,203,000
19000	{FC}	PORTUGUES AND BUCANA RIVERS, PR	26,000,000
19100		SOUTH CAROLINA	
19200	{N}	CHARLESTON HARBOR, SC	2,200,000
19250	{MP}	COOPER RIVER SEISMIC MODIFICATION	13,500,000
19350		TEXAS	
19500	{FC}	BUFFALO BAYOU AND TRIBS-ADDICKS & BARKER DAMS {DAM	
19550		SAFETY}, TX	3,100,000
19650	{FC}	CLEAR CREEK, TX	4,800,000
19700	{FC}	BOGGY CREEK, AUSTIN, TX	8,200,000
19750	{FC}	COOPER LAKE AND CHANNELS, TX	19,000,000
19800	{N}	CORPUS CHRISTI SHIP CHANNEL, TX {1968 ACT}	5,600,000
19850	{FC}	EL PASO, TX	1,500,000
19900	{N}	FREEPORT HARBOR, TX	11,400,000
19950	{FC}	JOE POOL LAKE, TX	9,000,000
20000	{FC}	LAKE WICHITA, HOLLIDAY CREEK AT WICHITA FALLS, TX	1,500,000
20050	{N}	MOUTH OF COLORADO RIVER, TX	2,200,000
20100	{FC}	RAY ROBERTS LAKE, TX	21,000,000
20200	{FC}	SAN ANTONIO CHANNEL IMPROVEMENT, TX	25,000,000
20350	{FC}	TAYLORS BAYOU, TX	3,700,000
20450	{FC}	VINCE AND LITTLE VINCE BAYOUS, TX	1,360,000
20550	{N}	WALLISVILLE LAKE	500,000
20650		UTAH	
20800	{FC}	LITTLE DELL LAKE, UT	3,000,000
20805		VERMONT	
20810	(N)	SHELBURN BAY	250,000
20900		VIRGINIA	
21000	{FC}	HAYSI LAKE	500,000
21050	{N}	NORFOLK HARBOR AND CHANNELS, VA {55-FT DEEPENING}	6,665,000
21100	{FC}	RICHMOND, VA	5,000,000

	TYPE OF PROJECT	CONSTRUCTION, GENERAL - STATE AND PROJECT	CONFERENCE ALLOWANCE
21150	{BE}	TANGIER ISLAND	200,000
21200	{FC}	VIRGINIA BEACH STREAMS, CANAL NO. TWO, VA	2,000,000
21250	{BE}	VIRGINIA BEACH, VA {REIMB}	221,000
21350		WASHINGTON	
21450	{MP}	CHIEF JOSEPH ADDITIONAL UNITS, WA	5,500,000
21460	{MP}	LITTLE GOOSE LOCK & DAM	3,263,000
21500	{MP}	LOWER SNAKE RIVER FISH AND WILDLIFE COMPENSATION, WA,	
21550		OR, & ID	4,500,000
21560	{MP}	LOWER GRANITE LOCK & DAM	3,498,000
21565	{MP}	LOWER MONUMENTAL LOCK & DAM	1,140,000
21570	{MP}	ICE HARBOR LOCK & DAM	290,000
21600	{FC}	MT. ST. HELENS SEDIMENT CONTROL, WA	50,000,000
21650	{FC}	MUD MOUNTAIN DAM, WA {DAM SAFETY}	2,100,000
21750		WEST VIRGINIA	
21900	{N}	GALLIPOLIS LOCKS AND DAM, WV & OH	25,000,000
22000	{FC}	KANAWHA RIVER, CHARLESTON	60,000
22050	{FC}	LEVISA/TUG FORKS OF BIG SANDY & UPPER CUMBERLAND	
22100		RIVER, WV, FA, & KY	36,800,000
22200	{FC}	KANAWHA RIVER, ST. ALBANS	50,000
22250	{FC}	STONEWALL JACKSON LAKE, WV	14,500,000
22350	{N}	WINFIELD LOCK AND DAM, WV	1,750,000
22450		WISCONSIN	
22650	{N}	SAXON HARBOR	47,000
22700	{FC}	STATE ROAD AND EBNER COULEES, WI	1,100,000
22800		MISCELLANEOUS	
22900		SMALL NAVIGATION PROJECTS {SEC. 107}	12,032,000
22950		MITIGATION OF SHORE DAMAGES ATTRIBUTABLE TO	
23000		NAVIGATION PROJECTS	500,000
23050		SMALL BEACH EROSION CONTROL PROJECTS {SEC. 103}	4,450,000
23100		SMALL PROJECTS FOR FLOOD CONTROL & RELATED PURPOSES	
23150		{SECTION 205}	33,535,000
23200		EMERGENCY STREAMBANK & SHORELINE PROTECTION {SECTION	
23250		14}	9,000,000
23300		SMALL SNAGGING AND CLEARING PROJECTS {SEC. 208}	1,000,000
23350		AQUATIC PLANT CONTROL {1965 ACT}	8,500,000
23400		EMPLOYEES COMPENSATION	13,478,000
23450		DAM SAFETY ASSURANCE PROGRAM	25,000,000
23500		REDUCTION FOR ANTICIPATED SAVINGS AND SLIPPAGE	-162,205,000
23550		APPLICATION OF PRIOR YEAR UNOBLIGATED FUNDS	-23,400,000
23650		TOTAL CONSTRUCTION, GENERAL	1,200,175,000
23750		TYPE OF PROJECT:	
23800		{N} NAVIGATION	
23850		{FC} FLOOD CONTROL	
23900		{BE} BEACH EROSION CONTROL	
23950		{MP} MULTIPLE-PURPOSE, INCLUDING POWER	
23960		{SP} SPECIAL	

	TYPE OF PROJECT	FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES	CONFERENCE ALLOWANCE
120		GENERAL INVESTIGATIONS	
160		SURVEYS:	
180		GENERAL STUDIES:	
200	{FDP}	BOEUF & TENSAS RIVERS, AR & LA	825,000
220	{FDP}	EASTERN ARKANSAS REGION {COMPREHENSIVE STUDY}, AR	430,000
300	{FDP}	ATCHAFALAYA BASIN {WATER AND LAND RESOURCES}, LA.	65,000
360	{FDP}	TUSCUMBIA RIVER BASIN, MS	200,000
380	{FDP}	YAZOO RIVER BASIN, MS	513,000
390		MISSISSIPPI RIVER, EAST BANK, NATCHEZ AREA, MS	180,000
420	{FDP}	OBION AND FORKED DEER RIVERS AND TRIBS, TN & KY	400,000
440	{FDP}	REELFOOT LAKE, TN	290,000
460	{FDP}	TIPTONVILLE, TN	104,000
470	{N}	VICKSBURG HARBOR, MS	250,000

	TYPE OF PROJECT	FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES	CONFERENCE ALLOWANCE
480		COLLECTION & STUDY OF BASIC DATA	270,000
500		PRECONSTRUCTION ENGINEERING AND DESIGN:	
520	{FC}	BUSHLEY BAYOU, LA	105,000
540	{FC}	EASTERN RAPIDES & SOUTH-CENTRAL AVOYELLES, LA	1,350,000
580	{FC}	LOWER WHITE RIVER {BIG CREEK AND TRIBS}, AR	400,000
600	{FC}	MISSISSIPPI & LOUISIANA ESTUARINE AREAS,	
620		LA & MS	389,000
640	{FC}	HORN LAKE CREEK, TN & MS	211,000
660	{FC}	ST. JOHNS BAYOU AND NEW MADRID FLOODWAY, MO	572,000
680	{FC}	NONCONNAH CREEK, TN	231,000
720		SUBTOTAL, GENERAL INVESTIGATIONS	6,785,000
780		CONSTRUCTION	
810		CACHE RIVER BASIN PROJECT, ARK	250,000
820	{FC}	CHANNEL IMPROVEMENT, AR, IL, LA, MS, MO & TN	84,200,000
840	{FC}	EIGHT MILE CREEK, AR	450,000
860	{N}	HELENA HARBOR, PHILLIPS CO., ARKANSAS	1,100,000
880	{FC}	L'ANGUILLE RIVER BASIN, AR	750,000
920	{FC}	MISSISSIPPI RIVER LEVEES, AR, IL, KY, LA, MS, MO, TN	26,500,000
940	{FC}	MISSISSIPPI DELTA REGION, LA	4,500,000
960	{FC}	ST. FRANCIS BASIN, AR & MO	9,500,000
970	{FC}	TECHE-VERMILLION BASIN, LA (REIMBURSEMENT)	700,000
1020	{FC}	TENSAS BASIN, AR & LA:	(6,100,000)
1040		BOEUF AND TENSAS RIVERS, EXCEPT LAKE CHICOT	
1060	{FC}	PUMPING PLANT	300,000
1080	{FC}	BOEUF AND TENSAS RIVERS, LAKE CHICOT PUMPING PLANT	2,645,000
1100		RED RIVER BACKWATER AREA, EXCEPT TENSAS COCODRIE	
1120	{FC}	PUMPING PLANT	2,700,000
1140		RED RIVER BACKWATER AREA, TENSAS COCODRIE PUMPING	
1160	{FC}	PLANT	455,000
1180	{FC}	ATCHAFALAYA BASIN, LA	37,600,000
1200	{FC}	ATCHAFALAYA BASIN, FLOODWAY SYSTEM, LA	7,000,000
1220	{FC}	BAYOU COCODRIE AND TRIBUTARIES, LA	100,000
1280	{FC}	SARDIS DAM, MS {DAM SAFETY ASSURANCE}	2,800,000
1300	{FC}	YAZOO BASIN, MS:	(28,625,000)
1320	{FC}	BACKWATER, MS	1,750,000
1340	{FC}	BIG SUNFLOWER RIVER, MS	2,400,000
1380	{FC}	TRIBUTARIES, MS	8,900,000
1400	{FC}	UPPER YAZOO PROJECTS	10,275,000
1420	{FC}	DEMONSTRATION EROSION CONTROL, MS	5,300,000
1480	{FC}	WEST TENNESSEE TRIBUTARIES, TN	5,100,000
1520		SUBTOTAL, CONSTRUCTION	215,275,000
1580		MAINTENANCE	
1620	{FC}	BOEUF & TENSAS RIVERS, AR & LA	1,747,000
1660	{FC}	LOWER ARK RIVER {NORTH BANK}, AR	67,000
1680	{FC}	LOWER ARK RIVER {SOUTH BANK}, AR	110,000
1700	{FC}	ST. FRANCIS BASIN, AR	3,572,000
1720	{FC}	WHITE RIVER BACKWATER, AR	671,000
1740	{FC}	CHANNEL IMPROVEMENT, AR, IL, LA, MS, MO & TN	58,543,000
1760	{FC}	MAPPING, AR, IL, KY, LA, MS, MO & TN	700,000
1780	{FC}	MISSISSIPPI RIVER LEVEES, AR, IL, KY, LA, MS, MO, & TN	10,630,000
1820	{FC}	ATCHAFALAYA BASIN, LA	8,587,000
1840	{FC}	BATON ROUGE HARBOR {DEVIL'S SWAMP}, LA	285,000
1860	{FC}	BAYOU COCODRIE AND TRIBUTARIES, LA	124,000
1880	{FC}	BONNET CARRE, LA	522,000
1900	{FC}	LOWER RED RIVER - SOUTH BANK LEVEES, LA	65,000
1920	{FC}	OLD RIVER, LA	5,449,000
1940	{FC}	RED RIVER BACKWATER AREA, LA	1,389,000
1960	{FC}	ARKABUTLA LAKE, MS	2,662,000
1980	{FC}	BACKWATER, MS	293,000
2000	{FC}	BIG SUNFLOWER RIVER, MS	79,000
2020	{FC}	ENID LAKE, MS	2,645,000
2040	{N}	GREENVILLE HARBOR, MS	207,000
2060	{FC}	GREENWOOD, MS	492,000
2080	{FC}	GRENADA LAKE, MS	3,696,000
2100	{FC}	MAIN STEM, MS	762,000
2120	{FC}	SARDIS LAKE, MS	3,525,000
2140	{N}	VICKSBURG HARBOR, MS	163,000
2160	{FC}	WILLIAM M. WHITTINGTON AUXILIARY CHANNEL, MS	2,086,000
2180	{FC}	TRIBUTARIES, MS	3,749,000
2200	{FC}	YAZOO CITY, MS	310,000

TYPE OF PROJECT	FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES	CONFERENCE ALLOWANCE
{FC}	WAPPAPELLO LAKE, MO	2,835,000
{N}	MEMPHIS HARBOR {McKELLAR LAKE}, TN	1,150,000
	INSPECTION OF COMPLETED WORKS	1,059,000
	SUBTOTAL, MAINTENANCE	118,174,000
	REDUCTION FOR ANTICIPATED SAVINGS, SLIPPAGE, AND PRIOR YEAR UNOBLIGATED BALANCES	-22,530,000
	TOTAL, FLOOD CONTROL, MISSISSIPPI RIVER & TRIBUTARIES	317,704,000

TYPE OF STUDY OR PROJECT:
{FC} FLOOD CONTROL
{FDP} FLOOD DAMAGE PREVENTION
{N} NAVIGATION

TYPE OF PROJECT	OPERATION AND MAINTENANCE - STATE AND PROJECT	CONFERENCE ALLOWANCE
	ALABAMA	
{N}	ALABAMA-COOSA RIVERS, AL	4,538,000
{N}	BAYOU CODEN, AL	485,000
{N}	BAYOU LA BATRE, AL	722,000
{N}	BLACK WARRIOR AND TOMBIGBEE RIVERS, AL	11,756,000
{N}	DAUPHIN ISLAND BAY, AL	33,000
{N}	DOG AND FOWL RIVERS, AL	131,000
{N}	FLY CREEK, AL	81,000
{N}	GULF INTRACOASTAL WATERWAY {MOBILE DISTRICT}, AL	6,252,000
{MP}	MILLERS FERRY LOCK & DAM - WILLIAM "BILL" DANNELLY LAKE, AL	3,242,000
{N}	MOBILE HARBOR, AL	8,995,000
{N}	PERDIDO PASS CHANNEL, AL	958,000
{MP}	ROBERT F. HENRY LOCK AND DAM, AL	2,779,000
{N}	TENNESSEE TOMBIGBEE WATERWAY, AL & MS	17,192,000
{MP}	WALTER F. GEORGE LOCK AND DAM, AL & GA	5,005,000
	ALASKA	
{N}	ANCHORAGE HARBOR, AK	1,953,000
{FC}	CHENA RIVER LAKES, AK	899,000
{N}	DILLINGHAM SMALL BOAT HARBOR, AK	396,000
{N}	HOMER HARBOR, AK	269,000
{N}	NOME HARBOR, AK	651,000
{N}	STIKINE RIVER SNAGGING, AK	14,000
	ARIZONA	
{FC}	ALAMO DAM, AZ	654,000
{FC}	PAINTED ROCK DAM, AZ	902,000
{FC}	WHITLOW RANCH DAM, AZ	102,000
	ARKANSAS	
{MP}	BEAVER LAKE, AR	3,506,000
{MP}	BLAKELY MOUNTAIN DAM, LAKE OUACHITA, AR	3,197,000
{FC}	BLUE MOUNTAIN LAKE, AR	732,000
{MP}	BULL SHOALS LAKE, AR	5,998,000
{MP}	DARDANELLE LOCK & DAM, AR	4,807,000
{MP}	DEGRAY LAKE, AR	2,982,000
{FC}	DEQUEEN LAKE, AR	648,000
{FC}	DIERKS LAKE, AR	681,000
{FC}	GILLHAM LAKE, AR	625,000
{MP}	GREERS FERRY LAKE, AR	4,204,000
{N}	HELENA HARBOR, AR	433,000
{N}	MCCLELLAN-KERR ARK RIVER NAV SYSTEM LOCKS AND DAMS, AR & OK	17,930,000
{FC}	MILLWOOD LAKE, AR	1,593,000
{MP}	NARROWS DAM - LAKE GREESON, AR	2,247,000
{FC}	NIMROD LAKE, AR	932,000
{MP}	NORFORK LAKE, AR	3,048,000
{N}	OSCEOLA HARBOR, AR	350,000

	TYPE OF PROJECT	OPERATION AND MAINTENANCE - STATE AND PROJECT	CONFERENCE ALLOWANCE
1060	(N)	OUACHITA AND BLACK RIVERS, AR & LA	4,948,000
1080	(MP)	OZARK-JETA TAYLOR LOCK & DAM, AR	3,378,000
1100	(N)	WHITE RIVER, AR	1,967,000
1140		CALIFORNIA	
1180	(FC)	BLACK BUTTE LAKE, CA	3,173,000
1200	(FC)	BUCHANAN DAM - H. V. EASTMAN LAKE, CA	1,121,000
1220	(FC)	COYOTE VALLEY DAM (LAKE MENDOCINO), CA	1,578,000
1240	(N)	CRESCENT CITY HARBOR, CA	1,150,000
1260	(FC)	DRY CREEK (WARM SPRINGS) LAKE & CHANNEL, CA	1,842,000
1280	(FC)	FARMINGTON DAM, CA	113,000
1300	(FC)	HIDDEN DAM - HENSLEY LAKE, CA	1,123,000
1320	(N)	HUMBOLDT HARBOR & BAY, CA	2,322,000
1340	(FC)	ISABELLA LAKE, CA	1,800,000
1360	(FC)	LOS ANGELES COUNTY DRAINAGE AREA, CA	2,193,000
1380	(N)	LOS ANGELES - LONG BEACH HARBOR MODEL, CA	1,345,000
1400	(FC)	MERCED COUNTY STREAMS, CA	122,000
1420	(FC)	MOJAVE RIVER RESERVOIR, CA	205,000
1440	(N)	MORRO BAY HARBOR, CA	60,000
1460	(N)	MOSS LANDING HARBOR, CA	30,000
1480	(N)	NAPA RIVER, CA	1,658,000
1500	(FC)	NEW HOGAN LAKE, CA	1,241,000
1520	(MP)	NEW MELONES LAKE, CA	602,000
1540	(N)	NOYO RIVER AND HARBOR, CA	418,000
1560	(N)	OAKLAND HARBOR, CA	1,428,000
1580	(N)	OCEANSIDE HARBOR EXPERIMENTAL SAND BYPASS, CA	3,965,000
1600	(N)	OCEANSIDE HARBOR, CA	705,000
1620	(N)	PETALUMA RIVER, CA	1,536,000
1640	(FC)	PINE FLAT LAKE, CA	1,604,000
1642	(N)	REDONDO BEACH, KING HARBOR, CA	50,000
1660	(N)	RICHMOND HARBOR, CA	1,954,000
1680	(N)	SACRAMENTO RIVER SHALLOW DRAFT CHANNEL, CA	77,000
1700	(N)	SACRAMENTO RIVER AND TRIBUTARIES (DEBRIS CONTROL)	677,000
1720	(N)	SACRAMENTO RIVER AND TRIBUTARIES (30 FOOT PROJECT)	560,000
1740	(N)	SAN FRANCISCO BAY-DELTA MODEL STRUCTURE, CA	1,000,000
1760	(N)	SAN FRANCISCO HARBOR, CA	2,545,000
1780	(N)	DRIFT REMOVAL (SF HARBOR & BAY), CA	1,570,000
1800	(N)	SAN JOAQUIN RIVER, CA	1,012,000
1820	(N)	SAN PABLO BAY AND MARE ISLAND STRAIT, CA	3,077,000
1840	(FC)	SANTA ANA RIVER BASIN, CA	1,683,000
1860	(N)	SANTA BARBARA HARBOR, CA	873,000
1880	(N)	SANTA CRUZ HARBOR, CA	230,000
1900	(FC)	SUCCESS LAKE, CA	1,142,000
1920	(N)	SUISUN BAY CHANNEL, CA	913,000
1940	(FC)	TERMINUS DAM (LAKE KAWEAH), CA	1,525,000
1960	(N)	VENTURA MARINA, CA	1,332,000
1980	(N)	YUBA RIVER, CA	125,000
2020		COLORADO	
2060	(FC)	BEAR CREEK LAKE, CO	271,000
2080	(FC)	CHATFIELD LAKE, CO	555,000
2100	(FC)	CHERRY CREEK LAKE, CO	1,082,000
2120	(FC)	JOHN MARTIN RESERVOIR, CO	1,332,000
2140	(FC)	TRINIDAD LAKE, CO	576,000
2180		CONNECTICUT	
2220	(FC)	BLACK ROCK LAKE, CT	221,000
2240	(FC)	COLEBROOK RIVER LAKE, CT	260,000
2260	(N)	CONNECTICUT RIVER BELOW HARTFORD, CT	1,083,000
2280	(FC)	HANCOCK BROOK LAKE, CT	79,000
2300	(FC)	HOP BROOK LAKE, CT	418,000
2320	(FC)	MANSFIELD HOLLOW LAKE, CT	294,000
2330		MILFORD HARBOR	435,000
2340	(FC)	NORTHFIELD BROOK LAKE, CT	221,000
2360	(FC)	STAMFORD HURRICANE BARRIER, CT	150,000
2380	(FC)	THOMASTON DAM, CT	461,000
2400	(FC)	WEST THOMPSON LAKE, CT	397,000
2440		DELAWARE	
2470	(N)	INTRACOASTAL WATERWAY, CHINCOTEAGUE BAY TO DELAWARE	
2480		BAY, DE	15,000
2500	(N)	INTRACOASTAL WATERWAY, DELAWARE RIVER TO CHESAPEAKE	
2520		BAY, DE & MD	17,294,000
2540	(N)	INTRACOASTAL WATERWAY, REHOBOTH BAY TO DELAWARE BAY	31,000
2560	(N)	WILMINGTON HARBOR, DE	11,685,000

	TYPE OF PROJECT	OPERATION AND MAINTENANCE - STATE AND PROJECT	CONFERENCE ALLOWANCE
2600		DIST OF COLUMBIA	
2640	(N)	POTOMAC AND ANACOSTIA RIVERS (DRIFT REMOVAL), DC	425,000
2660	(N)	WASHINGTON HARBOR, DC	62,000
2700		FLORIDA	
2740	(N)	APALACHICOLA BAY, FL	97,000
2760	(N)	BLACKWATER RIVER, FL	74,000
2780	(N)	CANAVERAL HARBOR, FL	3,537,000
2800	(FC)	CENTRAL AND SOUTHERN FLORIDA, FL	5,211,000
2820	(N)	CHARLOTTE HARBOR, FL	103,000
2840	(N)	CROSS-FLORIDA BARGE CANAL, FL	2,404,000
2860	(N)	EAST PASS CHANNEL, FL	33,000
2880	(N)	FERNANDINA HARBOR, FL	1,365,000
2900	(N)	FORT PIERCE HARBOR, FL	320,000
2920	(N)	INTRACOASTAL WATERWAY, CALOOSAHATCHEE RIVER TO	
2940		ANCLOTE RIVER, FL	1,929,000
2960	(N)	INTRACOASTAL WATERWAY, JACKSONVILLE TO MIAMI, FL	1,736,000
2980	(N)	JACKSONVILLE HARBOR, FL	3,695,000
3000	(MP)	JIM WOODRUFF LOCK AND DAM, LAKE SEMINOLE, FL, AL & GA.	4,292,000
3020	(N)	LA GRANGE BAYOU, FL	95,000
3040	(N)	MIAMI HARBOR, FL	127,000
3060	(N)	OKEECHOBEE WATERWAY, FL	2,587,000
3080	(N)	OKLAWAHA RIVER, FL	58,000
3100	(N)	PALM BEACH HARBOR, FL	979,000
3120	(N)	PANAMA CITY HARBOR, FL	967,000
3140	(N)	PENSACOLA HARBOR, FL	635,000
3160	(N)	PONCE DE LEON INLET, FL	136,000
3180	(N)	PORT EVERGLADES HARBOR, FL	85,000
3200	(N)	PORT ST. JOE HARBOR, FL	1,251,000
3220	(N)	REMOVAL OF AQUATIC GROWTH, FL	2,736,000
3240	(N)	ST. MARKS RIVER, FL	675,000
3260	(N)	TAMPA HARBOR, FL	2,436,000
3300		GEORGIA	
3340	(N)	APALACHICOLA, CHATTAHOOCHEE, FLINT RIVERS, GA, AL & FL	6,064,000
3360	(MP)	ALLATOONA LAKE, GA	4,884,000
3380	(N)	ATLANTIC INTRACOASTAL WATERWAY (SAVANNAH DISTRICT)	611,000
3400	(N)	BRUNSWICK HARBOR, GA	5,173,000
3420	(MP)	BUFORD DAM AND LAKE SIDNEY LANIER, GA	6,261,000
3440	(MP)	CARTERS LAKE, GA	2,743,000
3460	(MP)	CLARKS HILL LAKE, GA & SC	8,571,000
3480	(MP)	HARTWELL LAKE, GA & SC	7,315,000
3500	(MP)	RICHARD B RUSSELL DAM AND LAKE, GA & SC	3,564,000
3520	(N)	SAVANNAH HARBOR, GA	8,983,000
3540	(N)	SAVANNAH RIVER BELOW AUGUSTA, GA	352,000
3560	(MP)	WEST POINT LAKE, GA & AL	5,670,000
3600		HAWAII	
3640	(N)	BARBERS POINT HARBOR, OAHU, HI	50,000
3680		IDAHO	
3720	(MP)	ALBENI FALLS DAM, ID	3,904,000
3740	(MP)	DWORSHAK DAM & RESERVOIR, ID	5,934,000
3760	(FC)	LUCKY PEAK LAKE, ID	703,000
3820		ILLINOIS	
3860	(FC)	CALUMET HARBOR AND RIVER, IL & IN	7,100,000
3880	(FC)	CARLYLE LAKE, IL	2,930,000
3900	(N)	CHICAGO HARBOR, IL	3,655,000
3920	(N)	CHICAGO RIVER, IL	2,911,000
3940	(FC)	FARM CREEK RESERVOIRS, IL	138,000
3960	(N)	ILLINOIS WATERWAY, IL	26,691,000
3980	(N)	ILLINOIS WATERWAY, IL (LMVD PORTION)	901,000
4000	(N)	KASKASKIA RIVER NAVIGATION, IL	1,280,000
4020	(FC)	LAKE SHELBYVILLE, IL	3,827,000
4040	(N)	MISS RIV BTWN MISSOURI RIV & MINNEAPOLIS, IL, MN, WI,	
4060		& IA (LMVD)	11,419,000
4070	(N)	MISS RIV BTWN MISSOURI RIV & MINNEAPOLIS, IL, MN, WI &	
4080		& IA (NCD)	59,301,000
4082	(FC)	NORTH BRANCH CHICAGO RIVER, IL	150,000
4100	(FC)	REND LAKE, IL	2,901,000
4120	(N)	WAUKEGAN HARBOR, IL	3,280,000

TYPE OF PROJECT	OPERATION AND MAINTENANCE - STATE AND PROJECT	CONFERENCE ALLOWANCE
4160	INDIANA	
4200 (FC)	BROOKVILLE LAKE, IN	432,000
4220 (N)	BURNS WATERWAY HARBOR, IN	390,000
4240 (N)	BURNS WATERWAY SMALL BOAT HARBOR, IN	100,000
4260 (FC)	CAGLES MILL LAKE, IN	375,000
4280 (FC)	CECIL M. HARDEN LAKE, IN	420,000
4300 (FC)	HUNTINGTON LAKE, IN	441,000
4320 (N)	INDIANA HARBOR, IN	10,070,000
4340 (FC)	MISSISSINEWA LAKE, IN	391,000
4360 (FC)	MONROE LAKE, IN	419,000
4380 (FC)	PATOKA LAKE, IN	398,000
4400 (FC)	SALAMONIE LAKE, IN	424,000
4440	IOWA	
4480 (FC)	CORALVILLE LAKE, IA	3,236,000
4500 (N)	MISSOURI RIVER - SIOUX CITY TO MOUTH, IA & NE	9,705,000
4540 (FC)	RATHBUN LAKE, IA	1,541,000
4560 (FC)	RED ROCK DAM - LAKE RED ROCK, IA	3,638,000
4580 (FC)	SAYLORVILLE LAKE, IA	2,992,000
4590 (N)	SMALL NAVIGATION PROJ AT SIOUX CITY IOWA - SEC. 107	5,000
4620	KANSAS	
4660 (FC)	CLINTON LAKE, KS	1,496,000
4680 (FC)	COUNCIL GROVE LAKE, KS	770,000
4700 (FC)	EL DORADO LAKE, KS	437,000
4720 (FC)	ELK CITY LAKE, KS	842,000
4740 (FC)	FALL RIVER LAKE, KS	892,000
4760 (FC)	HILLSDALE LAKE, KS	818,000
4780 (FC)	JOHN REDMOND DAM AND RESERVOIR, KS	1,239,000
4800 (FC)	KANOPOLIS LAKE, KS	1,335,000
4820 (FC)	MARION LAKE, KS	785,000
4840 (FC)	MELVERN LAKE, KS	1,179,000
4860 (FC)	MILFORD LAKE, KS	1,730,000
4880 (FC)	PEARSON - SKUBITZ BIG HILL LAKE, KS	821,000
4900 (FC)	PERRY LAKE, KS	1,358,000
4920 (FC)	POMONA LAKE, KS	1,206,000
4940 (FC)	TORONTO LAKE, KS	246,000
4960 (FC)	TUTTLE CREEK LAKE, KS	2,330,000
4980 (FC)	WILSON LAKE, KS	1,037,000
5020	KENTUCKY	
5060 (MP)	BARKLEY DAM - LAKE BARKLEY, KY & TN	4,594,000
5080 (FC)	BARREN RIVER LAKE, KY	1,232,000
5100 (N)	BIG SANDY HARBOR, KY	1,100,000
5120 (FC)	BUCKHORN LAKE, KY	704,000
5140 (FC)	CARR FORK LAKE, KY	811,000
5160 (FC)	CAVE RUN LAKE, KY	490,000
5180 (FC)	DEWEY LAKE, KY	777,000
5200 (FC)	FISHTRAP LAKE, KY	774,000
5220 (FC)	GRAYSON LAKE, KY	577,000
5240 (N)	GREEN & BARREN RIVERS, KY & TN	1,050,000
5260 (FC)	GREEN RIVER LAKE, KY	1,021,000
5280 (N)	HICKMAN HARBOR, KY	470,000
5300 (N)	KENTUCKY RIVER, KY	876,000
5320 (MP)	LAUREL RIVER LAKE, KY	673,000
5340 (N)	LICKING RIVER OPEN CHANNEL WORK, KY	12,000
5360 (FC)	MARTINS FORK LAKE, KY	540,000
5380 (FC)	MIDDLESBORO, KY	41,000
5400 (FC)	NOLIN LAKE, KY	1,086,000
5420 (N)	OHIO RIVER LOCKS AND DAMS, KY, PA, WV, OH, IN & IL	18,187,000
5440 (N)	OHIO RIVER OPEN CHANNEL WORK, KY, PA, WV, OH, IN, & IL	2,785,000
5460 (FC)	PAINTSVILLE LAKE, KY	463,000
5480 (FC)	ROUGH RIVER LAKE, KY	999,000
5500 (FC)	TAYLORSVILLE LAKE, KY	578,000
5520 (MP)	WOLF CREEK DAM - LAKE CUMBERLAND, KY	3,093,000
5560	LOUISIANA	
5600 (N)	ATCHAFALAYA RIVER AND BAYOUS CHENE, BOEUF AND BLACK	5,140,000
5620 (N)	BARATARIA BAY WATERWAY, LA	761,000
5640 (FC)	BAYOU BODCAU RESERVOIR, LA	305,000
5660 (FC)	BAYOU PIERRE, LA	38,000
5680 (N)	BAYOU SEGNETTE WATERWAY, LA	250,000
5700 (N)	BAYOU TECHE, LA	370,000

TYPE OF PROJECT	OPERATION AND MAINTENANCE - STATE AND PROJECT	CONFERENCE ALLOWANCE
5720 (FC)	CADDO LAKE, LA	66,000
5740 (N)	CALCASIEU RIVER AND PASS, LA	8,180,000
5760 (N)	FRESHWATER BAYOU, LA	2,175,000
5780 (N)	GULF INTRACOASTAL WATERWAY, LA & TX SECTION	15,600,000
5800 (N)	HOUMA NAVIGATION CANAL, LA	1,671,000
5820 (N)	LAKE PROVIDENCE HARBOR, LA	228,000
5840 (N)	MADISON PARISH PORT, LA	109,000
5860 (N)	MERMENTAU RIVER, LA	1,151,000
5880 (N)	MISSISSIPPI RIVER OUTLETS AT VENICE, LA	2,383,000
5900 (N)	MISSISSIPPI RIVER, BATON ROUGE TO THE GULF OF MEXICO,	35,820,000
5920 (N)	MISSISSIPPI RIVER - GULF OUTLET, LA	7,840,000
5940 (N)	PEARL RIVER, LA	139,000
5960 (N)	RED RIVER WATERWAY MISSISSIPPI RIVER TO SHREVEPORT, LA	3,729,000
5980 (N)	REMOVAL OF AQUATIC GROWTH, LA	1,460,000
6000 (FC)	WALLACE LAKE, LA	112,000
6040	MARYLAND	
6080 (N)	BALTIMORE HARBOR AND CHANNELS, MD	13,245,000
6100 (N)	BALTIMORE HARBOR (PREVENTION OF OBSTRUCTIVE DEPOSITS).	85,000
6120 (N)	BALTIMORE HARBOR (DRIFT REMOVAL), MD	255,000
6140 (FC)	BLOOMINGTON LAKE, MD & WV	1,061,000
6160 (FC)	CUMBERLAND, MD AND RIDGELEY, WV, MD & WV	71,000
6170 (N)	HERRING BAY AND ROCKHOLD CREEK	495,000
6180 (N)	TWITCH COVE AND BIG THOROFARE RIVER, MD	460,000
6200 (N)	WICOMICO RIVER, MD	894,000
6240	MASSACHUSETTS	
6280 (FC)	BARRE FALLS DAM, MA	274,000
6300 (FC)	BIRCH HILL DAM, MA	372,000
6320 (FC)	BUFFUMVILLE LAKE, MA	243,000
6340 (N)	CAPE COD CANAL, MA	5,967,000
6360 (FC)	CHARLES RIVER NATURAL VALLEY STORAGE AREAS, MA	146,000
6380 (FC)	CONANT BROOK LAKE, MA	149,000
6400 (FC)	EAST BRIMFIELD LAKE, MA	277,000
6420 (FC)	HODGES VILLAGE DAM, MA	257,000
6440 (FC)	KNIGHTVILLE DAM, MA	545,000
6460 (FC)	LITTLEVILLE LAKE, MA	427,000
6480 (FC)	NEW BEDFORD, FAIRHAVEN & ACUSHNET HURRICANE BARRIER	122,000
6500 (FC)	TULLY LAKE, MA	349,000
6520 (FC)	WEST HILL DAM, MA	220,000
6540 (FC)	WESTVILLE LAKE, MA	316,000
6580	MICHIGAN	
6620 (N)	ARCADIA HARBOR, MI	57,000
6640 (N)	BOLLES HARBOR, MI	29,000
6660 (N)	CHANNELS IN LAKE ST. CLAIR, MI	773,000
6680 (N)	CHARLEVOIX HARBOR, MI	1,657,000
6700 (N)	CLINTON RIVER, MI (DIKED DISPOSAL)	1,805,000
6720 (N)	DETROIT RIVER, MI	6,408,000
6740 (N)	FRANKFORT HARBOR, MI	177,000
6760 (N)	GRAND HAVEN HARBOR AND GRAND RIVER, MI	909,000
6780 (N)	HARBOR BEACH HARBOR, MI	22,000
6800 (N)	HOLLAND HARBOR, MI	3,408,000
6820 (N)	INLAND ROUTE, MI	11,000
6840 (N)	KEWEENAW WATERWAY, MI	1,225,000
6860 (N)	KEWEENAW WATERWAY, MI (DIKED DISPOSAL)	218,000
6880 (N)	LELAND HARBOR, MI	60,000
7000 (N)	LITTLE LAKE HARBOR, MI	157,000
7020 (N)	LUDINGTON HARBOR, MI	1,032,000
7040 (N)	MANISTEE HARBOR, MI	242,000
7060 (N)	MENOMINEE HARBOR, MI & WI (DIKED DISPOSAL)	42,000
7080 (N)	MONROE HARBOR, MI	1,439,000
7100 (N)	MUSKEGON HARBOR, MI	726,000
7120 (N)	ONTONAGON HARBOR, MI	758,000
7140 (N)	PENTWATER HARBOR, MI	110,000
7160 (N)	ROUGE RIVER, MI	422,000
7180 (N)	SAGINAW RIVER, MI	2,173,000
7200 (N)	SAGINAW RIVER, MI (DIKED DISPOSAL)	6,322,000
7220 (FC)	SEBEWAING RIVER, MI	27,000
7240 (N)	ST. CLAIR RIVER, MI	834,000
7260 (N)	ST. JOSEPH HARBOR, MI	1,142,000
7280 (MP)	ST. MARYS RIVER, MI	9,474,000

TYPE OF PROJECT	OPERATION AND MAINTENANCE - STATE AND PROJECT	CONFERENCE ALLOWANCE
7320	MINNESOTA	
7360 {FC}	BIG STONE LAKE AND WHETSTONE RIVER, MN & SD	262,000
7380 {N}	DULUTH-SUPERIOR HARBOR, MN & WI	2,657,000
7390 {N}	MISSISSIPPI RVR BTWN MO & MINNEAPOLIS-LD'S 3, SA-9	
7400	{MAJ REHAB}	4,100,000
7420 {FC}	LAC QUI PARLE LAKE, MN	398,000
7440 {FC}	LAKE TRAVERSE AND BOIS DE SIOUX RIVER, MN & SD	390,000
7442 {FC}	LITTLE FALLS, MN	800,000
7460 {N}	MINNESOTA RIVER, MN	432,000
7480 {FC}	ORWELL LAKE, MN	172,000
7500 {FC}	RED LAKE RIVER, MN	107,000
7520 {N}	RESERVOIRS AT HEADWATERS OF MISSISSIPPI RIVER, MN	1,774,000
7522 {FC}	SAUK LAKE, MN	300,000
7540 {N}	ST CROIX RIVER MINNESOTA & WISCONSIN, MN	153,000
7560 {N}	WINONA COMMERCIAL HARBOR, MN	20,000
7600	MISSISSIPPI	
7640 {FC}	ARKABUTLA LAKE, MS	59,000
7660 {N}	BILOXI HARBOR, MS	615,000
7680 {N}	CADET BAYOU, MS	48,000
7700 {N}	CLAIBORNE COUNTY PORT, MS	239,000
7710 {FC}	EAST FORK, TOMBIGBEE RIVER, MS	316,000
7720 {FC}	ENID LAKE, MS	88,000
7740 {FC}	GRENADA LAKE, MS	59,000
7760 {N}	GULFPORT HARBOR, MS	3,016,000
7780 {N}	MOUTH OF YAZOO RIVER, MS	107,000
7800 {FC}	OKATIBBEE LAKE, MS	1,110,000
7820 {N}	PASCAGOULA HARBOR, MS	3,603,000
7840 {N}	ROSEDALE HARBOR, MS	336,000
7860 {FC}	SARDIS LAKE, MS	89,000
7900 {N}	YAZOO RIVER, MS	73,000
7940	MISSOURI	
7980 {N}	CARUTHERSVILLE HARBOR, MO	350,000
8000 {MP}	CLARENCE CANNON DAM AND RESERVOIR, MO	4,466,000
8020 {FC}	CLEARWATER LAKE, MO	6,466,000
8040 {MP}	HARRY S. TRUMAN DAM AND RESERVOIR, MO	6,300,000
8060 {FC}	LITTLE BLUE RIVER LAKES, MO	676,000
8080 {FC}	LONG BRANCH LAKE, MO	506,000
8100 {FC}	MERAMEC PARK LAKE, MO	475,000
8120 {N}	MISS RIVER BTWN THE OHIO AND MO RIVERS {REG WORKS},	
8140	MO & IL	11,029,000
8160 {FC}	MISSISSIPPI RIVER, MAJOR REHAB, LOCK AND DAM 20, MO	5,600,000
8180 {FC}	MISSISSIPPI RIVER MAJOR REHAB, LOCK AND DAM 22, MO	5,100,000
8200 {FC}	POMME DE TERRE LAKE, MO	1,206,000
8220 {FC}	SMITHVILLE LAKE, MO	1,117,000
8240 {MP}	STOCKTON LAKE, MO	2,296,000
8260 {MP}	TABLE ROCK LAKE, MO	4,836,000
8280 {FC}	WAPPAPELLO LAKE, MO	479,000
8320	MONTANA	
8360 {MP}	FORT PECK LAKE, MT	3,970,000
8380 {MP}	LIBBY DAM {LAKE KOOCANUSA}, MT	3,369,000
8420	NEBRASKA	
8460 {MP}	GAVINS POINT DAM LEWIS AND CLARK LAKE, NE & SD	5,743,000
8480 {FC}	HARLAN COUNTY LAKE, NE	1,029,000
8490 {FC}	MISSOURI NATIONAL RECREATION RIVER, NE & SD	200,000
8500 {FC}	MISSOURI RIVER, KENSLERS BEND, NE TO SIOUX CITY	46,000
8520 {FC}	PAPILLION CREEK & TRIBUTARIES LAKES, NE	446,000
8540 {FC}	SALT CREEK AND TRIBUTARIES LAKES, NE	862,000
8580	NEVADA	
8620 {FC}	MARTIS CREEK LAKE, NV & CA	333,000
8640 {FC}	PINE & MATHEWS CANYONS DAMS, NV	84,000
8680	NEW HAMPSHIRE	
8720 {FC}	BLACKWATER DAM, NH	394,000
8740 {FC}	EDWARD MACDOWELL LAKE, NH	309,000
8760 {FC}	FRANKLIN FALLS DAM, NH	351,000
8780 {FC}	HOPKINTON-EVERETT LAKES. NH	912,000

	TYPE OF PROJECT	OPERATION AND MAINTENANCE - STATE AND PROJECT	CONFERENCE ALLOWANCE
8800	(FC)	OTTER BROOK LAKE, NH	280,000
8820	(FC)	SURRY MOUNTAIN LAKE, NH	277,000
8860		NEW JERSEY	
8900	(N)	BARNEGAT INLET, NJ	1,342,000
8920	(N)	COHANSEY RIVER, NJ	50,000
8940	(N)	COLD SPRING INLET, NJ	476,000
8960	(N)	DELAWARE RIVER BETWEEN PHILADELPHIA AND TRENTON, NJ &	
8980		NJ & PA	3,617,000
9000	(N)	NEW JERSEY INTRACOASTAL WATERWAY, NJ	3,389,000
9020	(N)	NEWARK BAY, HACKENSACK AND PASSAIC RIVERS, NJ	5,479,000
9040	(N)	RARITAN RIVER, NJ	769,000
9060	(N)	RARITAN RIVER TO ARTHUR KILL CUT-OFF, NJ	1,360,000
9100		NEW MEXICO	
9140	(FC)	ABIQUIU REHABILITATION DAM, NM	1,100,000
9160	(FC)	COCHITI LAKE, NM	1,160,000
9180	(FC)	CONCHAS LAKE, NM	4,681,000
9200	(FC)	GALISTEO DAM, NM	143,000
9220	(FC)	JEMEZ CANYON DAM, NM	327,000
9240	(FC)	SANTA ROSA DAM AND LAKE, NM	535,000
9260	(FC)	TWO RIVERS DAM, NM	309,000
9300		NEW YORK	
9340	(FC)	ALMOND LAKE, NY	273,000
9360	(FC)	ARKPORT DAM, NY	143,000
9380	(N)	BAY RIDGE & RED HOOK CHANNELS, NY	1,000,000
9400	(N)	BLACK ROCK CHANNEL AND TONAWANDA HARBOR, NY	1,712,000
9420	(N)	BUFFALO HARBOR, NY	1,664,000
9440	(N)	BUTTERMILK CHANNEL, NY	1,397,000
9460	(N)	DUNKIRK HARBOR, NY	250,000
9480	(N)	EAST RIVER, NY	1,950,000
9500	(N)	EAST ROCKAWAY INLET, NY	1,509,000
9520	(FC)	EAST SIDNEY LAKE, NY	284,000
9530	(N)	EASTCHESTER CREEK, NY	50,000
9540	(N)	FLUSHING BAY AND CREEK, NY	3,281,000
9560	(N)	HUDSON RIVER, NY	5,507,000
9580	(N)	JAMAICA BAY, NY	1,665,000
9600	(N)	LONG ISLAND INTRACOASTAL WATERWAY, NY	12,000
9620	(FC)	MT. MORRIS LAKE, NY	1,490,000
9640	(N)	NARROWS OF LAKE CHAMPLAIN, NY & VT	1,089,000
9660	(N)	NEWTOWN CREEK, NY	2,107,000
9680	(N)	NEW YORK AND NEW JERSEY CHANNELS, NY & NJ	1,320,000
9700	(N)	NEW YORK HARBOR, NY (DRIFT REMOVAL)	3,148,000
9720	(N)	NEW YORK HARBOR, NY	3,078,000
9740	(N)	NEW YORK HARBOR, (PREVENTION OF OBSTRUCTIVE DEPOSITS).	562,000
9750		NEW YORK STATE BARGE CANAL	10,000,000
9760	(N)	OSWEGO HARBOR, NY	12,000
9780	(N)	ROCHESTER HARBOR, NY	1,120,000
9800	(N)	RONDOUT HARBOR, NY	2,200,000
9820	(FC)	SOUTHERN NEW YORK FLOOD CONTROL PROJECTS, NY	518,000
9840	(FC)	WHITNEY POINT LAKE, NY	277,000
9880		NORTH CAROLINA	
9920	(N)	ATLANTIC INTRACOASTAL WATERWAY (WILMINGTON DISTRICT)..	4,628,000
9940	(FC)	B. EVERETT JORDAN DAM AND LAKE, NC	936,000
9960	(N)	BEAUFORT HARBOR, NC	361,000
9980	(N)	BOGUE INLET AND CHANNEL, NC	2,000
10000	(N)	CAPE FEAR RIVER ABOVE WILMINGTON, NC	713,000
10020	(N)	CAROLINA BEACH INLET, NC	611,000
10040	(FC)	FALLS LAKE, NC	997,000
10042	(N)	LOCKWOODS FOLLY RIVER, NC	601,000
10060	(N)	MANTEO (SHALLOWBAG) BAY, NC	5,356,000
10080	(N)	MOREHEAD CITY HARBOR, NC	3,128,000
10100	(N)	NEW RIVER INLET, NC	6,000
10120	(N)	NEW TOPSAIL INLET AND CONNECTING CHANNELS, NC	6,000
10140	(N)	OCRACOKE INLET, NC	6,000
10160	(N)	SILVER LAKE HARBOR, NC	84,000
10180	(FC)	W. KERR SCOTT DAM AND RESERVOIR, NC	1,425,000
10200	(N)	WILMINGTON HARBOR, NC	5,807,000

TYPE OF PROJECT	OPERATION AND MAINTENANCE - STATE AND PROJECT	CONFERENCE ALLOWANCE
	NORTH DAKOTA	
(FC)	BOWMAN - HALEY LAKE, ND	158,000
(MP)	GARRISON DAM, LAKE SAKAKAWEA, ND	7,433,000
(FC)	HOMME LAKE AND DAM, ND	82,000
(FC)	LAKE ASHTABULA AND BALDHILL DAM, ND	530,000
(FC)	PIPESTEM LAKE, ND	428,000
	OHIO	
(FC)	ALUM CREEK LAKE, OH	519,000
(N)	ASHTABULA HARBOR, OH	4,640,000
(FC)	BERLIN LAKE, OH	1,426,000
(FC)	CAESAR CREEK LAKE, OH	675,000
(FC)	CLARENCE J. BROWN DAM, OH	393,000
(N)	CLEVELAND HARBOR, OH	4,493,000
(N)	CONNEAUT HARBOR, OH	555,000
(FC)	DEER CREEK LAKE, OH	402,000
(FC)	DELAWARE LAKE, OH	459,000
(FC)	DILLON LAKE, OH	326,000
(N)	FAIRPORT HARBOR, OH	545,000
(N)	HURON HARBOR, OH	715,000
(N)	LORAIN HARBOR, OH	1,460,000
(FC)	MASSILLON, OH	15,000
(FC)	MICHAEL J. KIRWAN DAM AND RESERVOIR, OH	549,000
(FC)	MOSQUITO CREEK LAKE, OH	555,000
(FC)	MUSKINGUM RIVER LAKES, OH	6,994,000
(FC)	NEWARK, OH	15,000
(FC)	NORTH BRANCH OF KOKOSING RIVER LAKE, OH	204,000
(FC)	PAINT CREEK LAKE, OH	483,000
(FC)	ROSEVILLE, OH	15,000
(N)	SANDUSKY HARBOR, OH	1,360,000
(N)	TOLEDO HARBOR, OH	9,557,000
(FC)	TOM JENKINS DAM, OH	260,000
(FC)	WEST FORK MILL CREEK LAKE, OH	306,000
(FC)	WILLIAM H. HARSHA LAKE, OH	517,000
	OKLAHOMA	
(FC)	ARCADIA LAKE, OK	329,000
(FC)	CANDY LAKE, OK	12,000
(FC)	BIRCH LAKE, OK	592,000
(MP)	BROKEN BOW LAKE, OK	1,434,000
(FC)	CANTON LAKE, OK	1,243,000
(FC)	COPAN LAKE, OK	498,000
(MP)	EUFAULA LAKE, OK	3,700,000
(MP)	FORT GIBSON LAKE, OK	3,367,000
(FC)	FORT SUPPLY LAKE, OK	625,000
(FC)	GREAT SALT PLAINS LAKE, OK	477,000
(FC)	HEYBURN LAKE, OK	527,000
(FC)	HUGO LAKE, OK (HYDROPOWER STUDY)	1,179,000
(FC)	HULAH LAKE, OK	511,000
(FC)	KAW LAKE, OK	1,350,000
(MP)	KEYSTONE LAKE, OK	2,606,000
(N)	MCCLELLAN-KERR ARKANSAS RIVER NAVIGATION SYSTEM, OK	3,111,000
(FC)	OOLOGAH LAKE, OK	1,286,000
(FC)	OPTIMA LAKE, OK	484,000
(FC)	PENSACOLA RESERVOIR - LAKE OF THE CHEROKEES, OK	9,000
(FC)	PINE CREEK LAKE, OK	750,000
(MP)	ROBERT S. KERR LOCK, DAM & RESERVOIR, OK	2,349,000
(FC)	SARDIS LAKE, OK	579,000
(FC)	SKIATOOK LAKE, OK	917,000
(MP)	TENKILLER FERRY LAKE, OK	3,814,000
(FC)	WAURIKA LAKE, OK	945,000
(MP)	WEBBERS FALLS LOCK & DAM, OK	2,517,000
(FC)	WISTER LAKE, OK	573,000
	OREGON	
(FC)	APPLEGATE LAKE, OR	652,000
(FC)	BLUE RIVER LAKE, OR	133,000
(MP)	BONNEVILLE LOCK & DAM, OR	11,934,000
(N)	CHETCO RIVER, OR	430,000
(N)	COLUMBIA AND LWR WILLAMETTE RIVS BELOW VANCVR & PORT, OR & WA	11,139,000
(N)	COLUMBIA RIVER AT THE MOUTH, OR & WA	7,822,000
(N)	COLUMBIA RIVER BETWEEN VANCOUVER AND THE DALLES, OR & WA	249,000
(N)	COOS & MILLICOMA RIVERS, OR	162,000
(N)	COOS BAY, OR	3,912,000

	TYPE OF PROJECT	OPERATION AND MAINTENANCE - STATE AND PROJECT	CONFERENCE ALLOWANCE
11840	(N)	COQUILLE RIVER, OR..	6,000
11860	(FC)	COTTAGE GROVE LAKE, OR..	556,000
11880	(MP)	COUGAR LAKE, OR..	847,000
11900	(MP)	DETROIT LAKE, OR...	1,650,000
11920	(FC)	DORENA LAKE, OR..	319,000
11940	(FC)	FALL CREEK LAKE, OR..	293,000
11960	(FC)	FERN RIDGE DAM & LAKE, OR.......................................	672,000
11980	(MP)	GREEN PETER-FOSTER LAKES, OR.................................	1,896,000
12000	(MP)	HILLS CREEK LAKE, OR..	516,000
12020	(FC)	JOHN DAY LOCK AND DAM, OR & WA..............................	12,141,000
12040	(MP)	LOOKOUT POINT LAKE, OR...	2,286,000
12060	(MP)	LOST CREEK LAKE, OR..	2,329,000
12080	(MP)	MCNARY LOCK & DAM, LAKE WALLULA, OR & WA...............	9,365,000
12100	(N)	PORT ORFORD, OR..	257,000
12120	(N)	ROGUE RIVER HARBOR AT GOLD BEACH, OR......................	539,000
12140	(N)	SIUSLAW RIVER, OR...	758,000
12160	(N)	SKIPANON CHANNEL, OR...	388,000
12180	(N)	TILLAMOOK BAY & BAR, OR..	137,000
12200	(N)	UMPQUA RIVER, OR..	800,000
12220	(FC)	WILLAMETTE RIVER BASIN BANK PROTECTION, OR.............	285,000
12240	(N)	WILLAMETTE RIVER AND WILLAMETTE FALLS, OR...............	515,000
12260	(FC)	WILLOW CREEK LAKE, OR..	298,000
12270	(N)	YAQUINA NORTH JETTY, OR..	4,000,000
12280	(N)	YAQUINA BAY AND HARBOR, OR.....................................	1,001,000
12320		PENNSYLVANIA	
12360	(N)	ALLEGHENY RIVER, PA..	5,646,000
12380	(FC)	ALVIN R. BUSH DAM, PA...	392,000
12400	(FC)	AYLESWORTH CREEK LAKE, PA......................................	123,000
12420	(FC)	BELTZVILLE LAKE, PA..	547,000
12440	(FC)	BLUE MARSH LAKE, PA...	1,344,000
12460	(FC)	CONEMAUGH RIVER LAKE, PA..	819,000
12480	(FC)	COWANESQUE LAKE, PA...	863,000
12500	(FC)	CROOKED CREEK LAKE, PA...	1,149,000
12520	(FC)	CURWENSVILLE LAKE, PA..	401,000
12540	(N)	DASHIELDS L/D - MAJOR REHAB, PA................................	9,800,000
12560	(N)	DELAWARE RIVER, PHILADELPHIA TO THE SEA, PA, NJ & DE..	17,417,000
12580	(N)	ERIE HARBOR, PA...	27,000
12600	(FC)	EAST BRANCH, CLARION RIVER LAKE, PA.........................	670,000
12620	(FC)	FOSTER JOSEPH SAYERS DAM, PA..................................	448,000
12640	(FC)	FRANCIS E. WALTER DAM, PA.......................................	454,000
12660	(FC)	GENERAL EDGAR JADWIN DAM & RESERVOIR, PA................	146,000
12680	(FC)	JOHNSTOWN, PA..	593,000
12700	(FC)	KINZUA DAM AND ALLEGHENY RESERVOIR, PA & NY.............	824,000
12720	(FC)	LOYALHANNA LAKE, PA..	992,000
12740	(FC)	MAHONING CREEK LAKE, PA..	760,000
12760	(N)	OHIO RIVER OPEN CHANNEL, PA....................................	694,000
12780	(FC)	PROMPTON LAKE, PA..	288,000
12800	(FC)	PUNXSUTAWNEY, PA...	7,000
12820	(FC)	RAYSTOWN LAKE, PA..	1,869,000
12840	(N)	SCHUYLKILL RIVER, PA..	118,000
12860	(FC)	SHENANGO RIVER LAKE, PA & OH...................................	1,475,000
12880	(FC)	STILLWATER LAKE, PA...	186,000
12900	(FC)	TIOGA-HAMMOND LAKES, PA...	1,340,000
12920	(FC)	TIONESTA LAKE, PA..	1,081,000
12940	(FC)	UNION CITY LAKE, PA..	297,000
12960	(FC)	WOODCOCK CREEK LAKE, PA...	596,000
12980	(FC)	YORK, INDIAN ROCK DAM, PA..	394,000
13000	(FC)	YOUGHIOGHENY RIVER LAKE, PA & MD.............................	1,353,000
13040		PUERTO RICO	
13080	(N)	SAN JUAN HARBOR, PR...	110,000
13120		SOUTH CAROLINA	
13160	(N)	ATLANTIC INTRACOASTAL WATERWAY (CHARLESTON DISTRICT)..	3,317,000
13180	(N)	CHARLESTON HARBOR, SC..	4,861,000
13200	(N)	COOPER RIVER, CHARLESTON HARBOR, SC........................	3,186,000
13220	(N)	FOLLY RIVER, SC...	20,000
13240	(N)	GEORGETOWN HARBOR, SC...	2,914,000
13260	(N)	JEREMY CREEK, SC..	16,000
13280	(N)	LITTLE RIVER INLET, SC & NC..	133,000
13300	(N)	MURRELLS INLET, SC...	36,000
13320	(N)	PORT ROYAL HARBOR, SC...	44,000
13340	(N)	SHIPYARD RIVER, SC..	537,000
13360	(N)	TOWN CREEK, SC..	22,000

TYPE OF PROJECT	OPERATION AND MAINTENANCE - STATE AND PROJECT	CONFERENCE ALLOWANCE
13400	SOUTH DAKOTA	
13440 {MP}	BIG BEND DAM - LAKE SHARPE, SD	4,161,000
13460 {FC}	COLD BROOK LAKE, SD	152,000
13480 {FC}	COTTONWOOD SPRINGS LAKE, SD	101,000
13500 {MP}	FORT RANDALL DAM, LAKE FRANCIS CASE, SD	7,688,000
13520 {MP}	OAHE DAM, LAKE OAHE, SD & ND	8,179,000
13560	TENNESSEE	
13600 {MP}	CENTER HILL LAKE, TN	2,686,000
13620 {MP}	CHEATHAM LOCK AND DAM, TN	3,620,000
13640 {MP}	CORDELL HULL DAM AND RESERVOIR, TN	2,774,000
13660 {MP}	DALE HOLLOW LAKE, TN & KY	2,469,000
13680 {MP}	J. PERCY PRIEST DAM & RESERVOIR, TN	1,986,000
13700 {MP}	OLD HICKORY LOCK & DAM, TN	3,408,000
13720 {N}	TENNESSEE RIVER, TN, AL, & KY	12,496,000
13740 {N}	WOLF RIVER HARBOR, TN	639,000
13780	TEXAS	
13820 {FC}	AQUILLA LAKE, TX	383,000
13840 {FC}	ARKANSAS-RED RIVER BASINS CHLORIDE CONTROL {AREA 8}	686,000
13850	BARBOURS CUT SHIP CHANNEL, TX	150,000
13860 {FC}	BARDWELL LAKE, TX	705,000
13870	BAYPORT SHIP CHANNEL, TX	370,000
13880 {FC}	BELTON LAKE, TX	1,474,000
13900 {FC}	BENBROOK LAKE, TX	1,975,000
13920 {N}	BRAZOS ISLAND HARBOR, TX	680,000
13940 {FC}	BUFFALO BAYOU AND TRIBUTARIES, TX	1,155,000
13960 {FC}	CANYON LAKE, TX	1,045,000
13980 {N}	CEDAR BAYOU, TX	780,000
14000 {N}	CHANNEL TO VICTORIA - GIWW, TX	1,930,000
14020 {N}	CHOCOLATE BAYOU - GIWW, TX	1,000,000
14040 {N}	CORPUS CHRISTI SHIP CHANNEL, TX {1968 ACT}	4,540,000
14060 {MP}	DENISON DAM - LAKE TEXOMA, TX & OK	4,950,000
14080 {FC}	FERRELLS BRIDGE DAM - LAKE O' THE PINES, TX	1,906,000
14100 {N}	FREEPORT HARBOR, TX	3,000,000
14120 {N}	GALVESTON HARBOR AND CHANNEL, TX	8,820,000
14140 {FC}	GRANGER LAKE, TX	925,000
14160 {FC}	GRAPEVINE LAKE, TX	1,785,000
14170	GREENS BAYOU CHANNEL, TX	50,000
14180 {N}	GULF INTRACOASTAL WATERWAY, TX	8,034,000
14200 {FC}	HORDS CREEK LAKE, TX	602,000
14210 {N}	HOUSTON SHIP CHANNEL	6,030,000
14220 {FC}	JOE POOL LAKE, TX	293,000
14240 {FC}	LAKE KEMP, TX	152,000
14260 {FC}	LAVON LAKE, TX	1,729,000
14280 {FC}	LEWISVILLE DAM, TX	2,121,000
14300 {FC}	NAVARRO MILLS LAKE, TX	1,115,000
14320 {FC}	NORTH SAN GABRIEL DAM AND LAKE GEORGETOWN, TX	1,062,000
14340 {FC}	O. C. FISHER DAM & LAKE, TX	645,000
14360 {FC}	PAT MAYSE LAKE, TX	750,000
14380 {FC}	PROCTOR LAKE, TX	1,210,000
14400 {FC}	RAY ROBERTS LAKE, TX	260,000
14420 {N}	SABINE-NECHES WATERWAY, TX	9,171,000
14440 {MP}	SAM RAYBURN DAM AND RESERVOIR, TX	2,438,000
14460 {FC}	SOMERVILLE LAKE, TX	2,272,000
14480 {FC}	STILLHOUSE HOLLOW DAM, TX	1,358,000
14500 {MP}	TOWN BLUFF DAM AND B.A. STEINHAGEN LAKE, TX	692,000
14520 {FC}	WACO LAKE, TX	1,764,000
14540 {FC}	WALLISVILLE LAKE, TX	170,000
14560 {MP}	WHITNEY LAKE, TX	2,410,000
14580 {FC}	WRIGHT PATMAN DAM AND LAKE, TX	1,669,000
14620	VERMONT	
14660 {FC}	BALL MOUNTAIN LAKE, VT	424,000
14680 {FC}	NORTH HARTLAND LAKE, VT	348,000
14700 {FC}	NORTH SPRINGFIELD LAKE, VT	491,000
14720 {FC}	TOWNSHEND LAKE, VT	289,000
14740 {FC}	UNION VILLAGE DAM, VT	338,000
14780	VIRGINIA	
14820 {N}	ATLANTIC INTRACOASTAL WATERWAY, VA	980,000
14840 {N}	ATLANTIC INTRACOASTAL WATERWAY - DISMAL SWAMP CANAL	3,397,000
14860 {N}	CHANNEL TO NEWPORT NEWS. VA	1,019,000

	TYPE OF PROJECT	OPERATION AND MAINTENANCE - STATE AND PROJECT	CONFERENCE ALLOWANCE
14880	(N)	CHINCOTEAGUE INLET, VA.	970,000
14900	(FC)	GATHRIGHT DAM AND LAKE MOOMAW, VA.	892,000
14920	(N)	HAMPTON ROADS, NORFOLK & NEWPORT NEWS HARBOR (DRIFT	
14940		REMOVAL)	186,000
14960	(N)	JAMES RIVER, VA.	1,310,000
14980	(MP)	JOHN H. KERR DAM AND RESERVOIR, VA & NC	5,872,000
15000	(FC)	JOHN W. FLANNAGAN DAM & RESERVOIR, VA.	665,000
15020	(N)	NORFOLK HARBOR, VA.	4,349,000
15040	(N)	NORFOLK HARBOR, (PREVENTION OF OBSTRUCTIVE DEPOSITS)	274,000
15060	(FC)	NORTH FORK OF POUND LAKE, VA.	239,000
15080	(MP)	PHILPOTT LAKE, VA.	1,663,000
15100	(N)	WATERWAY ON THE COAST OF VIRGINIA, VA.	863,000
15140		WASHINGTON	
15180	(N)	ANACORTES HARBOR, WA.	178,000
15200	(N)	BELLINGHAM HARBOR, WA.	403,000
15220	(MP)	CHIEF JOSEPH DAM, WA.	6,712,000
15240	(N)	COLUMBIA RIVER AT BAKER BAY, WA & OR.	646,000
15260	(N)	COLUMBIA RIVER BETWEEN CHINOOK AND SAND ISLAND, WA.	2,000
15280	(N)	EDIZ HOOK, WA.	31,000
15300	(N)	EVERETT HARBOR AND SNOHOMISH RIVER, WA.	826,000
15320	(N)	GRAYS HARBOR & CHEHALIS RIVER, WA.	4,820,000
15340	(FC)	HOWARD A. HANSON RESERVOIR, WA.	647,000
15360	(MP)	ICE HARBOR LOCK AND DAM, WA.	4,791,000
15380	(N)	LAKE WASHINGTON SHIP CANAL, WA.	3,551,000
15400	(MP)	LITTLE GOOSE LOCK & DAM, LAKE BRYAN, WA.	4,384,000
15420	(MP)	LOWER GRANITE LOCK AND DAM, WA & ID.	10,233,000
15440	(MP)	LOWER MONUMENTAL LOCK AND DAM, WA.	5,140,000
15460	(FC)	MILL CREEK LAKE, WA.	448,000
15480	(FC)	MUD MOUNTAIN DAM, WA.	10,199,000
15500	(N)	PUGET SOUND AND ITS TRIBUTARY WATERS, WA.	610,000
15520	(N)	SEATTLE HARBOR, WA.	634,000
15540	(FC)	STILLAGUAMISH RIVER, WA.	90,000
15560	(N)	SWINOMISH CHANNEL, WA.	92,000
15580	(FC)	TACOMA - PUYALLUP RIVER, WA.	30,000
15600	(MP)	THE DALLES LOCK AND DAM, LAKE CELILO, WA & OR.	6,954,000
15620	(FC)	WYNOOCHEE LAKE, WA.	1,456,000
15660		WEST VIRGINIA	
15700	(FC)	BEECH FORK LAKE, WV.	560,000
15720	(FC)	BLUESTONE LAKE, WV.	736,000
15740	(FC)	BURNSVILLE LAKE, WV.	888,000
15760	(FC)	EAST LYNN LAKE, WV.	821,000
15780	(N)	ELK RIVER HARBOR, WV.	275,000
15800	(FC)	ELKINS, WV.	7,000
15820	(N)	KANAWHA RIVER, WV.	8,220,000
15840	(N)	MONONGAHELA RIVER, WV, MD & PA.	8,524,000
15860	(N)	OHIO RIVER LOCKS AND DAMS HUNTINGTON, WV.	11,625,000
15880	(N)	OHIO RIVER OPEN CHANNEL WORK HUNTINGTON, WV.	1,503,000
15900	(FC)	R. D. BAILEY LAKE, WV.	1,064,000
15920	(FC)	STONEWALL JACKSON LAKE, WV.	485,000
15940	(FC)	SUMMERSVILLE LAKE, WV.	1,057,000
15960	(FC)	SUTTON LAKE, WV.	1,183,000
15980	(N)	TYGART RIVER LAKE, WV.	881,000
16020		WISCONSIN	
16060	(FC)	EAU GALLE RIVER, WI.	610,000
16080	(N)	FOX RIVER, WI.	845,000
16100	(N)	GREEN BAY HARBOR, WI (DIKED DISPOSAL)	5,400,000
16120	(N)	GREEN BAY HARBOR, WI.	1,567,000
16140	(N)	KENOSHA HARBOR, WI.	146,000
16160	(N)	KEWAUNEE HARBOR, WI.	907,000
16180	(FC)	LAFARGE LAKE, WI.	38,000
16200	(N)	MANITOWOC HARBOR, WI.	1,180,000
16220	(N)	MILWAUKEE HARBOR, WI.	3,248,000
16240	(N)	SHEBOYGAN HARBOR, WI.	265,000
16260	(N)	STURGEON BAY AND LAKE MICHIGAN SHIP CANAL, WI.	741,000
16300		MISCELLANEOUS	
16340		DREDGING RESEARCH PROGRAM (DRP)	3,000,000
16360		INSPECTION OF COMPLETED WORKS	5,112,000
16380		INSPECTION OF NON-FEDERAL LEVEES	1,199,000
16400		SCHEDULING FOR FLOOD CONTROL RESERVOIR OPERATIONS	2,119,000
16420		MONITOR COMPLETED COASTAL PROJECTS	1,500,000
16440		RIVER ICE MANAGEMENT	1,150,000

TYPE OF PROJECT	OPERATION AND MAINTENANCE - STATE AND PROJECT	CONFERENCE ALLOWANCE
	REPAIR, EVALUATION, MAINTENANCE AND REHABILITATION RESEARCH (REMR)........................	6,835,000
	PROTECTION OF NAVIGATION	
	REMOVAL OF SUNKEN VESSELS AND OBSTRUCTIONS...........	1,000,000
	PROTECTION, CLEARING AND STRAIGHTENING CHANNELS (SEC. 33)...	50,000
	PROJECT CONDITION SURVEYS..................................	8,223,000
	SURVEILLANCE OF NORTHERN BOUNDARY WATERS.............	2,310,000
	COMMERCIAL STATISTICS.......................................	3,470,000
	NATIONAL EMERGENCY PREPAREDNESS PROGRAMS.............	8,000,000
	REDUCTION FOR ANTICIPATED SAVINGS AND SLIPPAGE........	-43,023,000
	TOTAL, OPERATION AND MAINTENANCE.................	1,400,000,000

TYPE OF PROJECT:
(N) NAVIGATION
(FC) FLOOD CONTROL
(BE) BEACH EROSION CONTROL
(MP) MULTIPLE-PURPOSE, INCLUDING POWER

1/ SEE NEW APPROPRIATION ACCOUNT -- "GENERAL REGULATORY FUNCTIONS".

TITLE II—DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

The summary tables at the end of this section set forth the conference agreement with respect to individual appropriations, programs and activities of the Bureau of Reclamation. Additional items of conference agreement are discussed below.

GENERAL INVESTIGATIONS

Appropriates $16,590,000 for general investigations instead of $17,795,000 as proposed by the House and $16,945,000 as proposed by the Senate.

The conference agreement includes $195,000 under Program Related Engineering and Scientific Studies for the El Paso Solar Pond project.

CONSTRUCTION PROGRAM

Appropriates $703,716,000 for construction program instead of $704,233,000 as proposed by the House and $699,038,000 as proposed by the Senate.

Provides that $143,143,000 shall be available for transfers to the Upper Colorado River Basin Fund as proposed by the Senate instead of $146,298,000 as proposed by the House.

Inserts language proposed by the Senate providing that unobligated balances of the Teton Dam Failure Payment of Claims funds shall be available for use on projects under the Construction Program.

Deletes language proposed by the Senate providing for continuing the cleanup and related activities of the Kesterson Reservoir in California. Funds have been included under the San Luis Unit for this purpose.

The conferees recognize the urgent need to proceed with cleanup activities at the Kesterson Reservoir. However, the funding of these activities may adversely affect other critical Reclamation projects. To the extent possible, the conferees direct the Bureau to minimize any adverse impacts to planned salinity control activities along the Colorado River when funding the Kesterson cleanup.

The conferees expect the Bureau to complete a safety of dams modification report for Coolidge Dam in FY 1988. Within available funds, $560,000 has been included to complete this work in FY 1988.

Inserts language proposed by the Senate relating to the Cliff Dam feature of the Central Arizona Project; the James River Comprehensive Report; and language providing that funds expended under this Act for conserving endangered fish species of the Colorado River system be charged against increased amounts authorized to be appropriated under the Colorado River Storage Project Act.

The conferees have recommended $33 million for the Garrison Diversion Unit. Within the funds provided, the conferees direct that $2 million be made available for studies of water development and irrigation feasibility at the Standing Rock Sioux and Fort Berthold Reservations, and $8.5 million be made available for fish and wildlife activities, including mitigation, Kraft Slough acquisition, Lonetree Wildlife Management Area, and the North Dakota Wetlands Trust, to remain available until expended. The conferees further direct that with its fiscal year 1989 budget request, the Bureau shall submit a report, after consultation with the Fish and Wildlife Service, on the amount of funding required to bring mitigation to a level concurrent with project construction by the end of fiscal year 1989. The conferees further direct the Bureau to conform its siting of the Sykeston Canal to the requirements of the Garrison Diversion Unit Reformulation Act of 1986 and United States' obligations under the Boundary Waters Treaty of 1909.

Deletes language proposed by the Senate providing $1,000,000 of available funds for the Davis Creek Dam, North Loup division, Nebraska. Funds for this purpose are provided as part of the Construction Program.

The conference agreement includes $4,000,000 for the Suisun Marsh Protection project as part of Miscellaneous Project Programs of the Central Valley Project.

The conference agreement includes $1,000,000 to initiate work on the Endangered Fish Recovery Program in the Upper Colorado River Basin.

OPERATION AND MAINTENANCE

Appropriates $151,000,000 for Operation and Maintenance instead of $154,797,000 as proposed by the House and $154,297,000 as proposed by the Senate. The conferees agree with the House Report language regarding operation and maintenance of the Central Valley Project.

LOAN PROGRAM

Appropriates $32,309,000 for the loan program instead of $41,574,000 as proposed by the House and $29,809,000 as proposed by the Senate.

Provides a limitation of $31,972,000 on direct loans instead of $40,237,000 as proposed by the House and $28,472,000 as proposed by the Senate.

Deletes language proposed by the Senate relating to the Hidalgo County Irrigation District No. 1, Texas, supplemental loan.

GENERAL ADMINISTRATIVE EXPENSES

Appropriates $51,690,000 for general administrative expenses instead of $53,290,000 as proposed by the House and $53,690,000 as proposed by the Senate.

The conference agreement includes up to $400,000 to support the 16th Congress on Large Dams.

GENERAL PROVISIONS

Restores language proposed by the House and stricken by the Senate relating to the Farwell Irrigation District, Nebraska.

Deletes language proposed by the House and stricken by the Senate amending the Reclamation Reform Act.

Inserts language proposed by the Senate providing that not more than $18,500,000 of the total funds appropriated for the Central Utah project in any one fiscal year may be expended for all administrative expenses.

Deletes language proposed by the Senate increasing the authorized cost of the Oroville-Tonasket Unit, Chief Joseph Dam project, Washington.

Inserts language proposed by the Senate directing the Secretary of the Interior to conduct soil classification studies required in connection with the Hilltop Irrigation District.

Inserts language proposed by the Senate relating to a contract between the City of Dickinson, North Dakota, and the Secretary of the Interior.

Inserts language proposed by the Senate relating to a contract between the City of Minot, North Dakota, and the Bureau of Reclamation.

Inserts language proposed by the House and stricken by the Senate in Amendment No. 27 regarding the McGee Creek, Oklahoma, project.

The resolution includes language prohibiting the Bureau of Reclamation from declaring the McGee Creek Project complete until construction of all authorized components of the project are completed, including access roads and recreation areas. The Bureau is also prohibited from transferring title of the project to any other entity or requiring repayment of the project or permitting refinancing of the project until the project is completed under the above terms. In addition, the Committee directs the Bureau to specify in any decision or agreement that is made concerning transfer of responsibility for the McGee Creek project from the Bureau to another entity that one of the conditions of transfer is that the project must always be operated and maintained by the Bureau of another entity in a manner that would permit full usage of the project conducive with all of the project's authorized purposes, including recreation.

Inserts language proposed by the House and stricken by the Senate in Amendment No. 26 amended relating to the Bureau of Reclamation reorganization.

The conference agreement limits the transfer of the headquarters of the Bureau of Reclamation from Washington, DC, to Denver, Colorado, by requiring the Commissioner of the Bureau of Reclamation, the Assistant Commissioner for Administration, and a minimum of sixty professional staff to remain in Washington. The professional staff shall be experienced in the areas of Budget, Foreign Activities, Contracts and Repayment, Resource Development and Management, Construction, and Congressional and Public Affairs. The Bureau is expected to maintain sufficient administrative support personnel to augment the professional staff. In order to insure that Congress remains adequately informed of the progress of the Bureau's reorganization initiatives, quarterly reports will be submitted to the appropriate committees of the House and Senate. These reports shall include any additional steps that could be taken to further reduce overhead and duplication. The conferees expect that further plans for the Washington Office reorganization beyond those permitted by this legislation will be approved by Congress. The committee of conference directs the Bureau of Reclamation to keep the Amarillo Regional Office open until at least September 30, 1988. The conferees note that this guidance is consistent with the intent of the Bureau, as reported to the Committees on Appropriations.

	PROJECT TITLE	CONFERENCE ALLOWANCE
150	GENERAL INVESTIGATIONS	
250	ARIZONA	
350	PIMA COUNTY/SANTA CRUZ RIVER GROUNDWATER	300,000
450	CALIFORNIA	
520	ALL-AMERICAN CANAL RELOCATION	500,000
550	CENTRAL VALLEY PROJECT:	
600	KELLOGG UNIT REFORMULATION	75,000
650	DELTA SUPPORT STUDIES	583,000
700	OFFSTREAM STORAGE	363,000
750	REFUGE WATER SUPPLY	25,000
800	DELTA WATER MANAGEMENT	565,000
850	SAN JOAQUIN VALLEY CONVEYANCE STUDY {CVP}	450,000
950	COLORADO	
1050	HIGH MOUNTAIN AQUIFER STUDY	170,000
1100	PROGRAM RELATED ENGINEERING AND SCIENTIFIC STUDIES	3,735,000
1200	IDAHO	
1300	OAKLEY FAN GROUNDWATER & RECHARGE INVESTIGATION	75,000
1350	MINIDOKA PROJECT,NORTH SIDE PUMPING DIVISION EXTEN	75,000
1450	KANSAS	
1550	KANSAS RIVER BASIN WATER OPERATIONS STUDY	200,000
1650	MONTANA	
1750	MILK RIVER WATER SUPPLY UNIT {P-SMBP}	70,000
1850	NEBRASKA	
1950	LOUP RIVER BASIN	200,000
2000	PRAIRIE BEND UNIT {P-SMBP}	500,000
2050	SOUTH PLATTE-FRENCHMAN PROJECT	200,000
2150	OKLAHOMA	
2250	EAST CENTRAL OKLAHOMA WATER SUPPLY STUDY	250,000
2300	KIAMICHI HYDROPOWER STUDY	100,000
2350	NORTHWEST OKLAHOMA WATER SUPPLY STUDY	300,000
2400	SOUTHEAST OKLAHOMA WATER SUPPLY STUDY	350,000
2500	OREGON	
2600	NO. DOUGLAS CO. COOP.WATER RESOURCES STUDY	120,000
2650	UMATILLA BASIN	365,000
2750	TEXAS	
2850	SAN JACINTO RIVER PROJECT	200,000
2900	TEXAS BASIN, BEDIAS PROJECT	600,000
3000	UTAH	
3100	WASATCH FRONT TOTAL WATER MANAGEMENT	125,000
3200	WASHINGTON	
3300	YAKIMA RIVER BASIN WATER ENHANCEMENT	710,000
3400	WYOMING	
3500	SEMINOLE DAM MODIFICATION	90,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	FY 1987 enacted	FY 1988 estimates	House	Senate	Conference
Other	87,689,000	634,311,000	619,689,000	611,089,000	611,089,000
Total, Military Assistance Programs	5,091,130,284	6,384,261,000	5,223,333,830	5,458,839,000	5,360,839,000
Title IV—Export Assistance					
Budget authority effect of Ex-Im limitations	680,000,000	1,000,000,000	690,000,000	690,000,000	690,000,000
Other	20,000,000	20,000,000	25,000,000	13,000,000	13,000,000
Total, export assistance	700,000,000	1,020,000,000	715,000,000	703,000,000	703,000,000
Total NBOA (including Ex-Im)	13,887,259,197	15,794,612,412	13,197,479,404	13,587,504,237	13,598,746,741
Assistance for Nicaraguan Democratic Resistance		105,000,000			
Total, Budget authority (including Ex-Im & NDR)	13,887,259,197	15,899,612,412	13,197,479,404	13,587,504,237	13,598,746,741

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

The following table shows the conference agreement for Title I, Multilateral Economic Assistance:

	FY 1987 enacted	FY 1988 estimated	House	Senate	Conference
TITLE I—MULTILATERAL ECONOMIC ASSISTANCE					
FUNDS APPROPRIATED TO THE PRESIDENT					
International Financial Institutions					
Contribution to the International Bank for Reconstruction and Development: Paid-in capital	$55,805,000	$204,909,039	$36,794,050	$40,176,393	$40,176,393
Contribution to the International Development Association (IDA VI)	830,100,000	958,333,334	830,100,000	845,000,000	915,000,000
Contribution to the International Finance Corporation	7,205,610	35,032,000	962,000	35,032,000	20,300,000
Contribution to the Special Facility for Sub-Saharan Africa	64,805,000		86,420,00		
Contribution to Multilateral Investment Guarantee Agency: 1/Paid-in capital		44,403,116		44,403,116	44,403,116
Contribution to the Inter-American Development Bank:					
Fund for special operations	17,263,000	110,097,000	75,493,000	25,732,371	25,732,371
Inter-regional paid-in capital	16,417,000	121,098,332	63,217,983	25,007,496	31,600,000
Inter-American Investment Corporation		26,803,000		1,303,000	1,303,000
Contribution to the Asian Development Bank:					
Paid-in capital	13,232,676	15,057,220	9,925,000	15,057,220	15,057,220
Development fund	91,406,000	218,964,000	14,646,000	28,000,000	28,000,000
Contribution to the African Development Fund	90,427,000	75,000,000	75,000,000	75,000,000	75,000,000
Contribution to the African Development Bank: Paid-in capital	20,480,127	8,999,371	8,999,371	8,999,371	8,999,371
Total, contribution to International Financial Institutions	1,207,141,413	1,818,696,412	1,203,557,404	1,143,710,967	1,205,571,471
Department of State					
International organizations and programs	237,264,000	194,000,000	232,961,900	238,380,000	244,648,000
Total, title I, contribution for Multilateral Assistance	1,444,405,413	2,012,696,412	1,436,519,304	1,382,090,967	1,450,219,471

[1] Authorized in Trade Bill

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

INTER-AMERICAN DEVELOPMENT BANK

The conferees agree with the Administration that the IDB should play a major role in helping Latin American countries with their debt problems. Clearly, that will not be possible if the IDB continues to resist necessary changes and improvements in the Bank's operations, procedures, and organization. The conferees therefore urge early action by the Bank on these matters.

The conferees have agreed to the Senate proposed Merger of Inter-Regional and Ordinary Capital Resources.

SPECIAL FACILITY FOR SUB-SAHARAN AFRICA

Two years ago Congress authorized the United States to participate in the Special Facility for Sub-Saharan Africa. It did so because the pressing economic problems faced by countries in that region were not being adequately addressed, due in large part to a reduction in resources available under the seventh replenishment of the International Development Association.

Donors to the Facility recognized from the beginning that its mission was a temporary and limited one. The Facility is now in the final stages of completing its work. The conferees are pleased with the accomplishments of the Facility. They are also grateful that its important work will continue and intensify during the eighth replenishment of the International Development Association as a result of increased resources available under that replenishment.

For these reasons, no funding is included in this bill for a further U.S. contribution to the Special Facility. The conferees regret the necessity of this decision. However, they concluded that it is vitally important to get the eighth replenishment of the International Development Association off to a good start. That conclusion is reflected in this bill.

MULTILATERAL INVESTMENT GUARANTEE AGENCY (MIGA)

The conferees are concerned that the Convention establishing the Multilateral Investment Guarantee Agency does not contain explicit provisions that would forbid the issuance of guarantees in respect to any proposed investment that would:

be in any country that has not taken or is not taking steps to afford internationally recognized workers' rights to workers in that country;

be subject to trade-distorting performance requirements imposed by the host country that are likely to result in a significant net reduction in employment in the United States or other member countries, or other trade benefits likely to accrue to the United States or other member countries from the investment; or

increase a country's productive capacity in an industry already facing excess worldwide capacity for the same, similar or competing product, and cause substantial injury to producers of such product in another member country.

Consequently, while appropriating funds for MIGA, the conferees have agreed to forbid the payment of those funds until April 30, 1988. It is the expectation of the conferees that the United States will work vigorously and continuously prior to that date to persuade other member countries to encourage the Board to adopt such policies and procedures. Funds may be paid to MIGA on or after April 30, 1988, only if the Secretary of the Treasury certifies and reports to the Congress that the United States Director has done so; that those policies and procedures, or substantially similar policies and procedures, have been adopted; or that the United States will continue working to encourage the adoption of such policies and procedures, and that the failure to make the payment will inhibit that effort.

The conferees encourage the Department of the Treasury to actively involve the United States labor movement in this effort. It is our belief that the U.S. labor organizations, working in conjunction with labor organizations in other nations, can help persuade other members of the Board to adopt these necessary policies.

The conferees direct the Treasury Department to submit a report in conjunction with any certification made by the Secretary detailing the steps that have been taken to persuade the Board to adopt such policies, and what progress has been made in that effort.

In addition, as part of any evaluation conducted under section 406 of H.R. 3750, as enacted, the conferees expect the Treasury Department to report on the extent to which United States investments guaranteed by MIGA have:

reduced the number of employees investors employ in the United States because such investment is intended to replace current U.S. production;

resulted in production of goods for export to the United States that are likely to be in direct competition with similar or competing goods produced in the United States;

resulted in the production of goods for export to third countries, and whether such goods are likely to compete directly with United States exports to such countries;

been made in countries that impose trade distorting performance requirements that are likely to result in a significant net reduction in employment in the United States or other trade benefits likely to accrue to the United States;

been made in countries that have failed to take steps to extend internationally recognized workers rights, as defined by title V of the Trade Act of 1974, to workers in such countries.

It is the intent of the Committees on Appropriations to request independent audits of such reports by the General Accounting Office.

ASIAN DEVELOPMENT BANK

The conferees agree to delete the House provision on Taiwan/the Republic of China. The conferees agree to the Senate general provision on this subject.

AUTHORIZATION OF APPROPRIATIONS

The conferees have included a provision enacting H.R. 3750 as introduced.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

The following table shows the conference agreement for the International Organizations and Programs account:

Conference Agreement

[Dollars in thousands]

Organization	
UN Dev. Program (UNDP)	$110,000
UN Children's Fund (UNICEF)	54,400
World Food Program	980
UN Capital Development Fund	980
UN Decade for Women	220
Int. Convention & Scientific Organization Contributions	2,000
World Meteorological Organization Voluntary Cooperation	1,960
Int. Atomic Energy Agency	$21,854
UN Environment Program	7,840
UN Education & Training Program for South Africa	784
UN Institute for Namibia	110
UN Trust Fund for South Africa	245
Convention on International Trade in Endangered Species	170
UNIDO Investment Promotion Service	150
UN Fellowship Program	245
World Heritage Fund	220
UN Voluntary Fund for Victims of Torture	90
Center on Human Settlements	400
Int. Fund for Agricultural Development	30,000
IFAD Special Program for Africa	(10,000)
Organization of American States	12,000
Total	$244,648

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

The following table shows the conference agreement for Title II, Bilateral Economic Assistance:

	FY 1987 enacted	FY 1988 estimates	House	Senate	Conferences
TITLE II—BILATERAL ECONOMIC ASSISTANCE FUNDS APPROPRIATED TO THE PRESIDENT					
Agency for International Development					
Agriculture rural development and nutrition Development Assistance	$498,200,000	$471,000,000	$663,000,000	$488,715,000	$488,715,000
African portion	178,400,000	(151,100,000)	(198,000,000)		
Subtotal	676,600,000	471,000,000	663,000,000	488,715,000	488,715,000
Population, Development Assistance	215,300,000	207,500,000	230,000,000	197,940,000	197,940,000
African portion	20,200,000	(23,975,000)	(75,000,000)		
Subtotal	235,500,000	207,500,000	230,000,000	197,940,000	197,940,000
Health, Development Assistance	139,500,000	120,100,000	168,000,000	118,272,000	119,000,000
African portion	32,900,000	(23,649,000)	(49,000,000)		
Subtotal	172,400,000	120,100,000	168,000,000	118,272,000	119,000,000
AIDS Prevention and Control Fund			30,000,000	30,000,000	30,000,000
Child Survival Fund	60,500,000	61,000,000	80,000,000	61,613,000	66,000,000
African portion	14,500,000	(7,390,000)	(14,000,000)		
Subtotal	75,000,000	61,000,000	80,000,000	61,613,000	66,000,000
Education and human resources development, Development Assistance	123,800,000	123,650,000	165,000,000	115,751,000	117,000,000
African portion	44,600,000	(59,508,000)	(48,000,000)		
Subtotal	168,400,000	123,650,000	165,000,000	115,751,000	117,000,000
Private sector, Environment and Energy Development Assistance	123,529,000	148,038,000	189,000,000	120,709,000	120,709,000
African portion	69,800,000	(163,877,000)	(66,000,000)		
Subtotal	193,329,000	148,038,000	189,000,000	120,709,000	120,709,000
Science and technology, Development Assistance	9,661,500	14,662,000	9,468,270	7,662,270	8,662,270
Private sector revolving fund		12,000,000			
(By transfer)	(13,000,000)	(12,000,000)	(12,000,000)	(4,000,000)	(9,000,000)
Reappropriation (deobligation/reobligation) authority		12,500,000	12,500,000	12,500,000	12,500,000
Subtotal, functional development assistance	1,530,890,500	1,170,450,000	1,546,968,270	1,153,162,270	1,160,526,270
Sahel development program [1]	(70,000,000)	(70,500,000)			
Sub-Saharan Africa, Development Assistance	(373,500,000)	500,000,000	(450,000,000)	500,000,000	500,000,000
Southern Africa Development Assistance	13,100,000		(50,000,000)	30,000,000	50,000,000
Total, functional development assistance	1,543,990,500	1,670,450,000	1,546,968,270	1,683,162,270	1,710,526,270
American schools and hospitals abroad	35,000,000	10,800,000	34,300,000	40,000,000	40,000,000
International disaster assistance	70,000,000	25,000,000	25,000,000	25,000,000	25,000,000
Payment to the Foreign Service Retirement and Disability Fund	45,492,000	35,132,000	35,132,000	35,132,000	35,132,000
AID deobligate/reobligate reappropriation (indefinite) [2]	100,000,000				
Operating expenses of the Agency for International Development	340,600,000	426,810,000	406,000,000	406,000,000	406,000,000
Operating expenses of the Agency for International Development Office of the Inspector General	21,000,000	22,687,000	21,580,000	23,970,000	23,970,000
Housing and other credit guaranty programs: (Limitation on guaranteed loans)	(145,464,000)	(100,000,000)	(125,000,000)	(125,000,000)	(125,000,000)
Guarantee reserve, idenfinite borrowing authority		22,000,000	22,000,000	22,000,000	22,000,000
Subtotal, Agency for International Development	2,156,082,500	2,212,879,000	2,090,980,270	2,235,264,270	2,262,628,270
Economic support fund	3,851,000,000	3,580,500,000	3,128,906,000	3,188,320,000	3,188,320,000
African portion	(162,804,000)	(100,000,000)			
Reappropriation (deobligation/reobligation) authority		12,500,000	12,500,000	12,500,000	12,500,000
Subtotal, Economic support fund	3,851,000,000	3,593,000,000	3,141,406,000	3,200,820,000	3,200,820,000

	FY 1987 enacted	FY 1988 estimates	House	Senate	Conferences
Total, Agency for International Development	6,007,082,500	5,805,879,000	5,232,386,270	5,436,084,270	5,463,448,270
African Development Foundation					
Appropriations	6,500,000	6,754,000	7,000,000	7,000,000	7,000,000
Inter-American Foundation					
Appropriations	11,800,000	11,300,000	13,000,000	13,000,000	13,000,000
Overseas Private Investment Corporation					
(Limitation on direct loans)	(23,000,000)	(15,000,000)	(17,250,000)	(23,000,000)	(23,000,000)
(Limitation on guaranteed loans)	(200,000,000)	(150,000,000)	(175,000,000)	(200,000,000)	(200,000,000)
(Limitation)	(12,400,000)	(10,600,000)			
Total, Funds Appropriated to the President	6,025,382,500	5,823,933,000	5,252,386,270	5,456,084,270	5,483,448,270
Independent Agency					
Peace Corps	137,200,000	130,682,000	142,200,000	146,200,000	146,200,000
Department of State					
International narcotics control	118,445,000	98,750,000	98,750,000	85,000,000	98,750,000
Migration and refugee assistance	346,856,000	314,450,000	319,450,000	346,450,000	346,450,000
United States Emergency Refugee and Migration Assistance Fund	14,000,000				
Anti-terrorism assistance	9,840,000	9,840,000	9,840,000	9,840,000	9,840,000
Total, Department of State	489,141,000	423,040,000	428,040,000	441,290,000	455,040,000
Total, Bilateral Economic Assistance	6,651,500	6,377,655,000	5,822,626,270	6,043,574,270	6,084,688,270

[1] Funds were specifically appropriated for the Sahel program and have been distributed into the Africa portion of the functional accounts.

[2] Reappropriation amount is estimated.

Development fund for FY 1987 reflects the total of African portion and Non-project assistance. Authorization allows an additional 8100 in from other locations in their bill without increasing the total.

Ruth allows use of project funds up to $480 M plus supp ($9 M).

AGENCY FOR INTERNATIONAL DEVELOPMENT

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION

DEVELOPMENT ASSISTANCE

NORTH AMERICAN WATERFOWL

The conferees agree to the Senate provision earmarking $2,000,000 to support the North American Waterfowl Plan. Funding for this program is to be derived from sources within the Agriculture account, however, no funding is to be taken from the biological diversity program.

APPROPRIATE TECHNOLOGY INTERNATIONAL

The conferees agree with the Senate report language stating that the Agency for International Development should provide at least $4,200,000 in funding for Appropriate Technology International.

MEDITERRANEAN FRUIT FLY

The conferees are deeply concerned about the use of large amounts of the pesticides Malathion and Ethylene Dibromide (EDB) for the eradication of the Mediterranean fruit fly. Malathion is a broad spectrum pesticide known to be harmful to many beneficial insects, fish and shellfish of commercial importance, and EDB is a known human carcinogen which has been banned for use in the United States.

The conferees are also deeply concerned about the threat posed to the domestic fruit industry by the Mediterranean fruit fly. In conjunction with the Animal and Plant Health Inspection Service (APHIS), AID is currently engaged in a Medfly eradication project, MOSCAMED, which involves the extension into southern Guatemala of an existing pest-free barrier along the Mexican-Guatemalan border. A second AID-APHIS project, the Central American Medfly Eradication Program (CAPMED), would build upon MOSCAMED and extend this eradication program throughout Central America, creating a pest-free barrier at the Darien Gap in Panama. Both projects involve potentially hazardous chemical pesticides.

Recognizing the possible adverse environmental consequences of pesticide use in expanding the barrier, and also recognizing the potential tremendous harm to U.S. industry should the Medfly infestation spread to the United States, the conferees urge AID to begin and expeditiously complete its planned environmental assessment of the underlying MOSCAMED project. The conferees also direct AID to report the assessment's findings to the appropriate Committees of Congress for their review. Based upon this assessment and completion of congressional consultations and review, AID is directed to carry out an environmental assessment of a more expansive program which does not utilize hazardous pesticides.

HEALTH, DEVELOPMENT ASSISTANCE

TREATMENT AND CONTROL OF RIVER BLINDNESS

The conferees agree that the Agency for International Development should use $4,000,000 in Health, Development Assistance funds for distribution, transportation, field testing and field research on ivermectin, a new drug developed for the treatment of river blindness (onchocerciasis).

INTERNATIONAL AIDS PREVENTION AND CONTROL

The conferees agree to provide $30,000,000 in a new account for the International AIDS Prevention and Control program. Of this amount $15,000,000 is to be made available to the World Health Organization (WHO) for it special program on AIDS.

EDUCATION AND HUMAN RESOURCES DEVELOPMENT

DEVELOPMENT ASSISTANCE

The conferees agree to the Senate earmark of $42,000,000 for basic primary and secondary education.

CENTER FOR INTER-AMERICAN LEADERSHIP

The conferees agree to the Senate earmark of $1,250,000 for the Center for Inter-American Leadership.

INTERNATIONAL STUDENT EXCHANGE

The conferees agree to the Senate earmark of $10,000,000 for the International Student Exchange Program.

PRIVATE SECTOR, ENVIRONMENT AND ENERGY, DEVELOPMENT ASSISTANCE

MICRO-ENTERPRISE DEVELOPMENT

The conference agreement earmarks $50 million from the funds appropriated by this Act to carry out part I and chapter 4 of part II of the Foreign Assistance Act of 1961, or local currency which may accrue as a result of assistance provided under this act and under the Agricultural Trade Development and Assistance Act of 1954, for the Micro-Enterprise Lending for the Poor Program to promote micro-enterprises in developing countries through provision of credit and other assistance as necessary.

The conferees urge the Administrator of the Agency for International Development to target up to 80 percent of the loans in this program to individuals in the poorest 50 percent of the population in most A.I.D. assisted developing countries, with special emphasis on businesses owned by women and those owned and operated by the poorest 20 percent of the population. The conferees recommend that loan size not exceed $300 unless there are indications that this loan size limit should be exceeded to accomplish the objectives of this program.

The Administrator shall appoint an advisory committee composed of individuals from nongovernmental organizations who have experience in implementation of micro-enterprise credit projects in developing countries to assist the Administrator in developing the guidelines for this program. The conferees expect the Administrator to report to the Committees on Appropriations on the Agency's plans and proposals for implementation of this program no later than March 31, 1988.

SUB-SAHARAN AFRICA, DEVELOPMENT ASSISTANCE

The conferees agree to provide $500,000,000 in direct appropriations for Sub-Saharan Africa, Development Assistance. The House had provided $450,000,000 in transfers for this account.

The first twenty-five years of independence has seen little real improvement in the quality of life for the vast majority of Africa's people. Indeed, of all the regions of the world, the economic performance of Sub-Saharan Africa has brought the least in terms of economic results over this period of time. The causes for Africa's poor economic performance are varied. Any listing of those causes would have to include the pursuit of inappropriate economic policies, often exacerbated by donors and adverse developments in the world economy over which African nations have little control; rapid population growth; recurring natural disasters and the resulting erosion of the natural resource base; resource constraints that have inhibited the full development of human resources; conflict and instability; and the legacies of colonialism.

The need for a process of long-term development in Sub-Saharan Africa that is equitable, participatory, environmentally sustainable, and self-reliant remains compelling. To achieve these objectives, the conferees are in agreement that there must be fundamental changes in U.S. assistance programs for Africa. Two types of changes seem especially urgent:

1. First, there must be an assured and stable source of funding for Africa. To achieve this objective, the conferees agree to establish a separate funding account for Africa.

2. Second, there must be authority to implement programs in Africa in a more flexible fashion. To achieve this objective, the conferees agree that these funds may be used for any economic development assistance activities under the Foreign Assistance Act of 1961. The language of the bill specifically refers to "critical sector priorities." In addition, the conferees have provided greater flexibility in the procurement of goods and services with these funds.

In addition, two other points need to be reemphasized:

1. First, the role of voluntary agencies and international organizations should be emphasized. Thus, in programming funds for Africa, the conferees expect AID to consult on a regular basis with African and American private voluntary organizations that have demonstrated their effectiveness in helping to address the development problems of Africa at the community level, and to involve these and other international organizations in U.S. programs, projects and activities to the extent appropriate. In addition, emphasis should be placed on programs, projects and activities that help the poor majority of Africans in addressing their own problems.

2. Second, there is a continuing need for better international cooperation and coordination of African aid programs generally. While this issue is not addressed directly in our recommendations, the conferees encourage AID to coordinate its programs closely with those of the Multilateral Development Banks, United Nations agencies, other government donors, and private voluntary organizations.

Because of the expanded flexibility accorded in the use of these funds, the conferees wish to emphasize a number of points. We believe assistance for Sub-Saharan Africa should focus on certain critical sectoral priorities, including: environmentally sustainable agricultural production, with special attention to the role of women; health; voluntary family planning; education; public administration and finance; and income and employment generation. Assistance under this heading should be provided in the form of direct interventions to enhance human welfare as well as indirectly through sectoral support designed to alleviate specific policy, institutional, or resource constraints in a recipient country's economy. It is expected that these approaches would be integrated into a single country strategy whose different components complement one another and where the potential short-term adverse affects of a change in policy are appropriately taken into account.

The conferees do not earmark funds for particular uses. However, since most of these funds will be used for projects that primarily address long-term constraints to development, it is the conferees' expectation that AID will allocate at least the equivalent of 10 percent of the funds appropriated by this provision for Sub-Saharan Africa for the following activities: (1) maintenance of the natural resource base, including agricultural activities which directly support this purpose, (2) improvements in health conditions, with special emphasis on the needs and education of mothers and children, and (3) voluntary family planning. The conferees encourage AID to use resources available from this funding as well as its centrally funded programs to achieve these levels.

The conferees also recognize that effective long-term development requires the support and development of indigenous institutions, especially agricultural education institutions, to train and educate Africans to address their own problems. In using amounts appropriated for Sub-Saharan Africa, the conferees expect AID, in consultation with the Board for Food and Agricultural Development, to support programs that would strengthen and develop such educational institutions.

African governments themselves have recognized that one major cause for poverty in Africa has been the adoption of inappropriate economic policies. Thus, the conferees agree that up to 20 percent of the funds available under this heading may be used for non-project assistance to support sectoral policy reform programs. In addition, if, during the consultative process with the Committees on Appropriations, the Agency for International Development justifies a requirement for using up to an additional 10 percent of the funds made available under this heading for non-project assistance in support of sectoral policy reform programs, the Committees on Appropriations will look favorably on such justifications.

Assistance for the Sahel will be funded under this heading. The conferees agree that there are continuing needs in the Sahel, and encourage AID to address those needs within the funding recommended in this bill.

It is the intent of the conferees that provisions of law that make specific reference to the development sections of the Foreign Assistance Act shall apply to these funds also. Thus, for example, provisions of law that make reference to any one or all of sections 103 through 106 and section 121 of the Foreign Assistance Act will apply to funds made available from this appropriation. For example, section 105 of the Foreign Assistance Act designates funding for assisting victims of apartheid in South Africa. Funding for such activities would be derived from the ESF and Sub-Saharan Africa accounts rather than the ESF and education and human resources development assistance accounts.

If this development effort in Sub-Saharan Africa is going to achieve its objectives, the conferees believe it must be a joint undertaking on the part of the Congress and the Executive Branch. The conferees expect AID to regularly consult with the appropriate Committees on the economic situation in Sub-Saharan Africa and the efforts being made to enhance the ability of those countries to achieve self-sustaining and equitable economic growth.

In particular, AID is directed to consult with the Committees on Appropriations on proposed country and regional allocations of funds prior to the submission of the report required by section 653(a) of the Foreign Assistance Act. In addition, the conferees direct AID to submit a report, either accompanying the section 653(a) report or as part of the annual congressional presentation, which explains the proposed functional allocation of funds in Sub-Saharan Africa for each assistance recipient, the objectives to be achieved from such assistance, and the interrelationship among the various components of the AID portfolio for a country as they relate to the achievement of overall program objectives. Since a large amount of funding for Africa is non-country specific, the report should also explain the purposes for which regional funds will be allocated and the specific countries that are expected to benefit from such funding. Finally, the report should address, in light of the flexibility in the procurement of goods and services provided, the steps being taken to procure AID-financed commodities from the United States to the extent consistent with program objectives.

The conferees wish to encourage a consultative process that is informal and self-critical. Consultations should take place on a quarterly basis, and the Committees on Appropriations are prepared to jointly participate in these informal consultations so that the concerns of each Committee are better understood by the other.

SOUTHERN AFRICA, DEVELOPMENT ASSISTANCE

The conferees agree to provide $50,000,000 for Southern Africa, Development Assistance. The House had provided $50,000,000 within the development assistance accounts for Southern Africa funding. The Senate provided $30,000,000 in direct appropriations. The conferees agree to the House funding level of $50,000,000 for Southern Africa assistance. The funding has been provided as a direct appropriation.

HAITI, DEVELOPMENT ASSISTANCE

The conferees agree to delete the House earmark of $40,000,000 in development assistance for Haiti.

PHILIPPINES, DEVELOPMENT ASSISTANCE

The conferees agree to include an earmark of $40,000,000 in development assistance for the Philippines.

PRIVATE SECTOR REVOLVING FUND

The conferees agree to fund transfer costs at a level of $9,000,000.

AMERICAN SCHOOLS AND HOSPITALS ABROAD

CHILDREN'S HOSPITAL IN ISRAEL

The conferees find the development of children's hospitals throughout the United States over the last decade has resulted in significant advances in pediatric medicine. Last year, the Senate Appropriations Committee indicated its strong support of the provision of assistance under the American Schools and Hospitals Abroad program for the creation of a children's hospital in Israel, a country which has sufficient technical resources to support high standard tertiary pediatric medicine. Again this year, the conferees reiterate their strong support for AID assistance in the establishment of such a worthwhile institution in Israel, notwithstanding the Agency's preference toward support of pre-existing institutions.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

CONSTRUCTION AND PURCHASE OF PROPERTY

The conference agreement includes a Senate provision amending section 636(c) of the Foreign Assistance Act of 1961. The change increases the limitation for the construction and purchase of living quarters, office space and schools and hospitals for U.S. DOD and AID personnel overseas.

MANAGEMENT STUDIES

The conferees agree to a Senate provision directing AID to carry out management studies of nine AID offices in Washington.

TRANSFER OF FUNDS

The conference agreement deletes a Senate provision that provides the authority to transfer funding to the AID operating expenses account and to use local cost support to be charged against the Operating Expense Account.

FEDERAL EMPLOYEES RETIREMENT SYSTEM

The conferees agree to the Senate provision which allows operating expense funds not used for the Federal Employees Retirement System to remain in the AID Operating Expenses account.

MINORITY SET ASIDE

The conference agreement includes a Senate provision that includes universities having a student body in which more than 20 percent of the students are Hispanic Americans in the provision relating to historical black colleges.

OPERATING EXPENSE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF THE INSPECTOR GENERAL

The conferees have included the Senate provisions addressing the AID Inspector General's Office.

ECONOMIC SUPPORT FUND

CIP FOR EGYPT

The conferees agree to earmark $200,000,000 for a Commodity Import Program in Egypt.

CASH TRANSFER NOTIFICATION—EGYPT

The conferees agree to delete the House provision requiring a notification on cash transfers to Egypt. However, the bill requires notification on cash transfers to all countries.

LEVEL OF NONMILITARY EXPORTS

The conferees agree to the Senate provision which adds Israel to the notification requirement on the total level of nonmilitary exports.

PAKISTAN

The conferees agree to earmark ESF funds for Pakistan at $220,000,000.

AGRARIAN REFORM—PHILIPPINES

The conferees agree to the provision proposed by the House earmarking $50,000,000 for agrarian reform in the Philippines, which shall be spent only after meeting certain conditions.

MOROCCO

The conferees agree to earmark ESF funds for Morocco at $20,000,000.

TUNISIA

The conferees agree to earmark ESF funds for Tunisia at $10,000,000.

CYPRUS

The conferees agree to earmark ESF funds for Cyprus at $15,000,000.

IRELAND

The conferees agree to earmark ESF funds for Ireland at $35,000,000.

EL SALVADOR

The conferees agree to earmark ESF funds for El Salvador at $185,000,000.

The conferees have also agreed to prohibit the obligation of 10 percent of the ESF provided for El Salvador until the FY 1989 Foreign Operations, Export Financing, and Related Programs Appropriations bill is enacted. These funds may only be obligated at that time if the accused murderers of four U.S. marines killed in 1985 have not been released from prison as a result of El Salvador's amnesty program.

The conferees are also concerned that the convicted murderers of four U.S. churchwomen and two U.S. labor advisors may be released as a result of El Salvador's amnesty program. If they are released, the Appropriations Committees will consider taking further action in the FY 1989 Foreign Operations. Export Financing, and Related Programs Appropriations bill.

SAN SALVADOR ELECTRIC LIGHT COMPANY

The conferees agree with Senate report language concerning the San Salvador Electric Light Company, (CAESS). The Supreme Court of Justice of El Salvador has ruled against the Salvadoran Government concerning its actions in seizing without compensation the assets and property of this U.S. owned firm. The Court has held the Government's actions in this case unconstitutional. It has also required that the assets not essential to providing electric service be restored and that an indemnity be paid to CAESS for the electric service assets. In light of this ruling, the Government should move promptly to negotiate a fair value for such assets and reach and equitable settlement for all concerned.

GUATEMALA

The conferees agree to earmark ESF funds for Guatemala at $80,000,000.

COSTA RICA

The conferees agree to earmark ESF funds for Costa Rica at $90,000,000.

HONDURAS

The conferees agree to earmark ESF funds for Honduras at $85,000,000.

SUB-SAHARAN AFRICA

The conferees agree to earmark ESF funds for Sub-Saharan Africa at $90,000,000. The conferees have provided debt relief for countries with outstanding high interest military debt to the United States. In recognition of this, the conferees agree to earmark an additional $40,000,000 in ESF above the original Senate earmark for Sub-Saharan Africa.

ADMINISTRATION OF JUSTICE PROGRAM

The conferees agree to strike the House provision extending the authority of the Administration of Justice Program. A new general provision governing the operation of this program has been included later in the bill.

SEPARATE ACCOUNTS

The conferees agree to retain the provision requiring maintenance of separate accounts for cash transfer assistance.

CASH TRANSFER NOTIFICATION

The conferees agree to require fifteen day prior notification on cash transfer assistance.

TIED AID CREDITS

The conferees agree to the Senate provision requiring prior approval by the Agency for International Development for use of ESF for tied aid credits.

EL SALVADOR—EARTHQUAKE

The conferees agree to the Senate provision requiring that $2,000,000 of the $25,000,000 earmarked for El Salvador earthquake assistance be earmarked for construction and rehabilitation of the National University of El Salvador and other institutions of higher education. The conferees also agree to the Senate provision requiring the AID Inspector General to monitor the use of all funds made available for El Salvador earthquake assistance in FY 1987.

CHILE

The conferees agree to earmark ESF funds for the promotion of democratic activities in Chile at $1,000,000.

JORDAN

The conferees agree to earmark ESF funds for Jordan at $18,000,000, provided that a substantial portion of these funds be used for development programs for the West Bank.

INDEPENDENT AGENCIES

PEACE CORPS

The conferees agree to the Senate provisions on vehicle procurement and activities promoting Americans' understanding of other peoples.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

BOLIVIA AND LATIN AMERICAN REGIONAL

The conference agreement includes a Senate provision earmarking $15,000,000 in International Narcotics Control funds for Bolivia, and $7,000,000 for Latin America Regional programs.

MIGRATION AND REFUGEE ASSISTANCE

The conferees have earmarked an increase in funding for the Department of State refugee admissions program in recognition of the increased admissions ceiling which resulted from consultations with the Congress. In addition, the conferees have agreed to earmark $25,000,000 for the resettlement of Soviet, Eastern European, and other refugees resettling in Israel and $8,000,000 for the construction in France of educational facilities for Jewish refugees from North Africa. These latter funds are to be made available to the nonprofit organization known as Ozar Hatora-le Tresor de la Loi in Paris, France. The conferees intend that the Department of State Inspector General retain audit and inspection control of the funds so provided. In addition, the conferees agree to incorporate H.R. 3770. In addition the conferees agree to a provision allowing unused portions of the $5,000,000 earmarked in this bill for Vietnamese Ameriasians, and not required to implement the earmark to be applied to admissions expenditures for Vietnamese Amerasians and their family members and other related Orderly Departure Program expenses.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

The conferees agree to the following amounts under Title III:

	FY 1987 enacted	FY 1988 estimates	House	Senate	Conference
TITLE III—MILITARY ASSISTANCE					
FUNDS APPROPRIATED TO THE PRESIDENT					
Military Assistance	$950,000,000	$1,328,800,000	$712,500,000	$620,750,000	$700,750,000
International Military Education and Training	56,000,000	56,000,000	56,000,000	47,400,000	47,400,000
Foreign Military Credit Sales: Direct credits and forgiven loans	4,053,441,284	4,421,150,000	3,891,144,830	4,227,000,000	4,049,000,000
Guarantee Reserve Fund [3]		532,000,000	532,000,000	532,000,000	532,000,000

	FY 1987 enacted	FY 1988 estimates	House	Senate	Conference
Special Defense Acquisition Fund (limitation on obligations)	(315,820,000)	(350,000,000)	(236,865,000)	(250,000,000)	(236,865,000)
Special Assistance for Central America: Assistance for Nicaraguan Democratic Resistance		(105,000,000)			
Peacekeeping operations	31,689,000	46,311,000	31,689,000	31,689,000	31,689,000
Total, title III, military assistance program	5,091,130,284	6,384,261,000	5,223,333,830	5,458,839,000	5,360,839,000

[a] House bill included GRF as part of FMB ($4,423,144,830). Senate bill provided permanent indefinite appropriation for ORF.

MILITARY ASSISTANCE PROGRAM

The conferees agree to a prohibition, effective in FY 1989, against MAP funds being merged with the military trust funds. The House had included a provision prohibiting the merger in FY 1988. The conferees agree that an additional year is needed in order to prepare for the separate accounts approach.

PHILIPPINES

The conferees agree to earmark $125,000,000 in military assistance for the Philippines.

MOROCCO

The conferees agree to the Senate earmark of $40,000,000 for Morocco.

THAILAND

The conferees agree to delete the Senate earmark of $40,000,000 for Thailand.

TUNISIA

The conferees agree to provide up to $30,000,000 in MAP for Tunisia.

GUATEMALA

The conferees agree to the Senate earmark of $7,000,000 for Guatemala.

HAITI

The conference agreement includes the House provision setting a $2,400,000 MAP ceiling for Haiti and a requirement that, if any MAP is provided to Haiti, it will be used for non-lethal purposes through the notification process. The conferees also include a general provision restricting assistance to Haiti. In the event that assistance on a government to government basis is restored to Haiti, the conferees agree it is advisable to maintain a ceiling and other restrictions on the funding.

PROGRAM MANAGEMENT AND REIMBURSEMENT FOR PHILIPPINES DRAWDOWN

The conferees agree to place a ceiling of $28,000,000 on funding of MAP General Costs. Additional funding of MAP General Costs may be provided, at the direction of the Secretary of Defense, from funds earmarked in the bill for reimbursement of the Department of Defense for assistance provided to the Philippines under the drawdown authority of section 506 of the Foreign Assistance Act.

MOROCCO

The conferees agree to earmark $12,000,000 in FMS for Morocco.

TURKEY AND GREECE

The conferees agree to earmark total military assistance of $490,000,000 for Turkey and $343,000,000 for Greece. Military assistance for Turkey is made available as follows: $156,000,000 in FMS forgiven loans, $178,000,000 in FMS concessional loans, $156,000,000 in MAP. Military assistance for Greece is made available as follows: $30,000,000 in MAP, $313,000,000 in FMS concessional loans.

ISRAELI OFFSHORE PROCUREMENT

The conferees agree to increase the amount of offshore research and development funds for procurement in Israel from $300,000,000 to $400,000,000.

MILITARY STOCKPILING

The conferees agree to a Senate provision that sets a ceiling of $116,000,000 in fiscal year 1988 on the value of additions to stockpiling in foreign countries and adds Thailand to the list of countries where stockpiles may be located.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

BRAZIL AND ARGENTINA

The conferees agree to delete the Senate provision on IMET training for Brazil and Argentina. This subject is addressed in the General Provisions (Sec. 588).

FOREIGN MILITARY CREDIT SALES

The conferees agree to a ceiling on loan guarantees of $4,049,000,000.

PAKISTAN

The conferees agree to earmark $260,000,000 in FMS for Pakistan, of which $30,000,000 is forgiven loans.

FOREIGN MILITARY CREDIT SALES DEBT REFORM

The conferees have agreed to a modified FMS debt reform provision. This provision allows countries to either refinance their high interest rate loans in the private sector or to apply to have the United States decrease the interest rates on their loans directly to ten percent.

The conferees intend that all types of U.S. financial institutions including investment, state chartered, and national banks may qualify to participate in the refinancing program. The conferees agree further that the liabilities resulting from the new guarantee program are covered by the Guaranty Reserve Fund for this purpose.

The provision is permissive and allows the President to consider bilateral foreign policy matters for each case before proceeding. Countries which refinance are required to bring their loan payments current (90 day limit). Countries which use the interest rate reduction approach must commit in writing to bring their loan payments current (90 day limit) within two years.

GUARANTY RESERVE FUND

The conferees modified House and Senate provisions in order to provide $532,000,000 for the Guaranty Reserve Fund in FY 1988 and to provide "current indefinite borrowing authority" for the Guaranty Reserve Fund in FY 1989. The conferees intend for these funds to be treated as mandatory spending.

FMS RESCISSION

On July 21, 1987, the Comptroller General of the United States issued an opinion stating that no authority existed which allowed for either the "prepayment" or the "restructuring" of loans made under the Foreign Military Credit Sales program. The Comptroller General states: ". . . we conclude that the Administration's restructuring proposal should not be implemented without specific legislative authority." The House conferees agree with this opinion; however, both the Department of State and the Senate conferees disagree with the views of the Comptroller General.

Despite the opinion of the Comptroller General, the Department of Treasury on October 23, 1987, accepted a prepayment which created a financial loss to the United States. After that date they accepted two additional payments.

The House conferees are concerned about the Administration's disregard of the independent opinion of the GAO and the opinions of the House conferees. In recognition of the differing views of the conferees on this matter, the conferees therefor have agreed to rescind $32,000,000.

TITLE IV—EXPORT ASSISTANCE

The following table shows the conference agreement for Title IV, Export Assistance:

	FY 1987 enacted	FY 1988 estimated	House	Senate	Conference
TITLE IV—EXPORT ASSISTANCE EXPORT-IMPORT BANK OF THE UNITED STATES					
Limitation of Program Activity:					
(Limitation on direct loans)	($680,000,000)	($1,000,000,000)	($690,000,000)	($690,000,000)	($690,000,000)
(Limitation on guaranteed loans)	(11,355,000,000)	(10,000,000,000)	(10,000,000,000)	(10,000,000,000)	(10,000,000,000)
(Limitation on administrative expense)	(18,371,500)	(20,668,000)	(19,000,000)	(20,000,000)	(19,500,000)
Total, Export-Import Bank of the United States (limitations on use of corporate funds)	(12,053,371,500)	(11,020,668,000)	(10,709,000,000)	(10,710,000,000)	(10,709,500,000)
FUNDS APPROPRIATED TO THE PRESIDENT Trade and Development Program					
Trade and development	20,000,000	20,000,000	25,000,000	25,000,000	25,000,000
Agency for International Development					
Trade credit insurance program	(275,000,000)	(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)
Super Import Program				−12,000,000	−12,000,000
Total, title IV, export assistance	20,000,000	20,000,000	25,000,000	13,000,000	13,000,000

EXPORT-IMPORT BANK

The conferees include a provision allowing $110,000,000 for "tied-aid credits".

TRADE AND DEVELOPMENT PROGRAM

The conferees provide up to $5,000,000 of TDP funds to be used for joint financing with individual State trade promotion organizations of activities directed at the expansion of trade with developing and middle income countries.

GENERAL PROVISIONS

EXPENSES AND ALLOWANCES (SEC. 507–509)

The conference agreement sets various levels for residence and entertainment expenses and representation allowances.

MILITARY COUPS (SEC. 513)

The conferees have included a provision allowing the resumption of aid to a country in which aid has been cut off due to a military coup overthrowing a democratically elected government if subsequently a democratically elected government has taken power.

TRANSFERS BETWEEN ACCOUNTS (SEC. 514)

The conferees have agreed to the Senate language allowing transfers subject to prior written approval of the Committees.

FINANCIAL INSTITUTIONS—DOCUMENTATION (SEC. 520)

The conferees modified the Senate language requiring that upon request the U.S. governor or representative shall be able to obtain any document developed by or in the possession of the management of an international financial institution. The conferees agree to this provision except in the situation where the U.S. governor or representative certifies to the Committees on Appropriations that the confidentiality of the information is essential to the operation of the institution.

NOTIFICATION REQUIREMENTS (SEC. 523)

The conferees agree to the new reprogramming requirements as specified in the Senate Report and in section 523 of the General Provisions of the bill. The conferees agree that if the Administration proposes changes to the annual Congressional Presentations, any item included in these changes is subject to review by the Committees on Appropriations.

NARCOTICS CONTROL REPORTING (SEC. 526)

The conferees agree to the House provision requiring a cut-off of funds to countries the President certifies are not taking adequate measures concerning narcotics control.

POLICIES OF MULTILATERAL INSTITUTIONS

The conferees agree to delete a House provision relating to restrictions on the obligation and disbursement of funds for the multilateral financial institutions.

REPORT ON ECONOMIC POLICIES

The conferees agree to delete the House provision requiring a report on economic policies.

LEBANON NOTIFICATION (SEC. 533)

The conference agreement includes a House provision requiring notification to the Appropriations Committees for all U.S. assistance going to Lebanon.

DRUG CONTROL IN JAMAICA, PERU AND BOLIVIA (SEC. 534)

The conferees agree to a Senate provision which stipulates that, in making Presidential determinations concerning drug control in Peru and Jamaica, the President is to take into account whether the countries are "sufficiently responsive" to U.S. concerns and whether assistance for that country is in the national interest of the United States. In regard to Bolivia, the conference agreement stipulates that the Presidential determination take into account the extent to which Bolivia has engaged in narcotics interdiction operations and satisfied eradication targets.

ENVIRONMENTAL CONCERNS (SEC. 537)

The conference agreement includes revised bill language addressing both House and Senate environmental concerns.

AFGHANISTAN-HUMANITARIAN ASSISTANCE (SEC. 539)

The conferees agree to provide $45,000,000 for Afghan-Humanitarian Assistance to be derived equally from ESF and Development Assistance.

SUDAN FUNDING RESTRICTIONS

The conferees agree to delete language restricting funds for Sudan.

PRIVATE VOLUNTARY ORGANIZATIONS (SEC. 541)

The conferees agree to the provision requiring that no funds shall be made available to any private voluntary organization which is not registered with AID.

SUDAN, JAMAICA, AND ECUADOR FUNDING REQUIREMENTS (SEC. 546)

The conferees agree to include Sudan, Jamaica, and Ecuador in the provision requiring notification on obligation of funds.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY (SEC. 547)

The conferees agree to include the definition of program, project and activity which is in current law.

CHILD SURVIVAL ACTIVITIES (SEC. 548)

The conferees agree to permit AID to use $5,000,000 from various accounts to retain the service of employees from the Public Health Service, other federal agencies or U.S. universities.

COUNTRIES WITH ILLICIT DRUG PRODUCTION

TRANSFER OF FUNDING (SEC. 549)

The conferees agree to allow reprogramming of funds that cannot be used in specific countries due to failure to comply with illicit drug control requirements.

INTER-AMERICAN DEVELOPMENT BANK

COORDINATION OF PROJECTS (SEC. 550)

The conferees agree to delete Haiti from the provision concerning coordination between AID and the Inter-American Development Banks. This has the effect of requiring the IDB to coordinate with AID on all IDB lending programs.

ASSISTANCE FOR PAKISTAN (SEC. 557)

The conferees agree to amend current law on assistance to Pakistan by extending the period during which the President may waive the prohibitions of section 669 of the Foreign Assistance Act until April 1, 1990.

AUTHORIZATION REQUIREMENT (SEC. 560)

The conferees agree that no more than one-third of the unobligated balance, as of the date of enactment of this Act, of funds for MAP, FMS and ESF are to be obligated prior to April 1, 1988, unless an authorization bill has been signed into law. Countries with forgiven FMS loans are excluded from the funding reductions.

NOTIFICATION CONCERNING EL SALVADOR (SEC. 561)

The conferees agree to the Senate provision to delete the December 31st reporting requirement for El Salvador required by the House. The requirement was deleted due to the delay in enacting the FY 1988 bill.

TURKISH AND GREEK MILITARY FORCES ON CYPRUS (SEC. 562)

The conference agreement concerning U.S. equipment on Cyprus is as follows:

(e)(1) Any agreement for the sale or provision of any article on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) entered into by the United States after the enactment of this provision shall expressly state that the article is being provided by the United States only with the understanding that it will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus.

(2) The President shall report to Congress any substantial evidence that equipment provided under any such agreement has been used in a manner inconsistent with the purposes of this subsection.

NOTIFICATION TO CONGRESS ON DEBT RELIEF AGREEMENTS (SEC. 563)

The conferees agree to require notification of all debt relief, prepayment, restructuring and rescheduling agreements except those specifically included in this Act.

MIDDLE EAST REGIONAL COOPERATION (SEC. 564)

The conferees agree to the Senate provision which provides $5,000,000 for Middle East Regional Cooperation programs from economic support funds. The conference agreement includes a provision for Arab-Israeli Peace Scholarships, as proposed in the Senate bill.

ASSISTANCE TO THE PEOPLE OF LEBANON (SEC. 565)

The conferees agree to provide up to $5,000,000 of ESF funds for the people of Lebanon. These funds are to be utilized through UNICEF, other international organizations, and indigenous non-governmental organizations. The conferees have specifically excluded U.S. non-governmental organizations due to security problems. However, PVOs which are technically American but are staffed in-country entirely by non-U.S. citizens may participate in this funding.

MEMBERSHIP DESIGNATION IN THE ASIAN DEVELOPMENT BANK (SEC. 566)

The conferees agree to include a sense of Congress provision that the United States should use its influence to secure reconsideration of Taiwan's designation in the Asian Development Bank.

The Secretary of the Treasury shall report to the Appropriations Committees of the Congress on the progress being made to resolve the issue of the designation of the People's Republic of China and its participation in the Asian Development Bank. This report shall be submitted no later than March 1, 1988.

DEPLETED URANIUM (SEC. 567)

The conferees agree to a provision prohibiting the use of funds for M-833 antitank shells to other than NATO countries or countries designated as major non-NATO allies.

EARMARKS (SEC. 568)

The conferees agree to a provision allowing flexibility on country earmarked funds within the same account if these funds cannot be used due to other legislative restrictions.

DEMOCRACY IN HAITI (SEC. 569)

The conferees agree to the provision suspending all United States assistance to the

Government of Haiti until the democratic process set forth in the Haitian Constitution approved by the Haitian people on March 29, 1987, especially those provisions relating to the Provisional Electoral Council, is being fully and faithfully adhered to by the Government of Haiti.

The conferees also agree that it is the sense of Congress that in order to encourage the Government of Haiti to adhere to the constitutionally mandated transition to democracy, the President should:

(1) suspend Haiti's eligibility for benefits under the Caribbean Basin Economic Recovery Act; and

(2) seek international cooperation to encourage such adherence by the Government of Haiti through the imposition of an international arms embargo and comprehensive trade and financial sanctions.

ASSISTANCE FOR PANAMA (SEC. 570)

The conferees agree on a provision prohibiting obligation or expenditure of U.S. assistance to the Government of Panama with the understanding that it shall not prohibit the conduct of United States intelligence or intelligence-related activities conducted solely for the collection of necessary intelligence.

The conferees further agree to the Senate provision requiring the Secretary of the Treasury to instruct the U.S. Executive Directors of Multilateral Development Banks to vote against loans to Panama unless the President has certified in advance that Panama is meeting certain conditions.

PANAMA SUGAR QUOTA (SEC. 571)

The conference agreement includes a Senate provision eliminating the sugar quota for Panama until the President certifies that the conditions in Section 570. Assistance to Panama, are met.

COMMERCIAL LEASING OF DEFENSE ARTICLES (SEC. 572)

The conferees agree to a modification of a Senate provision concerning commercial leasing of Defense Articles. The conference agreement allows commercial leasing only for Israel and Egypt through the notification process. The bill language limits the type of equipment which may be leased.

STINGER MISSILES (SEC. 573)

The conferees agree to the Senate amendment prohibiting sales of Stinger missiles to any country in the Persian Gulf region with the exception of Bahrain based on a Presidential certification on Bahrain's agreement to U.S. safeguards and U.S. buyback within 18 months from enactment of the Continuing Resolution.

HUMAN RIGHTS IN CUBA (SEC. 574)

The conferees agreed to the Senate provision expressing the sense of the Congress regarding the continuing disregard and systematic abuse of basic human rights and freedoms by the Government of Cuba.

OPPOSITION TO ASSISTANCE TO TERRORIST COUNTRIES BY INTERNATIONAL FINANCIAL INSTITUTIONS (SEC. 575)

The conferees agree to the Senate provision requiring the Secretary of the Treasury to instruct U.S. Executive Directors to vote against assistance to countries on the State Department's terrorism list.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES (SEC. 576)

The conferees agree to the Senate provision debarring U.S. bilateral assistance to any country on the State Department's terrorism list.

UNITED STATES POLICY TOWARD CHILE (SEC. 577)

The conferees agree to the Senate provision stating congressional findings on United States policies regarding the restoration of democracy in Chile.

ASSISTANCE FOR IMPLEMENTATION OF REGIONAL PEACE AGREEMENT (SEC. 578)

The conferees agree to a Senate provision stipulating that unobligated funds provided in the FY 1985 supplemental for implementation of a Contadora Agreement are to be used to facilitate, through support for such activities as verification and monitoring, the regional peace initiative signed in Guatemala on August 7, 1987.

ADMINISTRATION OF JUSTICE (SEC. 579)

The conference agreement includes a Senate provision that expands the criteria for funding under the Administration of Justice program. The conferees agree that the provision concerning law enforcement personnel relates only to the development of academic instruction and curricula for training law enforcement personnel and does not provide authority for the actual training of law enforcement personnel, including police.

COOPERATIVE TRAINING AGREEMENTS WITH MAJOR NON-NATO ALLIES (SEC. 580)

The conferees agree to a Senate provision providing for cooperative training for major non-NATO allies.

ASSISTANCE FOR POLAND (SEC. 581)

The conference agreement includes a Senate provision designating that up to $500,000 of non-convertible Polish currencies may be made available for the construction, renovation and maintenance of the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland.

MAINTENANCE OF MILITARY BALANCE OF EASTERN MEDITERRANEAN (SEC. 582)

The conferees agree to a provision requiring that transfers of excess defense articles to Greece and Turkey be provided in approximately the same proportion as assistance provided under the military assistance programs.

IMPORT ASSISTANCE FOR CBI BENEFICIARY COUNTRIES AND THE PHILIPPINES (SEC. 583)

The conferees agree to include a provision establishing a special export enhancement program for refined sugar.

The conferees also agree this program should be operated without any restrictions as to export destination and in a manner that treats sugar refiners and processors in an equitable manner.

AMERASIAN IMMIGRATION (SEC. 584)

The conferees agree to include a provision concerning Amerasian immigration.

NARCOTICS AGREEMENT (SEC. 585)

The conferees agree to include a provision requiring the U.S. to have bilateral narcotics control agreements in place with every major drug producing country which receives foreign assistance. The conferees agree to several technical changes.

SPECIAL AMBASSADORIAL COMMISSION FOR CYPRUS AND THE AEGEAN (SEC. 586)

The conferees agree to modify the Senate provision by authorizing the President to appoint a special ambassadorial level envoy to deal with matters related to the Cyprus dispute within 30 days. The provision also requires a report by June 1, 1988 on the activities undertaken and sets aside $1,000,000 of the funds allocated to Greece and Turkey ($500,000 each) for the costs associated with implementing this provision.

DETENTION OF CHILDREN (SEC. 587)

The conferees agree to the Senate provision which adds a sense of Congress statement indicating that the Secretary of State should convey to all international organizations the message that ending the practice of detaining children without charge or trial should be a high priority policy of these organizations.

TRAINING ASSISTANCE FOR ARGENTINA AND BRAZIL (SEC. 588)

The conferees agree to allow funds to be spent for training purposes in Argentina and Brazil, notwithstanding any other provision of law.

PROHIBITION ON MILITARY ASSISTANCE TO MOZAMBIQUE (SEC. 589)

The conferees agree to prohibit military assistance to Mozambique.

RESTRICTIONS ON ASSISTANCE FOR MOZAMBIQUE (SEC. 590)

The conferees agree to a modification to the Senate provision concerning funding for Mozambique. The conference agreement states that funding for Mozambique may not be made available unless the President reports to Congress on the extent to which:

(1) the Government of Mozambique has entered into a dialogue with the Catholic Church regarding the return of church property;

(2) the Government of Mozambique has taken steps to assure against future expropriations of private property without due process and just compensation;

(3) the number of Soviet and Eastern bloc military and security personnel are being reduced.

HUD-Independent Agencies Appropriations Act, 1988

Amendment No. 7: Section 101(f) of House Joint Resolution 395 provides appropriations for programs, projects and activities provided in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988. The House version of the joint resolution provides appropriations for programs, projects, and activities at the rate for operations and to the extent and in the manner provided for in H.R. 2783 as passed by the House of Representatives on September 22, 1987. The Senate version of the joint resolution provides appropriations for these programs, projects and activities at the rate and in the manner provided for in H.R. 2783 as passed by the Senate on October 15, 1987 subject to the provisos that discretionary domestic budget authority not exceed $40.87 billion, that discretionary budget outlays (excluding prior year outlays) not exceed $18.46 billion, that defense budget authority not exceed $350 million, and that defense outlays (excluding prior year outlays) not exceed $280 million.

The conference agreement on House Joint Resolution 395 incorporates some of the provisions of both the House and Senate versions of the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988, and has the effect of enacting the Act into law. The language and allocations set forth in House Report 100-189 and Senate Report 100-192 should be complied with unless specifically addressed in the joint resolution and statement of the managers to the contrary.

Because of the substantial changes in many accounts from the budget estimate (including a number of general reductions), the conferees direct that the agencies enumerated below submit a fiscal year 1988 operating plan by February 1, 1988, for the review and approval of the Committees on Appropriations. The conferees expect such operating plans to include recommended changes from the budget estimates *except* that no reductions may be proposed in programs, projects, or activities for which funding has been added by the Congress. Any monies that may be proposed for transfer from program accounts to salaries and expense accounts for pay costs should also be identified.

The agencies are:

(1) Department of Housing and Urban Development

(2) National Aeronautics and Space Administration

(3) National Science Foundation

(4) Environmental Protection Agency

(5) Federal Emergency Management Agency

(6) Veterans Administration

(7) Consumer Product Safety Commission

The Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988, put in place by this joint resolution incorporates the following agreements of the managers:

TITLE I—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The conference agreement appropriates a total of $7,887,405,000 in new budget authority for assisted housing programs, instead of $7,924,100,000 as proposed by the House and $7,523,250,000 as proposed by the Senate.

The agreement includes statutory language that has the effect of providing the amount for individual components of the assisted housing program set forth in the following table, which summarizes the conference agreement. The conferees expect the Department and the Office of Management and Budget to adhere to the 1988 program detailed in the table. The Department is expected to continue to utilize the regular reprogramming procedure if any changes are required to the agreed upon program contained in the table.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING FY 1988—GROSS RESERVATIONS

	Units	Cost	Term	Budget authority
Authority available:				
Recaptures	NA	NA	NA	$366,300,000
Rescission of Recaptures	NA	NA	NA	(204,700,000)
New Authority	NA	NA	NA	7,887,405,000
Total Available	NA	NA	NA	8,049,005,000
Public Housing:				
Public Housing—major recon./devel	5,000	$67,323	NA	336,623,000
Indian Housing	2,000	73,809	NA	147,600,000
Amendments	NA	NA	NA	68,699,250
Lease Adjustments	NA	NA	NA	20,100,000
Modernization	NA	NA	NA	1,704,232,500
Subtotal, Public Housing	7,000	NA	NA	2,277,254,750
Section 8—Section 202:				
Units	10,990	6,912	20	1,519,257,600
Section 202 amendments	NA	NA	20	140,000,000
Subtotal, 202	10,990	NA	NA	1,659,257,600
Housing Vouchers:				
Free-standing	44,915	4,334	5	973,318,197
Section 8 Opt Out/Prepaymts	1,500	4,334	5	32,505,000
Public Housing Demolitions	2,500	4,334	5	54,175,000
Voucher PHA fees	NA	439	5	107,369,453
Subtotal, Vouchers	48,915	NA	NA	1,167,367,650
Existing Certificates	10,000	5,659	15	848,850,000
Moderate Rehabilitation	5,000	6,613	15	495,975,000
Loan Management	10,000	3,736	5	186,800,000
Property Disposition	4,000	5,100	15	306,000,000
Amendments:				
Existing Housing	NA	NA	5	550,000,000
Loan Management	NA	NA	7	280,000,000
Moderate Rehab.	NA	NA	10	55,000,000
Property Disposition	NA	NA	15	22,500,000
Subtotal, Amendments	NA	NA	NA	907,500,000
Subtotal, Section 8	88,905	NA	NA	5,571,750,250
Total, Public Housing and Sec. 8	95,905	NA	NA	7,849,005,000
Rental Rehabilitation	NA	NA	NA	200,000,000
Total, All Programs	95,905	NA	NA	8,049,005,000
Incremental	(77,905)			

The agreement deletes language approved by the House targeting housing development grants (HODAG) to communities with low vacancy rates in view of the decision of the conferees to delete all new HODAG funding.

The agreement restores language approved by the House and deleted by the Senate allowing the use of new and recaptured public housing budget authority, at the discretion of the Secretary for new construction or major rehabilitation.

The agreement includes language proposed by the House permitting all recaptured funds to be used for original purposes rather than language proposed by the Senate which would require recaptured public housing development funds to be used for modernization.

The agreement includes language proposed by the Senate extending the availability of 1984/85 housing development funds until September 30, 1988. The House bill contained no language on this subject.

The agreement includes language proposed by the Senate rescinding annual contract authority provided prior to 1976 that is recaptured in 1988. The House bill contained no provision on this subject.

The agreement includes language proposed by the Senate waiving the fair share provisions in the allocation of housing funds. The House bill included no language on this subject.

The conferees have agreed on language "recoupling" Section 8 vouchers with the rental rehabilitation program. Without the commitment of Section 8 vouchers for approximately 50 percent of the units made available under rental rehabilitation grants, the program would no longer serve a sufficiently adequate number of low-income families. The issue was not addressed by either House.

Finally, the conferees direct the Secretary to allow the Housing Authority of the City of Wheeling, West Virginia, to retain 75 section 8 moderate rehabilitation units allocated to the public housing authority in 1983 for use in carrying out Wheeling's Main Street program.

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

Establishes the 1988 direct loan limitation on the housing for the elderly or handicapped fund at $565,776,000, instead of $559,900,000 as proposed by the House and $602,800,000 as proposed by the Senate.

The conference agreement inserts language proposed by the Senate requiring 25 percent of the housing for the elderly or handicapped loan authority be used only for handicapped project loans.

The agreement includes language prohibiting the availability of funds for a project in Milton, Massachusetts, unless the sponsor identifies a site for such project other than the one specified in the application (Curtis Road). The Board of Selectmen of the Town of Milton has raised concerns about safety issues, site density, and open space if this project were to proceed at the Curtis Road site. It is hoped that the Town and the sponsor will work together to find an acceptable site for this project in the near future.

CONGREGATE SERVICES

Appropriates $4,224,000 for congregate services, instead of $4,400,000 as proposed by the House and $7,000,000 as proposed by the Senate.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING

Appropriates $1,450,000,000 for payments for operation of low-income housing projects, instead of $1,465,000,000 as proposed by the House and $1,515,000,000 as proposed by the Senate.

The amount agreed to by the conferees is $73,138,000 above the budget estimate. This appropriation, together with the $65,000,000 carried forward from last year in the 1987 Supplemental Appropriations Act and the $10,000,000 obligated in 1987 for 1988 insurance costs, will provide a total of $1,525,000,000 for the 1988 operating subsidies program. The conferees expect the Department to first utilize the available monies to meet performance funding system (PFS) requirements and, secondly, for insurance costs not covered by the current PFS formula. It is further expected that all funds remaining, after PFS formula and excess insurance costs are allocated, shall be used for payment of negotiated claims regarding recaptures and adjustments of operating subsidies. In recognition of the tentativeness of PFS and insurance cost estimates, the conferees do not expect that any claim settlement payments would be made until the latter part of the fiscal year. If additional funds are needed for the payment of claims, such an appropriation will be considered at a later date.

PUBLIC HOUSING DEVELOPMENT LOAN

Restores language proposed by the House and stricken by the Senate forgiving the Bay City Housing Authority from repayment of certain public housing development costs, amended to reflect technical corrections.

HOUSING COUNSELING ASSISTANCE

Appropriates $3,360,000 for housing counseling assistance, instead of $3,500,000 as proposed by the House and the Senate.

EMERGENCY SHELTER GRANTS

Inserts language appropriating $8,000,000 for emergency shelter grants.

TRANSITIONAL AND SUPPORTIVE HOUSING DEMONSTRATION PROGRAM

Inserts language proposed by the Senate appropriating $65,000,000 for the transitional and supportive housing demonstration program, amended to delete the provision reducing HUD administrative expenses and inserts a provision providing $750,000 for Washington, office costs of the Interagency Council on the Homeless.

FEDERAL HOUSING ADMINISTRATION FUND

Appropriates $162,866,000 to the Federal Housing Administration Fund for payment to cover losses, instead of $169,652,000 as proposed by the House and the Senate.

The conference agreement establishes the 1988 limitation on Federal Housing Administration loan insurance commitments at $96,000,000,000, instead of $100,000,000,000 as proposed by the House and the Senate.

The agreement also establishes the 1988 limitation on temporary mortgage assistance payments at $79,272,000, instead of $82,575,000 as proposed by the House and the Senate.

The conference agreement includes language permitting the use of the FHA General Insurance Fund to carry out insuring authority on Hawaiian Homes Lands as proposed in amendment numbered 70.

NONPROFIT SPONSOR ASSISTANCE

Establishes the 1988 limitation on nonprofit sponsor assistance direct loans at $960,000, instead of $1,000,000 as proposed by the House and the Senate.

Government National Mortgage Association

GUARANTEES OF MORTGAGE-BACKED SECURITIES

Establishes the 1988 limitation on guarantees of mortgage-backed securities at $144,000,000,000, instead of $150,000,000,000 as proposed by the House and the Senate.

Solar Energy and Energy Conservation Bank

ASSISTANCE FOR SOLAR AND CONSERVATION IMPROVEMENTS

Appropriates $1,500,000 for the solar bank, instead of $3,000,000 as proposed by the House and zero as proposed by the Senate. These funds are intended to continue the solar bank program in fiscal year 1988. In addition, bill language has been included to assure that all funds recaptured from prior year appropriations also be reallocated and awarded.

Community Planning and Development

COMMUNITY DEVELOPMENT GRANTS

Appropriates $2,880,000,000 for community development grants, instead of $3,000,000,000 as proposed by the House and Senate. The conferees have agreed to include bill language earmarking $5,000,000 for a child care demonstration in public housing and $1,000,000 for a neighborhood development demonstration. Bill language has also been included limiting section 108 loan guarantees to $144,000,000.

The agreement also includes language amending section 102(a)(4) of the Housing and Community Development Act of 1974 to permit certain urban areas to forgo classification as a metropolitan city until fiscal year 1990, as proposed by Senate amendment No. 69 to H.J. Res. 395.

A total of $56,000,000 is made available for the Secretary's Discretionary Fund. This is an increase above the budget request of $9,000,000 to be allocated as follows:

+$3,000,000 to continue the community development work study program,

+$1,350,000 in technical assistance funds,

+$1,000,000 in special project funds for a facility for Marathon House in Rhode Island,

+$150,000 in special project funds for library facilities at the New York Institute of Technology,

+$500,000 in special project funds for basic infrastructure improvements in the "Smoky" or north part of Charleston, Mississippi. The conferees direct the Department to fund local proposals including street repair and resurfacing, curb repair, utility enhancements, sidewalk repair and construction, street lighting and other infrastructure improvements identified in such proposals. The conferees also direct that the Department immediately make a technical assistance grant to Charleston of $25,000 to support planning for infrastructure improvements.

Not to exceed $3,000,000 in special projects funds for the installation and hookup of water mains in Brookhaven, New York—at no more than a 50 percent Federal cost share. A total of $6,750,000 has been provided over the past four years to address this drinking water problem in Brookhaven. The conferees expect that future costs will be borne by the State and local governments and water users.

URBAN DEVELOPMENT ACTION GRANTS

Appropriates $216,000,000 for urban development action grants, instead of $225,000,000 as proposed by the House and Senate. The conferees have also agreed to include bill language clarifying Senate language establishing the eligibility of certain Indian lands in Oklahoma to participate in the UDAG program.

REHABILITATION LOAN FUND

Bill language has been included to continue the section 312 rehabilitation loan program with repayments and to prohibit any rehabilitation loan asset sale in 1988.

URBAN HOMESTEADING

Appropriates $14,400,000 for urban homesteading, instead of $15,000,000 as proposed by the House and $12,000,000 as proposed by the Senate. The conferees are aware of the increased interest in the urban homesteading program in cities across the Nation and the program's potential for playing an expanding role in the disposition of foreclosed properties. The conferees also direct that the cap on unit purchase price be increased from $20,000 to $25,000.

Policy Development and Research

RESEARCH AND TECHNOLOGY

Appropriates $16,512,000 for policy development and research, instead of $17,000,000 as proposed by the House and $17,200,000 as proposed by the Senate. The conferees are in agreement that $200,000 of this amount shall be earmarked for census surveys of residential finance and components of housing inventory change.

Fair Housing and Equal Opportunity

FAIR HOUSING ASSISTANCE

Appropriates $4,800,000 for fair housing, instead of $5,000,000 as proposed by the House and Senate

Management and Administration

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

Appropriates $666,251,000 for salaries and expenses, instead of $698,921,000 as proposed by the House and $688,839,000 as proposed by the Senate.

Of the $666,251,000 provided for salaries and expenses, $358,132,000 is to be derived from the FHA transfer. The committee of conference is in agreement that the appropriation of $666,251,000 reflects the following changes from the budget estimate of $647,538,000:

+$22,233,000 for 717 staff years to support the recommended program levels.

+$1,000,000 for the Housing Assistance Council.

+$520,000 and 13 staff years in the Office of Policy Development and Research.

−$4,000,000 from consulting and related services and other object classifications.

The following table reflects the 1988 staffing agreed to by the conferees:

STAFF-YEAR SUMMARY

	1988			
	Agency request	House recommendation	Senate recommendation	Conference agreement
Housing:				
Washington	520	540	520	520
Field	5,412	5,962	5,962	5,641
Public and Indian housing:				
Washington	f140	150	140	140
Field	928	1,220	1,130	1,175
Government National Mortgage Association: Washington	56	56	56	51
Solar Energy and Energy Conservation Bank: Washington		4		
Community planning and development:				
Washington	231	273	269	269
Field	689	890	777	875
Policy development and research: Washington	145	132	132	132
Fair housing and equal opportunity:				
Washington	128	128	128	128
Field	460	460	460	460
Departmental management: Washington	145	145	145	132
Office fo General Counsel: Washington	225	225	225	219
Field legal services: Field	265	265	265	265
Office of Inspector General: Washington/field	495	495	495	495
Administration and staff service: Washington	1,177	1,242	1,242	1,184
Working Capital Fund: Washington	271	271	271	225
Field direction and operational support: Field	533	533	533	533
Field administration: Field	818	875	875	875
Homeless programs:				
Washington		20	20	10
Field		25	25	13
Total	12,638	13,911	13,670	13,342

The conference agreement restores language proposed by the House and stricken by the Senate requiring minimum staffing levels of at least (1) 6,502 in housing programs, (2) 1,370 in public and Indian housing programs, and (3) 1,163 in community planning and development programs, amended to require 1,315 for public and Indian housing staffing. The conference agreement deletes the other minimum staffing levels to permit flexibility. The Department is to follow normal reprogramming procedures for any changes to the staffing levels reflected in the foregoing table.

TITLE II—INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

Appropriates $12,408,000 for the American Battle Monuments Commission, instead of $12,925,000 as proposed by the House and the Senate. The conferees have also included language proposed by the Senate permitting private contributions to the Korean War Memorial Fund to be used for authorized travel by the Korean War Veterans Memorial Advisory Board. This provision was not included by the House. Language has also been added, which was not included in either the House or Senate bills, that permits interest to be paid on contributions to the Korean War Memorial Fund and the use of up to $125,000 of the fund for administrative support costs.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

Appropriates $32,696,000 for the Consumer Product Safety Commission, instead of $34,400,000 as proposed by the House and $33,928,000 as proposed by the Senate. The conferees agree to the following changes from the budget request:

−$500,000 and nine FTE from CPSC offices as follows:

One Schedule C position from the Chairman's office,

One Schedule C position from the Office of the Executive Director,

Two Schedule C positions and one General Schedule position from the Office of Media Relations, in conjunction with the merger with the public affairs office,

Two General Schedule positions from the Office of Information and Public Affairs, in conjunction with the merger with the media relations office, and

Two Schedule A Special Assistant positions from the General Counsel's Office.

−$992,000 as a general reduction. The conferees urge the Commission to allocate this reduction so as to minimize adverse impacts on the hazard and enforcement programs and on Commission employees.

The conferees remain concerned that management and personnel problems at CPSC are interfering with the agency's mission and effectiveness. A factor contributing to this internal turmoil is the number of non-career positions which tend to politicize decisionmaking and debate. Currently, CPSC has 15 Schedule C positions and three non-career SES positions—a high number given the size of the agency and its history. The reduction of four Schedule C positions makes CPSC's staff structure consistent with the alignment in place during 1978–79.

The staff reductions in the offices of Media Relations and Information and Public Affairs are taken as an efficiency measure. The conferees believe the current CPSC organization cannot support separate media and public affairs offices and direct that the media relations function be consolidated within public affairs.

The conferees want to make clear that the position reductions in the General Counsel's Office are not intended to affect staff attorneys, assistant general counsels or division directors. In making these changes, the Commission's primary objective should be to retain legal staff with technical knowledge, seniority and experience in the issues and programs of CPSC. The conferees intend to monitor CPSC's implementation of these changes and will entertain a reprogramming request if the All-Terrain Vehicles project workload requires additional legal support.

Bill language has also been included to limit personnel compensation and benefits for the commissioners of the Consumer Product Safety Commission to $300,000, instead of $303,000 as proposed by the Senate and $286,000 as proposed by the House. This increase is made to accommodate the January 1988 pay raise.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

Appropriates $8,164,000 for salaries and expenses, instead of $8,504,000 as proposed by the House and the Senate.

In 1987, $9,082,000 was appropriated for construction of a parking facility at Arlington National Cemetery. This amount, together with $1,162,000 previously appropriated, provided $10,244,000 for the project.

Testimony at the 1988 budget hearings indicated that there were adequate funds available for this project. This past June, a contract was awarded for construction of the parking garage facility. It was known at that time that there were insufficient funds to complete the project. However, the Committees did not become aware of this shortfall until September. Without adequate funds to complete the project, the contract should not have been awarded.

The project is now estimated to cost approximately $13,000,000, an increase of nearly $2,800,000. With the project already underway, the Committees are placed in the difficult position of either providing additional funding or leaving the facility incomplete. Both the Arlington National Cemetery and the Corps of Engineers are responsible for proceeding with the project without adequate funds. To permit the project to be completed, the conferees have included language in the bill transferring $1,000,000 from unobligated balances of funds previously appropriated to the Corps of Engineers. The conferees agree that options 6 through 10 which had been deleted at the time of the construction contract award should not now be included. The Cemeterial expenses account is to absorb the remaining costs of the project.

In reviewing this matter, there does not appear to be a central authority for operations at Arlington National Cemetery. The Department of the Army should immediately take actions to address this situation and be ready to discuss this matter at the 1989 budget hearings.

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

Appropriates $765,000,000 for salaries and expenses, instead of $803,630,000 as proposed by the House and $796,870,000 as proposed by the Senate. The Conferees agree to the following changes from the budget request:

+$8,000,000 and 150 FTE to meet EPA's expanded clean water responsibilities.

+$4,000,000 and 83 FTE for Title III program activities.

+$1,750,000 and 35 FTE for enforcement.

+$1,500,000 and 20 FTE for regional risk assessment staff.

+$1,000,000 and 20 FTE for Limestone Injection Multistage Burner (LIMB) research.

+$1,000,000 and 20 FTE for pesticide registration and re-registration.

+$900,000 and 15 FTE for randon activities, to be evenly divided between research and program support.

+$500,000 and 10 FTE for EPA's Inspector General.

+$500,000 and six FTE for multimedia hazardous waste source reduction and recycling. Several States have demonstrated the cost effectiveness of technical assistance programs aimed at helping small and medium sized businesses reduce hazardous waste generation. The Environmental Protection Agency, however, has virtually ignored this promising area and Federal leadership and coordination is long overdue. The conference agreement adds staff and funds to establish a formal hazardous waste reduction program within EPA, in addition to State grants and an information clearinghouse. Recognizing that the technical expertise in EPA resides in the office of solid waste, the conferees intend that this program receive high visibility in the Agency and management attention across all relevant media programs. The Agency should be prepared to discuss organizational and management issues related to developing an effective waste reduction program during the fiscal year 1989 budget hearings.

+$400,000 and six FTE for the Great Lakes program, including one FTE and $65,000 devoted to air toxics as specified in the Senate report.

+$100,000 and two FTE for the groundwater research laboratory, and

−$27,605,000 and as a general reduction to be applied to areas other than those augmented.

RESEARCH AND DEVELOPMENT

Appropriates $186,350,000 for research and development, instead of $199,100,000 as proposed by the House and $193,600,000 as proposed by the Senate. The conferees agree to the following changes from the budget request:

−$15,150,000 as a general reduction to be applied to programs other than those augmented below,

+$3,000,000 from acid rain research, based on action on the authorization bill,

+$10,000,000 for systematic research to reduce uncertainties in risk assessments. The committee of conference believes EPA's research program must be realigned to improve the Agency's assessments of environmental and health risks. The conferees are encouraged the EPA is undertaking a broad review of its research program and hope that future research can better support the Agency's overall missions and needs. The conferees request that a research plan to close critical gaps and uncertainties in risk assessments be submitted by March 1, 1988, with the supporting resources explicitly identified in the 1989 budget.

+$2,800,000 for the Center for Environmental Management, to carry out activities identified in the House and Senate reports,

+$2,500,000 to restore the reduction in LIMB research,

+$700,000 for radon mitigation research. The Conferees request that EPA reconvene its 1986 Indoor Air Science Advisory Board for an updated review of the Agency's progress in developing a credible program,

+$500,000 for global climate change and ozone depletion research, and

+$400,000 for the methanol in power plant study identified in the Senate report.

ABATEMENT, CONTROL, AND COMPLIANCE

Appropriates $606,192,000 for abatement, control, and compliance, instead of $672,085,000 as proposed by the House and $672,470,000 as proposed by the Senate. The conferees are in agreement on the following changes from the budget request:

+$40,000,000 for asbestos in schools,

+$16,000,000 for Boston Harbor cleanup activities authorized by section 513 of the Clean Water amendments,

+$15,000,000 for emergency planning and community right-to-know (Title III) activities, to offset the reduction taken in Superfund,

+$8,350,000 for pesticide storage and disposal,

+$8,000,000 from wellhead protection grants,

+$2,000,000 for underground injection control State grants,

+$1,607,000 for additional RCRA corrective actions,

+$4,000,000 for clean water studies and activities, including $1,000,000 to undertake the wastewater treatment demonstration authorized by section 514, $700,000 to identify and control sources of contamination of the Spokane aquifer, and $300,000 to complete the Lake Pend Oreille and Clark Fork River study authorized by section 525.

+$4,000,000 for incentive grants to States to establish and expand waste reduction technical assistance programs and for EPA to establish and operate a technical information clearinghouse,

+$4,500,000 for the Great Lakes program,

+$3,000,000 for the drinking water technical assistance activities provided in the House and Senate reports,

+$4,000,000 for ozone depletion and climate change,

+$1,000,000 for Chesapeake Bay grants to States. The conferees understand that the additional computer capabilities were funded at the end of fiscal year 1987.

+$1,000,000 for wastewater treatment operator training,

+$1,500,000 for a replacement research vessel for the Great Lakes. The conferees want to make clear that this replacement vessel is intended to provide modular laboratory facilities for both nutrient and toxics monitoring and surveillance. If additional resources are needed to cover outfitting expenses, the Agency is directed to seek such funds through a reprogramming, transfer, or future budget request.

+$2,000,000 for radon program activities, including the measurement proficiency program, the radon mitigation training program, and the national assessment required by statute,

+$150,000 to undertake the joint pesticide study with the Department of Agriculture called for in the House report,

+$200,000 to undertake the HANES pesticide study called for in the Senate report,

+$300,000 to undertake the National Academy of Sciences study of pesticides and children called for in the Senate report, and

+$500,000 for the New York Bight study outlined in the Senate report.

−$10,000,000 as a general reduction to be applied to areas other than those augmented.

Bill language has been included earmarking $40,000,000 for school asbestos abatement, instead of $50,000,000 as proposed by the House and Senate. Of this amount, up to $15,000,000 shall be available to help cover the cost of school asbestos reinspections and management plans. Language has also been included to require EPA to award asbestos grants and loans by March 1, 1988, as provided in both the House and Senate bills.

The conference agreement deletes language proposed by the Senate earmarking $10,000,000 for grants under section 28 of the Toxic Substance Control Act to assist State and local governments in implementing the Emergency Planning and Community-Right-To-Know programs. The language proposed by the Senate establishing requirements and schedules for the allocation of such title III grant funds has also been deleted.

The agreement restores language proposed by the House and stricken by the Senate blocking the transfer of funds to NOAA prescribed by section 118(h)(3) of the Federal Water Pollution Control Act, as amended. Funds for NOAA water quality studies in the Great Lakes should be appropriated directly to NOAA or through the normal interagency agreement mechanism with EPA.

The conference agreement includes language proposed by the Senate authorizing up to $2,000,000 for the replacement of laboratory equipment. The conference agreement deletes bill language proposed by the Senate earmarking $1,000,000 for a feasibility study and preliminary design of a demonstration project to treat leachate from a sanitary landfill in a wastewater treatment facility in Cranston, Rhode Island. The conferees also agreed to include language designating Santa Monica Bay as a priority estuary under the national estuary program under section 320 of the Federal Water Pollution Control Act.

The conferees have agreed not to mandate changes in the formulae or minimum allocations for environmental State grant programs. Grant allocation formulae are negotiated cooperatively by EPA and the States based on technical criteria and a consensus judgment of program requirements. The conferees request EPA to reexamine the adequacy of the pesticide enforcement minimum state grant allocation in light of the effect on small States of recent changes in the discretionary allocation.

Finally, the committee of conference understands that EPA is continuing to cooperate in an effort to ensure that a study and air quality model of California's San Joaquin Valley is based on credible, mutually acceptable methods and data. In light of concerns about the use of existing information and models in developing control strategies and actions for this part of California, the conferees expect that EPA will continue to cooperate with interested parties with regard to developing this study and model. The conferees also understand that EPA has previously committed grant funds to the development of this study and expect EPA to seriously consider making significant grant funds available for the project during fiscal year 1988.

BUILDINGS AND FACILITIES

Appropriates $23,500,000 for buildings and facilities, instead of $7,500,000 as proposed by the House and $18,200,000 as proposed by the Senate.

The conference agreement deletes language proposed by the Senate authorizing a $2,000,000 grant to the University of Nevada for a laboratory addition and inserts a provision repealing language earmarking funds for this laboratory addition in the 1987 HUD-Independent Agencies Appropriations Act.

The conferees are in agreement on the following additions to the budget request:

+$12,200,000 for the construction of a new facility to house the existing west coast water quality monitoring field station in Newport, Oregon, as described in the Senate report,

+$5,600,000 for the design and renovation of a Superfund laboratory at Edison, New Jersey to test and evaluate innovative technologies,

+$1,700,000 for the design of a laboratory facility for clinical inhalation research at Chapel Hill, North Carolina. The conferees understand that the construction of this laboratory will be fully funded by the University of North Carolina, under an agreement being negotiated with EPA.

HAZARDOUS SUBSTANCE SUPERFUND

Appropriates $1,128,000,000 for the Hazardous Substance Superfund, instead of $1,181,000,000 as proposed by the House and $1,179,422,000 as proposed by the Senate.

The conferees are in agreement that $888,900,000 shall be derived from the Superfund as authorized by section 517(a) of SARA, instead of $931,000,000 as proposed by the House and $929,422,000 as proposed by the Senate. The conferees also agree that $239,100,000 shall be derived from a payment from the general fund as authorized by section 517(b) of SARA, instead of $250,000,000 as proposed by the House and Senate. The conferees agree to delete language proposed by the Senate earmarking $5,600,000 for the design and construction of a facility at Edison, New Jersey. These funds have been included in the Buildings and facilities account.

The conference agreement restores language proposed by the House and stricken by the Senate limiting the use of funds for natural resource damage claims. Bill language has also been included to limit funds for the Agency for Toxic Substances and Disease Registry to $43,000,000 as proposed by the House, instead of $50,000,000 as proposed by the Senate. Administrative expenses are limited in bill language to $182,400,000, instead of $190,000,000 as proposed by the House and Senate.

The conferees have also agreed to include bill language amending CERCLA and SARA to extend indemnification under section 119 to recipients of grants for Superfund worker training and to require Federal certification procedures for Superfund worker training programs.

The conferees are in agreement on the following changes from the budget request:

−$19,000,000 and 83 FTE from Title III activities. These resources have been added to EPA's operating program budget to fund Title III from general revenues.

−$7,000,000 from the Agency for Toxic Substances and Disease Registry (ATSDR),

−$3,000,000 from the National Institute for Environmental Health Sciencesa (NIEHS) basic research grants. The conferees intend that at least $10,000,000 be provided for worker protection and training in 1988. The conferees request that the 1989 budget justification provide detailed descriptions of the budget and program activities proposed for both ATSDR and NIEHS.

−$5,600,000 from the Edison, New Jersey, laboratory renovation, which has been funded in the Buildings and facilities account. The conferees note that laboratory construction projects are not authorized under Superfund and believe that Superfund resources should be reserved for the most serious site cleanups.

−$46,822,000 as a general reduction to be applied to activities within the overall Superfund program, other than those augmented by the conferees.

−$5,000,000 for no more than five Superfund university research centers, to be selected based on peer review and awarded competitively.

+$4,000,000 and 20 FTE for expanded site investigations and preliminary assessments. The conferees believe that additional sites must be screened in order to ensure that Superfund is being dedicated to the cleanup of the worst problems.

+$2,000,000 and 20 FTE to provide staff at EPA headquarters and in the regions dedicated to overseeing non-NPL site cleanups by private parties, States and local governments.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

Appropriates $14,400,000 for the leaking underground storage tank program, instead of $10,000,000 as proposed by the House and $15,000,000 as proposed by the Senate. The conferees are aware that a growing number of State programs are well organized and have identified substantial project needs. The Agency should submit information on State program applications and project needs in its 1989 budget justification. The agreement limits administrative expenses to $4,800,000, instead of $5,000,000 as proposed by the House and the Senate.

CONSTRUCTION GRANTS

Appropriates $2,304,000,000 for construction grants, instead of $2,400,000,000 as proposed by the House and Senate. The conferees agreed to delete language proposed by the Senate requiring that payments made for State revolving funds after September 30, 1988 be made in cash.

ADMINISTRATIVE PROVISIONS

The conference agreement includes the bill language on pesticide indemnification as proposed by both the House and Senate. The conferees want to make clear that this provision is not intended to change the responsibility of the U.S. Government for indemnification. The conferees understand that claims for indemnification will continue to be submitted by claimants to EPA. The Agency should continue to conduct the technical review of such claims in an expeditious manner to determine the validity of amounts claimed. Claims will then be referred by EPA to the Department of Justice under 28 U.S.C. 2414 for settlement (or for litigation if the liability or amount are disputed by the Government) and paid pursuant to 31 U.S.C. 1304. The conferees expect that claims which EPA deems valid should be processed routinely by the Justice Department and that approved claims should be paid promptly from the Judgement Fund of the Treasury.

The conference agreement deletes language proposed by the Senate concerning quality assurance fees and inserts language permitting EPA to collect up to $25,000,000 in authorized fees, with the receipts to be deposited in a special fund in the Treasury reserved for environmental programs, to be available subject to subsequent appropriations. Examples of fees included in this provision are: qualify assurance mandatory services and materials, pesticide registration, premanufacture notices, ocean disposal, and other fees for activities authorized by the statutes administered by EPA. The conferees want to make clear that this provision is not intended to affect any existing authority to credit EPA appropriations with fee receipts. Finally, the conferees want to ensure that EPA provides ample opportunity for broad review of proposed fee schedules and gives special consideration to the concerns of the States and small businesses.

The conference agreement deletes the House provision and includes the Senate provision concerning the postponement of sanctions under the Clean Air Act. The issue was dealt with by Amendment numbered 46 and 68 to H.J. Res. 395.

The agreement includes language proposed by the Senate in Amendment No. 71 to H.J. Res. 395, concerning endangered species, with technical amendments.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

Appropriates $826,000 for the Council on Environmental Quality, instead of $862,000 as proposed by the House and $860,000 as proposed by the Senate.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Appropriates $1,888,000 for the Office of Science and Technology Policy, instead of $1,998,000 as proposed by the House and $1,967,000 as proposed by the Senate.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

Appropriates $120,000,000 for disaster relief, instead of $125,000,000 as proposed by the House and the Senate.

SALARIES AND EXPENSES

Appropriates $125,841,000 for salaries and expenses, instead of $131,544,000 as proposed by the House and $126,544,000 as proposed by the Senate. The reduction of $5,243,000 below the budget estimate is to be applied at the Agency's discretion. Any staffing reduction below the 33 FTE required to offset specific increases is to be applied proportionally to each activity and only in the central office.

The conferees agree to the following staffing changes from the budget estimate:

+16 FTE for the Disaster Relief Administration,

+10 FTE for the radiological emergency preparedness program,

+3 FTE for the acquisition management program,

+4 FTE for the U.S. Fire Administration, and

−33 FTE to be applied at the Agency's discretion to programs other than the Inspector General and those with aforementioned increases.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

Appropriates $272,496,000 for emergency management planning and assistance, instead of $276,850,000 as proposed by the Senate and $291,850,000 as proposed by the House.

The committee of conference is in agreement with the following changes from the budget estimate:

+$1,478,000 for student travel stipends, including $344,000 for civil defense training and education, $312,000 for the Emergency Management Institute, and $822,000 for the National Fire Academy,

+$1,000,000 for the radiological emergency preparedness program,

+$445,000 for the earthquake program,

+$65,000 for the hurricane program,

+$3,000,000 for the U.S. Fire Administration's fire prevention and arson control program. Within this increase, $1,300,000 is for the residential sprinkler program and $500,000 is for the community-based anti-arson program.

−$15,000,000 from the $20,000,000 requested in the budget amendment for the civil defense program, and

−$15,342,000 as a general reduction to be applied at the Agency's discretion to the civil defense (other than emergency management assistance grants) and Federal preparedness programs.

Reports accompanying past appropriations bills have expressed deep concern about the possibly wasteful and inefficient use by FEMA of funds that are appropriated to it to carry out its responsibilities in coordinating offsite radiological emergency planning at commercial nuclear utilization facilities. In order to ensure that such funds are being utilized appropriately, the conferees require that the Director of FEMA file a report with the Committees on Appropriations at the end of each calendar quarter commencing March 31, 1988.

Such report shall detail the progress made by FEMA on offsite emergency plans for all commercial nuclear utilization facilities including:

(1) the dates each plan and revisions to plans were received by FEMA for review,

the time required for any review that may be currently pending and a present estimate of the time to progress to completion of such review; (2) the dates on which FEMA received requests for the most current and the preceding exercise of each plan, the time and resources required to prepare for such exercises and a current estimate of the time that will be required to complete any pending exercise request as well as a separate estimate concerning any proceedings that may be related to such exercise; and (3) the progress made with the Nuclear Regulatory Commission (NRC) on processing such reviews and exercises that may be conducted pursuant to the Memorandum of Understanding dated April 18, 1985, between FEMA and the NRC.

The committee of conference expects FEMA to develop, within 60 days from the enactment of this measure, all necessary supplemental guidance to review and evaluate utility-sponsored emergency plans and exercises for nuclear power plants.

The Federal Emergency Management Agency is authorized to secure reimbursement from NRC, in accordance with law, for the full and reasonable costs of its services involved in review and evaluation of offsite radiological emergency plans and exercises, whenever previously appropriated funds are inadequate for the purpose. These services would include those performed by FEMA or its contractors in connection with the licensing proceeding within the jurisdiction of the NRC.

NATIONAL FLOOD INSURANCE FUND

(TRANSFER OF FUNDS)

Transfers $9,496,000 from the National Flood Insurance Fund to salaries and expenses, instead of $9,892,000 as proposed by the House and the Senate.

The conference agreement transfers $43,392,000 from the National Flood Insurance Fund to emergency management planning and assistance, instead of $45,200,000 as proposed by the House and the Senate. The agreement also earmarks $4,531,000 of the transferred funds for the section 1362 purchase of property program, instead of $4,720,000 as proposed by the House and the Senate.

EMERGENCY FOOD AND SHELTER PROGRAM

Appropriates $114,000,000 for the emergency food and shelter program as proposed by the Senate, instead of $150,000,000 as proposed by the House and $125,000,000 as proposed by the Senate.

The agreement inserts language proposed by the Senate which incorporates the emergency food and shelter program authorization by reference, limits administrative costs to 3.5 percent of the total, and deletes language proposed by the House and stricken by the Senate which carries the actual text of program authorization, including a 3.5 percent administrative cost limitation.

General Services Administration

CONSUMER INFORMATION CENTER

Appropriates $1,279,000 for the Consumer Information Center, instead of $1,339,000 as proposed by the House and $1,332,000 as proposed by the Senate. The conference agreement establishes the aggregate amount available to the CIC at $5,140,000, instead of $5,200,000 as proposed by the House and $5,193,000 as proposed by the Senate. The agreement also limits administrative expenses of the CIC to $1,652,000, instead of $1,721,000 as proposed by the House and Senate.

Department of Health and Human Services

OFFICE OF CONSUMER AFFAIRS

Appropriates $1,670,000 for the Office of Consumer Affairs, instead of $1,750,000 as proposed by the House and $1,740,000 as proposed by the Senate.

National Aeronautics and Space Administration

RESEARCH AND DEVELOPMENT

Appropriates $3,274,200,000 for research and development, instead of $3,661,200,000 as proposed by the House and $3,378,063,000 as proposed by the Senate. In addition, the conferees have agreed to language included by the Senate permitting $100,000,000 of 1987 funding for a replacement orbiter to be transferred to the Research and development account for use in fiscal year 1988. This transfer has the effect of providing a total of $3,374,200,000 for the activities under this account in 1988.

The conferees agree to the following changes from the budget request:

−$342,660,000 from space station. This reduction provides a total of $425,000,000 for the program in 1988. Of that, $225,000,000 shall become available on June 1, 1988. This delayed obligation, which was not included in either the House or Senate bills, is made pursuant to section 202 of P.L. 100-119 which prohibits the transfer of an outlay from one fiscal year to an adjacent fiscal year *unless* it "is a necessary (but secondary) result of a significant policy change." Because of the impact of the budget crisis on the space station, the conferees believe that a programmatic policy change will be necessary. Therefore, the conferees direct NASA to provide the Committees on Appropriations a detailed plan rescoping and rescheduling the space station activities consistent with 1988 and 1989 revised budgets. In that connection, the conferees expect NASA to identify cost savings—with special emphasis on the non-prime and program support areas. It is noted, for example, that at an 1988 funding level of $425,000,000, the actual "hardware" component of station could constitute less than 30 percent of the total available dollars. This trend is not acceptable—particularly in view of the potential for significantly reduced funding below the anticipated 1989 level of $1.8 billion. The revised plan for space station should be submitted to the Committees on Appropriations no later than February 29, 1988.

Also, the conferees note that the Agency is committed to maintaining funding for science and applications at not less than 20 percent of total NASA resources. Although to date NASA has honored this commitment, the conferees are concerned that further budget constraints could negatively impact unmanned activities.

Further, the conferees recognize that many of the goals articulated in the "Mission To Planet Earth" scenario stress unmanned technology achievable within the next decade and meet a distinct and growing environmental need.

The conferees also urge NASA to continue work on solar dynamic power and satellite servicing to the extent practical within the limited funds available.

Therefore, it is imperative that NASA examine all possible approaches to constraining station costs. In that context, the conferees have "capped" station at $200,000,000—the funding available exclusive of the delayed $225,000,000 appropriation. Those funds will be released after the Committees on Appropriations have carefully reviewed the Agency's proposals to ensure the implementation of a workable space station that is consistent with the Administrator's previous programmatic commitments to the Committees.

+$20,000,000 for microgravity shuttle/ISF/space station payloads. The conferees have agreed to increase the space shuttle/space station payload microgravity activity for the development of new space station experimental hardware such as furnaces, separators, etc. The conferees expect that these funds will help improve the United States' competitive position by having available second and third generation microgravity experiments beginning in 1991. The conference committee expects that this new hardware will be developed initially for use on spacelab and/or the industrial space facility and ultimately used on space station. In that context, the committee of conference strongly urges NASA to add an additional spacelab mission in the third quarter of 1991. The conferees understand that the agency currently has under study the possibility of manifesting such a mission and that a decision should be forthcoming in the near term. The conferees expect NASA to advise the Committees on Appropriations by January 15, 1988, on the status of this important activity.

+$25,000,000 for the industrial space facility (ISF). The conferees believe the ISF may represent a viable interim approach leading to the efficient and effective development and testing of early space station hardware. In short, the ISF could provide a "bridge" from spacelab to space station. However, the conferees believe that it is essential to maintain standard budget's principles in funding this program. Therefore, the conferees direct NASA to conclude a satisfactory funding arrangement that will lead to a workable leased ISF vehicle in the 1991/1992 timeframe.

+$25,000,000 for the Mars Observer program. The conferees are making available these monies with the understanding that the agency may allocate the funding at its discretion between the Mars Observer Mission and additional planetary observer spares.

+$77,000,000 for the Advanced Communication Technology Satellite (ACTS). The ACTS program was first funded in a supplemental appropriation Act in 1982 under the auspices of the HUD-Independent Agencies Appropriations Subcommittee. Congress originated the program because of its concern with the future of the United States' communications satellite industry. It was hoped that this program could enhance U.S. technology and international competitive stature. The program was not supported by the administration, and no budget request has been made in the past three years for ACTS. The Congress has, however, provided funding during that period to maintain the viability of the ACTS effort. The conferees now understand that the current fiscal year 1988 estimate for ACTS, which had been approximately $84 million, has increased to $123 million. Also, the 1989 funding estimate suggests that the project will overrun an additional $17 million.

Because of the increasingly difficult budget problems facing NASA and other agencies within the HUD bill, the conferees have agreed to cap this program at $35 million. The conferees further direct NASA to restructure the program to ensure that total program costs will not exceed $475 million. The conferees believe that under the current budget climate this program must be brought under control before additional funds are released above the $35 million level.

−$4,000,000 from "commercial programs",

+$2,000,000 for the advance rotary engine program,

−$13,000,000 from transatmospheric research and technology (National Aerospace Plane),

+$25,000,000 from the orbital maneuvering vehicle (OMV),

−$5,000,000 from space telescope development,

+$5,000,000 for spacelab/space station payload development,

+$5,000,000 for initial work on an extended duration orbiter (EDO). The conferees, in approving $5 million for initial work on an extended duration orbiter acknowledge the report received from NASA in November. That report confirms the conferees' belief that the EDO is achievable in the short term at a reasonable cost and at great benefit to materials sciences and other disciplines. Additionally, it is clear that the EDO is a viable incremental step to a manned space station and the conferees expect that NASA will move forward with this project in a expeditious manner.

−$10,000,000 from the ocean topography experiment (TOPEX),

−$5,000,000 from the global geospace science mission,

−$15,000,000 from the civil space technology initiative, except that none of the reduction may be applied to the automation and robotics areas, and

+$10,000,000 for explorer development.

Finally, in the research and development account, the conferees are "capping" the 1988 amounts for a number of programs. In accordance with the agreement as outlined in the letter from NASA to the Committees dated August 9, 1984, these "caps" may not be exceeded without the approval of the Committees on Appropriations:

(1) Space station, $200,000,000

(2) Orbital maneuvering vehicle, $55,000,000

(3) Hubble space telescope, $93,400,000

(4) Gamma Ray Observatory, $49,100,000

(5) Galileo, $55,300,000

(6) Magellan, $59,600,000

(7) Ulysses, $10,800,000

(8) Mars Observe, $54,300,000

(9) Upper Atmospheric Research Satellite, $95,400,000

(10) Advanced Communications Technology Satellite (ACTS), $35,000,000.

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

Appropriates $3,908,309,000 for space flight, control and data communications, instead of $3,978,300,000 as proposed by the Senate, and 4,000,300,000 as proposed by the House.

This funding level includes a general reduction of $129,000,000 to be applied at the discretion of the agency. However, to help offset this reduction, the conferees have agreed to the use of up to $125,000,000 of orbiter production funds to complete necessary modifications and undertake related work required to prepare the shuttle fleet for operational status. In addition, the committee of conference agrees that within the total funds made available under this account, a total of $36,000,000 is provided for the replacement tracking and data relay satellite (TDRSS) and $28,000,000 is provided *only* for the purchase of two Delta II launch vehicles.

CONSTRUCTION OF FACILITIES

Appropriates $178,272,000 for construction of facilities, instead of $185,700,000 as proposed by the Senate and $169,700,000 as proposed by the House. The conferees agree that within this total $16,000,000 is made available to initiate the repair of the 12-foot pressure wind tunnel at NASA Ames. Also, the conferees direct that $200,000 be provided for design work of the final component of the launch complex 39 operations support building.

RESEARCH AND PROGRAM MANAGEMENT

Appropriates $1,495,680,000 for research and program management, instead of $1,557,999,000 as proposed by the Senate and $1,558,000,000 as proposed by the House. Within the funds provided, a general reduction of $93,515,000 is assumed. The application of this reduction should be outlined in detail in the operating plan which will be reviewed and approved by the Committees on Appropriations.

The House report directed NASA to submit revisions to the 1988 budget to move institutional costs from the R&D and SFCDC accounts to the R&PM account by October 1, 1987. This reordering of the appropriation account structure was undertaken to ensure the integrity of the accounts and the proper allocation of changes. The Senate report concurred with these objectives.

On September 29, 1987, the NASA administrator sent a letter to the Committees outlining proposed budget and accounting changes to be effective on October 1, 1987. In addition to revising and standardizing the accounting codes structure, the Agency proposed increasing R&PM by $242,438,000 with offsetting decreases of $144,863,000 in R&D and $97,575,000 in SFCDC.

The conferees agree with the level of the proposed changes—but will make the formal transfer of funds between accounts in a future appropriations bill. However, in the interim, language has been included which will permit the Office of Management and Budget to increase the apportionment in the R&PM account to reflect the new accounting structure until funds are transferred in subsequent legislation. Apportionments for Research and development and Space flight accounts will be reduced concomitantly by like amounts.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

Establishes the 1988 limitation on administrative expenses at $813,000, instead of $847,000 as proposed by the House and the Senate.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

Appropriates $1,453,000,000 for research and related activities, instead of $1,634,487,000 as proposed by the Senate and $1,505,000,000 as proposed by the House. The proposed reductions from the budget request are to be presented in the operating plan for the Committee's review and approval.

The conferees recognize that super computing is an integral research tool for all disciplines. Recognizing the importance of the NSF national supercomputing centers, NSF should provide the maximum support possible for these centers. All research requirements, however, may not be met at the national centers. Therefore, the conferees have agreed to provide an additional $1,500,000 from this account for proposals to use computing capabilities not available at national supercomputer centers. However, the conferees direct that none of the $1,500,000 may be taken from funds made available for Phase II supercomputer centers. The conferees feel that all research directorates should be involved in funding supercomputer time required as part of research projects.

In connection with the International Institute for Applied Systems Analysis, the conferees agree that not less than $1,000,000 shall be available *only* for this purpose, instead of $1,500,000 as proposed by the House and no funds as proposed by the Senate. The conferees urge that the $1,000,000 be made available to IIASA as soon as possible.

The conferees agree to include language prohibiting the payment of the Federal portion of the salary of any individual on assignment from a non-Federal entity at more than the maximum rate paid for ES-6. This language was included by the Senate in Title IV of this bill, but has been transferred by the conferees to this paragraph.

Finally, the conferees agree that the limitation on administrative expenses for program development and management is established at $84,480,000, instead of the $88,000,000 proposed by both the House and Senate.

UNITED STATES ANTARCTIC PROGRAM ACTIVITIES

Appropriates $124,800,000 for the United States Antarctic program activities instead of $117,000,000 as proposed by the Senate and $143,000,000 as proposed by the House.

SCIENCE EDUCATION ACTIVITIES

Appropriates $139,200,000 for science education activities instead of $115,000,000 as proposed by the Senate and $145,000,000 as proposed by the House.

NEIGHBORHOOD REINVESTMENT CORPORATION

Appropriates $18,720,000 for the Neighborhood Reinvestment Corporation, instead of $19,500,000 as proposed by both the House and Senate.

SELECTIVE SERVICE SYSTEM

Appropriates $25,459,000 for the Selective Service System, instead of $26,520,000 as proposed by both the House and Senate.

VETERANS' ADMINISTRATION

MEDICAL CARE

Appropriates $10,094,808,000 for medical care, instead of $10,320,808,000 as proposed by the House and $10,123,000,000 as proposed by the Senate.

The conference agreement of $10,094,808,000 for medical care reflects the following changes from the budget request of $9,907,850,000:

+$169,700,000 for 3,810 FTE to maintain the current staffing level of 194,140,

+$40,000,000 for special pay rates for nurses and other scarce medical specialties,

+$5,000,000 for tuition assistance payments for nursing and other associated health care occupations,

+$4,000,000 for start-up costs of six satellite outpatient clinics at Albuquerque, New Mexico (mobile clinic); Duluth, Minnesota/Superior, Wisconsin; Lufkin, Texas; Ocean County, New Jersey; Savannah, Georgia; and Tallahassee, Florida,

+$90,000,000 for the Administration's proposed two percent pay increase in 1988, and

−$121,742,000 general reduction due to lower average salary than assumed in the budget request. This reduction will not decrease the staffing level of 194,140.

The amount of funding is specifically intended to support 194,140 full-time equivalent employees (FTEEs) with the understanding that, in accordance with established Congressional practice, any additional pay costs necessary to support that FTEE level will be borne by the VA, using funds made available by this measure, funds made available through the enactment of supplemental appropriations, or through absorption of the costs, or some combination thereof. This FTEE level does not include common service FTEEs.

The VA is directed to make available an additional 6 FTEEs for readjustment counseling activities in West Virginia and an additional 12 FTEEs for readjustment counseling services in Hawaii.

The conference agreement earmarks $6,400,000,000 of medical care appropriation for personnel compensation and benefits, instead of $6,650,000,000 as proposed by the House and $6,503,400,000 as proposed by the Senate.

The agreement also deletes language proposed by the Senate making any unobligated balance of the $5,000,000 provided in the emergency homeless joint resolution for a community-based residential care program available during fiscal year 1988. The conferees have included $2,914,725 for this contract program—the amount of program funds that lapsed at the end of fiscal year 1987—within the total amount provided.

The conferees have agreed to restore language proposed by the House and stricken by the Senate limiting the numbers of administrative support and engineering support staffing to 37,700 and 26,500, respectively, amended to limit administrative support staffing to 37,700. The VA is to fully explain any increase in engineering support staffing above 26,500 along with the effects of any offsetting reduction in direct medical care staffing, to the Committees prior to such augmentation.

VA MEDICAL COMPUTER SYSTEMS

The Committees' reports have directed the VA not to obligate 1987 or 1988 equipment funds for its decentralized hospital computer program (DHCP) pending an independent evaluation of agency medical computer programs by the Office of Technology Assessment (OTA). The OTA has recently submitted a special report on hospital information systems at the VA. The study included a general review of the features and costs of DHCP and three competing integrated hospital information systems (IHS). It also included an overview of VA's current deployment process and plans.

The report finds that two timeframes—near- and far-term—must be considered in making decisions concerning VA's hospital information systems. In the near-term, OTA finds that VA has a limited set of options from which to choose. This is because the agency has not taken the opportunity in the past to expand its technological options through thorough testing and study of systems alternatives. The report indicates that if the VA is to implement at least a minimum level of automation in its hospital information systems within the next two years, it has no reasonable alternative to its current approach—DHCP. The report also indicates that while the commercial systems have some features that DHCP does not, to switch to a commercial system at the present time would increase costs or delay implementation, or both.

In the long-term, the reports find that DHCP may have limitations that could make it an unsuitable platform for a transition to the hospital information system VA will need in the 1990's. The VA's current planning process focuses on continued revisions to and evolution of the DHCP software, and does not provide an appropriate mechanism for exploring needs, opportunities, and alternative options for the next generation. The OTA finds that if VA wishes to reap the benefits of technological change, it needs to begin now to do long-term planning that can examine technological alternatives for the next generation of hospital information technology.

After reviewing the OTA report, the conferees agree that the VA should proceed to install the DHCP "Core Plus 8" for the near term. Development and deployment of additional modules will be considered at a subsequent time. Release of the 1987 ($25,000,000) and 1988 ($20,177,000) funds is contingent upon submission of the following plans:

Life cycle costs by activity and year of Core Plus 8. The conferees expect a full explanation of any increase above the previous estimate of $777,000,000 and a written commitment to such an estimate.

Dates for installation and full operation of each of the 14 modules by hospital.

The VA will be monitored as to the costs and dates in these plans. Quarterly reports are to be submitted to the Committees on Appropriations explaining any slippage in the installation or full operation dates.

Additional funding will be contingent upon VA's demonstration of the following:

Order entry/results reporting working satisfactorily in a high-transaction production environment.

Initiation of suitable strategic planning and evaluation of technological alternatives for the next generation information system. Such a strategic plan should incorporate OTA's long-term planning recommendations, including the formal involvement of outside experts to assist in providing recommendations and evaluation of options for the next generation VA of hospital automation. Estimates of required annual resources should also be included.

At congressional direction, VA installed commercially-developed information systems (IHS). The purpose was to determine whether software already developed by commericial vendors would serve VA better than the DHCP software, written in-house. Reports from the OTA and the General Accounting Office indicate that the VA did not design the test to permit a fair comparison of the features and costs of the vendor's approaches. The conferees are greatly displeased with the VA's actions in this crucial matter—and that displeasure is reflected in a $1,000,000 reduction in administrative ADP costs in the Medical administration and miscellaneous operating expense account. The VA is expected to create conditions under which future decisions are based on thorough and unbiased examination of alternatives.

The OTA report suggests two alternatives for the three existing IHS hospitals. The conferees direct the VA to leave the three IHS systems in place. Also, two additional tertiary hospitals should be selected, along with the existing three sites, for an on-going permanent IHS test for tracking changes in the technology offered by commercial vendors. The VA should provide these five hospitals with (1) interface with the rest of the ADP systems and (2) represention in the special interest user groups and other planning groups.

Finally, the conferees recognize that all concerned parties want the VA to have the best system to automate its medical care program—now and in the future. Objective decisions will ensure that goal.

MEDICAL AND PROSTHETIC RESEARCH

Appropriates $192,899,000 for medical and prosthetic research, instead of $208,766,000 as proposed by the House and $200,936,000 as proposed by the Senate.

The committee of conference is in agreement with the following changes from the budget request:

+$3,000,000 for rehabilitative research. This will provide in excess of $20,000,000 for this important research program in 1988, and

−$8,037,000 general reduction to be applied at the VA's discretion to other than rehabilitative research activities.

The amount of funding is specifically intended to support approximately 4,400 full-time equivalent employees with the understanding that, in accordance with established Congressional practice, any additional pay costs necessary to support that FTEE level will be borne by the VA, using funds made available by this measure, funds made available through the enactment of supplemental appropriations, or through absorption of the costs, or some combination thereof. This FTEE level does not include common services FTEEs.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

Appropriates $46,628,100 for medical administration and miscellanous operating expenses, instead of $49,848,000 as proposed by the House $49,613,000 as proposed by the Senate.

The conferees agree with the following changes from the budget estimate:

+$1,000,000 to the $6,000,000 requested for the health professional scholarship program,

−$2,985,000 general reduction to be applied to other than the health scholarship program, and

−$1,000,000 in administrative ADP costs. This reduction is further explained under the medical care portion of the statement.

This amount of funding is specifically intended to support not more than 595 full-time equivalent employees with the understanding that, in accordance with established Congressional practice, any additional pay costs necessary to support that FTEE level will be borne by the VA, using funds made available by this measure, funds made available through the enactment of supplemental appropriations, or through absorption of the costs, or some combination thereof. This FTEE level does not include common services FTEEs.

GENERAL OPERATING EXPENSES

Appropriates $762,810,000 for general operating expenses, instead of $811,100,000 as proposed by the House and $804,829,000 as proposed by the Senate.

The committee of conference is in agreement with the following changes from the budget estimate:

+$9,700,000 for 296 FTE in the Department of Veterans Benefits,

+$1,000,000 for 16 FTE in the Department of Memorial Affairs,

+$215,000 for 5 FTE in the Board of Veterans Appeals,

+$200,000 for 4 FTE in the Office of Inspector General,

+$1,000,000 for housing counseling assistance to help delinquent borrowers retain ownership of their homes,

+$8,935,000 requested for the replacement files system at the Records Processing Center,

−$8,400,000 requested for State approving agencies. Legislation will shift funding for this activity to the readjustment benefits account,

−$1,652,000 in costs saved by not closing the St. Paul Insurance Center,

−$5,678,000 from the $217,072,000 requested for general administration, and

−$36,034,000 as a general reduction due to lower average salary costs with the balance of the reduction to be applied to the ADP modernization program and other object classifications.

The conferees recognize that the Budget Appendix incorrectly identifies employee travel costs as $7,848,000. The correct estimate for employee travel in 1988 is $8,886,000.

The agreement also restores language proposed by the House and stricken by the Senate earmarking (1) $549,545,000 and 12,915 FTE for the Department of Veterans Benefits, (2) $49,746,000 and 1,219 FTE for the Department of Memorial Affairs, and (3) $211,809,000 for general administration, amended to earmark $508,500,000 and 12,915 FTE for the Department of Veterans Benefits. The committee of conference has agreed to delete the earmarkings for the Department of Memorial Affairs and general administration to provide the VA with flexibility due to the reductions. However, the conferees expect the VA to allocate $47,310,000 and 1,203 FTE for the Department of Memorial Affairs and $207,000,000 for General Administration, subject to normal reprogramming procedures.

CONSTRUCTION, MAJOR PROJECTS

Appropriates $402,884,000 for construction, major projects, instead of $406,921,000 as proposed by the House and $414,201,000 as proposed by the Senate.

The conferees agree to the following changes from the budget estimate:

+$1,000,000 to complete preliminary plans for the clinical/outpatient addition/renovation project at Ann Arbor,

+$200,000 for preliminary planning of a 120-bed nursing home care unit at Saginaw,

+$785,000 for design of a 120-bed nursing home care unit at Mountain Home,

+$2,710,000 for design of a clinical improvements and patient privacy project at Nashville,

+$670,000 for design of a 120-bed nursing home care unit at Tampa,

+$330,000 for design of a 60-bed nursing home care unit at Wilkes-Barre,

+$12,500,000 for a heating, ventilation and air-conditioning project at Madison,

+$220,000 for an environmental impact statement for a new cemetery in the Chicago area,

+$250,000 for an environmental impact statement for a new cemetery in the Cleveland area,

+$200,000 for an environmental impact statement for a new cemetery in the Seattle/Tacoma area,

+$250,000 for an environmental impact statement for a new cemetery in the Albany area, and

−$16,787,000 general reduction of four percent to be applied equally to each project.

The conferees concur with language contained in the Senate report regarding the use of dollars included in the advance planning fund for facility development plans (FDP's). This language effectively postpones future FDP contracts pending an independent evaluation of the FDP format and development process.

The agreement also inserts language proposed by the Senate authorizing the VA to use $2,500,000 from unobligated balances in the construction, major projects account for settlement of a contractor's claim on the Bronx replacement hospital and research building construction project.

CONSTRUCTION, MINOR PROJECTS

Appropriates $115,942,000 for construction, minor projects, instead of $121,038,000 as proposed by the House and $120,773,000 as proposed by the Senate.

The agreement establishes the limitation on expenses of the Office of Facilities at not more than $40,774,000, instead of $42,738,000 as proposed by the House and $42,473,000 as proposed by the Senate.

PARKING GARAGE REVOLVING FUND

Appropriates $3,936,000 for the parking garage revolving fund, instead of $4,100,000 as proposed by the House and the Senate.

The agreement inserts language proposed by the Senate requiring that medical care funds be used for parking garage operations and maintenance costs instead of the parking garage revolving fund.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

Appropriates $40,320,000 for grants for construction of State extended care facilities, instead of $42,000,000 as proposed by the House and the Senate.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

Appropriates $480,000 for grants to the Republic of the Philippines, instead of $500,000 as proposed by the House and the Senate.

ADMINISTRATIVE PROVISIONS

Inserts language proposed by the Senate permitting the use of fiscal year 1988 funds in the four VA entitlement accounts to be available for payment of prior year obligations required to be recorded within the last quarter of fiscal year 1987.

TITLE III

FEDERAL HOME LOAN BANK BOARD

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL HOME LOAN BANK BOARD

Limits expenses of the Federal Home Loan Bank Board to $30,313,000 as proposed by the Senate, instead of $30,486,000 as proposed by the House. The agreement includes language proposed in both the House and Senate bill earmarking $800,000 for state examiner training.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Limits expenses of the Federal Savings and Loan Insurance Corporation to $1,610,000 as proposed by the Senate, instead of $1,619,000 as proposed by the House.

The agreement inserts language proposed by the House and stricken by Senate Amendment No. 34, allowing certain cooperative banks to be insured under the Federal Deposit Insurance Corporation.

TITLE IV—GENERAL PROVISIONS

Restores language proposed by the House and stricken by the Senate limiting the maximum salary of a consultant to that of a GS-18, and deletes language proposed by the Senate limiting such pay to that of an ES-6.

The agreement also restores language proposed by the House and stricken by the Senate prohibiting the demolition of certain public housing units in Dallas and Houston, Texas.

BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT

During fiscal year 1988, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the following information provides the definition of the term "program, project, and activity" for departments and agencies carried in the accompanying bill. The term "program, project, and activity" shall include the most specific level of budget items identified in the 1988 Department of Housing and Urban Development-Independent Agencies Appropriations Act, the accompanying House and Senate Committee reports, the conference report or the joint explanatory statement of the managers of the committee of conference.

In applying any sequestration reductions, departments and agencies shall apply the percentage reduction required for fiscal year 1988 pursuant to the provisions of Public Law 99-177 to each program, project, activity and subactivity contained in the budget justification documents submitted to the Committees on Appropriations of the House and Senate in support of the fiscal year 1988 budget estimates, as amended, for such departments and agencies as subsequently altered, modified or changed by Congressional action identified by the aforementioned Acts, resolutions and reports. Further, it is intended that in implementing the Presidential order, (1) no program, project, or activity should be eliminated, (2) no re-ordering of funds or priorities occur, and (3) no unfunded program, project, or activity be initiated. However, for the purposes of program execution, it is not intended that normal reprogramming between programs, projects, and activities be precluded *after* reductions required under the Balanced Budget and Emergency Deficit Control Act are implemented.

APPROPRIATIONS FOR THE DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

Amendment No. 8: Section 101(g) of House Joint Resolution 395 provides appropriations for programs, projects and activities provided for in the Department of the Interior and Related Agencies Appropriations Act, 1988. The House version of the joint resolution provides appropriations for programs, projects, or activities at a rate for operations and to the extent and in the manner provided for in H.R. 2712 as passed the House of Representatives on June 25, 1987. The Senate version of the joint resolution provides appropriations for these programs, projects, and activities at a rate for operations and to the extent and in the manner provided in H.R. 2712 as passed the Senate on September 30, 1987.

The conference agreement on House Joint Resolution 395 incorporates some of the provisions of both the House and Senate versions of the Department of the Interior and Related Agencies Appropriations Act, 1988, and has the effect of enacting the Act into law. The language and allocations set forth in House Report 100-171 and Senate Report 100-165 shall be complied with unless specifically addressed to the contrary in this joint resolution and accompanying statement of the managers. The Department of the Interior and Related Agencies Appropriations Act, 1988, put in place by this joint resolution, incorporates the following agreements of the managers:

TITLE I—DEPARTMENT OF THE INTERIOR

Bureau of Land Management

MANAGEMENT OF LANDS AND RESOURCES

Appropriates $498,983,000 instead of $493,649,000 as proposed by the House and $502,972,000 as proposed by the Senate.

The net increase above the amount proposed by the House consists of increases of $400,000 for non-energy minerals; $2,000,000 for the Alaska lands program; $40,000 for Shoshone Horse shrub restoration; $250,000 for noxious weed control; $2,400,000 for hazardous materials management; $300,000 for wildlife habitat; $250,000 for management of riparian areas (wildlife); $300,000 for threatened and endangered species; $450,000 for the wildlife challenge grant program; $75,000 for Chaco Canyon site rehabilitation; $200,000 for planning for the El Malpais National Conservation Area, NM; $150,000 for rehabilitation of Tangle Lakes Campground, AK; $200,000 for management of Red Rocks Visitor Center, NV; $500,000 for expenses of San Pedro Riparian Area, AZ; and $4,000,000 for Alaska cadastral surveys; and decreases of $885,000 in solid energy minerals (coal); $2,223,000 in oil and gas; $174,000 in goethermal; $600,000 in cultural resources; and $2,299,000 for the FERS reestimate.

The managers agree that:

(1) $200,000 in western Oregon public domain forestry is for FIR/COPE research and as FIR concludes funds are to be shifted to COPE;

(2) up to $200,000 of the amount for the challenge grant program in wildlife habitat management may be used for threatened and endangered species;

(3) $110,000 in wildlife habitat management is to restore deer habitat in Idaho destroyed by fire;

(4) $75,000 of the increase for cultural resources management is for operation of the Anasazi Heritage Center, for a total of $350,000;

(5) the Bureau may use funding provided in this account for planting seedlings needed for fire rehabilitation work and may exceed the Committee notification threshold for rehabilitation work, if necessary, in order to begin work promptly;

(6) additional funds provided for operating expenses of the San Pedro Riparian Area, for rangers in the California Desert Conservation Area, and for law enforcement on the King Range may be distributed among various activities used by the Bureau to plan and monitor costs as long as such reallocation is reported to the House and Senate Appropriations Committees;

(7) the Bureau may provide funds for implementation of the Henry Mountain Coordinated Resource Management Plan after completion of all legal requirements for review prior to implementation, with the understanding that no chaining of pinion/juniper will take place within Wilderness Study Areas (WSAs);

(8) funds for oil and gas programs are sufficient for implementing extension of the Production Accounting and Auditing System (PAAS) to onshore oil and gas leases, and the Bureau is expected to carry out its portion of the implementation;

(9) out of funds provided for hazardous materials management, the Bureau should initiate a comprehensive review and evaluation of its program by the National Academy of Engineering/National Academy of Sciences and provide the evaluation to the House and Senate Appropriations Committees.

House bill language prohibiting the destruction of healthy, unadopted, wild horses and burros in fiscal year 1988 is restored, and Senate language providing for revision of policy statements and regulations, review and implementation of proposals for sanctuaries, and submission of a report by April 1, 1988, on wild horse and burro populations is deleted.

The managers agree that a report on the status of wild horse and burro populations and future policy considerations for Congressional review shall be included in the required biennial report to Congress rather than separately.

The managers have no objections to the Bureau investigating proposals for private sanctuaries for wild horses or burros and implementing proposals which are both humane and cost effective. Such proposals may only be implemented in compliance with existing reprogramming guidelines.

CONSTRUCTION AND ACCESS

Appropriates $3,430,000 for construction and access instead of $1,981,000 as proposed by the House and $2,736,000 as proposed by the Senate.

The increase above the amount proposed by the House consists of $350,000 for Quail Hill Road reconstruction and $125,000 for Colorado River boat ramps in Arizona; $560,000 for architectural and engineering work for a new smokejumpers operations building in Alaska; and $456,000 for expenses for moving the Fairbanks, AK district into its new office and for moving the Alaska Fire Service into the former district office; and a decrease of $6,000 for the FERS reestimate.

LAND ACQUISITION

Appropriates $8,885,000 for land acquisition instead of $4,170,000 as proposed by the House and $10,235,000 as proposed by the Senate. The managers agree to the following distribution:

Acquisition management	$600,000
Paulina Guard Station, OR	10,000
King Range Conservation Area, CA	1,000,000
Desert Tortoise Habitat, CA	600,000
Pacific Crest Trail, CA	60,000
Warner Basin Potholes, OR	1,000,000
Wilderness study area inholdings	500,000
Upper Missouri River WSR, MT	500,000
Carrizo Plains, CA	4,000,000
Owyhee River, CA	615,000
Total	8,885,000

The managers agree that priority for wilderness study area inholdings should be given to properties in and around the Mahogany Ridge and Willow Creek Wilderness Study Areas around Trout Creek Mountains in southeastern Oregon.

The managers agree that the Fish and Wildlife Service is to (1) review and revise applicable recovery plans to reflect Carrizo Plains land acquisition; (2) prepare habitat conservation plans in cooperation with relevant State and federal agencies; and (3) enter into a memorandum of understanding with the California Department of Fish and Game to coordinate various endangered species needs in the San Joaquin Valley.

OREGON AND CALIFORNIA GRANT LANDS

Appropriates $58,475,000 for Oregon and California grant lands instead of $57,817,000 as proposed by the House and $58,134,000 as proposed by the Senate. The increase of $658,000 above the amount proposed by the House consists of increases of $600,000 in renewable resource management for increased costs of salvage sales; $147,000 for recreation maintenance; and $200,000 for spotted owl research; and decreases of $30,000 for construction of an elk viewing facility near Reedsport, Oregon; and $259,000 for the FERS reestimate.

ADMINISTRATIVE PROVISIONS

Bill language is included, as proposed by the Senate, allowing the termination of two withdrawals and completion of related land exchanges in Utah to proceed by waiving a court order which disallows termination of land withdrawals. The exchanges must proceed under all applicable law.

Bill language is also included extending a temporary public land withdrawal in Lincoln County, Nevada, from December 31, 1987 to March 31, 1988 as proposed by the Senate. The extension allows time for legislative action on a long-term withdrawal of 89,600 acres known as "Groom Mountain Addition to the Nellis Air Force Range" after receipt of the required environmental impact statement.

United States Fish and Wildlife Service

RESOURCE MANAGEMENT

Appropriates $342,594,000 for resource management instead of $335,524,000 as proposed by the House and $342,859,000 as proposed by the Senate.

The net change from the House consists of the following: increases of $500,000 for endangered species recovery, $865,000 for the national wetlands inventory, $1,357,000 for refuge maintenance, $300,000 for Hawaiian Islands NWR operations, $150,000 for archeological sites work at Stillwater NWR, NV, up to $500,000 for the Alaska Maritime NWR for operation of the vessel Tiglax, $500,000 for Alaska operations, $560,000 for the Arctic goose education program, $974,000 for Alaska subsistence grants, $200,000 for a challenge grant program on Service lands, $200,000 for the North American waterfowl management plan, $500,000 for migratory nongame bird management, $119,000 for the Lower Snake River, $135,000 for the cui-ui fish handling facility, $165,000 for operations at Hagerman NFH, ID, $539,000 for Williams Creek-Alchesay NFH, AZ, $253,000 for Mescalero NFH, NM, $108,000 for Parker Fishery Assistance Office, $213,000 for Pinetop Fishery Assistance Office, $171,000 for Lander, WY fishery assistance office, $400,000 for habitat evaluation procedures and wetland technical assistance, Slidell, LA, $200,000 for the eastern energy and land use team in West Virginia, $216,000 for the Gainesville NFRL, FL, $300,000 for cooperative fish and wildlife units, $125,000 for Yukon River fish research, $650,000 for Alaska mammal research, $425,000 for Leetown National Fisheries Center, $250,000 for Fish and Wildlife Foundation matching grants and $300,000 for fire suppression costs; and decreases of $200,000 for farm bill implementation, $100,000 for fishery management activities on refuges, $300,000 for forensics lab start-up costs, $50,000 for the US/Canada Salmon Treaty, $160,000 for operations at the Northeastern Anadromous Fish Lab, $500,000 for non-game species research, $134,000 in general administration, $1,000,000 for fire equipment and $1,661,000 based on a reestimate of FERS.

The managers agree that every effort should be made to involve the states in the national wetlands inventory. State financial commitments should be increased. The amount provided for Corps of Engineers permit monitoring is to be used to sample projects to determine the overall effectiveness of the permit process. While the managers strongly support the volunteers in the refuges program, no amount is specified. Rather, available resources should be used to support the program.

The managers agree that the increase of $500,000 for migratory non-game management activities includes $100,000 for regional and national coordination and $400,000 for population monitoring related to migratory non-game bird management efforts. The Service shall begin the implementation of activities outlined in the non-game plan already developed, and update and issue a final plan during fiscal year 1988.

Within the increase provided for law enforcement are funds adequate to meet the identified needs of all the regions including $200,000 for the southwest law enforcement program. At least $50,000 of the increase should go toward Caribbean law enforcement needs.

Within available funds there is $1,000,000 for the Youth Conservation Corps as proposed by the House.

The managers have agreed to transfer funding for the Williams Creek-Alchesay NFH, AZ, the Mescalero NFH, NM, the Parker Fishery Assistance Office, AZ, the Pinetop Fishery Assistance Office, NM and the Lander, WY fishery assistance office from the Bureau of Indian Affairs to the U.S. Fish and Wildlife Service. In agreeing to this transfer, the managers are in no way diminishing their resolve that these facilities be managed by the tribes when the tribes are ready. It is the managers understanding that these transfers present no impediment to the eventual transfer of these fishery facilities to the appropriate tribes at a later date.

Within the amount provided for the Gainesville National Fishery Research Lab in Gainesville, FL is $150,000 to continue red fish and estuarine studies.

For the cooperative fish and wildlife units, the managers have provided $5,741,000, an increase of $1,177,000 over the 1987 level. It is the managers expectation that this increase will be split between unmet needs at existing units and to permit an expansion of units.

The $2,000,000 provided for Arctic NWR, AK oil and gas development impact studies is to cover wildlife research for caribou and waterfowl, refuge management studies, habitat water quality and quantity studies and fish migration studies.

The reduction in general administration is not directed at any particular office.

House bill language earmarking $1,204,000 for the National Fishery Research and Development Center at Wellsboro, PA has been deleted. Within the funds provided, however, there is $1,204,000 for the Wellsboro lab.

In addition to the review of all fish hatcheries to determine essential maintenance needs, the Service is to recommend to the House and Senate Committees on Appropriations the priorities for implementation. This information should be provided to the House and Senate Appropriations Committees by May 15, 1988.

The $1,000,000 increase for contaminant analysis may be used for other contaminant-related activities as needed.

The managers agree that U.S. Fish and Wildlife Service adminsitrative funds may be used to provide administrative support to the Fish and Wildlife Foundation through June 30, 1988 at an annual rate of $100,000.

The managers request the Service to prepare a report to discuss the acquisition of water rights in the Colorado River for instream flow requirements for endangered species protection. The report is to address the status of current knowledge concerning in-stream flow requirements, as well as biological and hydrological needs. The report is to be submitted by the Secretary, who is expected to address various agency jurisdictional issues raised by the report.

The managers direct the Southeastern Fish Culture Laboratory, in Marion, Alabama to coordinate some of its research in the conservation, management, investigation, protection, and utilization of sport fishery and warm water fish farming with the Alabama Cooperative Fishery Research Unit and the Department of Fisheries and Allied Aquaculture of Auburn University, toward a mission of improving the economics of farm aquaculture, including the commercial production of catfish, tilapia, striped bass, and other species in the Southeast.

CONSTRUCTION AND ANADROMOUS FISH

Appropriates $25,062,000 for Construction and Anadromous Fish instead of $21,054,000 as proposed by the House and $19,437,000 as proposed by the Senate. Changes to the House position are decreases of $200,000 for advance planning, $747,000 for Crab Orchard Dam, IL and $5,000 based on a reestimate of FERS costs. Increases to the House position include $500,000 for the Karluk Lake field facility at Kodiak NWR, AK, $350,000 for Skilap loop rehabilitation at Kenai NWR, AK, $300,000 for Pittsford NFH, VT, $740,000 to complete the forensics laboratory, $210,000 for pond rehabilitation and repairs for Bowden NFH, WV, $1,500,000 for Leetown National Fisheries Center, WV pond rehabilitation, $350,000 for rehabilitation of the Academy Building at Leetown for striped bass research and $1,010,000 for the Northeast Anadromous Fish Lab.

The $400,000 for advance planning is to be used to plan for refuge rehabilitation needs, hatchery rehabilitation needs and striped bass production needs. The service is to consult with the Committees on the planning projects to be undertaken.

The reprogramming submitted to the Committees on Appropriations regarding the Eastern Shore NWR, VA is approved. The funds in the reprogramming combined with the $450,000 in this bill will provide a visitor center/office for the refuge.

Bill language is included to allow the Service to solicit bids for the Northeast Anadromous Fish Laboratory, essentially as currently designed, notwithstanding the availability of funds. The conference agreement provides $2 million in additional construction funds for the laboratory, and it is the intent of the managers that the funding necessary to complete the facility will be provided in fiscal year 1989. The Service is directed to issue the request for proposals for construction of the facility as soon as possible after enactment of this Act.

The managers direct that $481,000 remaining in the Alaska Region's Construction and Anadromous Fish account for fiscal year 1987 be reprogrammed to fund construction of a hanger in Bethel, Alaska to house Fish and Wildlife Service aircraft which serve the Yukon Delta National Wildlife Refuge.

MIGRATORY BIRD CONSERVATION ACCOUNT

Appropriates $1,000,000 for the migratory bird conservation account as proposed by the House instead of $3,561,000 as proposed by the Senate.

The managers agree to continue to support Commission efforts to acquire bottomland hardwoods for the Cache River NWR, AR. The managers understand that there is $2,000,000 for continued acquisition by the Commission for the Little River Wildlife Refuge in Oklahoma and that the total acquisition cost will be $5,500,000 and encourage the Commission to continue acquisition.

LAND ACQUISITION

Appropriates $51,754,000 for land acquisition instead of $39,074,000 as proposed by the House and $72,860,000 as proposed by the Senate. The managers agree to the following distribution:

Acquisition management	$1,874,000
Alligator River NWR, NC	4,000,000
Bitter Creek Lake NWR, NM	500,000
Bogue Chitto NWR, LA	500,000
Buenos Aires NWR, AZ (Arivaca Creek)	750,000
Chickasaw NWR, TN	2,500,000
Crystal River, FL	650,000
Fakahatchee Strand, FL (Florida panther)	2,620,000
Finnegan Cut NWR, CA	1,000,000
Hawaiian Forest NWR, HI	4,000,000
Kilauea Point NWR, HI	1,700,000
Klamath Forest NWR, OR	3,500,000
Leslie Springs, AZ	300,000
Lower Rio Grande NWR, TX	8,000,000
Lower Suwanee, FL	1,500,000
Matagorda Island, TX	5,000,000
National Elk Refuge, WY	510,000
National Key Deer NWR, FL	2,000,000
Rachel Carson NWR, ME	560,000
Sacramento River NWR, CA	1,000,000
Stewart McKinney NWR, CN	500,000
Sunkhaze Meadows, ME	800,000
St. Marks NWR, FL	880,000
Tensas NWR, LA	2,500,000
North American Waterfowl Mgt. Plan	6,000,000
Inholdings	2,000,000
Offset (from Bitter Creek NWR, CA)	−3,390,000
Total	51,754,000

The amount for acquisition management includes a $15,000 reduction for FERS. Also included in the allowance is an increase of up to $250,000 for activities related to Carizzo Plains, CA.

The managers agree to delete a specific earmark in the bill for Tensas NWR, LA.

ADMINISTRATIVE PROVISIONS

Limits payments at the discretion of the Secretary for information, rewards, or evidence concerning violations of law administered by the U.S. Fish and Wildlife Service to $400,000 as proposed by the Senate instead of $350,000 as proposed by the House.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

Appropriates $730,799,000 for Operation of the National Park System instead of $725,129,000 as proposed by the House and $134,106,000 as proposed by the Senate.

Changes to the House position include increases of $332,000 for Jean Lafitte NHP, LA as proposed by the Senate, $300,000 and up to six FTE's for New River Gorge NR, WV, $100,000 for City of Rocks National Reserve, ID, $225,000 for Fordyce Visitor Center operations at Hot Springs NP, AR, $200,000 for Buffalo National River, AR, $400,000 for Lowell NHP, MA, $200,000 for Harpers Ferry NHP, WV, $250,000 each for Hawaii Volcanoes NP, HI and Haleakala NP, HI for pig and exotic plant control projects, $250,000 for Glen Canyon NRA, UT/AZ,

$150,000 for El Malpais NM, NM for planning, $60,000 for the New River Gorge Parkway Planning Commission, $20,000 for a civil war interpretive exhibit at Harpers Ferry NHP, WV, $85,000 for the Harpers Ferry police force, $750,000 for U.S. Park Police, $1,000,000 for fee collection, $1,500,000 for trail maintenance and reconstruction, $250,000 for informational publications, $250,000 for Volunteers-in-Parks, $100,000 to monitor spraying at New River Gorge NR, NW, $2,351,000 for the Martin Luther King, Jr. Center for the Study of Nonviolent Social Change and $160,000 for executive direction; and decreases of $30,000 for the Upper Delaware Council, $250,000 for radon mitigation, $250,000 for increased utility costs, $119,000 for US/ICOMOS and $2,864,000 for the FERS reestimate.

The managers agree that within available funds there is a $40,000 increase for the Theodore Roosevelt Inaugural Site.

Included in the allowance is $2,550,000 for the Martin Luther King, Jr. Center for the Study of Nonviolent Social Change. Of this amount, $550,000 is for operating and support costs to be expended and administered consistent with the cooperative agreement with the National Park Service. Also included in the allowance is $2,000,000 for rehabilitation of the birth home of Martin Luther King, Jr. and for acquisition and construction of a parking lot to ease a critical public parking crisis for visitors to the Center and the Martin Luther King, Jr. National Historic Site.

The amount provided for U.S. Park Police above the House level may be used for the priority items unfunded by the House. Within the amount provided for trail maintenance and reconstruction there is $154,000 for Rocky Mountain NP, CO.

The managers agree that within available funds there is $40,000 for construction of a 6-inch water line at Harpers Ferry, WV. In addition, the $420,000 increase provided by the House for road maintenance is for Mount Rainier National Park as well as Olympic and North Cascades National Parks. Also within available funds is $25,000 for Lewis and Clark Trail markings and $30,000 to plan trail interpretation.

The amount provided for cultural resources preservation includes up to $250,000 to develop a cultural resources management plan for the National Park Service maritime collection. The managers agree that special assistants to the Director of the National Park Service should be limited to those who are involved with the National Park Service.

The managers request the National Park Service to prepare a comparative report for the Committees on Appropriations on the balance between the Pennsylvania and New Jersey components of Delaware Water Gap NRA. The report should include information on the availability of facilities in each State, public use in each State and acreage in each State.

Within available funds there is $1,000,000 for the Youth Conservation Corps as proposed by the House.

The managers agree that within available general management plan funds, there is $20,000 to preserve petroglyphs in the Albuquerque, NM area, $50,000 for planning Masau Trail, $100,000 for a comprehensive plan for the Santa Fe Trail and $150,000 for Long Trail, Vermont.

The managers on the part of the House concur in the amendment of the Senate which allows the Secretary of the Interior to lease from the Department of Hawaiian Home Lands trust lands until the lands may be acquired by exchange.

The managers on the part of the House concur in the amendment of the Senate which prohibits funds available to the National Park Service being used to remove, obstruct, dewater, fill or otherwise damage the Brooks River fish ladder in the Katmai National Park, Alaska.

The managers on the part of the House concur in the amendment of the Senate which facilitates the orderly transition from regional finance offices to a central finance office.

The managers on the part of the House concur in the amendment of the Senate which permits the exchange of Land and Water Conservation Fund assisted land in Pine Bluff, Arkansas if Land and Water Conservation Fund conversion criteria regarding equal fair market value and reasonably equivalent use and location are met.

The managers agree to continue restrictions on the Office of Legislative and Congressional Affairs as proposed by the House.

The managers recommend that the Director review the operation of the Division of Legislation and provide to the Committees a report on its operation to determine the feasibility of regional offices and the Office of Planning and Development providing greater assistance in preparing material for congressional reports and the feasibility of combining the Division of Legislation and the Office of Planning and Development. Until the Committees have had an opportunity to review the report, and increase of staff cannot be supported.

The managers agree to continue Park entrance fees and to exempt persons 16 or under from entrance fees instead of exempting persons 12 or under as proposed by the Senate. The language provides that if permanent statutory language is enacted at any time during fiscal year 1988, either prior to or subsequent to enactment of this Act, the fee provisions in the permanent statutory language shall govern and the fee provisions in this Act shall be superseded.

The managers have agreed to no rescission of funds provided in fiscal year 1987 for the Steamtown Historic Site, as proposed by the House, instead of rescinding $5,500,000 as proposed by the Senate.

The managers recognize that the Steamtown Comprehensive Management Plan (CMP) was completed in one year and is a working document. Due to the accelerated schedule, however, several critical areas in the plan remain tentative and need to be clarified. These include the size and scope of the collection, the length and operation of the excursion route and the annual operating budget. It is the intent of the managers to address these areas during the fiscal year 1989 budget hearings.

The annual operating budget for the site which was identified in all alternatives is estimated to be $2,000,000. This estimate is based upon other U.S. rail facilities of similar scale. Since the Park Service does not currently operate a site similar to this, this estimate is not conclusive and needs to be substantiated. This will also be reviewed by the Committees in the fiscal year 1989 hearing process.

The Steamtown Foundation's collection currently consists of 40 locomotives and over 100 pieces of rolling stock. The managers encourage the National Park Service to recommend those pieces of equipment which represent the greatest historic value. The managers also direct the Park Service to detail in the collections statement which pieces of stock are to be restored to operating condition, as distinguished from those which will require only cosmetic repair. The collections statement should be complete in time for consideration for hearings next spring.

The managers agree that the Steamtown Foundation is expected to retire all outstanding Foundation debts before the National Park Service can accept ownership of their properties for inclusion in the Steamtown National Historic Site.

The National Park Service has submitted a plan of work schedule to the Committee for fiscal year 1988 using the remaining $6.9 million available from fiscal year 1987. This work will include emergency repairs, stabilization, critical research and basic planning, design and construction. It is the understanding of the managers that all future construction activities will be accommodated within the current authorization ceiling or pursuant to amendments to the authorizing legislation. Future year appropriations for the Steamtown National Historic Site will be considered after the overall plan, which is to include the collections statement and the excursion line study, is complete.

The managers have agreed to drop Senate bill language regarding the upgrade of a power line through Capitol Reef National Park. There is agreement, however, that the National Park Service is to continue to work with the Garkane Power Association toward upgrading the power transmission capacity to no more than 34.5KV. Any upgrade should be conducted in a manner which will minimize visual impacts in the park.

Language proposed by the Senate to make permanent an earmark of $85,000 for the Harpers Ferry Police Department has been deleted. The managers concur in the Senate report language regarding the Intrepid Sea-Air-Space Museum.

NATIONAL RECREATION AND PRESERVATION

Appropriates $12,935,000 for national recreation and preservation instead of $12,753,000 as proposed by the House and $12,983,000 as proposed by the Senate. The changes from the House position include increases of $75,000 for official standards for HABS/HAER documentation of maritime resources; $75,000 for coordination of the Federal, State, and private agencies involved in the abandonment of railroad rights-of-way and the conversion of those rights-of-way to recreational trails; and $100,000 for the departmental consulting archaeologist to provide increased overall coordination of Federal archaeological programs. There is a reduction of $68,000 related to a reestimate of FERS costs.

Of the increase of $400,000 for trail activities, $100,000 is for the national trails inventory.

HISTORIC PRESERVATION FUND

Appropriates $28,250,000 for the Historic Preservation Fund instead of $25,000,000 as proposed by the House and $34,050,000 as proposed by the Senate.

The increase to the amount provided by the House includes $2,000,000 for grants to States for survey and planning activities or architectural, engineering and management assistance; $1,000,000 for the Bicentennial Lighthouse Fund and $250,000 for the National Trust's critical issues fund.

The managers on the part of the House concur in the Senate direction to the National Park Service to prepare a report for the Appropriations Committees identifying a priority listing of endangered archeological sites, the cost of acquisition and development of the sites, and recommendations on the role the Federal Government could play in best assisting State, local, and private efforts to stabilize and preserve our archeological resources on non-Federal lands.

URBAN PARK AND RECREATION FUND

The managers have agreed to rescind $1,900,000 of unobligated balances in the Urban Park and Recreation Fund instead of $2,800,000 as proposed by the Senate.

CONSTRUCTION

Appropriates $93,017,000 instead of $86,056,000 as proposed by the House and $81,331,000 as proposed by the Senate.

The managers have agreed to the following distribution of funds:

Line item request	$19,318,000
Emergency and unscheduled projects	2,000,000
Planning	14,100,000
Boston NHP, MA (Faneuil Hall)	3,000,000
Cuyahoga Valley NRA, OH:	
Erosion control	200,000
Kendall unit (utilities)	600,000
Locktender's house	735,000
Delaware Water Gap NRA, PA	1,200,000
Friendship Hill NHS, PA	2,000,000
Gateway NRA, NY (Great Kills Bathhouse)	1,200,000
Guadalupe Mountains NRA, TX	3,650,000
Johnstown Flood Museum, PA	4,300,000
Lincoln Home NHS, IL	500,000
Springfield Armory NHS, MA	1,000,000
Tuskegee NHS, AL	2,000,000
Buffalo National River, AR:	
Tyler Bend Campground	3,800,000
Erbie Campground	650,000
Jean Lafitte NHP, LA:	
Barataria Unit-Environmental Education Center	800,000
Acadian Cultural Centers	5,500,000
Thomas Stone Mansion NHS, MD	400,000
C&O Canal-Flood Repairs	1,000,000
Fossil Butte NM, WY	3,950,000
Fort Union Trading Post	850,000
New River Gorge NR, WV:	
Park headquarters	2,000,000
Trails development	300,000
Kaymoor mine site	500,000
Denali NP, AK:	
Visitor Access Center	1,300,000
Savage River bus shelter	60,000
Klondike Gold Rush NHP, AK (Mascot Bldg)	296,000
Harpers Ferry NHP, WV	1,000,000
Yosemite NP, CA	300,000
Natchez Trace NP, MS/TN	13,200,000
Lowell Historic NP, MA	1,500,000
FERS reestimate	−192,000
Total reestimate	−193,017

Within the amount provided for planning, the managers agree to the following projects:

Allegheny Portage NHP, PA (Summit Level restoration, Horseshoe Curve development, Staple Bend Tunnel, Saltsburg/Western Division Mainline)	$1,650,000
Biscayne NP, FL (Sewage system and seawall)	500,000
Blue Ridge Parkway (Fisher Peak Recreation Area)	25,000
Boston NHP, MA (Old State House)	500,000
C&O Canal (Rewatering feasibility study)	100,000
George Washington Memorial Parkway (interchange EIS)	400,000
Harpers Ferry NHP, WV (interpretive design center)	330,000
Indiana Dunes NL, IN (Coronado Lodge)	260,000
Jean Lafitte NHP, LA (Barataria Unit-Wagner Bridge)	200,000
Mount Rushmore NM, SD	350,000
New River Gorge NR, WV:	
Development concept plan	385,000
Canyon development	450,000
Thurmond	400,000
Parkwide Trails study/signs	100,000
Rocky Mountain NP (entrance station)	28,000
Tuskegee NHS, AL	600,000

The managers have not provided funds to plan the infrastructure for concessioner facilities expansion at Glen Canyon NRA UT/AZ on the basis that planning is to be accommodated through the regional director's initiative.

The managers have not provided funds for Canaveral NS, FL because the project cannot be started during fiscal year 1988. It is the clear intent of the managers to fund this project in fiscal year 1989. The National Park Service is to give top priority to assuring that this project will be ready in 1989 and will not be delayed further.

The managers understand that the Acadian Cultural Centers will be built in accordance with cooperative agreements in the towns of Eunice, Thibodaux and Lafayette, Louisiana and shall be developed, maintained and operated as part of the Jean Lafitte National Park.

The Service shall prepare a report for the Committees reviewing the advantages and disadvantages of various sites, including Gettysburg NHP, to house a museum of the Civil War.

LAND ACQUISITION AND STATE ASSISTANCE

Appropriates $60,749,000 for land acquisition and State assistance instead of $48,431,000 as proposed by the House and $76,323,000 as proposed by the Senate. The managers agree to the following distribution:

State grants	$16,567,000
State grant administration	3,433,000
Subtotal, State programs	20,000,000
Emergencies, hardships, inholdings, deficiencies, and relocation	5,000,000
Appalachian Trail	5,000,000
Chattahoochee NRA, GA	3,000,000
Cuyahoga Valley NRA, OH	5,000,000
Delaware Water Gap NRA, PA, NJ	1,000,000
Grant-Kohrs Ranch NHS, MT	600,000
Haleakala NP, HI	500,000
Indiana Dunes NL, IN	1,000,000
Manassas NB, VA	2,000,000
Pictured Rocks NL, MI	200,000
Point Reyes NS, CA	1,000,000
Santa Monica NRA, CA	1,000,000
Sleeping Bear Dunes NL, MI	2,000,000
Upper Delaware Scenic and Rec. River (Zane Grey house)	300,000
Valley Forge NHP, PA	1,250,000
War in the Pacific NHP, GU	800,000
Home of FDR NHS, NY (Kessler Tract)	500,000
Rocky Mountain NP, CO (Indian Head Ranch)	1,100,000
Harpers Ferry NHP, WV	75,000
Olympic NP, WA	1,000,000
New River Gorge NR, WV	2,000,000
Acquisition Management	6,498,000
FERS reestimate	−74,000
Total	60,749,000

Within the amount provided for acquisition management is $100,000 for New River Gorge NR, WV and $50,000 for appraisals of mining claims at Great Basin NP, NV.

Bill language has been included which states that any federally-owned land in the War in the Pacific National Historical Park that becomes excess to the needs of the administering agencies shall be transferred to the National Park Service, without reimbursement, for purposes of the park.

The managers have also included bill language to permit the National Park Service to purchase the Zane Grey house and personal effects at Upper Delaware Scenic and Recreation River.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

Appropriates $4,904,000 instead of $4,920,000 as proposed by the House and Senate. The reduction is based on a reestimate of FERS costs.

The managers on the part of the House concur in the amendment of the Senate which provides that contracts awarded for certain functions at the John F. Kennedy Center for the Performing Arts may be negotiated with selected contractors and awarded on the basis of contractor qualification as well as price.

ADMINISTRATIVE PROVISIONS

The managers on the part of the House concur in the provision of the Senate which prohibits the National Park Service from issuing a construction permit for the Potomac Greens interchange on the George Washington Memorial Parkway unless an environmental impact statement is conducted under certain conditions.

The managers have agreed to include bill language reasserting provisions of Public Law 95-625, as amended, to halt National Park Service harassment of landowners in the Santa Monica Mountains National Recreation Area, California. The statute provides protection to inholders who had homes whose construction commenced prior to January 1, 1978. The Service has traditionally recognized the right of inholders to rebuild homes that have been destroyed. The language added recognizes the intent of Congress that where homes built prior to January 1, 1978 were destroyed, the landowner or his assignees may rebuild his home. The statute authorizing the Santa Monica Mountains NRA provides that fee title to improved properties, such as a detached single-family dwelling, shall not be acquired unless the Secretary finds that such lands are being used, or are threatened with uses, which are determined to be detrimental to the purposes of the national recreation area. The managers understand, however, that the Service is pressuring landowners to sell, and threatening them with condemnation, even though the statute provides that improved property landowners shall have the continued use and enjoyment of their property in a manner consistent with the use that existed prior to January 1, 1978.

The law also provides that the Secretary shall give full consideration to the recommendations of State and local agencies, including the California Coastal Commission.

The managers conclude however, that full consideration is not being given.

Therefore, the managers direct the Service to cease the policy and practice of harassment of landowners and to reassess and adjust its coordination procedures with agencies with which it is lawfully required to consult.

The managers note that the Department of the Interior has missed the statutory deadline to submit to the Congress recommendations for additional wilderness designations in Alaska National Parks and National Wildlife Refuges. Every effort should be made to expedite completion of the environmental impact statements and to develop wilderness recommendations for the President's consideration as soon as possible, but no later than the end of fiscal year 1988.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

Appropriates $447,747,000 for Surveys, investigations, and research instead of $447,324,000 as proposed by the House and $449,908,000 as proposed by the Senate.

The increase above the amount proposed by the House consists of increases of $500,000 for the earth resources observation system (EROS); $500,000 for volcano hazards; $500,000 for wetlands erosion studies; $1,000,000 for coal reserve investigations; $900,000 for the Water Research Scientific Information Center; $800,000 for regional aquifer studies; $600,000 for drilling in the San Andreas-Glorieta aquifer; $400,000 for work on the Ogallala aquifer; and $250,000 for nuclear waste hydrology; and decreases of $250,000 in digital cartography; $375,000 in Geographic Information Systems (GIS); $250,000 in national geologic mapping; $500,000 in offshore geologic surveys; $250,000 in sedimentary basins and subtle traps; $200,000 in geothermal; and $3,202,000 for the FERS reestimate.

The managers agree that the Geological Survey in conjunction with other interested parties should develop program alternatives for the EROS data center which address the continuing funding problems and viability of the center and present them to the Appropriations Committees by May 1, 1988.

The managers also agree that all geomagnetism observatories should remain open; that the additional regional aquifer funds are to begin study of the Appalachian aquifer; and that $100,000 of the Ogallala aquifer funding is for a comprehensive report on the aquifer, and $300,000 is for use in the Federal-State cooperative program.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

Appropriates $168,717,000 instead of $169,313,000 as proposed by the House and $171,267,000 as proposed by the Senate.

In outer continental shelf lands, the difference under the amount proposed by the Senate is a result of a reduction of $1,804,000 in the leasing and environmental program of which $400,000 is from accelerated prelease identification of critical areas of environmental concern, $1,300,000 is from accelerated prelease environmental assessments and $104,000 from funding proposed for the Bering Sea Resources Association.

The managers agree that MMS is to use the additional funding in the leasing and environmental program to accelerate environmental research in areas of upcoming lease sales where the potential for conflict is great such as off the Straits of Florida, Northern California, and Washington-Oregon. For example, in Florida tourism, commercial and sport fishing, and endangered species are serious concerns; and in Washington-Oregon the managers understand that studies of commercial fisheries, seabirds and marine mammals will be expanded. In addition, the MMS is to work with State agencies to define jointly the scope and detail of these studies and utilize existing State capabilities to avoid duplication. MMS is to provide a table to the Committees which compares the initial schedule for these environmental activities with the accelerated schedule this additional funding provides.

The managers are aware that the Inspector General is completing a review of the MMS audit strategy and have withheld adding funds for additional auditors until they can review this study and its recommendations.

In accordance with the Administration's request for a fiscal year 1988 budget amendment, the managers have reduced MMS by $746,000 due to a reestimate of the cost of the Federal contribution to the Federal Employee Retirement System.

In respect to product value regulations for oil and gas and Notice to Lessees Numbered 5 (NTL-5), the managers have not included bill language as proposed by the House, which directed that none of the funds may be used to implement a rule which modifies the product value guidelines of the Minerals Management Service. The Minerals Management Service may go forward with its proposed schedule of releasing final regulations which will be effective February, 1988 but must report on a quarterly basis to the Committees of jurisdiction on royalty collections for that period as well as an historical comparison of collections for equal production so the Congress can determine whether these new regulations are "revenue neutral" as the Minerals Management Service claims. In the event that there is a severe revenue loss, the managers give notice that they will require the Minerals Management Service to address and correct that deficiency through an amendment to the regulations, in accordance with the Administrative Procedures Act.

The managers understand that, in testimony given November 16, 1987 by the Department before the Senate Energy and Natural Resources Committee, the Department stated they will attempt to follow a similar process for the ongoing development of the new coal product value guidelines as they undertook for oil and gas.

On November 3, 1987, the House passed H.R. 3479, the NTL-5 Gas Royalty Act of 1987. On December 4, 1987, the Committee on Energy and Natural Resources considered H.R. 3479 and offered an amendment in the form of a substitute. Because of the House and Senate action on resolving this issue, the managers have modified the House language to lift the moratorium for fiscal year 1988 on NTL-5 once H.R. 3479 or similar legislation is signed into law. In addition, audits may proceed but MMS shall take no action to collect unpaid or underpaid royalties, plus applicable interest, based on a value of production in excess of gross proceeds (or minimum value required by applicable regulations) until such time as said legislation is enacted.

The MMS is to continue to notify the Committees on a quarterly basis on the enhancements identified for the Auditing and Financial system, their resultant cost and benefit, and the timeframe for implementation.

The managers have not accepted Senate language directing the Department of the Interior to establish separate commissions comprised of State and Federal representatives to review ocean mining in the EEZ.

Bill language is included which specifies that $50,179,000 is provided for royalty management activities as proposed by the Senate instead of $50,929,000 as proposed by the House. In addition, language proposed by the Senate amending the Outer Continental Shelf Lands Act by releasing 27 percent of the funds escrowed in the Alaska boundary dispute to the State of Alaska has been included.

The managers have deleted bill language proposed by the House providing for the deduction of the cost of collection of mineral leasing receipts before receipts are distributed between Treasury and the States.

BUREAU OF MINES

MINES AND MINERALS

Appropriates $146,398,000 for mines and minerals instead of $132,727,000 as proposed by the House and $158,392,000 as proposed by the Senate.

The difference over the amount proposed by the House in Minerals Information and Analysis is an increase of $1,250,000 in high priority land analysis and the restoration of $350,000 of the funds proposed for transfer to health and safety and mining technology for maintenance.

In health and safety technology the increases over the House level consist of $1,000,000 for rock burst research, $300,000 for robotics research, and $100,000 for fires and explosions. These increases are offset by a reduction of $550,000 which the House proposed for deferred maintenance.

In mining technology the managers have included $3,500,000 over the House level to continue a demonstration project to test the feasibility of in situ copper mining at the Asarco-Freeport Santa Cruz site near Casa Grande, Arizona. Of this amount, $1,000,000 shall be available for the Bureau of Mines' laboratory research, and $2,500,000 shall be available for the purchase of plant equipment and on-site preparation activities. The managers expect a non-Federal cost-sharing contribution of 25 percent over the life of the project, either in cash or in-kind services such as project management and the sale of copper produced during the research test. The managers also expect the non-Federal partner to assume operational management responsibility. The Bureau is directed to contract for administrative services, as necessary, and to monitor overall project execution. The managers have included an increase of $500,000 for in situ leaching of precious metals which is to be matched by industry providing a total of $1,000,000 for this project, and $600,000 for cyanide leaching of gold at the University of Nevada. In addition, $1,200,000 has been included for a National Mine Land Reclamation Center. The managers encourage the Bureau of Mines to seek the highest practical levels of cost-sharing in this endeavor. The final increase is $1,000,000 for water contamination studies of which $500,000 is for research to be conducted at the University of Idaho. These increases are offset by reductions of $150,000 for deferred maintenance, $500,000 for acid mine drainage, $300,000 for subsidence research, $300,000 for mine waste research, $1,000,000 for selective mining techniques and $1,000,000 to expand AML research.

The managers direct the Bureau of Mines to use $250,000 within available funds for abandoned mine research to conduct a research program on revegetation of toxic hot spots in Arkansas. The Bureau is to work with the Soil Conservation Service in resolving this problem.

In minerals and materials an increase of $1,000,000 over the House level has been included for research at the Idaho National Engineering Lab. The managers understand that the last increment needed to complete research initiated in fiscal year 1986 on a flame reactor is $500,000. This funding will be considered in fiscal year 1989.

For mineral institutes, $4,608,000 has been included over the House level to provide funding for allotment grants to the 32 mineral institutes. In addition, bill language has been included to provide $600,000 to the Mississippi Mineral Resources Institute of the University of Mississippi and $600,000 to the Center of Ocean Resources Technology of the University of Hawaii for a Marine Minerals Technology Center.

In general administration the increases over the House level consist of $200,000 to restore the funding proposed to be transferred to health and safety technology for maintenance and an increase of $750,000 for deferred maintenance of which $375,000 is for the Pittsburgh Research Center.

In facilities, the manager have agreed to include bill language authorizing the phased purchase of the Spokane Research Center. The increase over the House level is $700,000 with the balance of the $1,100,000 expected to be needed in fiscal year 1988 being derived from funding included in the Bureau's base budget for rent. The managers are aware of the GSA appraisal for $2,200,000 and do not anticipate a price which exceeds that. The balance of the funds will be provided in future appropriations.

In accordance with the Administration's request for a fiscal year 1988 budget amendment, the managers have reduced the Bureau by $787,000 due to a reestimate of the cost of the Federal contribution to the Federal Employee Retirement System.

The managers agree that the Bureau should attempt to maintain a full-time equivalent level comparable to that of fiscal year 1987. In addition, the managers expect a comprehensive report on the Bureau's findings regarding the sale of the helium operations to ensure Congressional approval before the Bureau proceeds.

Bill language has been included earmarking $38,259,000 to remain available until expended instead of $82,859,000 as proposed by the House and $97,459,000 as proposed by the Senate. In addition, the managers have included bill language earmarking $1,890,000 for executive direction as proposed by the House instead of $2,147,000 as proposed by the Senate.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

Appropriates $102,125,000 instead of $105,690,000 as proposed by the Senate and $102,305,000 as proposed by the House.

The difference from the Senate proposal is a reduction of an additional $2,000,000 in State regulatory program grants. This reduction comes from the regulatory grant for the State of Kentucky since it received $2,000,000 from a fiscal year 1987 reprogramming.

In the Federal regulatory program account, the managers have reduced travel funds in regulatory program operations by $100,000.

In respect to the Kentucky settlement agreement, the managers have provided a total of $3,685,000, the Senate level, to fund this agreement in fiscal year 1988. Due to the fact that passage of the Continuing Resolution will occur at the end of the first quarter of the fiscal year, funding is only necessary for three quarters of the fiscal year. The managers are aware the total cost to meet the terms of the settlement agreement is $12.9 million. Future funding for this agreement will be contingent on the progress made in reaching the goals of this agreement as reported to the Committees during the upcoming OSM hearings on their fiscal year 1989 and fiscal year 1990 budget requests. Bill language has been included supporting the settlement agreement.

The managers have restored the reduction of $600,000 in general services for the planned relocation to new quarters and reduced the $1,800,000 the Senate provided for the Coal Data Management Information System.

In accordance with the Administration's request for a fiscal year 1988 budget amendment, the managers have reduced regulations and technology by $265,000 due to a reestimate of the cost of the Federal contribution to the Federal Employee Retirement System.

ABANDONED MINE RECLAMATION FUND

Appropriates $199,380,000 for the abandoned mine reclamation fund instead of $194,899,000 as proposed by the House and $205,439,000 as proposed by the Senate.

The difference from the Senate level consists of a decrease of $5,340,000 in State reclamation program grants, an increase of $1,200,000 in federal reclamation programs in fee compliance, an additional reduction of $1,000,000 which coupled with the Senate reduction of $9,000,000 constitutes a total decrease of $10,000,000 from the budget request as a general program offset, and a reduction of $800,000 in general administration for the Coal Data Management Information System.

In accordance with the Administration's request for a fiscal year 1988 budget amendment, the managers have reduced the abandoned mine reclamation fund by $119,000 due to a reestimate of the cost of the Federal contribution to the Federal Employee Retirement System.

The managers agree that $461,000 from within available funds is to be used to restore funding to the Wilkes-Barre field office.

The managers direct OSM to use available funds to contract with the United States Geological Survey for a study to be conducted within 45 days of enactment to determine the cause for contamination of the Peter Creek water system. If contamination is due to abandoned mines where mining occurred prior to 1977, then OSM is directed to approve the use of funds from Kentucky's 1987 reclamation grant to resolve this problem. If contamination is not due to abandoned mining, OSM is to help the State seek funding from more appropriate sources such as EPA.

The managers have not included bill language proposed by the Senate requiring that $250,000 of overall RAMP funding be provided to Arkansas to initiate a five-year study of vegetative covers of reclaimed lands because funding for this purpose has been provided in the Bureau of Mines. In addition, language proposed by the House providing access for the Navajo, Hopi and Crow Indian Tribes to abandoned mine reclamation funds has not been included because it was incorporated into Public Law 100-71, enacted after the House passed its bill on June 25, 1987.

Language proposed by the Senate authorizing the use of $2,000,000 of the State of Wyoming's fiscal year 1987 allocation for the Rawhide and Horizon subdivisions has not been included since it is contained within the Omnibus Budget Reconciliation Act of 1987.

The managers also direct OSM to use available funds to contract with the U.S. Geological Survey for a study to be conducted within 45 days of enactment to determine the cause of contamination in the areas proposed for the extension of the water supply system in Butler County, Kentucky. If contamination is due to abandoned mines where mining occurred prior to 1977, then OSM is directed to approve the use of funds from the savings from project GR 5167212. If contamination is not due to abandoned mining, OSM is to help the State seek funding from more appropriate sources such as EPA.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

Appropriates $970,756,000 instead of $966,452,000 as proposed by the House and $979,471,000 as proposed by the Senate. The net increase over the amount proposed by the House consists of increases of $100,000 for the gifted and talented program; $200,000 for all other social services; $3,000,000 for contract support; $200,000 for United Tribes Educational Technical Center; $2,155,000 for Tribe/agency operations—Indian services, including a transfer in of $135,000 from law enforcement for the Colville and Winnebago tribes, increases of $200,000 for the Chitimacha Tribe, $200,000 for the Tohono O'Odham tribal court, $550,000 for Colville law enforcement, an additional $170,000 for Winnebago law enforcement, $50,000 for Miccosukee law enforcement, $150,000 for Rosebud law enforcement, $50,000 for the Standing Rock Sioux detention center, $500,000 for the Gila River juvenile center, and $250,000 for repairs at the Crownpoint Institute of Technology, and a decrease of $100,000 from Cheyenne River Sioux law enforcement; $500,000 for the business development grant program; $450,000 for implementation of the Havasupai range rehabilitation plan; $55,000 for the Nez Perce soil fertility program; $70,000 for the Great Lakes Indian Fish and Wildlife Commission; $50,000 for sawmill operations, Red Lake Band of Chippewa Indians; $75,000 for logging operations, Bad River Tribe; $150,000 for Lac du Flambeau fisheries enhancement; $100,000 for Leech Lake hatchery operations; $400,000 for the Puyallup Tribe's land claims negotiations; $200,000 for ANCSA historical and cemetery site investigations; $300,000 for litigation support; $500,000 for Navajo and Hopi legal fees; $100,000 for land title offices; $23,000 for financial management data systems; and $120,000 for the Close Up Foundation; and decreases of $250,000 for special higher education scholarships; $250,000 for Title I tribally-controlled community colleges; $135,000 transfer from law enforcement; $500,000 from road maintenance; $250,000 from hatchery cyclical maintenance; $112,000 from Fish and Wildlife Service-operated hatcheries; $175,000 from trust funds contracting; $100,000 from ADP processing; and $2,672,000 for the reestimate of FERS.

Bill language has been included providing that not less than $47,787,000 shall remain available until expended for contract support for contracts entered into under Public Law 93-638. The bill earmarks $51,121,000 for higher education and assistance to public schools as proposed by the House, instead of $53,057,000 as proposed by the Senate. Bill language proposed by the Senate regarding the distribution formula for Johnson-O'Malley funds has been included, to be effective only for fiscal year 1988. The managers expect this issue to be resolved by fiscal year 1989, based on a study to be submitted by the Secretary on the distribution formula, as proposed in S. 373. The study should be submitted to the Appropriations Committees by June 1, 1988, and should review and make recommendations on methods for distributing Johnson-O'Malley funds in an equitable manner. Also, bill language proposed by the Senate providing limitations for three line items in this account has been deleted. Bill language proposed by the Senate providing that funds appropriated for the Institute of American Indian Arts shall be available for operations until the Board of Regents and President have been named and had an opportunity to organize has been included. This language is necessary because the appointment of the Board and President have not yet occurred, and authority for BIA to continue to provide funding to the Institute in the interim is needed. Bill language has been included making the savings realized by the Bureau of Indian Affairs from the transfer of fish hatcheries to the Fish and Wildlife Service available for cyclical maintenance of tribally-owned hatcheries. A technical change, moving a period in a court case citation, *United States* v. *Michigan* (M-26-73), has been included. Bill language providing $120,000 for a grant to the Close Up Foundation, as proposed by the Senate, has also been included.

The funding for the gifted and talented pilot program is included for the last time as the managers expect the results of the evaluation of the pilot program, and the proposal for a Bureau-wide program with related funding, to be included in the fiscal year 1989 budget request. In addition to the $20,351,000 provided for the Johnson-O'Malley program, an additional amount will be provided to P.L. 93-638 contractors under the program, for full contract support. The managers have provided sufficient funds, based on current BIA estimates, to provide full contract support costs for all P.L. 93-638 contractors based on negotiated indirect cost rates. If it appears there will be a shortfall during the year, the Bureau should promptly notify the Appropriations Committees, along with a proposal to meet the funding shortfall.

The managers have provided increases of $300,000 and $1,000,000 respectively for substance abuse judicial and law enforcement training, which should be sufficient to continue these training efforts in fiscal year 1988. The $3,800,000 provided under self-determination services is to continue the Small Tribes Core Management program as it has been conducted in the past.

In addition to the $200,000 for the United Tribes Educational Technical Center, full contract support costs will be available to the contractor from the contract support program. Although no funds have been provided specifically for a grant to the White Earth Chippewa tribe for economic development, the tribe may apply for such a grant under the business development grant program.

The managers have agreed to the transfer of the Williams Creek/Alchesay and Mescalero National Fish Hatcheries, as well as fisheries assistance offices in Parker, AZ; Pinetop, AZ; and Lander, WY to the Fish and Wildlife Service. The managers expect the Service to contract with the affected tribes served by each facility for associated program operations when the majority of tribes being served by each facility so request, and to continue to work with the tribes served by these facilities with the goal of moving to tribal control as quickly as possible. The managers also expect the Bureau to do the same with the facilities remaining under its control.

Within the increase provided for minerals assessments, the managers expect funds to continue to be made available for Phase III assessments, and expect the Penobscot/Passamaquoddy minerals assessment program to be funded to the level of full capability in fiscal year 1988.

The $397,000 for Maine Indian education is included for one year only, until the situation can be addressed by the tribes, the Bureau and the authorizing committees. The Bureau is expected to continue to provide adequate staffing and funding for the Phoenix Indian School until final disposition of the school and facilities has been made by Congress. The managers do not agree with the Bureau's proposal to offset tribally-controlled colleges endowment income with budget reductions. Of the budgeted increase for tribal courts, $50,000 is for the Fort Peck reservation, to help meet the tribe's special needs with regard to child abuse offenders.

There is no objection to a limited effort by the Bureau to fund several demonstration efforts related to the economic self-assistance initiative, as long as a full report on such efforts is provided to the Committees prior to the fiscal year 1989 hearings, and no effort is made to expand these efforts until Congressional approval is received.

$4,000,000 has been restored for self-determination grants. Of this amount, $1,000,000 is to be used by the Bureau for a tribal self-governance demonstration project. The project will allow up to ten tribal governments, which were named in the Department's letter to the House Appropriations Committee dated December 15, 1987, the opportunity to design their own budgets to address tribally determined priorities. The managers direct the Bureau to analyze all budgets and functions at all levels of the Bureau, and to formulate a proposal for the equitable distribution of resources and service responsibilities between these demonstration tribal governments and the remaining tribal governments in multi-tribal agency and area offices. The Bureau should also prepare proposals for reduction or transfer of personnel and consolidation of program functions to accommodate the eventual transition. The $1,000,000 shall be provided under the contracting and granting authority of P.L. 93-638, as a planning grant, to the ten tribes for legal and budgetary research, internal tribal government planning and organizational preparation, and the negotiation process. Each of the tribes shall document obstacles and proposed remedies identified with this planning process, to be consolidated into a comprehensive report to be submitted to the Appropriations Committees by September 1, 1988. As fiscal year 1988 will be the planning phase for the self-governnance demonstration project, normal P.L. 93-638 programs and budgeting should be separate from the planning process. The negotiated agreements should also include a clear delineation of trust responsibility protections assumed by the tribes and retained by the United States government. To document tribal progress under self-governance, mutually-determined baseline measures are to be incorporated into each demonstration agreement between the Federal government and the tribes.

Progress reports on this project shall be submitted by the Bureau by April 1, 1988, and September 1, 1988, documenting any problems experienced in the planning phase and proposed solutions. The managers expect the Bureau to work closely with the tribes involved in the demonstration projects to ensue the success of this initiative, and will closely monitor its progress over the coming year.

The balance of $3,000,000 for self-determination grants is to be added to the Indian Services-Tribe/agency budget, to be distributed according to tribal priority, for self-determination grants or other high priority activities within this program. A report on the changes that result should be submitted to the Committees as soon as possible.

The managers direct that no additional funds are to be used to fund existing or additional model business opportunity centers, until the direction in the House Committee's letter of May 20, 1987 is adhered to, and the required report is provided.

Within the total provided for water resources, the following amounts are provided: necessary amounts to continue the Zuni and Flathead studies; $545,000 for the Yakima tribe; $284,000 for the Seminole tribe in Florida; $150,000 for the Miccosukee tribe; $250,000 for the Standing Rock Sioux tribe; and $315,000 for the Navajo water monitoring and inventory program.

The Bureau is directed to restore the base funding levels for the Northwest Indian Fish Commission and the Columbia River Intertribal Fish Commission to what they would have had if they had received Federally-mandated pay increases to the same extent as other tribal contractors. The Commissions are to be treated the same as other tribal contractors for this purpose in the future.

The managers direct the Bureau to establish a priority system for distribution of the tribal hatchery cyclical maintenance funds, within sixty days of enactment of this Act.

While $496,000 has been provided for operating costs of the Upper Columbia United Tribes Fisheries Research Center in Washington, the managers expect the Center to seek other sources of operating funds for fiscal year 1989 and beyond, including funds from the Bonneville Power Administration.

The Bureau is directed to report promptly to the Committees on any shortfalls in funding for litigation support or attorneys' fees in fiscal year 1988.

The new tribes' funding is to be used for the Klamath tribe ($1,500,000), the Wampanoag tribe of Gay Head, MA ($550,000), the Alabama-Coushatta tribe, and the Tigua tribe. These funds are not to be used for any purpose other than funding new tribes.

Within Tribe/agency operations-Indian services, the $500,000 increase provided for operation of the Gila River Juvenile Rehabilitation Center and the $50,000 increase for the Miccosukee law enforcement program will continue to be available as long as the tribes include those amounts within their priorities to be funded in future years' budgets. No funds have been earmarked for the Suguamism Museum.

Within the funds provided for road maintenance, there are no funds specifically earmarked for UTETC. However, the tribes involved may earmark a portion of their road maintenance funds for this purpose. Within the funds available for forest development, $50,000 should be provided to the Tulalip reservation. The managers expect the Bureau to provide assistance to tribes involved in land or water rights negotiations, such as the Miccosukee tribe, on the basis of budgets submitted by the tribes and approved by the Bureau. Within the funds provided for rights protection is $200,000 for a study of Alaska Eskimos' reliance on bowhead whales to meet cultural and nutritional subsistence needs. The funds provided for agriculture include $250,000 for the intertribal agricultural council. $50,000 has been provided for sawmill operations, Red Lake Band of Chippewa Indians. No additional funds are earmarked for a grant to the Red Lake Band for the sawmill, although the tribe may apply for such a grant under normal program authorities.

The managers disagree with the proposal of the Bureau of Indian Affairs to deny funding for law enforcement services in areas where, pursuant to Federal law, States have jurisdiction over offenses committed by or against Indians. Funds appropriated for the Bureau's law enforcement program include funds for the continued operation of such programs in States in which P.L. 83-280 or similar Federal laws are applicable. The managers direct that the Bureau shall continue to provide funding for law enforcement programs on the basis of demonstrated need and no tribe shall be denied funding for a law and order program solely on the basis of P.L. 83-280 or similar Federal law authorizing the extension of State criminal jurisdiction over Indians within Indian country.

The $250,000 provided for the Crownpoint Institute of Technology is for repairs to the facility. The managers expect the Bureau to work with the Institute and the Navajo Tribe to identify other sources of funds to meet the Institute's needs in the future.

Bill language proposed by the Senate regarding the Little Wound School in South Dakota has not been included. However, the managers are concerned about the situation at the school in which some students are not being counted or paid for by the Bureau due to the lack of an agreed-upon boundary system. As an interim measure, the managers direct the Bureau to provide funding to the Little Wound School for the uncounted but otherwise eligible students this school year. The school and Bureau shall jointly develop and implement a school boundary system, to be in place for the 1988-89 school year, and funds shall be provided to the school in fiscal year 1989 only for the students who are eligible and counted under the agreed upon boundary system.

CONSTRUCTION

Appropriates $83,225,000 for construction instead of $73,967,000 as proposed by the House and $65,780,000 as proposed by the Senate. The net increase over the amount proposed by the House consists of increases of $1,150,000 for facilities improvement and repair (FI&R) (including increases of $1,000,000 for minor repairs, and $1,200,000 for the Pierre Indian Learning Center, and a decrease of $1,050,000 for Haskell Junior College, leaving $200,000 for design of fiscal year 1989 projects at the college); $5,126,000 for the Choctaw Central School, MS, for a total of $6,400,000; $1,000,000 for planning and design of new school facilities; $1,095,000 for irrigation systems (including increases of $500,000 for Fort Belknap, MT—Milk River project, $1,000,000 for the Eagle Unit, Standing Rock Sioux, $950,000 for Lower Brule Sioux, SD, $200,000 for Crow Creek Sioux, SD, $545,000 for dam safety projects, and a decrease of $2,100,000 to the Navajo Indian Irrigation Project); and $2,250,000 for land acquisition for the Wampanoag Tribe of Gay Head, MA; and decreases of $1,300,000 for fish hatcheries (including decreases of $500,000 from tribal hatcheries rehabilitation and $800,000 for the Queets River hatchery, WA); and $63,000 for the reestimate of FERS costs.

Bill language has been included, making $1,500,000 available for rehabilitation of tribally-owned fish hatcheries and related facilities. The Bureau shall develop a priority system for the distribution of these funds within sixty days of enactment of this Act. Bill language has also been included providing for the transfer of Navajo Indian Irrigation Project funds to the Bureau of Reclamation, as proposed by the House.

The managers have agreed to appropriate $6,400,000 for planning, design and construction of a new Choctaw Central School in Mississippi and have included bill language providing certain conditions for the release of the construction portion of the funds. The managers expect the tribe to submit the application for the new school to the Bureau and the Office of Construction Management (OCM) as soon as possible, and expect the Bureau and OCM to expedite the process of review of the application, and its ranking on the new school construction priority list. The negotiations regarding the scope of the facility shall include consideration of educational consolidations to improve the utilization of existing facilities. Once the review and negotiation process has been completed and the facility has been ranked, funds may be released for planning and design on the facility. The managers expect that this part of the process will be completed during fiscal year 1988. The managers further expect that planning and design will be completed in time to allow the construction funds to be released and construction to begin during fiscal year 1989. OCM shall submit a report to the Appropriations Committees at the completion of each of the three conditions included in the bill language.

The Bureau and OCM are directed to notify all tribes that applications for new construction of facilities may be submitted in accordance with the guidelines recently made available by OCM. All such applications are to be reviewed and ranked in priority order, and planning and design for the top-ranked facilities is to begin with the $1,000,000 provided in this account for that purpose. The managers expect to see the new facilities construction program continue to be funded in the budget submitted to Congress each year.

Within the $1,000,000 provided for planning and design is $39,000 for site design for the St. Francis school and quarters, SD.

Similarly, the Bureau is directed to develop a priority system for ranking and funding irrigation system projects, and fish hatchery and related facility projects. These priority systems should be submitted to the Appropriations Committees by March 31, 1988; and then published in the Federal Register. Once published, tribes may then submit their requests to the Bureau, in accordance with these systems, for ranking. The managers will expect to see funding included for the highest-ranked projects in succeeding years' budget submissions to the Congress.

The funds provided for dam safety are to be spent in accordance with the plan submitted to the Appropriations Committees dated October 2, 1987.

Within the FI&R funds provided are funds for the Ramah Navajo project in New Mexico. There is also $1,288,000 for projects at Haskell Indian Junior College in Kansas.

All new construction, as well as major reconstruction or rehabilitation projects under the FI&R program, shall be designed for pre-engineered (modular) construction, unless the Bureau submits a report to the Appropriations Committees requesting and justifying an exception to this directive in advance.

There is no objection to the release of funds already appropriated for the Miner Flat Dam.

As requested by the Administration, $1,482,000 has been earmarked in the bill for counseling, archeological clearances, water production including continued monitoring of the Puerco River by the Geological Survey, and administration related to the Navajo and Hopi Indian Relocation program. The managers encourage BIA to continue to work with the Relocation Commission, the Indian Health Service, the Navajo Tribe and relocates to develop the new lands to meet the needs of the relocatees and fulfill the intent of the Relocation Act of providing decent, safe and sanitary homes to those eligible for relocation.

ROAD CONSTRUCTION

Appropriates $1,000,000 for construction of the Honobia Indian Road in Oklahoma as proposed by the House, instead of no funds as proposed by the Senate. The managers agree this will be the last increment of funding for the Honobia Indian Road.

In the fiscal year 1987 act, bill language was included making $10,000,000 available for the Honobia Indian Road from the State of Oklahoma's share of the Federal Highway Trust Fund. The managers agree that these funds may be allocated over a four-year period or less, or approximately $2,500,000 per year, from the State's allocation.

MISCELLANEOUS PAYMENTS TO INDIANS

Appropriates $13,340,000 as proposed by the House instead of $14,334,000 as proposed by the Senate. Funds have not been provided under Public Law 99-283 relating to distribution of income from the Chilocco Indian Reserve, due to the need to clarify whether income received prior to enactment of P.L. 99-283 should be included in the distribution of income.

INDIAN LOAN GUARANTY AND INSURANCE FUND

Bill language proposed by the Senate authorizing the Secretary of the Interior to use any funds available to him to pay the holder of a guaranteed loan that is in default, up to $20,000,000, has not been included. The managers understand that the guaranteed loan has been brought current under the terms of a forbearance agreement, and will remain in effect as long as monthly payments are made. The Bureau should promptly notify the Appropriations Committees if the status of the loan changes, including what action will be required at that time.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

Appropriates $78,235,000 for administration of territories instead of $74,809,000 as proposed by the House and $79,999,000 as proposed by the Senate. The net increase over the amount recommended by the House consists of increases of $2,400,000 for water improvement projects on Guam, $1,000,000 for land acquisition and design to expand the Ordot landfill, $540,000 for a grant to the Close Up Foundation, and $500,000 for a disaster contingency fund; and decreases of $500,000 for relocation of homes in American Samoa, $500,000 for the American Samoa housing loan program, and $14,000 for the reestimate of FERS costs. Bill language has been included providing that of the amount provided, $75,287,000 is for technical assistance, payments according to the refinancing of the Guam Power Authority, and grants to Guam, American Samoa, the Virgin Islands and the Northern Mariana Islands; and $2,948,000 is for the Office of Territorial and International Affairs. Bill language has also been included providing authority for the grant to the Close Up Foundation, and establishing the disaster contingency fund.

With regard to the Ordot landfill, these funds are provided contingent upon the development and implementation of a system of user fees to cover the cost of operating the landfill.

$1,000,000 is provided for cleanup of hazardous conditions at a fuel tank farm in American Samoa. Any additional costs above this amount needed to correct these hazardous conditions should be provided by non-Federal interests. No funds have been included for the relocation of homes from the tank farm, but the manager request a report from the Department, in cooperation with the American Samoa Government, on the need for, cost of, and appropriate role of the Federal government in bearing any costs involved in such relocations to insure the health and safety of the local residents. The report should be submitted prior to the fiscal year 1989 hearings.

Bill language proposed by the Senate has been included, which removes the requirement that funds previously appropriated for a loan to the Virgin Islands for extension of the St. Croix airport runway be made available only upon approval of a multiyear grant of Airport Improvement Program funds from the Federal Aviation Administration. It is the managers' understanding that the balance of the funding needed to complete the extension, about $8,000,000, will be provided by the Virgin Islands Government, probably through a bond issue. On this basis, that no additional funds for this project will be provided by the Federal Government and that the other condition for the loan, a written guarantee from the Virgin Islands Government as to the source of repayment of the loan, will be met, the managers have agreed to include the proposed bill language.

All expenses related to the Department's on-site representatives in the Freely Associated States should come only from the territorial administration account. If personnel from other agencies are detailed to the FAs for specific purposes for short term periods, the costs of such details may be provided from Federal services assistance or technical assistance funds. However, if such personnel are detailed to the FAS for longer periods in lieu of departmental personnel being assigned on-site, the costs should be borne only by the territorial administration salaries and expenses account.

The managers expect the American Samoa Government to work with the Department to develop a plan to improve the collection of revenues, and control of expenditures, within ninety days of enactment of this Act. The plan should be submitted to the Appropriations Committees for review and information.

The managers request the Government of the Virgin Islands to develop and submit to the Appropriations Committees a plan as to how they will spend the funds provided for drug enforcement needs, within ninety days of enactment of this Act.

TRUST TERRITORY OF THE PACIFIC ISLANDS

Appropriates $41,940,000 for the Trust Territory instead of $59,390,000 as proposed by the House and $21,590,000 as proposed by the Senate. The net increase over the amount proposed by the Senate consists of increases of $8,500,000 for the accumulated Trust Territory deficit, and $12,350,000 for partial payment of Micronesian War Claims; and a decrease of $500,000 from Trust Territory administration. The amount provided includes $33,940,000 for operations instead of $50,940,000 as proposed by the House and $13,950,000 as proposed by the Senate; and $8,000,000 for construction as proposed by the Senate instead of $8,450,000 as proposed by the House.

Bill language is included allowing for the initial payment of $12,350,000 for Micronesian War Claims, and amending P.L. 95-134 to allow payment of the claims to successor governments of the Trust Territory of the Pacific Islands, as proposed by the House.

The managers have deleted the $450,000 recommended by the House for bridge repairs in Palau with the understanding that the Department has identified funds to make necessary repairs to certain roads and to the Koror to Babelthaup Bridge, and expects these projects to be completed as anticipated.

The managers expect the Government of Palau to develop a plan to improve its financial accountability and control its expenditures, and to submit the plan to the department and the Appropriations Committees as promptly as possible.

Under section 212(a) of the Compact of Free Association with Palau, Public Law 99-658, the United States is obligated to construct a road system in accordance with specifications mutually agreed to with Palau. However, the managers note that on August 10, 1987 the Government of Palau contracted for approximately 22 miles of road construction, and that this contract anticipates that the United States will pay the contractor for this road construction pursuant to the United States' obligation under the Compact. The managers urge the Governments of Palau and the United States to initiate negotiations immediately to determine how the United States will meet its road building obligations in light of the recent road building contract entered into by the Government of Palau.

COMPACT OF FREE ASSOCIATION

Appropriates $33,620,000 as proposed by the Senate instead of $33,220,000 as proposed by the House.

The $400,000 over the amount provided by the House is for the Jaluit Dock. Although the bill language proposed by the Senate providing these funds has not been included, the managers intend for these funds to be used only for this purpose. These funds may not be reprogrammed without the specific concurrence of the Appropriations Committees.

The managers agree that the $2,300,000 for design and planning of base facilities on Eneu Island, for the eventual rehabilitation of Bikini Island, is to be provided to a contractor chosen by the local council of Bikini/Kili, subject only to the disapproval of the Secretary of the Interior. With regard to the eventual submission of a budget request by the Administration for the rehabilitation of Bikini Island, the managers expect that all sources of funding will be considered, including Department of Energy and Department of Defense (military construction) funds.

The managers expect the Enewetak government to assume the administration of the food and agricultural support program from the Department of Energy eventually, based on agreements between the governments as to timing and necessary interim arrangements.

Within the amount provided is the full budget request of $280,000 for continuation of the Micronesian Diplomatic Training Program required by Section 122 of the Compact of Free Association Act.

Bill language has been included, inserting section numbers 223, 232, and 233 of the Compact of Free Association, as proposed by the Senate.

Bill language has been included providing that previously appropriated funds shall be available for audit purposes, as proposed by the Senate.

Bill language proposed by the Senate, providing that funds provided for the Enjebi Community Trust Fund shall not be subject to Federal, State of local taxation has been deleted with the understanding that the provision will be favorably addressed by the appropriate committees in 1988.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

Appropriates $47,519,000 for the Office of the Secretary instead of $45,849,000 as proposed by the House and $48,237,000 as proposed by the Senate. The increase above the House amount includes $54,000 for the Executive Secretariat, $500,000 for environmental project review, $239,000 for policy analysis, $88,000 for financial management, $233,000 for hearings and appeals and $797,000 for central services. There is a reduction of $241,000 based on a FERS reestimate.

The managers agree that the budget execution function should be carried out as part of the budget formulation office. These two activities must be integrated as closely as possible in order to be effective.

The managers have agreed to delete the earmark for the Immediate Office of the Secretary proposed by the House and stricken by the Senate.

OFFICE OF THE SOLICITOR

Appropriates $23,053,000 for the Office of the Solicitor instead of $23,109,000 as proposed by the House and $23,282,000 as proposed by the Senate. The managers agree that within the increase over the 1988 base level there is $300,000 for travel and $127,000 for the workload associated with the White Earth Settlement. From the Senate amount there is a reduction of $229,000 of which $129,000 is based on the FERS reestimate.

INSPECTOR GENERAL

Appropriates $17,757,000 for the Inspector General instead of $17,858,000 as proposed by the House. The decrease below the Senate of $101,000 is related to the FERS reestimate.

OFFICE OF CONSTRUCTION MANAGEMENT

Appropriates $1,800,000 for the Office of Construction Management instead of

$2,500,000 as proposed by the House and $718,000 as proposed by the Senate.

The managers have agreed to maintain the Office of Construction Management in the Office of the Secretary rather than transfer it to the National Park Service as proposed by the House. The managers expect OCM, the Bureau of Indian Affairs and the Department to continue to comply with previous directives regarding the Bureau construction program, and expect OCM to maintain control of the program until a request to transfer control back to the Bureau has been submitted to and approved by the Appropriations Committees. OCM shall continue to provide quarterly progress reports to the Appropriations Committees.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

The managers agree to delete House bill language in General Provisions, Department of the Interior requiring 50 percent domestic construction and content for any new construction of vessels, rigs, platforms or other structures used on the Outer Continental Shelf. The managers, however, are increasingly concerned about the growing trend of contracts for this construction being let overseas. Despite repeated claims from the domestic oil industry that most U.S. offshore production comes from the Gulf of Mexico, where operators have placed business with domestic steel and equipment suppliers, Conoco recently awarded the fabrication contract for one component of its $400 million floating oil platform in the Gulf of Mexico to a Far East shipbuilder. This oil production system was the first major construction project in the Gulf in several years.

The design and manufacture of equipment used in the exploration and production of America's offshore oil resources is an important strategic American industry. Unless there is a renewed prospect that offshore energy equipment will be built in the United States, the manufacturing yards and facilities, along with their engineering talent and skilled construction labor base, will continue to suffer.

In addition, a recent study by the President's Commission on Merchant Marine and Defense, concluded that there was a "clear and growing danger to the national security in the deteriorating condition of America's maritime industries." The report went on to state that: "The United States cannot consider its own industries or freedoms secure, much less retain a position of leadership in the Free World, without reversing the decline of the maritime industries of this nation."

In just the past five years, 36 shipyards have closed their gates and 27,000 production workers have lost their jobs. This decline in shipbuilding is due in part to the fact that U.S. yards have been forced to compete in the international market with foreign shipbuilders that receive heavy infusions of government subsidies and that enjoy lower labor rates. This decline should be a problem of concern to all industries that rely on the shipbuilding industry for their continued viability.

Further, in recent years, hundreds of steel and steel-related plants have gone out of business. The managers are concerned with the continuing trend of foreign manufactured and fabricated steel displacing U.S. components in the Outer Continental Shelf. The managers would urge the industry, in every reasonable instance, to contract with U.S. manufacturers and fabricators for oil drilling and production equipment. Absent progress in this area there may be a need to include language such as the "Buy-Build America" provision in future legislative proposals.

In the interim, the managers will request the Office of Technology Assessment to report to the Congress on:

a. the extent to which foreign manufactured rigs, platforms, vessels, or components thereof, are or may be used for the purpose of exploration for or production of oil and gas on the Outer Continental Shelf;

b. the extent to which foreign governments subsidize the costs of such rigs, platforms, vessels, or components thereof;

c. the extent to which the importation of such rigs, platforms, vessels, or components thereof contribute to the loss of jobs in the United States;

d. the national security implications of the potential loss of domestic and offshore rig engineering and construction capability; and

e. steps which have been or can be taken by the Congress, or government agencies or industry, to mitigate or eliminate job loss resulting from the importation and subsidization of costs of such rigs, platforms, vessels, or components thereof.

Bill language is included as proposed by the House and stricken by the Senate which retains the name Mount McKinley.

Bill language has been included, as proposed by the Senate, which provides for the Secretary of the Navy to transfer to the Guam Power Authority (GPA) Navy-owned electric power generation, transmission and distribution facilities, after GPA has assumed full responsibility for island-wide electric power supply to all military and civilian customers on Guam under agreed-upon performance standards. Under this language, there is no intent to transfer military distribution assets or assets which are necessary to supply emergency power for military operations or which are needed in a reserve capacity for national defense. All assets to be transferred will be specified in the customer-supplier contract to be negotiated between GPA and the Navy.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

Appropriates $135,510,000 for research instead of $137,670,000 as proposed by the House and $136,610,000 as proposed by the Senate. The net decrease from the amount proposed by the House consists of increases of $450,000 for trees and timber management (including increases of $300,000 at Stoneville, MS, $225,000 at Parsons, WV, $75,000 at Corvallis, OR, and $125,000 at Orono, ME; and decreases of $175,000 at Fort Collins, CO, and $100,000 at Warren, PA and Parsons, WV); and $364,000 for forest products and harvesting including $4,000 at Moscow, ID, $210,000 at Princeton, WV, and $150,000 for Morgantown, WV (including $50,000 for a cooperative program at West Virginia University); and decreases of $215,000 for fire and atmospheric sciences (including an increase of $85,000 at Bend, OR and a decrease of $300,000 at Durham, NH); $271,000 for forest insect and diseases (including an increase of $29,000 at Morgantown, WV and decreases of $200,000 at Madison, WI and $100,000 at Berkeley, CA); $122,000 for forest inventory and analysis (including an increase of $200,000 for the Idaho National Engineering Laboratory and decreases of $100,000 at Durham, NC, and $222,000 for reporting of inventory results nationwide); $50,000 for renewable resource economics (including an increase of $100,000 at Princeton, WV, and a decrease of $150,000 at Portland, OR); $325,000 for watershed management and rehabilitation (including an increase of $25,000 at Boise, ID and decreases of $50,000 at Logan, UT, $226,000 at Tempe, AZ, and $74,000 at Durham, NH); $371,000 for wildlife, range and fish habitat (including increases of $13,000 at Reno, NV, and $75,000 at La-Grande, OR and decreases of $59,000 at Provo, UT, $100,000 at Arcata, CA, $100,000 at Corvallis, OR/Seattle, WA); $93,000 for recreation including $63,000 at Seattle, WA and $30,000 at Syracuse, NY; $1,000,000 to competitive grants; and $527,000 for the reestimate of FERS costs.

Bill language has been included providing that $3,000,000 shall remain available for competitive research grants.

Within available funds for forest products and harvesting, $100,000 is for whitewood shake and shingle preservative treatment research and market development to be conducted on a fifty-fifty match basis with funds to be provided by private industry.

The Forest Service is directed to retain staff in fire research at Bend, OR, and notify the Appropriations Committees of any changes affecting the laboratory.

The $200,000 provide for the Idaho National Engineering Lab will allow completion of the analysis of and reporting on the wilderness monitoring guidelines project begun in fiscal year 1987. If the Forest Service determines it is necessary, up to an additional $50,000 may be provided from within available funds.

A total of $175,000 from renewable resources economic research is available for research at Duluth, MN, provided that $90,000 in matching funds are contributed by the State of Minnesota in fiscal year 1988. A total of $238,000 from trees and timber management research is available for research at Sewanee, TN, provided that $100,000 in matching funds are contributed by the State of Tennessee during fiscal year 1988. The source of research funds for the operation of the Sewanee laboratory shall be subject to normal reprogramming guidelines. Retention of either of these locations in future years is contingent upon a continuation of this matching funds arrangement. For either facility, if this agreement is not funded under this arrangement in fiscal year 1988 or succeeding years, the facility will be closed.

The managers agree that the Forest Service shall submit its fiscal year 1989 research program in five budget line items, instead of the current nine, and that competitive grants shall continue to be displayed independently.

STATE AND PRIVATE FORESTRY

Appropriates $76,469,000 for State and private forestry instead of $67,734,000 as proposed by the House and $73,894,000 as proposed by the Senate. The increase over the amount provided by the House consists of increases of $1,760,000 for forest pest management, $1,000,000 for the export marketing program, $75,000 for a study of the Cache La Poudre River corridor, CO, for potential designation as a National Recreation Area, and $6,400,000 for a grant to Kellogg, ID for construction of a gondola; and decreases of $200,000 for seedlings, nursery and tree improvement, $200,000 to the Boundary Waters Canoe Area (BWCA) grant, and $100,000 for the reestimate of FERS costs.

Bill language is included providing $2,800,000 for the BWCA grant to the State of Minnesota, as proposed by the Senate, instead of $3,000,000 as proposed by the House.

The amount provided for Federal pest management includes $28,539,000 for Federal lands and $12,577,000 for cooperative lands. The total increase includes $3,000,000 to be used if current estimates of need are too low on either Federal or cooperative lands, and is sufficient to provide all necessary funds for western spruce budworm suppression on 600,000 acres in Oregon and Washington. The Forest Service is directed to notify the Appropriations Committees immediately of any shortfall in funding needed to accomplish the 600,000 acres of suppression. The Forest Service shall notify the Appropriations Committees of any planned usage of the emergency funds provided herein.

The managers have provided $2,000,000 for the wood utilization program, of which $1,000,000 is for the export marketing program, for activities such as workshops and expositions. Specific projects will be selected by the application of explicit criteria in competition with other project proposals, and each project will be cost-shared in terms of financial and technical assistance.

In addition to the $200,000 provided for the Gifford Pinchot Institute, an additional $300,000 is to be made available from other Forest Service programs, to allow for scheduled maintenance as well as continuing tours and programs at the Institute.

The managers support the accelerated gypsy moth control project initiated in the fiscal year 1987 supplemental appropriations act. The cooperative demonstration project will cover portions of Virginia and West Virginia, including the Monongahela, the Jefferson, and the George Washington National Forests and the Shenandoah National Park, as well as State and private lands. The objective of the project is to slow, to the maximum extent feasible within appropriate economic and environmental constraints, the natural spread of the gypsy moth and to minimize damage to the infested areas.

The project plan will be available in draft form in January 1988, and will comply fully with the National Environmental Policy Act, including being available for public comment. It is anticipated that key project areas will be identified for treatment, especially in newly affected areas not currently experiencing defoliation. The managers understand that the use of both chemical and biological insecticides will be called for in the plan, in a manner consistent with EPA labeling restrictions and with Federal and State guidelines. During the EIS process, the managers direct the Forest Service to consider as one of the guidelines for insecticide application, a prohibition on the use of chemical insecticides within 1000 feet of water sources and food crops and to report to the Committees the impact of such a guideline. The managers expect that the application of any insecticide near water sources or food crops will be provided for in an environmentally sensitive manner and will be avoided if appropriate. The managers also expect the draft project plan to be explicit in terms of guidelines for use of biological and chemical insecticides.

The managers have included bill language proposed by the Senate providing $6,400,000 as a grant to the appropriate entity in the city of Kellogg, Idaho for construction of a gondola. These funds shall be matched from other sources. In addition, the Forest Service is directed to utilize up to $200,000 provided in acquisition management under the heading "Land acquisition" to proceed with all necessary land exchanges for this project by the end of fiscal year 1988. The managers direct the Forest Service to report to the Committees by May 30, 1988 on the progress with the land exchanges.

NATIONAL FOREST SYSTEM

Appropriates $1,243,391,000 instead of $1,218,406,000 as proposed by the House and $1,263,799,000 as proposed by the Senate. The net decrease from the amount proposed by the Senate consists of increases of $1,000,000 for maintenance of facilities, $14,500,000 for fire protection, $2,000,000 for timber stand improvement, $6,400,000 for recreation use, $2,000,000 for cultural resources management, $1,000,000 for wildlife and fish habitat management for mitigation of damage, $1,000,000 for range management, $100,000 for soil and water improvements, and $100,000 for soil and water inventories; and decreases of $12,990,000 for the Tongass NF, $211,000 for cooperative law enforcement, $13,000,000 for road maintenance, $5,000,000 for trail maintenance, $3,747,000 for timber sales and harvest administration, $6,000,000 for reforestation, $500,000 for recreation pilot challenge grant projects (which will be done within available funds), $500,000 for the wildlife and fish challenge grant program, $228,000 for anadromous fish projects in the Green Mountain NF, VT (which will be done within available funds), $136,000 for mine rehabilitation, Monongahela NF, WV, $1,000,000 for National Finance Center costs, and $5,196,000 for the reestimate of FERS costs.

Bill language is included inserting the words "liquidation of obligations" as proposed by the Senate. Language providing that $296,758,000 for reforestation and timber stand improvement, cooperative law enforcement, firefighting, and road and trail maintenance will remain available until September 30, 1989 is included. Language proposed by the House providing that not more than $30,366,000 shall be obligated for timber sale support costs in fiscal year 1988 has not been included. The managers have not transferred the timber support costs from the various line items to the timber sales category, as proposed by the House. However, the managers note that the new cost accounting system is expected to allow the Forest Service to refine and improve their cost estimates of these timber support costs, and when these more accurate figures are available, the managers will consider consolidating all timber-related costs in the budget presentation. The managers will work with the Forest Service to implement these changes as better data become available. The managers also expect that all timber-related costs will be included by the Forest Service in their classification of costs to be used in the timber cost accounting system, and that the budget will reflect the full range of these cost categories as timber-related costs, beginning in fiscal year 1989.

With regard to the cost accounting system, the Forest Service should proceed with implementation of report 1, and should also continue to work to develop more precise and useful information for reports 2 and 3.

Within the National Forest System appropriation, the managers have made available sufficient funds to implement the new Columbia River Gorge National Scenic Area Act, including studies, land exchange management, development of inventories and the management plan, and other activities called for in the Act.

The $1,000,000 increase for maintenance of facilities is for health and safety items, including removal of asbestos or radon. The $211,000 decrease in cooperative law enforcement is to be taken from the drug control activity on Federal lands. The funds provided for drug control activities shall be used in a manner determined in accordance with the Committees' reprogramming procedure, and the managers agree that funds shall not be used for activities such as undercover operations and prosecution until agreement through the reprogramming procedure has been secured. The increase for road maintenance includes $3,500,000 transferred from road construction for engineering support and $5,000,000 for repairs related to the 1987 fire damage. The amount provided for reforestation also includes $5,700,000 to reforest acres destroyed in the fires.

The wildlife program includes $450,000 for anadromous fish improvement projects in the Green Mountain and White Mountain NF's, as provided in fiscal year 1987. Also included is $1,000,000 in support of the Forest Service's fishery improvement initiative.

The managers will work with the Forest Service to develop costs related to the land management plans as they are implemented, and to review productivity improvements proposed by the Forest Service in the form of budget reforms. The Forest Service should insure that all road miles maintained to a level suitable for timber removal only should be paid for out of timber purchaser deposits, and not with appropriated funds.

The Forest Service is directed to make available for public review at the regional level all proposed timber sales and associated roads five years in advance of the proposed sales; in a revised form within 90 days after the submission of the President's budget; and the final plan within 90 days of the date of the enacted appropriation.

The managers direct that the display for the reforestation program in the budget justification be revised to show actual accomplishments, including acres accomplished through natural regeneration, and to separate the accomplishments and requirements for acres accomplished with appropriated funds and the reforestation trust fund, and those accomplished with K-V funds. The Forest Service should also monitor production of seedlings to avoid surpluses, and should take advantage of private seedling supplies if of comparable quality and lower cost.

Within the recreation management program, there is $59,800 for the Bristlecone Pine Natural Area in the Inyo NF. Of the funds provided for threatened and endangered species, $400,000 is for plants, including hiring additional botanists. The $1,000,000 increase for range improvement is to allow installation of additional improvements, primarily fencing or water developments, to alleviate grazing pressures on riparian areas.

$100,000 of the recreation challenge grant program is for the national forests in Arizona. The amount provided for general administration includes funds sufficient to limit the amount spent in the Washington office in support of the RPA to the 1987 level. The spotted owl inventorying and monitoring is to be coordinated with the Bureau of Land Management and others. Within the trail maintenance funding is $88,000 to reroute the Appalachian Trial over Stratton Mountain in Vermont.

The managers have provided funding for a timber sales program of 11.392 billion board feet (BBF), including the expanded salvage sales program of 2.007 BBF proposed by the Senate, which is discussed elsewhere. Within the total program, the following adjustments to volume by region have been made to the amounts included in the Senate report: −30 million board feet (MMBF) in Region 1, −100 MMBF in Region 6 (for a gross program of 5.1 BBF and a net merchantable sawtimber program of 4.5 BBF), and −114 MMBF in Region 10. The savings from these reductions will be used to do advanced preparation of an addition 89 MMBF in Region 5, in order to allow the 1988 volume of 1.75 BBF or more to be sustained in the out years, when it is expected there will be fewer salvage sales and more new green sales will need to be made available. The funding provided for the timber sales and harvest administration program is reduced by $3,747,000 from the Senate level. Within the total provided for this program of $186,851,000, the Forest Service may reprogram among the four line items of timber resource inventory, silvicultural examination, sales preparation, and harvest administration without advance approval, although all such reprogrammings shall be included in the quarterly reports to the Committees.

With regard to the salvage program, the Forest Service shall provide a status report by March 31, 1988. This report shall include an assessment of the impact of the salvage program on the timber decade plan. Shifts in volume between regions, and in types of volume within regions, shall be considered pursuant to the Committee's reprogramming procedures.

The managers have not agreed to languages in the House report regarding counting as volume sold certain sales which due to administrative or judicial actions are not actually offered or awarded; and language regarding the helicopter logging program in Regions 5 and 6.

CONSTRUCTION

Appropriates $214,078,000 for construction instead of $200,914,000 as proposed by the House and $215,519,000 as proposed by the Senate. The net decrease from the amount proposed by the Senate includes increases of $2,300,000 for research facilities construction, Albany, CA; $257,000 for preconstruction expenses for the Mono Lake, CA visitors' center; $188,000 for recreation construction at Mount St. Helens; $10,000,000 for recreation facilities rehabilitation, and $900,000 for trail construction; and decreases of $970,000 for Tongass facilities construction; $1,612,000 for Tongass road construction; $259,000 for Tongass trail construction; $466,000 for Monongahela NF, WV facilities construction; $100,000 for Ravens Cliff, VA picnic grounds; $250,000 for Ketchikan, AK visitors center; $100,000 for Hells Canyon NRA, or interpretive displays; $6,400,000 for a grant to Kellogg, ID for construction of a gondola and $200,000 for related land exchanges; $3,500,000 for forest road construction; $94,000 for Mount St. Helens trail construction; $343,000 for Monongahela NF, WV trail construction; and $792,000 for the reestimate of FERS costs.

Bill language to include the subtitle "(Including Transfer of Funds)" and to derive $25,000,000 of funds for this account by transfer from another account as proposed by the House has not been included. There is also bill language earmarking $27,643,000 for construction of facilities and $186,435,000 for construction of roads and trails. Bill language proposed by the Senate appropriating $166,000,000 for forest road construction for fiscal year 1989 has not been included. The managers note that timber road appropriations have varied significantly in recent years: from $201,000,000 in 1985 to $152,000,000 in 1986, $180,000,000 in 1987 and $141,500,000 in 1988.

The severe fire damage of this past summer has reduced the timber sales preparation and road funding requirements for fiscal year 1988. It is unlikely that the fire situation in fiscal year 1988 will be as severe as fiscal year 1987, so timber sales and road program savings available in fiscal year 1988 may not be available in fiscal year 1989.

In dropping the advance appropriation, the managers agree that the fiscal year 1989 Forest Service timber sales and road construction programs will be reviewed and the funding for these programs will be determined based on the circumstances and requirements that exist at that time, including the level of support for the agreed upon sales program.

$257,000 has been provided for preconstruction expenses for the Mono Lake Visitors' Center, CA. The managers expect the construction funding to be included in the fiscal year 1989 budget.

The following amounts are provided within available funds: $466,000 for facilities construction and $343,000 for trail construction, Monongahela NF, WV; $100,000 for Ravens Cliff, VA; $220,000 for Ketchikan, AK visitors' center; $500,000 for Hells Canyon NRA (including Hat Point Road); and $100,000 for Hells Canyon NRA interpretive displays. $470,000 to complete the Sheep Bridge construction in the Tonto NF, AZ, is included under trail construction. There is $1,700,000 for the first phase of the Snow Bowl road in Arizona within the nontimer portion of the road construction budget. The managers understand the total Federal share of the cost of this road is $3,800,000.

The amount provided for road construction, $172,503,000, reflects a reduction from the budget estimate of $12,000,000 to direct road construction/reconstruction, a transfer of $9,400,000 for engineering support to the salvage sales appropriation, and a transfer of $3,500,000 for engineering support to road maintenance. The line items on page 233 of the fiscal year 1988 budget justification, as adjusted by Congressional action, shall be subject to the reprogramming guidelines. The road construction allowance includes sufficient funds for purchaser credit and purchaser elect construction, and support for a 400 MMBF program in Region 3.

LAND ACQUISITION

Appropriates $49,076,000 instead of $36,327,000 as proposed by the House and $51,313,000 as proposed by the Senate. The managers agree on the following distribution of funds:

Acquisition Management	$4,200,000
Appalachian Trail	1,500,000
Arapaho NRA, CO (Cash equalization: Double A Bar Ranch)	250,000
Columbia River Gorge, OR/WA	4,670,000
Haid Native Corp., AK	11,000,000
Lake Tahoe, CA and NV	5,000,000
Mendocino NF, CA (Buck Mountain Ranch)	800,000
Monongahela NF, WV (Mower tract)	8,000,000
Nantahala NF, NC (Panthertown)	6,000,000
Rapid River Wild & Scenic River, ID (Gotzinger Ranch)	675,000
Sequoia NF, CA (Kern Plateau)	2,000,000
Spruce Knob-Seneca Rocks NRA, WV	300,000
Toiyabe NF, CA (Hope Valley)	1,700,000
Wayne NF, OH	2,000,000
Inholdings, composites, etc	1,000,000
FERS	−19,000
Total	49,076,000

The managers on the part of the House will concur in the amendment of the Senate which directs the Secretary of Agriculture to use funds in the inholding and composite land acquisition account to purchase the Torre Canyon Ranch in the Los Padres National Forest. In addition, the Forest Service is directed to use a combination of previously appropriated funds from two sources, the California Condor project and the composite and inholding account to acquire the Torre Canyon property in California.

The managers agree that within available acquisition management funds $215,000 shall be available for work related to acquisition in the Columbia River Gorge National Scenic Area. Priority for acquisition at Columbia River Gorge is to complete several projects within the boundaries of the National Scenic Area held by the Trust for Public Land. Within the inholding account, up to $520,000 is to be available for fee acquisition of the Wheeler Creek inholding in the Admiralty Island National Monument, AK.

The managers expressly direct the Forest Service to pursue expeditiously acquisition of the Peake Tract in Pisgah NF, NC for the Appalachian Trail. The managers stress the importance of fee acqusition of the Mirror Lake Property in Woodstock, NH. The acquisition at Beartown Wilderness in the Jefferson National Forest, VA is to be purchased from wilderness inholding unobligated balances.

The managers have added $200,000 in acquisition management and direct the Forest Service to proceed with all necessary land exchanges in conjunction with the Kellogg, Idaho gondola project. Funds for this project are partially provided in State and private forestry. The managers direct the Forest Service to complete these exchanges by September 30, 1988 and report to the Committees by May 30, 1988 on the progress with these exchanges.

TIMBER ROADS, PURCHASER ELECTION, FOREST SERVICE (RESCISSION)

Bill language has been included providing for rescission of $75,000,000 in purchaser election funds, as proposed by the Senate.

TIMBER SALVAGE SALES

Appropriates $37,000,000 for salvage sales instead of no funds as proposed by the House and $40,000,000 as proposed by the Senate.

Bill language is included as proposed by the Senate providing that this appropriation shall be merged with the Timber Salvage Sales Fund, and providing that moneys received from this program in fiscal year 1988 shall be counted for purposes of computing and distributing the 25% fund payments to local governments. This latter provision is a temporary one and is intended to respond to the unique situation in the National forest timber sales program in fiscal year 1988 as a result of the extensive fire damage that occurred in Regions 5 and 6. The additional funds generated by salvage sales in these regions should help to offset the reductions in income from green sales volumes that will occur in fiscal year 1988. However, this is not intended to set a precedent for any changes in the basis for calculating the local share of timber receipts in the future.

While agreeing to this expanded salvage program due to the extensive fire damage, the managers intend that the Forest Service conduct these sales in accordance with all the normal procedures, including the customary environmental analyses, and provide public notice on all planned sales as far in advance as possible. It is important that the Forest Service proceed as carefully as possible with this expanded salvage sales program, particularly in sensitive areas, including previously roadless areas.

ADMINISTRATIVE PROVISIONS

Bill language is included providing that $61,502,000 shall be available for obligation from the Timber Salvage Sales Fund as proposed by the Senate, instead of $21,502,000 as proposed by the House.

Bill language proposed by the Senate making available $2,500 in representation expenses to the Chief of the Forest Service has not been included.

Bill language proposed by the Senate adjusting the boundary of the Cranberry Wilderness in the Monongahela NF, WV, in order to allow a liming demonstration project designed to improve fish habitat and water quality, has been included, subject to authorization.

The managers understand that this will be given every consideration and hope that action can be taken to allow construction to be completed in fiscal year 1988.

Bill language proposed by the House making not less than $1,000,000 available for Youth Conservation Corps projects has been included. The managers understand that this will be given every consideration and hope that action can be taken to allow construction to be completed in fiscal year 1988.

Bill language has been included amending language proposed by the House which prohibits the expenditure of funds for issuance of a special use authorization for any project to be constructed on Lewis Fork Creek in Madera County, CA, until two studies have been completed and submitted to the Congress.

Since the passage of the Alaska National Interest Lands Conservation Act, timber management for the Tongass National Forest has been funded through the Tongass Timber Supply Fund (TTSF), a permanent appropriation, while National Forest System (NFS) and other non-timber management expenditures for the Tongass have been funded through annually appropriated accounts. The House action proposed that all funds for the Tongass be provided through the TTSF. The Senate action maintained the traditional approach.

The managers agree to adopt the House approach in fiscal year 1988, and require all funds for the Tongass to be provided through the TTSF. Bill language is included that will limit new appropriations from the TTSF to $50,007,000 in fiscal year 1988, including $11,968,000 for NFS and $624,000 for construction, which are the amounts that these accounts would have received if funded in the normal line item appropriations process. Trust funds, permanent appropriations other than the TTSF, and purchaser road credits are not subject to this limitation.

The market for timber from Southeast Alaska has improved over the last year with harvest rates up significantly and as a result the demand for National Forest timber from the Tongass is increasing. The harvest from the Tongass during fiscal year 1987 is expected to be 335 million board feet (MMBF). The Administration's fiscal year 1988 request provided for a harvest of the same size. New estimates indicate the harvest could be much higher. The managers expect the Forest Service to utilize the funds made available for timber management to prepare 266 MMBF of new timber volume for sale and to re-offer 84 MMBF of timber prepared in previous fiscal years, for a total offer of 350 MMBF in fiscal year 1988.

The purpose of this action is to bring the volume of timber offered on the Tongass in line with actual demand. The Forest Service was not responsive to changes in the timber market between 1981 and 1986 and, as a result, prepared and offered more timber on the Tongass than was sold. Because of changing environmental regulations and deteriorations of sale markings over time, much of the volume offered but not sold in previous years cannot be re-offered without significant new expenditures. The 84 MMBF which the Forest Service will re-offer during fiscal year 1988 represents all of the backlogged volume available for short-term sales which can be made available without significant additional costs or settling litigation.

The managers expect the Forest Service to expend the funds made available for timber management generally in conformance with the December 7, 1987 spending breakdown prepared by the Service. If changing conditions require a reallocation of expenditures, the Service should notify the House and Senate Appropriations Committees of the reallocation by February 1, 1988. Reallocations after February 1 shall be subject to normal reprogramming guidelines.

The managers are aware that legislation has been introduced that would alter the TTSF mechanism, and this action is not intended to be a judgment on the merits of such legislation. Also, the Forest Service has begun work on revisions of the Tongass Land Management Plan. The managers do not intend this action to anticipate the outcome of that planning process or to suggest any changes in the Alaska National Interest Lands Conservation Act. This action is not intended to affect the ability of the Forest Service to achieve the objectives of the current management plan or its ability to continue to meet those objectives during the next decade.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

Appropriates $575,000,000 for clean coal technology instead of $350,000,000 as proposed by the House and $850,000,000 as proposed by the Senate. The comparison by year is as follows:

	House	Senate	Conference
Fiscal year:			
1988	$50,000,000	$350,000,000	$50,000,000
1989	200,000,000	500,000,000	525,000,000
1990	100,000,000		
Total	350,000,000	850,000,000	575,000,000

Bill language, proposed by the House, which would have prohibited using grants has been deleted. The managers agree that project funding is expected to be based on cooperative agreements, but that grants might be applicable to support work also funded from this account.

The managers agree to delete Senate language providing personnel floors for Clean Coal Technology. The managers further agree that the budget estimates for personnel and contract support are to be followed. The agreement includes 58 new positions above current employment floors for the fossil energy organization and 30 positions within the floors. Out of clean coal technology funds, up to $3,980,000 is for fiscal year 1988 personnel-related costs and up to $16,520,000 is for all contract costs needed to make project selections and complete negotiations for both clean coal procurements. Contract costs necessary to monitor approved projects should be requested in the fiscal year 1989 budget. Increases above those amounts are subject to reprogramming procedures. No funds other than personnel related costs for the 30 positions included in program direction are to be provided from the fossil energy research and development account.

The length of time for selection of projects by the Secretary of Energy has been extended from 120 days to 160 days based on experience from the original clean coal procurement. Once projects have been selected the Secretary should establish project milestones and guidelines for project negotiations in order to expedite the negotiation process to the extent feasible.

The managers agree that the funds provided are available for non-utility applications as well as for utility applications.

The managers agree that no funds are provided for the demonstration of clean coal technologies which are intended solely for new, stand alone, applications. The Senate had proposed up to 25% of the funds be available for this purpose.

Bill language has been included which provides that reports on projects selected in the first round of clean coal procurements that are received before the end of the first session of the 100th Congress will satisfy reporting requirements 30 calendar days after receipt by Congress. This provision applies to a maximum of two project reports.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

Appropriates $326,975,000 for fossil energy research and development instead of $345,394,000 as proposed by the House and $291,390,000 as proposed by the Senate. The net decrease below the amount proposed by the House consists of increases of $450,000 for NO_x/SO_x separation in Advanced research and technology development (ARTD); $800,000 for bioprocessing research at Idaho National Engineering Laboratory (INEL) in ARTD; $300,000 for instrumentation in ARTD; $1,200,000 for the Consortium for Fossil Fuel Liquefaction Science; $200,000 for bench scale research in direct liquefaction; $500,000 for bench scale research in indirect liquefaction; $353,000 for advanced concepts in fuel cells; $500,000 in underground coal gasification; $1,800,000 for mild gasification; $250,000 for light oil enhanced recovery; $900,000 for tar sands research; $1,000,000 for pilot ventures in enhanced oil recovery; $1,120,000 for oil shale; $300,000 for technology transfer seminars for oil and gas in unconventional gas recovery; $500,000 for oil and gas program development support in unconventional gas recovery; $500,000 for architectural and engineering work at Pittsburgh Energy Technology Center; $4,000,000 for laboratory and support facilities at Morgantown Energy Technology Center; and $6,000,000 for an energy center at West Virginia University; and decreases of $700,000 for acid rain retrofit in coal preparation; $800,000 for acid rain retrofit in flue gas cleanup; $400,000 in base restoration in direct utilization in ARTD; $300,000 in materials in ARTD; $700,000 in technical and economic analysis in ARTD; $100,000 for the Wilsonville pilot plant in direct liquefaction; $500,000 for special applications in atmospheric fluidized beds; $700,000 for industrial combustors in advanced combustion technology; $800,000 for 7.5 Mw phosphoric acid fuel cells; $1,000,000 for a basic technology program in phosphoric acid fuel cells; $2,000,000 for dielectric cooled phosphoric acid fuel cells; $4,800,000 for molten carbonate fuel cell stack development; $500,000 for the 25 to 200 Kw solid oxide fuel cell program; $700,000 for the Waltz Mill gasifier; $500,000 for natural gas to liquids technology in unconventional gas recovery; $3,500,000 for an energy center at the University of Oklahoma; $248,000 for the FERS reestimate; and general reductions of $250,000 from Western Research Institute (WRI) programs and $200,000 for University of North Dakota Energy Research Center (UNDERC) programs.

In addition, the conference agreement transfers $20,894,000 from fees deposited in the Energy security reserve to fossil energy research and development to offset new budget authority requirements. This is $20,394,000 more than proposed by the House.

The managers agree that:

(1) of the $18,050,000 for heat engines, $7,000,000 is for diesel engine work and $11,050,000 is for multiple contracts for turbine work, and that $350,000 for UNDERC shall be provided from diesel and turbine funds;

(2) funds for mild gasification are for multiple contracts through phase 2;

(3) of the funds in atmospheric fluidized beds, $400,000 is for equipment research in Special Applications as proposed by the Senate;

(4) funds for advanced concepts in fuel cells include $7,000,000 for the 25 to 200 Kw solid oxide concept, and $1,353,000 for all other advanced concepts;

(5) in advanced process technology, an additional $1,200,000 is for extraction and advanced instrumentation as proposed by the Senate;

(6) in oil shale, $1,750,000 is for direct eastern oil shale contracts, $2,425,000 is for WRI, and the remaining program is $5,325,000; and of the total amount for oil shale at least 50% should be applicable to Eastern shales;

(7) the amount for light oil includes $3,800,000 for NIPER, $1,000,000 for microbial research, $600,000 for gas miscible recovery, $2,500,000 for geoscience and reservoir characterization, $1,700,000 for cost-shared work in declining fields, and $250,000 for a cost-shared CO_2 injection test with Louisiana State University;

(8) within amounts for light and heavy oil programs, $1,000,000 is available for INEL programs;

(9) funds for cost-shared projects in declining fields in both heavy and light oil may be combined with the $1,000,000 for pilot ventures for execution of programs;

(10) no funds are provided for the Otisca Industries industrial fuel boiler demonstration because the project is more appropriately funded in the Clean Coal Technology program; this decision is made without prejudice to the merits of the project;

(11) at least $1,500,000 of direct utilization funds in ARTD should be for electrochemistry and fundamental aspects of fuel cells;

(12) the Department should issue a new molten carbonate fuel cell PRDA at the earliest possible date, and should report to the House and Senate Appropriations Committees by April 1, 1989 on the feasibility of achieving the August 1, 1989 target date in the Senate report;

(13) amounts provided to UNDERC and WRI, including allocation of the general reductions made, may be transferred among activities without prior reprogramming notification;

(14) support for Argonne National Laboratory should be at a level of not less than fiscal year 1987 with maximum emphasis on its core R&D program;

(15) indirect costs should be reported to the House and Senate Committees on Appropriations as described in House Report 100–171;

(16) ongoing work on conversion of natural gas to liquids should continue under the unconventional gas program activity and management; all synthetic gas related C_1 chemistry liquefaction work should continue under the indirect liquefaction and advanced research liquefaction programs and management; the managers expect both programs to cooperate and exchange data on areas of potential overlap;

(17) the $500,000 added to general plant projects may be used for architectural and engineering work for modifications to administrative facilities as well as modifications to the chemical engineering laboratories at Pittsburgh Energy Technology Center;

(18) $500,000 provided for oil and gas program development support is for expenses of outside experts needed to assist the Department in developing a comprehensive geoscience and enhanced recovery research and development program. The managers expect that funding for research and development in the program will be done on a competitive basis with a variety of organizations, and not exclusively through any other organization or institute set up outside the government. The managers expect that if consortia or institutes are set up by non-government groups in order to provide comprehensive research and development proposals, the additional administrative costs of such organizations will not be paid by the government, and that research funded by the government be on a project-by-project basis. The highest degree of cost-sharing in this work is encouraged;

(19) within the additional $1,400,000 for gas stream cleanup, construction of the sub-pilot scale turbine particulate control facility should be completed;

(20) the report on utility-scale phosphoric acid fuel cells requested by the Senate is due by April 1, 1988;

(21) no report on "National Laboratory Coal Science" is necessary, since no funds have been provided for this program;

(22) of the funds added for tar sands $400,000 is for the Department to continue existing contracts on mining and above ground processing and upgrading of Western tar sands in Utah, $400,000 is for contracting with universities in Alabama and Arkansas for research on Southern tar sands resources, and not to exceed $100,000 is to be transferred to the Bureau of Mines to conduct a commercial tar sands inventory on Bureau of Land Management lands in Utah relying on university level program expertise in Utah to execute the program;

(23) the Department shall establish a field office of not less than 6 FTE's co-located with the Strategic Petroleum Reserve project management office in Metarie, LA for gas and light oil research and development programs. The positions for the office are to be derived from existing floors at Morgantown Energy Technology Center, and shall report organizationally to that Center.

Bill language is included earmarking $5,500,000 for an energy center at the University of Oklahoma, $6,000,000 for an energy center at West Virginia University and $4,000,000 for an administrative facility at the Morgantown Energy Technology Center. It is the intent of the managers to provide the remaining funds for the West Virginia University facility ($9,000,000), the University of Oklahoma facility ($3,500,000), and the administrative facility ($8,000,000) in fiscal year 1989 appropriations. The managers expect $9,000,000 above the planned $15,000,000 Federal contribution for the West Virginia University building and related equipment to be paid from non-Federal sources.

Transfer language for $20,894,000 from loan guarantee fees is included, but language proposed by the Senate transferring $62,000,000 from balances in the "Energy security reserve" is not included because such balances are no longer available.

Bill language proposed by the House and stricken by the Senate is included which allows the use of funds previously earmarked for the Kilngas project for other purposes.

NAVAL PETROLEUM AND OIL SHALE RESERVES

Appropriates $159,663,000 for Naval petroleum and oil shale reserves instead of $159,700,000 as proposed by the House and the Senate. The decrease of $37,000 is for the FERS reestimate.

Bill language is included which excludes natural gas liquids from minimum price requirements for petroleum produced from the Reserves, as proposed by the Senate.

Language is also included which deposits receipts above amounts currently estimated into the "SPR" petroleum account" for use in the purchase of petroleum for the Strategic Petroleum Reserve. The current estimate of receipts is $836,000,000. This provision will have no net effect on government outlays anticipated in the budget agreement because purchases, if any, will be offset by unanticipated revenues.

The managers agree that no additional funds are provided for continued review of the feasibility of selling the Reserves, pending legislation allowing such sale.

ENERGY CONSERVATION

Appropriates $366,297,000, including $56,780,000 derived from non-appropriated funds, for energy conservation instead of up to $362,247,000 as proposed by the House and $376,957,000 as proposed by the Senate.

The net increase above the amount proposed by the House consists of increases of $400,000 for chlorofluorocarbon substitute research; $200,000 for wall and roof research; $300,000 for residential buildings interaction research; $200,000 to study the feasibility and conceptual design of a whole building system integration laboratory; $300,000 for commercial building retrofit research; $200,000 for heating and cooling systems research; $600,000 for cooling systems feasibility studies; $800,000 for heat pumps; $200,000 for advanced refrigeration systems, $250,000 for lighting phosphor research; $200,000 for research on evacuated panels;

$1,000,000 for least cost utility planning; $250,000 for capital equipment for buildings research; $500,000 for process electrolysis; $100,000 for alternative fuels utilization; $500,000 for materials processing; $500,000 for advanced materials development; $250,000 for capital equipment for transportation research; $200,000 for ECUT engine combustion research; and $125,000 for ECUT materials research; and decreases of $200,000 in building materials research; $100,000 in oil heating equipment research; $260,000 in liquid and solid waste reduction; $400,000 in industrial coatings research; $800,000 in thermal to electric energy conversion; $100,000 for industrial technology transfer; $400,000 in ECUT thermal sciences; $100,000 in ECUT tribology; $360,000 from the base inventor's program; $200,000 in policy and management; and $105,000 for the FERS reestimate.

In addition, of the $200,000,000 for State and local grant programs, $56,780,000 is to be derived first from non-appropriated "excess" amounts determined under Public Law 99-509 and then from unexpended balances in the Energy Deposit Fund Escrow, if necessary. This is an increase of $20,647,000 from the House and Senate estimates, and is based on updated Department of Energy estimates.

The managers agree that:

(1) $200,000 for a whole building system integration laboratory is for a feasibility study, conceptual design and cost estimate to be provided to the House and Senate Committee on Appropriations and not for construction of a facility;

(2) cooling system feasibility studies are not limited to 8 Southern States;

(3) up to $550,000 in lighting research in technology and consumer products may be applied to phosphor research;

(4) of the additional funds for least cost utility planning, $700,000 is for a competitive procurement for demonstrations of demand based conservation measures by Northeastern rural utilities, provided that no less than $350,000 in additional cost-sharing is received in the procurement;

(5) no funds are to be provided to the developer of the Mod II Stirling engine until the existing contract with the developer is modified to delete fees; the managers expect that substantial cost participation by the private sector will be necessary before Congress considers additional funding in future years;

(6) the Department is expected to provide an assessment of farm based approaches for use of Stirling engines, but no funds may be used for new Stirling applications;

(7) in community systems, funding for district heating and cooling research includes up to $350,000 for the Scranton mine water heat recovery project;

(8) of the funds for battery research, $350,000 is to complete the industrial-based nickel-cadmium work;

(9) within State and local program direction funds $200,000 shall be used for the Territorial Assistance Program, and $30,000 is for a grant to the National Consumer Law Center for quarterly reports on the States' use of stripper well and Exxon funds;

(10) within available funds for electric and hybrid vehicles, $300,000 in addition to the $2,400,000 increase in the bill shall be available for program management by Idaho National Engineering Laboratory (INEL) of various programs transferred from other managing organizations. Such funds should be derived from amounts available to the transferred programs as has been the case previously;

(11) with respect to the Schools and Hospitals Program, a State may use up to 100 percent of its allocation from the Department solely for technical assistance activities when it can be certified that (a) the State will provide, from some other source, funding for implementation activities, (b) the funds utilized for technical assistance activities will not exceed 15 percent of the total of allocated and State funds available for schools and hospitals conservation programs, and (c) administration of implememtation activities will be in accordance with applicable program law and regulations;

(12) support required for the modified Residential Conservation Service (RCS) should be provided from State and local program direction;

(13) indirect costs should be reported to the House and Senate Appropriations Committees as described in House Report 100-171;

(14) within funds for heat pumps in technology and consumer products (buildings) no funds are earmarked to specific technologies;

(15) the Department is expected to report within 30 days of passage of the bill on procedures for overseeing the State expenditure of stripper well and Exxon funds as stated in the Senate report, and to provide, within 15 days after the close of each quarter, a report on enforcement actions initiated in each quarter as well as the status of any actions begun in previous quarters. The status of stripper well and Exxon funds should also be reported comprehensively on a quarterly basis;

(16) $100,000 added for alternative fuels utilization is for a cost-shared methanol fuel program in Hawaii including assistance for fueling station retrofit. None of the funds are to be used for the purchase of vehicles;

(17) no specific level of funding is earmarked for Argonne National Laboratory in conservation research and development.

Bill language proposed by the Senate earmarking $3,000,000 for a facility at Brandeis University was deleted.

Bill language proposed by the Senate on the use of funds previously appropriated for steel production by direct steel casting is deleted. The language is not needed in order for the Department to use the funds since there was no legislative restrictive on their use.

Bill language is included which increases the amount of funds derived from non-appropriated "excess" funds from the Department of Energy Deposit Fund Escrow, and makes that amount a definite appropriation as proposed by the Senate instead of an indefinite appropriation as proposed by the House.

Bill language also is included earmarking $6,000,000 for an energy demonstration and research facility at Northwestern University. It is the intent of the managers to provide the remaining funds ($10,000,000) for the Northwestern facility in fiscal year 1989 appropriations.

ECONOMIC REGULATION

Appropriates $21,565,000 for economic regulation instead of $21,680,000 as proposed by the House and $21,741,000 as proposed by the Senate. The decrease below the amount proposed by the House is $115,000 for the FERS reestimate.

Bill language, proposed by the Senate, which would have restricted funds for pursuit of certain court actions prior to completion of final administrative review by the Department and certification by the Federal Energy Regulatory Commission has been deleted. Congress has received assurances from the Economic Regulatory Administration that actions removing reseller or "layering" cases from administrative review and pursuing them in court will not be undertaken by the Department in the future.

EMERGENCY PREPAREDNESS

Appropriates $6,172,000 instead of $6,206,000 as proposed by the House and the Senate. The reduction of $34,000 is for the FERS reestimate.

STRATEGIC PETROLEUM RESERVE

Appropriates $164,162,000 instead of $164,225,000 as proposed by the House and the Senate. The reduction of $63,000 is for the FERS reestimate.

SPR PETROLEUM ACCOUNT

Appropriates $438,744,000 for petroleum acquisition and transportation instead of $603,744,000 as proposed by the House and $806,934,000 as proposed by the Senate. Based on currently estimated prices this will alow an average fill rate of approximately 50,000 barrels a day. Bill language has been included limiting outlays from funds appropriated in this Act to $256,478,000 in fiscal year 1988. The managers have reduced the anticipated fill rate of the Reserve only because of overall budget constraints.

ENERGY INFORMATION ADMINISTRATION

Appropriates $61,398,000 instead of $61,599,000 as proposed by the House and the Senate. The reduction of $201,000 is for the FERS reestimate.

GREAT PLAINS GASIFICATION PLANT

A general provision, similar to Senate provisions, has been included in the bill requiring the Secretary of Energy to submit a report to the Appropriations Committees and the appropriate authorizing committees containing the details of the sale of the plant, the basis for agreeing to the sale, and a signed statement of commitment from the purchaser for continued long-term operation of the facility at a rate and for a period determined appropriate and reasonable by the Secretary.

The managers agree that the Department of Energy should place higher priority on the continued long-term operation of the Great Plains Coal Gasification Plan as part of its divestiture activity. Continued long-term operation is needed to avoid disruptions to the local community, capture the benefits associated with extended plant operations and collect emission reduction technology data. The managers also agree that there must be a proper balance between realizing fair value for the project and continued operation.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

Appropriates $943,297,000 for Indian health services instead of $943,388,000 as proposed by the House and $947,235,000 as proposed by the Senate. The net decrease from the amount proposed by the House consists of increases of $5,650,000 for hospital and health clinics, including $2,000,000 to staff and operate four adolescent inpatient substance abuse treatment centers, $1,000,000 for the Kanakanak, AK hospital, $150,000 for the Mount Edgecumbe, AK service unit and $2,500,000 for the Indian self-determination fund; $160,000 for operating costs of the Thunderbird Alcoholism Treatment Center in Seattle; $112,000 in health education for the Kanakanak, AK hospital; $809,000 for community health representatives; $200,000 for an urban health assessment in Arizona, $355,000 for tribal management, including $275,000 for the Tohono O'Odham tribe to develop and test alternative approaches in the delivery of health care; $244,000 for direct operations; and decreases of $2,500,000 in tribal contractor indirect costs; $486,000 in dental health, including an increase of $14,000 to restore to last year's level and a decrease of $500,000 in the add-on provided for closing the gap in dental care, leaving an additional $800,000 for this purpose; $2,666,000 in maintenance and repair; and $1,969,000 for the reestimate of FERS costs. The $800,000 increase in dental care includes $65,000 for the Eastern Band of Cherokees, NC.

Bill language has been included inserting a corrected United States Code citation as proposed by the Senate. Bill language has also been included providing $15,000,000 to remain available for the catastrophic health emergency fund and contract medical care as proposed by the Senate instead of $10,000,000 for the fund only as proposed by the House; and inserting the words "and contract medical care," as proposed by the Senate. A provision regarding proposed eligibility regulations has been deleted, as this matter is now addressed through a general provision in Title III.

Beginning with fiscal year 1989, the Indian Health Service is directed to include a breakdown and justification of all Headquarters activities or reserves, including contingency funds, funded under the hospital and health clinics line item. The total increase provided for dental health care includes $60,000 and 1 FTE for the Kanakanak, AK hospital. The amount provided for the alcoholism program includes $100,000 for Fetal Alcohol Syndrome research at the University of Washington. The managers intend the demonstration program of the Warm Springs tribe in Oregon to continue at the current level in fiscal year 1988, and also expect the tribe and IHS to work together to resolve whatever concerns or differences exist regarding the demonstration. IHS should submit a report on the agreed upon changes by February 1, 1988. The first priority for maintenance and repair funds should be given to health and safety-related projects.

Within the funds provided, the IHS shall provide FTE's for newly opened facilities, such as the Sacaton Hospital, on an equitable basis and in accordance with its resource allocation methodology. The amount provided for hospital and health clinics includes sufficient funds for a substance abuse coordinator and a substance abuse specialist in each of the 12 IHS area offices.

Regarding the distribution of the increase provided for indirect costs for tribal contractors, the managers expect that the Mount Edgecumbe, AK and Annette Island, AK service units will receive an equitable share of the increase.

The urban health needs assessment in Arizona, for which $200,000 is provided, is to be submitted no later than August 31, 1988.

The tribal management demonstration project, for which $275,000 is provided, is to be conducted by contract with the Tohono O'Odham Nation, to develop and test alternative approaches in the delivery of health care through the Public Law 93-638 process. The managers do not agree to the waiver of regulations for this project.

The managers are concerned about the Coeur d' Alene Tribe of Idaho being able to develop a funding mechanism to assure payment for future services provided by the proposed community-based, tribally-owned and operated clinic at Plummer, ID. The managers will expect the IHS to adequately budget for increased contract health services expected to be provided by this new clinic in fiscal year 1989.

INDIAN HEALTH FACILITIES

Appropriates $62,511,000 for Indian health facilities instead of $67,592,000 as proposed by the House and $57,511,000 as proposed by the Senate. The increase over the amount provided by the Senate is $5,000,000 for sanitation facilities, to address the backlog of existing homes requiring water and sewer facilities. The amount provided includes $100,000 for sitework for the Fort Hall, ID clinic.

The managers request a report on any shortfalls in previously-funded personnel quarters projects, and the amounts needed to make up the shortfall by March 1, 1988.

If emergency needs arise that require a shift in the use of the modernization and repair funds as provided, the IHS should follow reprogramming guidelines and immediately notify the Appropriations Committees of the amounts involved and the reason for shifting the funds.

The managers agree that the Department and the General Services Administration should take appropriate action to acquire necessary upgraded space in non-Federal buildings for the Oklahoma City, OK and Bemidji, MN area offices.

Within the funds provided for sanitation facilities is $420,000 for the Turtle Mountain rural water system.

The managers understand the Rosebud Sioux Tribe may in the future decide to contract for the operation of the new Rosebud Sioux hospital, and may decide to provide services at the hospital for non-Indian members of the community. Under these circumstances, the managers understand that the service population may be large enough to justify having a surgical suite at the hospital and there would be no objection to inclusion of a surgical suite in the hospital under those circumstances.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Bill language which extends Federal tort claim coverage to tribal contractors under P.L. 93-638 has been included. However, a provision in this language which would have extended such coverage to contractors under the Buy Indian Act has not been included.

Bill language is included which amends language carried in a previous appropriations act, to permit the exchange of lands within the State of Alaska with the State or other named entities for the Anchorage, AK hospital, and to allow the payment or receipt of funds to equalize any such exchanges. The language also directs IHS to prepare and submit a report prior to June, 1988, which will set forth the legal authority necessary to enter into a lease-purchase contract; identify the extent of tribal interest in the construction of health facilities for lease-purchase to the IHS; compare the advantages and disadvantages to the Government of lease-purchase to direct Federal construction of the Anchorage facility, including costs of construction; and discuss the efforts expended by the IHS in protecting the Federal investment to date.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

Appropriates $66,326,000 instead of $66,343,000 as proposed by the House and the Senate because of the reestimate of the cost of the Federal contribution to the Federal Employee Retirement System.

OTHER RELATED AGENCIES

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

The managers agree that relocations to the new lands are to be done in accordance with the Phase I development plan to assure water and utilities will be available for relocatees. In addition, monitoring of the water quality and quantity on the new lands is to continue and the Committees are to be provided quarterly reports on these findings. No rural community is to be located physically near the Puerco River until the analysis of the USGS survey has been completed by the EPA and the results indicate that there would be no adverse health problems associated with such a development.

The managers agree that the $25,270,000 appropriated for fiscal year 1988 includes a reduction of $20,000 for staff travel.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

Appropriates $201,432,000 for salaries and expenses instead of $203,635,000 as proposed by the House and $200,946,000 as proposed by the Senate. The net decrease from the amount proposed by the House consists of increases of $50,000 for SI Libraries cataloging backlog; $35,000 for facilities services; $50,000 for environmental management and safety; and $75,000 for the Office of Design and Construction Management; and decreases of $250,000 for Astrophysical Observatory computers; $300,000 to the Tropical Research Institute research initiative; $74,000 to the genetics laboratory at the Zoo; $80,000 to the NMNH outreach to Native Americans program; $45,000 to the National Arctic Studies Center; $72,000 for carpet replacement, NASM; $50,000 to maintenance at the Cooper-Hewitt; $25,000 to the Sackler Gallery publications program; $28,000 to SITES for Quadrangle support; $81,000 to NMNH molecular research initiative; $25,000 to the National Science Resources Center; $25,000 to interbureau fellowships; $100,000 to Administration for master accounting files; $50,000 to the Office of Procurement and Property Management; $144,000 for Columbus Quincentenary support; and $1,064,000 for the reestimate of FERS costs. In addition to the overall reduction of $144,000 for Quincentenary support, there is a $20,000 decrease to SITES for Quincentenary support, as proposed by the House.

The managers have included an increase of $250,000 for computers for the Astrophysical Observatory instead of $500,000 as proposed by the House. An additional $250,000 is to be provided for this purpose for within available Smithsonian funds, to provide the total of $500,000 in the SAO base. The managers expect this $500,000 to continue to be included in the SAO base in fiscal year 1989 in order to allow the program to continue.

The managers agree that the Smithsonian should review whether a centralized computer maintenance capability would be more cost effective before each museum or location begins to budget for its own, and should provide a report to the Committees prior to the fiscal year 1989 hearings. There is no objection to carpet replacement at the Air and Space Museum from restoration and renovation funds. The Smithsonian shall provide not less than the same level of support to the Council of American Overseas Research Centers in fiscal year 1988 as was provided in fiscal year 1987.

The managers agree that the Smithsonian may use up to $200,000 of available funds for the study related to possible relocation of the Museum of the American Indian, Heye Foundation. The study should address the feasibility and estimated costs related to three possible options for the Museum: (1) maintaining the collection at one or more sites in New York City; (2) co-location at one or more sites in New York City and in Washington, D.C.; and (3) relocation to a newly-constructed site on the mall in Washington, DC. Award of a contract to conduct this study should be accomplished through the competitive process, and the report should be submitted to the Appropriations Committees as promptly as possible.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

Appropriates $8,150,000 as proposed by the Senate instead of $7,650,000 as proposed by the House.

The increase over the House recommendation is for the renovation of the old hospital and research facility into a modern research facility.

RESTORATION AND RENOVATION OF BUILDINGS

Appropriates $19,254,000 for restoration and renovation as proposed by the House instead of $17,669,000 as proposed by the Senate.

The managers are concerned with the proposed restructuring of this account, and the appropriate method to present in the budget new or replacement construction projects that do not go through the separate authorization process. The Committees will continue to address these issues with the Smithsonian.

CONSTRUCTION

Appropriates $1,315,000 as proposed by the House instead of $2,585,000 as proposed by the Senate.

The managers have not agreed to the transfer of projects proposed by the Senate from the restoration and renovation account.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

Appropriates $37,352,000 instead of $37,401,000 as proposed by the House and $37,547,000 as proposed by the Senate.

The net decrease from the House recommendation includes an increase of $146,000 to allow savings in utility costs to be directed to the January, 1988 pay raise; and a decrease of $195,000 for the reestimate of FERS costs.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

Appropriates no funds as proposed by the Senate instead of $400,000 as proposed by the House, and deletes the related House bill language.

The managers have agreed to delete funds for this account on a one-time basis only, due to an approved reprogramming late in fiscal year 1987 which made available $820,000 for facility renovation and repair projects. These funds, together with the projected carryover of $4,638,000 in prior year appropriations, will provide for a total program of over $5,400,000 in fiscal year 1988. The managers expect the base program funds needed for these efforts to be included in the President's fiscal year 1989 budget request.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

Appropriates $4,028,000 instead of $3,827,000 as proposed by the House and $4,135,000 as proposed by the Senate.

The difference over the amount proposed by the House is an increase of $105,000 for 2 additional full-time equivalents (FTEs) for the West European and International Security studies programs resulting in a total of 37 federally-funded FTEs and an increase of $100,000 in general administration for the consolidation of office space into one location.

The managers have not added additional funding for the publications program because the new director should be given an opportunity to review the approach and set his or her own course. The committees expect the Center to discuss its proposal during the fiscal year 1989 hearing.

In accordance with the Administration's request for a fiscal year 1988 budget amendment, the managers have reduced salaries and expenses by $4,000 due to the reestimate of the cost of the Federal contribution to the Federal Employee Retirement System.

Bill language or funding has not been included for the Endowment Challenge Fund. The managers expect a full discussion of this fund during the Center's fiscal year 1989 hearing.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

Appropriates $139,311,000 instead of $138,111,000 as proposed by the House and $140,056,000 as proposed by the Senate.

The managers agree on the following allocation of funds:

Program Grants:	
Artists-in-Schools	$5,300,000
Dance	8,847,000
Design Arts	4,276,000
Expansion Arts	6,655,000
Folk Arts	2,982,000
Inter Arts	3,885,000
Literature	5,100,000
Media Arts	12,000,000
Museums	11,400,000
Music	12,236,000
Opera/Musical Theatre	4,200,000
Local Programs	2,340,000
Theatre	10,800,000
Visual Arts	6,200,000
Advancement	1,000,000
Challenge	250,000
Subtotal, program grants	97,471,000
State Programs	24,700,000
Subtotal, grants	122,171,000
Administration area:	
Policy, Planning and Research	1,000,000
Administration	16,245,000
FERS reestimate	−105,000
Subtotal, administration area	17,140,000
Total, grants and administration	139,311,000

The $12,000,000 for the media program continues the initiative to increase resources for television and radio programming in the arts. The managers agree to $40,000 above the 1987 level for State programs to accommodate additional work required of the National Assembly of State Arts Agencies. No funding is provided for a Western Hemisphere Initiative.

The National Endowment for the Arts is encouraged to reach out to small and rural States to assure that arts organizations in those States have access to NEA programs.

The managers have agreed to raise the maximum limits of coverage under the Indemnity for exhibitions of Arts and Artifacts. The current limit of $650,000,000 is inadequate to meet the demands on the program, especially with rapidly escalating art prices. Accordingly, the maximum limit has been raised to $1,200,000,000. In addition, the limit for a single exhibition covered by the program is raised from $75,000,000 to $125,000,000.

MATCHING GRANTS

Appropriates $28,420,000 as proposed by the House instead of $25,900,000 as proposed by the Senate. This includes $19,420,000 for challenge grants and $9,000,000 for Treasury funds.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

Appropriates $111,935,000 instead of $111,140,000 as proposed by the House and $112,140,000 as proposed by the Senate. The managers agree to the following allocation of funds:

Program grants:	
Media Grants	$8,900,000
Museums and Historical Organizations	8,780,00
Humanities programs for adults	2,000,000
Humanities projects in libraries	2,900,000
Education programs	16,350,000
Fellowships and seminars	15,560,000
Research grants	16,400,000
Subtotal, program grants	70,890,000
State programs	21,300,000
Office of Preservation	4,500,000
Subtotal, grants	96,690,000
Administration area: Administration	15,245,000
Total, grants and administration	11,935,000

The amount for administration includes a reduction of $105,000 based on the reestimate of FERS costs.

The managers encourage the National Endowment for the Humanities to insure that benefits of NEH programs continue to be available to smaller States as well as to large ones.

MATCHING GRANTS

Appropriates $28,500,000 as proposed by the House instead of $27,051,000 as proposed by the Senate. This includes $12,000,000 for Treasury funds and $16,500,000 for challenge grants.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

Appropriates $4,500,000 as proposed by the Senate instead of $4,000,000 as proposed by the House. In addition, bill language is included to transfer the administration of the program from the National Endowment for the Humanities to the Commission of Fine Arts.

The managers agree that amounts provided to eligible organizations through the National Park Service and the Smithsonian Institution should not be counted against the $500,000 annual limit.

MARTHA GRAHAM CENTER OF CONTEMPORARY DANCE

No funds are provided for the Martha Graham Center of Contemporary Dance instead of $4,125,000 as proposed by the Senate.

INSTITUTE OF MUSEUM SERVICES

Appropriates $21,944,000 for the Institute of Museum Services instead of $21,948,000 as proposed by the Senate and $22,000,000 as proposed by the House. The reduction to the Senate level of $4,000 is based on a FERS reestimate. Within the amount provided is $100,000 for contracts and cooperative agreements with professional museum organizations for programs and projects to educate museum professionals in conservation and museum management issues. An additional staff person may be hired in order to meet the workload associated with processing grant applications.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

Appropriates $443,000 instead of $446,000 proposed by the House and the Senate due to the Administration's request for a fiscal year 1988 budget amendment because of the reestimate of the cost of the Federal contribution to the Federal Employee Retirement System.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

Appropriates $2,948,000 for salaries and expenses, National Capital Planning Commission, instead of $2,967,000 as proposed by the House and $3,013,000 as proposed by the Senate.

The $19,000 reduction from the House level is due to the Administration's reestimate of the cost of the Federal contribution to the Federal Employee Retirement System.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

Appropriates $2,516,000 instead of $2,531,000 as proposed by the House and the Senate due to the Administration's reestimate of the cost of the Federal contribution to the Federal Employee Retirement System.

The managers agree that if additional funds are necessary for the January, 1988 pay increase, they should not be budgeted for or taken from the public development program.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

Appropriates $2,171,000 for the Holocaust Memorial Council instead of $2,145,000 as proposed by the House and $2,183,000 as proposed by the Senate.

An estimated 1.5 million children were killed in the Holocaust. The question has been raised as to whether a separate portion of the museum should be included to memorialize these children. The subject is a sensitive one and questions have been raised as to the appropriateness of introducing children to the subject of the Holocaust, and if so, under what conditions. The managers believe that this increase of $35,000 over the House level, to be used by the Holocaust Council's Committee to Remember the Children and the Capital Children's Museum, will do much to answer relevant and poignant questions on this subject. This funding is separate from operational funds provided in the base budget for the Committee to Remember the Children.

In addition, the managers have included a $9,000 reduction from the House level due to the Administration's reestimate of the cost of the Federal contribution to the Federal Employee Retirement System.

APPLICATION OF GENERAL REDUCTIONS

The level at which reductions shall be taken pursuant to the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, if such reductions are required in fiscal year 1988, is defined by the managers as follows:

As provided for by section 252(a)(1)(B)(i) of Public Law 100-119 and for the purposes of a Presidential Order issued pursuant to section 252 of said Act, the term "program, project, and activity" for items under the jurisdiction of the Appropriations Subcommittee on the Department of the Interior and Related Agencies of the House of Representatives and the Senate is defined as (1) any item specifically identified in tables or written material set forth in the Interior and Related Agencies Appropriations Act, or accompanying committee reports or the conference report and accompanying joint explanatory statement of the managers of the committee of conference; (2) any Government-owned or Government-operated facility; and (3) management units, such as national parks, national forests, fish hatcheries, wildlife refuges, research units, regional, State and other administrative units and the like, for which funds are provided in fiscal year 1988.

The Committee emphasizes that any item for which a specific dollar amount is mentioned in an accompanying report, including all increases over the budget estimate approved by the Committee, shall be subject to a percentage reduction no greater or less than the percentage reduction applied to all non-defense accounts.

REPROGRAMMING GUIDELINES

The managers agree to amend the reprogramming guidelines by adding a new provision as follows:

12. GRANTS.—No grant may be made by an agency in the Department of the Interior and Related Agencies bill to an agency receiving funds in the Department of the Interior and Related Agencies bill unless the grant is submitted to the Committees on Appropriations for approval in compliance with these procedures.

GENERAL PROVISIONS—TITLE III

Bill language has been included amending the language proposed by the Senate which includes the Bureau of Land Management in a provision carried in last year's appropriation. The language provides that the Forest Service and the Bureau of Land Management may continue to manage lands under their jurisdiction under existing land and resource management plans pending the completion of new plans; and that existing plans may not be challenged solely on the basis that the plans are outdated or that there is new information, unless the claim includes information as to substantive concerns related to the new information. Any particular activities, such as individual timber sales, may continue to be challenged as always.

Bill language proposed by the Senate designating the entire State of Rhode Island as a contract health service delivery area has not been included. The managers are concerned about the potential budgetary impact of the proposal, and believe further study is required before a decision can be made.

Bill language has been included, as proposed by the Senate, which delays implementation of the Department of Health and Human Services' final rule on eligibility for health care services of the Indian Health Service until September 16, 1988. The language also extends the grace period provided in the rule until March 16, 1989.

Bill language has been included as proposed by the Senate which will allow the payment of premium pay for forest firefighters whose pay would otherwise be capped under the provisions of 5 U.S.C. 5547. The provision will allow forest firefighters to be paid in full for hours actually worked.

The Secretaries of the Department of Agriculture and the Department of the Interior shall, in cooperation with the Office of Personnel Management, identify duties that are performed "in support of" wildfire emergencies for the purposes of implementing this provision. This information shall be submitted to the House and Senate Committees on Appropriations no later than January 20, 1988.

The managers have agreed to modify Senate bill language concerning financial interest under the provisions of 18 U.S.C. 208.

On January 12, 1987, the Office of Legal Counsel of the Department of Justice provided an opinion concerning the scope of the term "particular matter" under Title 18 of the United States Code, Section 208. The Department of Justice has broadly interpreted the prohibition in that section of the Code to include matters of general policy, regulations and legislation.

The managers have agreed to revised language which will not eliminate the prohibitions of Title 18, U.S.C. Section 208 for Department of the Interior and Indian Health Service employees. Rather, it will apply the prohibition to "particular matters involving a specific party or parties" as is already the case in Section 207 of Title 18, U.S.C., thereby eliminating application to general policy matters. Employees are prohibited from involvement in specific actions in which they have a direct financial interest.

The managers agree to prohibit transfer of certain lands in the Black Hills National Forest, South Dakota as proposed by the Senate.

APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

Amendment No. 9: Section 101(h) of House Joint Resolution 395 provides appropriations for programs, projects and activities provided for in the Departments of Labor, Health and Human Services and Education and Related Agencies Appropriations Act, 1988. The House version of the joint resolution provided appropriations at a rate for operations and to the extent and in the manner provided for in H.R. 3058 as passed the House of Representatives on August 5, 1987. The Senate version of the joint resolution provided appropriations for these programs at a rate for operations and to the extent and in the manner provided for in H.R. 3058 as passed the Senate on October 14, 1987. This conference agreement on Amendment No. 9 resolves each of the differences between the two versions of the bill. In implementing this agreement the language and instructions set forth in House Report 100-256 and Senate Report 100-189 should be complied with unless specifically addressed to the contrary in this joint resolution and accompanying statement of the managers.

The specific amounts agreed to by the conferees for each program are described in a standard activity table printed at the end of the statement of the managers regarding Amendment No. 9. These amounts reflect the decisions of the conferees including the effect of an across-the-board reduction of 4.26 per centum which is necessary in order to comply with the new spending targets agreed to at the Economic Summit. In the aggregate the conference agreement includes $127,074,798,000 for fiscal year 1988 for the Departments of Labor, Health and Human Services and Education and Related Agencies. This includes $37,660,635,000 for discretionary activities, an increase of $1,321,119,000 over fiscal year 1987 and $89,414,163,000 for mandatory accounts where spending levels are determined by permanent law.

For the Department of Labor the conference agreement includes $6,272,006,000 including $1,033,725,000 for mandatory accounts and $5,238,281,000 for discretionary programs. The amount agreed to for discretionary activities is an increase of $157,173,000 over the amount available for these activities in fiscal year 1987 but a reduction of $225,430,000 from the amounts originally approved by the House and a reduction of $198,831,000 from the amounts originally agreed to by the Senate.

For the Department of Health and Human Services the conference agreement includes $100,812,115,000 including $85,159,873,000 for mandatory accounts and $15,652,242,000 for discretionary programs. The amount agreed to for discretionary activities is an increase of $408,860,000 over the amount available for these activities in fiscal year 1987 but a reduction of $813,217,000 from the amounts originally approved by the House and a reduction of $347,526,000 from the amounts originally agreed to by the Senate.

For the Department of Education the conference agreement includes $20,178,460,000 including $4,155,400,000 for mandatory accounts and $16,023,060,000 for discretionary programs. The amount agreed to for discretionary activities is an increase of $770,520,000 over the amount available for these activities in fiscal year 1987 but a reduction of $679,270,000 from the amounts originally approved by the House and a reduction of $688,884,000 from the amounts originally approved by the Senate.

The Departments of Labor, Health and Human Services and Education and Related Agencies Appropriations Act, 1988, put in place by this joint resolution, incorporates the following agreements of the managers:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

Appropriates $70,872,000 instead of $73,896,000 as proposed by the House and $74,027,000 as proposed by the Senate.

Makes available $44,380,000 from the Unemployment Trust Fund instead of $46,425,000 as proposed by the House and $43,855,000 as proposed by the Senate.

The conference agreement includes 42 full-time equivalent staff for the Immigration Reform and Control Act and 5 for the homeless program.

TRAINING AND EMPLOYMENT SERVICES

Appropriates $3,747,689,000 for the Job Training Partnership Act, instead of $3,639,685,000 as proposed by the House and $3,877,201,000 as proposed by the Senate.

Earmarks $3,830,000 for activities conducted by and through the National Occupational Information Coordinating Committee, instead of $3,000,000 as proposed by the House and $5,000,000 as proposed by the Senate.

The conference agreement includes $4,347,000 for labor market information, instead of $4,290,000 as proposed by the House and $4,790,000 as proposed by the Senate.

Earmarks $1,915,000 for the National Commission for Employment Policy, instead of $2,000,000 as proposed by the House and the Senate.

Deletes earmark of $2,000,000 proposed by the Senate for service delivery areas with high concentrations of American Samoans. The House bill contained no similar earmark.

The conferees direct the Secretary of Labor to make available $957,000 for service delivery areas under the Job Training Partnership Act with high concentrations of American Samoans, in addition to amounts otherwise provided under section 202 of the Act.

Earmarks $7,659,000 for service delivery areas under section 101(a)(4)(A)(iii) of JTPA, instead of $8,000,000 as proposed by the House and the Senate.

The conference agreement includes $89,038,000 for construction, rehabilitation and acquisition of Job Corps centers instead of $128,500,000 as proposed by the House, and specifies that funds shall remain available for obligation until June 30, 1991. The Senate bill included a general authorization for capital costs but did not specify an amount. The conference agreement contains the following amounts for Job Corps capital costs:

Repairs and improvements	$33,509,000
New centers	31,594,000
Relocation of existing centers	19,148,000
Other high-priority projects	4,787,000

Appropriates $9,574,000 for homeless job training instead of $8,000,000 as proposed by the House and $12,000,000 as proposed by the Senate, and earmarks $1,915,000 for homeless veterans projects.

The conferees agree that, of the $47,870,000 included in the bill for trade adjustment assistance, administrative costs are provided at approximately the fiscal year 1987 level.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

Appropriates $331,260,000, instead of $346,000,000 as proposed by the Senate. The House deferred consideration of this program pending enactment of authorizing legislation. The conference agreement includes $258,383,000 for national contracts and $72,877,000 for State grants.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE

OPERATIONS

Makes available $2,418,405,000 from the Unemployment Trust Fund, instead of $2,536,012,000 as proposed by the House and $2,470,812,000 as proposed by the Senate.

Earmarks $701,296,000 from the Trust Fund for Employment Service State allotments, instead of $732,500,000 as proposed by the House and $677,300,000 as proposed by the Senate. In addition, $21,733,000 is available for this purpose from general funds.

LABOR-MANAGEMENT SERVICES

SALARIES AND EXPENSES

Appropriates $76,776,000 instead of $81,192,000 as proposed by the House and $80,192,000 as proposed by the Senate.

Earmarks $12,063,000 for the ERISA pension plan data base, instead of $13,600,000 as proposed by the House and $12,600,000 as proposed by the Senate.

PENSION BENEFIT GUARANTY CORPORATION

Provides $38,329,000 for administrative expenses, instead of $40,034,000 as proposed by the House and the Senate.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

Appropriates $207,709,000 instead of $217,085,000 as proposed by the House and $214,052,000 as proposed by the Senate.

Earmarks $7,659,000 for the Federal Employees' Compensation Program ADP system, instead of $8,000,000 as proposed by the House and $5,100,000 as proposed by the Senate.

The conference agreement includes a total of 970 FTE's for the Office of Federal Contract Compliance Programs, of which 610 are field office equal opportunity specialists.

SPECIAL BENEFITS

Appropriates $174,000,000 as proposed by the Senate instead of $257,177,000 as proposed by the House.

BLACK LUNG DISABILITY TRUST FUND

Appropriates $649,169,000 as proposed by the Senate instead of $646,842,000 as proposed by the House.

Makes available $28,217,000 for Employment Standards Administration, Salaries and Expenses as proposed by the Senate instead of $28,293,000 as proposed by the House.

Makes available $25,924,000 for Departmental Management, Salaries and Expenses as proposed by the Senate instead of $23,521,000 as proposed by the House. The conference agreement includes an additional 48 FTE's for black lung appellate workload.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

Appropriates $235,474,000 instead of $244,001,000 as proposed by the House and $247,901,000 as proposed by the Senate. The conference agreement includes an additional 40 FTE's for enforcement.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

Appropriates $160,193,000 instead of $164,874,000 as proposed by the House and $169,765,000 as proposed by the Senate. The conference agreement includes an additional 50 FTE's for coal mine safety and health.

Deletes language proposed by the Senate which would have required the Secretary by law to submit a report to Congress by February 29, 1988 concerning the status and timetable for issuance of certain final regulations. The House bill contained no similar provision.

The conferees agree, however, that the Secretary shall submit such a report to Congress not later than February 29, 1988 concerning self-contained self-rescue devices; safety standards for underground coal mine ventilation; safety standards for roof control; standards for diesel-powered equipment in underground coal mines; and safety standards for electricity, explosives and blasting in underground mines.

Bureau of Labor Statistics

SALARIES AND EXPENSES

Appropriates $176,481,000 instead of $184,833,000 as proposed by the House and $183,833,000 as proposed by the Senate. The conference agreement includes $479,000 and 7 FTE's for the establishment of a survey design research center. Of the $8,793,000 available for revision of the Consumer Price Index, $7,366,000 remains available until September 30, 1989.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

Appropraites $114,929,000 instead of $120,041,000 as proposed by the House and the Senate.

Earmarks $2,434,000 for the President's Committee on Employment of the Handicapped as proposed by the House instead of $2,507,000 as proposed by the Senate.

Assistant Secretary for Veterans Employment and Training

Makes available $139,614,000 from the Unemployment Trust Fund, instead of $145,826,000 as proposed by the House and the Senate.

Office of the Inspector General

Appropriates $37,051,000 instead of $38,224,000 as proposed by the House and $38,700,000 as proposed by the Senate.

Department of Labor

GENERAL PROVISIONS

Modifies section 105 proposed by the Senate which would have prohibited the Job Corps from paying legal fees in any criminal case for a Job Corps participant. The House bill contained no similar provision. The modified language is as follows:

Sec. 105. None of the funds appropriated in this Act shall be used by the Job Corps program to pay the expenses of legal counsel or representation in any criminal case or proceeding for a Job Corps participant, unless certified to and approved by the Secretary of Labor that a public defender is not available.

Deletes section 106 proposed by the Senate which would have required by law a study of older workers who have previously retired from or were pressured to leave a job and are reentering the workforce. The House bill contained no similar provision.

The conferees agree, however, that the Secretary shall conduct such a study and prepare and submit a report on it to the Congress not later than one year after the date of enactment of this Act. The report shall contain such recommendations, including recommendations for legislation, as the Secretary deems appropriate.

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

PRIORITY DISEASE CONTROL AND RESEARCH (AIDS)

Deletes language proposed by the House that would have established a consolidated appropriations account for all activities related to Acquired Immune Deficiency Syndrome (AIDS). The conference agreement places the money in the appropriations accounts for the individual agencies and institutes in the Public Health Service as proposed by the Senate. The total amount for AIDS in the conference agreement is $906,459,000.

Health Resources and Services Administration

HEALTH RESOURCES AND SERVICES

Inserts legal citation for title X of the Public Health Service Act related to the family planning program as proposed by the Senate.

Appropriates $1,551,478,000 for Health Resources and Services instead of $1,343,476,000 as proposed by the House and $1,640,813,000 as proposed by the Senate. The conference agreement includes $36,956,000 for activities related to AIDS which the House bill had included under a "Priority Disease Control and Research" appropriations not approved by the conferees.

The conference agreement includes $12,446,000 for geriatric training programs of which $9,574,000 is for geriatric education centers, and $2,872,000 is for geriatric training of health professionals, under section 788(e) and section 301 of the Public Health Service Act.

The conference agreement deletes $250,000 proposed by the Senate to conduct a study concerning the cost of health care for children with catastrophic illnesses. Instead, the conferees direct the National Center for Health Services Research to conduct this study within existing funds and to report to Congress no later than September 15, 1988. This study should include estimates of the prevalence of families with children age 21 years or younger whose out-of-pocket medical costs are equal to or exceed 7.5%, 10% and 12.5% of their adjusted gross income (AGI) during a single year. The conferees appreciate the complexity of such a study and understand that findings will be based on projections of existing primary data rather than a new field study.

The conferees are pleased with the efforts of the MCH Program to ensure that the native Hawaiian population is given a high priority. The conferees further believe that the recently established series of native Hawaiian maternal and child health centers is an excellent first step in this effort. Given the pressing needs of this population, MCH is urged to continue to provide native Hawaiians with an appropriate level of resources.

The Conference agreement includes $139,663,000 for family planning services under title X of the Public Health Service Act. This level includes funds for staff resources required to operate and manage this program.

Deletes language proposed by the Senate which would have earmarked $25,000,000 from community and migrant health centers for a new infant mortality initiative. The House bill contained no similar provision. The conference agreement includes $20,105,000 for this purpose but does not earmark these funds in statutory language.

Earmarks $6,702,000 for renovation and construction of outpatient facilities for AIDS patients instead of $4,000,000 as proposed by the Senate. The House bill contained no similar provision in this account but had recommended $10,000,000 for this purpose under a new "Priority Disease Control and Research" account not approved by the conferees.

Modifies language proposed by the Senate which would have made the Florida Agricultural and Mechanical University School of Pharmacy eligible for a grant under the new "Excellence in Minority Health Education" program. The conferees have agreed to language which makes these funds available to all schools which offer a graduate degree in the health professions and which have a majority enrollment of minority students. The House bill contained no similar provision. The conferees do not intend for schools which are directly funded elsewhere in this bill, such as Howard University, to receive assistance under this new program. The conferees have been informed that nine schools will be eligible to compete for funding.

Deletes language proposed by the Senate which would have directed that unobligated National Health Service Corps funds be reprogrammed to the community health center program without the prior approval of the Appropriations Committees. This language has been deleted without prejudice and the conferees are agreed that any funds not actually required by the Corps should be transferred to community health centers to offset the cost of private placements, and that as much as $1,915,000 may be transferred to the National Health Service Corps Loan Repayment Program recently enacted into law.

Inserts language proposed by the Senate which exempts the Health Education Assistance Loan (HEAL) program from the normal apportionment process. The House bill contained no similar provision.

Appropriates an additional $4,787,000 for home health services demonstrations under HRSA as authorized by subpart 2 of part A of title XIX of the Public Health Service Act. The program was recently authorized in the Older Americans Act amendments. The House bill contained no similar provision.

Health Care Quality Improvement Data Bank

On December 14, 1987 the Congress received a budget amendment from the President to include $3.2 million in the fiscal year 1988 appropriation bill to fund the first phase of a data bank authorized by the Health Care Quality Improvement Act of 1986 (Public Law 99-660). The conferees were not able to consider this request due to the lateness of the submission. If the President continues to consider this a high priority item, he should resubmit the request for fiscal year 1989 or as a fiscal year 1988 supplemental.

Centers for Disease Control

DISEASE CONTROL, RESEARCH AND TRAINING

Inserts legal citations for the preventive health block grant and prevention centers as proposed by the Senate.

Appropriates $771,772,000 instead of $221,977,000 as proposed by the House and $802,987,000 as proposed by the Senate. The conference agreement includes $304,942,000 for activities related to acquired immune deficiency syndrome (AIDS).

For chronic and environmental disease prevention the conference agreement contains $43,415,000, including $479,000 for chronic disease surveillance and control, $3,830,000 and 3 FTE's for prevention of disabilities, $1,436,000 for injury control, $407,000 and 2 FTE's for a Chronic Epstein-Barr surveillance network, and $2,393,000 for a diabetes translation center. No funds are included in the conference agreement for a smokeless tobacco grant program.

The conferees are agreed that sexually-transmitted disease (STD) grant funds should be used for STDs other than AIDS.

The conferees are aware of the collaborative AIDS education activities involving the American Red Cross and CDC. The conferees concur in the need for expanding this collaborative effort utilizing the Red Cross's nationwide network of over 800 chapters. Toward this end, up to $7 million is available for the development and distribution of Red Cross AIDS education materials directed not only to the general population but also to youth, minorities, and the workplace.

Inserts language proposed by the Senate requiring the General Services Administration to construct under its lease-purchase authority a 100,000 square foot office building at the Centers for Disease Control's main site in Atlanta, Georgia and a laboratory facility to replace the present facility at Chamblee, Georgia. The House bill contained no similar provision.

Modifies language proposed by the Senate that would have exempted certain CDC employees assigned to States and municipalities from any employment ceilings. The House bill contained no similar provison. As modified in the conference agreement, the language specifies that these individuals shall be treated as non-Federal employees for reporting purposes only.

Modifies language proposed by the Senate that would have required the Director of CDC to distribute an AIDS mailer to every American household by February 15, 1988 and reappropriated $9,500,000 from 1987 funds for this purpose. The House bill contained no similar provision. As modified, the language requires the Director to distribute an AIDS mailer to every household by June 30, 1988 and no funds are reappropriated. The conferees agree that sufficient funds are available for the every-household mailer.

NATIONAL INSTITUTES OF HEALTH

The conference agreement provides a total of $6,666,693,000 in direct appropriations to the National Institutes of Health instead of $6,563,857,000 as proposed by the House and $6,876,104,000 as proposed by the Senate. The conference agreement includes $447,996,000 for research related to Acquired Immune Deficiency Syndrome. The House bill had included funds for AIDS in a separate "Priority Disease Control and Research" account not approved by the conferees. The conferees are agreed that the amount provided should be used to fund approximately 6,100 new and competing research project grants including those related to Acquired Immune Deficiency Syndrome.

ACQUIRED IMMUNE DEFICIENCY SYNDROME

The conferees are concerned about reports of long delays in the processing of AIDS proposals and therefore direct the NIH (and ADAMHA) to implement a plan providing for a six month period for the awarding of grants, contracts, and cooperative agreements for AIDS research. The conferees further direct the Department to report on its performance under this plan by June 30, 1988 and again by December 31, 1988 to the Senate and House Appropriations Subcommittees for Labor, Health, and Human Services, Education and Related Agencies and to the Senate Committee on Labor and Human Resources and the House Committee on Energy and Commerce.

NATIONAL CANCER INSTITUTE

Appropriates $1,469,327,000 instead of $1,448,411,000 as proposed by the House and $1,527,054,000 as proposed by the Senate.

NATIONAL HEART, LUNG AND BLOOD INSTITUTE

Appropriates $965,536,000 instead of $990,808,000 as proposed by the House and $1,000,349,000 as proposed by the Senate.

NATIONAL INSTITUTE OF DENTAL RESEARCH

Appropriates $126,297,000 instead of $128,965,000 as proposed by the House and $131,559,000 as proposed by the Senate.

NATIONAL INSTITUTE OF DIABETES, DIGESTIVE, AND KIDNEY DISEASES

Appropriates $534,733,000 instead of $563,768,000 as proposed by the House and $549,784,000 as proposed by the Senate.

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

Appropriates $534,692,000 instead of $554,039,000 as proposed by the House and $550,172,000 as proposed by the Senate.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

Appropriates $638,800,000 instead of $439,667,000 as proposed by the House and $661,458,000 as proposed by the Senate.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

Appropriates $632,676,000 instead of $666,037,000 as proposed by the House and $653,117,000 as proposed by the Senate.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

Appropriates $396,811,000 instead of $405,673,000 as proposed by the House and $408,334,000 as proposed by the Senate.

NATIONAL EYE INSTITUTE

Appropriates $224,947,000 instead of $234,382,000 as proposed by the House and $231,529,000 as proposed by the Senate.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

Appropriates $215,666,000 instead of $225,724,000 as proposed by the House and $220,709,000 as proposed by the Senate.

NATIONAL INSTITUTE ON AGING

Appropriates $194,746,000 instead of $203,034,000 as proposed by the House and $199,642,000 as proposed by the Senate. The conferees believe that the establishment of a central clearinghouse for information on Alzheimer's disease, as authorized by title IX of P.L. 99-660, should be managed by the National Institute on Aging.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

Appropriates $147,679,000 instead of $154,632,000 as proposed by the House and $153,867,000 as proposed by the Senate.

RESEARCH RESOURCES

Appropriates $368,153,000 instead of $338,991,000 as proposed by the House and $367,415,000 as proposed by the Senate. $23,935,000 is earmarked for AIDS "infrastructure" projects.

NATIONAL CENTER FOR NURSING RESEARCH

Appropriates $23,380,000 instead of $24,744,000 as proposed by the House and $23,566,000 as proposed by the Senate. The conference agreement deletes language proposed by the Senate which would have earmarked $750,000 of these funds for planning of a nursing research facility at the Oregon Health Sciences University. The House bill contained no similar provision.

JOHN E. FOGARTY INTERNATIONAL CENTER

Appropriates $15,651,000 instead of $12,128,000 as proposed by the House and $15,866,000 as proposed by the Senate.

NATIONAL LIBRARY OF MEDICINE

Appropriates $67,910,000 instead of $71,465,000 as proposed by the House and $70,399,000 as proposed by the Senate. The conference agreement includes $3,830,000 for the new National Center on Biotechnology Information.

OFFICE OF THE DIRECTOR

Appropriates $61,819,000 instead of $71,389,000 as proposed by the House and $61,284,000 as proposed by the Senate. The conference agreement includes $11,010,000 each for the RCMI and the AREA programs.

BUILDINGS AND FACILITIES

Appropriates $47,870,000 instead of $30,000,000 as proposed by the House and $50,000,000 as proposed by the Senate.

Deletes language proposed by the Senate which would have earmarked $20,000,000 of this appropriation for facility renovation and construction related to AIDS on the campus of NIH. The House bill contained no similar provision. The conferees understand, however, that renovation activities related to AIDS are the highest priority at NIH and that $19,150,000 will be used for this purpose, as described in the Senate bill and report.

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH

Appropriates $1,373,727,000 instead of $401,782,000 as proposed by the House and $1,469,313,000 as proposed by the Senate. The conference agreement also includes language proposed by the Senate that earmarks $4,787,000 of these funds for grants to the states for development of comprehensive mental health services plans. The House bill contained no similar provision. The conference agreement includes $112,257,000 for activities related to Acquired Immune Deficiency Syndrome which the House bill had included under the "Priority Disease Control and Research" appropriation not approved by the conferees.

The conference agreement includes $254,229,000 for mental health research. This is an increase of $18,823,000 over fiscal year 1987. The conferees believe that the development of the national plan for schizophrenia research is an important step in building upon the research breakthroughs recently made. The conferees urge that a significant portion of the funding provided go to support the highest priority schizophrenia research recommended by the national plan.

The conferees continue to be supportive of NIMH giving priority to prevention initiatives under both the clinical training and research accounts.

The conferees understands that Community Demonstration Grants Projects for the Alcohol and Drug Abuse Treatment of Homeless Individuals will be awarded in April 1988. The conferees recognize that maximum effectiveness in a demonstration project normally requires a 2 to 3 year period to allow for start-up and implementation of innovative treatment projects directed toward difficult to reach populations. Therefore, the conferees urge NIAAA to assure that grantees are allowed a full 24 month period of support from date of award.

The conferees have provided sufficient funding to the Office for Substance Abuse Prevention under the direct prevention activities budget line item to allow for the completion of the two year Alcoholism and Alcohol Abuse Treatment Study. This study, which was mandated by Congress as part of the Anti-Drug Abuse Act of 1986, is being conducted by the National Academy of Sciences. The conferees are very concerned with the problems of alcoholism and drug abuse in this country and look forward to the findings of this study.

The conferees urge the National Institute on Alcohol Abuse and Alcoholism to maintain within its center program activities related to the effects of alcohol on the elderly.

SAINT ELIZABETHS HOSPITAL

Appropriates $65,402,000 instead of $68,312,000 as proposed by the House and by the Senate.

OFFICE OF ASSISTANT SECRETARY FOR HEALTH

PUBLIC HEALTH SERVICE MANAGEMENT

Appropriates $106,737,000 instead of $118,609,000 as proposed by the Senate. The House deferred consideration of this account due to lack of authorizing legislation.

The conference agreement includes $4,308,000 for activities related to acquired immune deficiency syndrome (AIDS). The conferees are agreed that the Department should establish a Secretary's Advisory Board for AIDS. The Board should be structured in the manner discussed in the House committee report. Sufficient funds are provided for the Board to conduct its own independent evaluation studies.

As the prevalence of AIDS among minorities is especially high, it is extremely important for the PHS agencies to take the necessary steps to ensure minority representation on the Secretary's AIDS Advisory Board and AIDS standing advisory committees of outside experts.

In keeping with the primary objective of the Secretary's Task Force Report on Black and Minority Health, the conferees urge the various operating components of the Public Health Service and other units of the Department of Health and Human Services to develop a coordinated plan to implement the Task Force recommendations. The plan should include a description of each past, existing and proposed project and the funding associated with each. The overall effort should be coordinated by the recently established Office of Minority Health. The Department should submit the plan to the House and Senate Committees by February 29, 1988. Implementation progress reports will be required annually. The conferees expect that progress will continue to be noted in future Presidential budgets submitted to the Congress.

The conference agreement includes $1,915,000 for patient outcome assessment research as authorized by P.L. 99-509.

The conference agreement includes language proposed by the Senate which directs the Department to utilize from the evaluation funds available under section 2313 of the PHS Act up to $15,318,000 for the support of the National Medical Expenditure Survey and $5,827,000 to carry out the National Health and Nutrition Examination Survey.

The conference agreement also includes language proposed by the Senate which provides that amounts received from Freedom of Information Act fees, reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended.

HEALTH CARE FINANCING ADMINISTRATION

PAYMENTS TO THE HEALTH CARE TRUST FUNDS

Appropriates $25,893,000,000 as proposed by the House instead of $25,364,000,000 as proposed by the Senate.

PROGRAM MANAGEMENT

Provides for a trust fund transfer of $1,373,585,000 for Medicare administrative costs instead of $1,421,578,000 as proposed by the House and $1,411,828,000 as proposed by the Senate.

The conference agreement includes funds to support an additional 287 full-time-equivalent positions over the number requested in the President's budget.

On October 29, 1987, the President submitted a request for an additional $15,348,000 to implement an administrative law judge appeals process. The request was not considered, pending the submission to Congress of a GAO report on the merits of such a proposal. Therefore, until further evaluation is conducted by the Comptroller General and a report is submitted to the Congress, the administrative law judge function for Medicare Part A and Part B will be maintained within the Social Security Administration.

Earmarks $105,314,000 for the contingency reserve under the Medicare program instead of $80,000,000 as proposed by the House and $120,200,000 as proposed by the Senate. The conferees are agreed that $47,870,000 of this amount is for costs related to implementation of the catastrophic health insurance program should it become law.

Deletes language proposed by the Senate which would have made the contingency reserve automatically available for use by the Secretary within 30 days after enactment of any Medicare legislation or changes in contractor workloads. The House bill contained no similar provision. The conferees expect, however that OMB will release contingency reserve funds in a timely manner.

Deletes language proposed by the House but stricken by the Senate related to patient outcome research. The conference agreement includes funds for this activity under the "Public Health Service Management" appropriation as proposed by the Senate.

SOCIAL SECURITY ADMINISTRATION

SPECIAL BENEFITS FOR DISABLED COAL MINERS

Appropriates $663,452,000 as proposed by the Senate instead of $651,452,000 as proposed by the House.

LIMITATION ON ADMINISTRATIVE EXPENSES

Provides for a limitation of $3,524,114,000 on the amount of Social Security trust funds which can be used for administrative costs instead of $3,680,921,000 as proposed by the House and the Senate.

Earmarks "not to exceed" $53,040,000 for data processing and telecommunications activities at the Social Security Administration. The Senate bill provided for this same amount while the House bill included $65,400,000 for this purpose. The conferees have agreed that this earmark should be used as a ceiling in order to provide the maximum flexibility to the Social Security Administration in managing its resources.

Deletes language proposed by the Senate setting an employment floor of 70,345 FTE positions. The House bill contained no similar provision.

While the conferees have not approved bill language setting a statutory floor on the level of full-time-equivalent employment at the Social Security Administration, it is their intention that the funds provided should be used to support an employment level as close as possible to the levels recommended by the Senate. The conferees believe this is the minimum number necessary to handle the workload of this agency and maintain adequate service levels. As in previous years, the Committees intend to continue to have the Comptroller General monitor the level of service being provided by SSA to its beneficiaries. Should service levels suffer from further reductions in staff in fiscal year 1988, the Committees will take whatever actions are necessary to correct the situation.

FAMILY SUPPORT ADMINISTRATION

LOW INCOME HOME ENERGY ASSISTANCE

Appropriates $1,531,840,000 instead of $1,822,265,000 as proposed by the House and $1,237,000,000 as proposed by the Senate.

REFUGEE AND ENTRANT ASSISTANCE

Appropriates $346,933,000 of $320,885,000 as proposed by the House and $389,597,000 as proposed by the Senate.

The conference agreement provides $10,531,000 for 12 months of additional special targeted assistance to Dade County schools and Jackson Memorial Hospital. For other targeted assistance grantees, with sufficient prior-year appropriations to maintain programs at least through March 30, 1988, the conference agreement provides additional funding at the current rate of operations through calendar year 1988. The conferees expect the Office of Refugee Resettlement to expedite the review of program plans and make targeted assistance funds available to sponsors as early in the fiscal year as possible.

WORK INCENTIVES

Appropriates $92,551,000 instead of $96,669,000 as proposed by the Senate. The House deferred consideration of this program due to lack of authorizing legislation.

COMMUNITY SERVICES BLOCK GRANT

Appropriates $382,290,000 instead of $408,200,000 as proposed by the House and $407,000,000 as proposed by the Senate.

Earmarks $18,909,000 for the community economic development program instead of $18,700,000 as proposed by the House and $21,000,000 as proposed by the Senate.

Earmarks $3,925,000 for the rural housing program instead of $4,000,000 as proposed by the House and $4,200,000 as proposed by the Senate.

Earmarks $2,968,000 for the farmworker assistance program instead of $3,000,000 as proposed by the House and $3,250,000 as proposed by the Senate.

Earmarks $6,319,000 for the national youth sports program instead of $7,000,000 as proposed by the House and $6,130,000 as proposed by the Senate.

Earmarks $239,000 for a new technical assistance program as proposed by the Senate. The House bill contained no similar provision.

Earmarks $2,872,000 for community partnership programs instead of $3,000,000 as proposed by the House and $4,000,000 as proposed by the Senate.

PROGRAM ADMINISTRATION

Appropriates $79,464,000 for program administration at the Family Support Administration instead of $74,913,000 as proposed by the House and $83,619,000 as proposed by the Senate.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

HUMAN DEVELOPMENT SERVICES

Inserts legislative citations for activities not considered by the House but included by the Senate.

Appropriates $2,455,532,000 instead of $1,641,456,000 as proposed by the House and $2,570,785,000 as proposed by the Senate.

The conferees recommend that $957,000 of the amounts included for Native Americans programs be used to start up the demonstration revolving loan fund for Native Hawaiians authorized under Title V of the Older Americans Act Amendments of 1987.

The conferees request a report be submitted prior to next year's hearing, comparing actual fiscal 1987 expenditures with planned use of fiscal 1988 appropriations, for all major categories of activities funded through the social services block grant.

The conferees agree that, of the amount provided for Older Americans Act research and demonstration activities, $957,000 is available for health education and promotion programs.

The conferees agree that $957,000 is provided for State long-term care ombudsman programs authorized under section 307(a)(12) of the Older Americans Act.

STATE LONG-TERM CARE OMBUDSMAN HOMECARE DEMONSTRATION PROJECTS

Deletes language proposed by the Senate which would have provided $1,000,000 to be used by the Secretary of Health and Human Services for the support of not less than three demonstration projects relating to long-term care ombudsman activities. Funding for this activity has been included under the appropriation for Human Development Services. The House bill contained no similar provision.

DEPARTMENTAL MANAGEMENT

GENERAL DEPARTMENTAL MANAGEMENT

Appropriates $67,840,000 instead of $70,859,000 as proposed by the Senate and $66,359,000 as proposed by the House. The agreement also provides for a trust fund transfer of $6,702,000 for this purpose.

Earmarks $4,308,000 as the third and final grant for construction of the Mary Babb Randolph Cancer Center in West Virginia instead of $4,500,000 as proposed by the Senate.

OFFICE OF THE INSPECTOR GENERAL

Appropriates $35,769,000 instead of $37,361,000 as proposed by the House and Senate. The agreement also provides for a trust fund transfer of $38,296,000 for these activities.

OFFICE FOR CIVIL RIGHTS

Appropriates $16,343,000 instead of $17,070,000 as proposed by the House and Senate. The agreement also provides for a trust fund transfer of $3,830,000 for these activities.

POLICY RESEARCH

Appropriates $4,873,000 instead of $5,090,000 as proposed by the House and Senate.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

GENERAL PROVISIONS

Includes language proposed by the Senate which precludes Public Health Service commissioned medical officers serving in the clinical, research, or staff associate program administered by the National Institute of Health from receiving special bonus pay. The House bill included no similar provision.

Deletes language included by the House but stricken by the Senate which would have limited physician comparability allowances to physicians who are licensed to practice medicine.

Deletes language proposed by the Senate which would have required that all funds appropriated to the NIH be apportioned at the individual appropriation level. The House bill contained no similar provision. The conferees have deleted this language because of the decision of the Office of Management and Budget to resume its traditional practice of apportioning funds at the account level as the language would have mandated.

Deletes language proposed by the Senate which directed that all PHS programs included in this bill be exempt from having any personnel ceiling imposed, or any other action which would restrict the FTE levels for PHS programs, projects, and activities funded in this or any other Act. The House bill contained no similar provision. The conferees have expressed their concerns about employment levels in the Public Health Service for a number of years. This year, as in the past, the conferees have not agreed to statutory language limiting the executive branch's authority in this matter. However, if Congressional intent continues to be ignored, and if employment levels are reduced as responsibilities increase, the conferees will need to reconsider this matter. The Committees will expect reports on the current employment situation in the Public Health Service by March 1, 1988 and September 30, 1988 as a basis for judging progress in this area. These reports should compare actual employment with congressional instructions in each agency.

FAMILY PLANNING—TITLE X

Deletes language proposed by the Senate which would have required that the federal family planning program be administered under those regulations and guidelines in effect on August 31, 1987.

The managers recognize that Title X reauthorization legislation for FY 1988 has been reported by the authorizing committee in the Senate and is pending in the House authorizing committee.

The Senate conferees and some House conferees believe that changes to existing law must be achieved through shared adherence to the constitutional process and express disagreement with the executive's bypassing that process through a regulatory device.

OTHER PROVISIONS

Deletes without prejudice language proposed by the Senate which would have permitted the State of Iowa to modify retroactively its voluntary agreement with the Secretary of HHS to validate Social Security coverage for certain police officers and firefighters. The conferees understand this matter is currently being considered by the authorizing committees with jurisdiction in this area. The House bill contained no similar provision.

Includes language proposed by the Senate which would require the Secretary of HHS to issue a report to Congress on violations of travel policy of HHS employees and also requires reimbursement by employees found in violation of Department travel regulations. The House bill contained no similar provision.

Includes language proposed by the Senate which requires the National Library of Medicine to publicize the availability of its products and services. The House bill contained no similar provision.

AIDS REPROGRAMMING AUTHORITY

Inserts Section 216 which permits the transfer of funds related to acquired immune deficiency syndrome (AIDS) between appropriation accounts upon the approval of a transfer request by the House and Senate Committees on Appropriations. The House bill included similar language at another point in the bill; the Senate bill included no similar provision.

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

Appropriates $4,327,927,000 for Chapter 1 of the Education Consolidation and Improvement Act instead of $4,595,000,000 as proposed by the House and $4,477,000,000 as proposed by the Senate.

Earmarks $7,181,000 for evaluation and technical assistance instead of $10,000,000 as proposed by the House and $7,500,000 as proposed by the Senate.

Earmarks $4,320,746,000 to become available on July 1, 1988, and remain available until September 30, 1989 instead of $4,585,000,000 as proposed by the House and $4,469,500,000 as proposed by the Senate for Chapter 1 of the Education Consolidation and Improvement Act excluding funds made available for evaluation and technical assistance.

Earmarks $269,029,000 for State agency migrant programs instead of $278,000,000 as proposed by the House and $284,000,000 as proposed by the Senate.

Appropriates $8,616,000 for migrant education instead of $8,000,000 as proposed by the House and $9,000,000 as proposed by the Senate.

Deletes language proposed by the Senate which would have provided that of the funds made available for the College Assistance Migrant Program, $200,000 shall be awarded to the highest ranking unfunded project applicant. Also deletes language proposed by the Senate which would have directed that new funds be used for the three highest ranking unfunded HEP applications filed in 1987. The House bill contained no similar provisions.

IMPACT AID

Appropriates $685,498,000 instead of $735,000,000 as proposed by the House and $677,000,000 as proposed by the Senate.

Earmarks $15,318,000 for entitlements under section 2 instead of $22,000,000 as proposed by the House and $10,000,000 as proposed by the Senate.

Earmarks $670,180,000 for entitlements under section 3 instead of $713,000,000 as proposed by the House and $677,000,000 as proposed by the Senate.

Earmarks $536,144,000 for entitlements under section 3(a) instead of $568,000,000 as proposed by the House and $550,000,000 as proposed by the Senate.

Deletes language proposed by the Senate which would have eliminated payments of less than $30,000 unless such payment constitutes five percent or more of a school district's total operating budget. The House bill included no similar provision.

Inserts language proposed by the Senate providing that school districts whose boundaries are coterminous with military installations shall not be subject to limitations on increases in per pupil payments unless its State aid is reduced as a result of its Section 3 payment. Also includes language which allows certain applications for disaster assistance to be submitted after the usual deadline. The House bill contained no similar provision.

Deletes language proposed by the House and inserts language proposed by the Senate prohibiting the recovery of sections 2 and 3 payments and requires the Department to restore amounts already recovered in the case of payments on behalf of public housing (Section 8) children.

Appropriates $22,978,000 for the Act of September 23, 1950 instead of $22,500,000 as proposed by the House and $24,000,000 as proposed by the Senate.

Earmarks $10,053,000 for awards under sections 14(a) and 14(b) instead of $9,000,000 as proposed by the House and $10,500,000 as proposed by the Senate.

Inserts language proposed by the Senate authorizing funds available from appropriations in the 1983 supplemental Jobs Bill to be used for school districts that serve children residing on Indian lands. The House bill contained no similar provision.

SPECIAL PROGRAMS

Appropriates $508,439,000 for Chapter 2 of the Education Consolidation and Improvement Act instead of $529,337,000 as proposed by the House and $530,137,000 as proposed by the Senate.

Earmarks $29,739,000 for the Secretary's discretionary fund instead of $29,337,000 as proposed by the House and $30,137,000 as proposed by the Senate.

Earmarks $4,308,000 for discretionary projects instead of $4,500,000 as proposed by the House and $3,250,000 as proposed by the Senate.

The conferees expect that $1,915,000 of the amount provided for discretionary projects under the Secretary's discretionary fund shall be used to develop and promote exemplary early intervention programs, including prekindergarten programs, as directed in the Senate report accompanying the bill.

Earmarks $7,659,000 for inexpensive book distribution instead of $7,800,000 as proposed by the House and $8,200,000 as proposed by the Senate.

Earmarks $3,315,000 for arts in education instead of $3,337,000 as proposed by the House and $3,587,000 as proposed by the Senate.

Earmarks $3,830,000 for law related education instead of $3,000,000 as proposed by the House and $4,000,000 as proposed by the Senate.

The conferees are agreed that $957,000 of the amount provided for law-related education shall be used to continue activities begun in 1987 related to the bicentennial celebration of the Constitution, as described in the Senate report accompanying the bill.

Deletes language proposed by the House with regard to the center for law related education providing a statewide K-12 program. The Senate bill contained no similar provision.

Inserts language proposed by the Senate earmarking $383,000 for a national school volunteer program. The House bill contained no similar provision.

The conferees have provided $383,000 for national school volunteer programs to expand the number and strengthen the quality of organized school volunteer programs. The Secretary shall award a grant on a competitive basis for training activities to establish or strengthen school volunteer programs in the States; to develop improved training materials for school volunteers; and to strengthen the nationwide network of school volunteer programs.

Appropriates $23,456,000 for training and advisory services instead of $25,000,000 as proposed by the House and $24,000,000 as proposed by the Senate.

Appropriates $3,351,000 for the women's educational equity program instead of $3,500,000 as proposed by the House and the Senate.

Appropriates $4,787,000 for general assistance to the Virgin Islands instead of $5,000,000 as proposed by the House and the Senate.

Appropriates $1,915,000 for Christa McAuliffe fellowships instead of $2,000,000 as proposed by the House and the Senate.

Appropriates $2,394,000 for Ellender fellowships instead of $2,000,000 as proposed by the House and $2,500,000 as proposed by the Senate.

Appropriates $229,776,000 for the Drug Free Schools and Communities Act instead of $200,000,000 as proposed by the House and $250,000,000 as proposed by the Senate.

Earmarks $191,480,000 for grants to states for drug free schools instead of $161,000,000 as proposed by the House and $207,000,000 as proposed by the Senate.

Inserts language proposed by the Senate authorizing States to use school enrollment data in distributing drug education funds to local school districts. The House bill contained no similar provision.

Appropriates $71,805,000 for magnet schools instead of $75,000,000 as proposed by the House and the Senate.

Appropriates $119,675,000 for title II of the Education for Economic Security Act instead of $55,000,000 as proposed by the House and $150,000,000 as proposed by the Senate and earmarks $108,904,000 for State grants instead of $50,000,000 as proposed by the House and $136,500,000 as proposed by the Senate.

Appropriates $8,222,000 for Leadership in Education Administration Development instead of $7,177,000 as proposed by the House and $10,000,00 as proposed by the Senate.

Appropriates $1,915,000 for territorial teacher training assistance instead of $2,000,000 as proposed by the House and the Senate.

Appropriates $4,787,000 for title VII of the Stewart B. McKinney Homeless Assistance Act instead of $7,500,000 as proposed by the House and $3,750,000 as proposed by the Senate.

The conferees agree that the amount made available for aid to the homeless within Special Programs shall be used to support activities under Section 722 of the Stewart B. McKinney Homeless Assistance Act. The conferees find that it is premature to provide funds at this time for the identification and dissemination of exemplary programs (Section 723) since funds provided under the Supplemental Appropriations Act to develop these state-based programs have not yet been obligated.

Appropriates $7,133,000 for Follow Through instead of $7,800,000 as proposed by the House and $7,100,000 as proposed by the Senate.

Inserts language proposed by the Senate appropriating $23,935,000 for dropout prevention. The House bill contained no similar provision.

Inserts language proposed by the Senate appropriating $9,574,000 for workplace literacy. The House bill contained no similar provision.

Inserts language proposed by the Senate appropriating $19,148,000 for Star Schools. The House bill contained no similar provision. In implementing the Star Schools program, the Secretary of Education is encouraged to consider applications of regional or national significance.

Deletes language proposed by the Senate which would have appropriated $700,000 for the Academic Institute for Minority Scholars. The House bill contained no similar provision.

BILINGUAL EDUCATION

Deletes legislative citation for the refugee education program proposed by the House.

Appropriates $191,751,000 instead of $198,981,000 as proposed by the House and the Senate.

Inserts language proposed by the Senate which reappropriates $1,247,000 from available Bilingual Education funds, to be used to fund the amended application from the State of Texas for the emergency immigrant education program.

EDUCATION FOR THE HANDICAPPED

Appropriates $1,869,019,000 instead of $1,913,800,000 as proposed by the House and $1,966,990,000 as proposed by the Senate.

Earmarks $1,431,737,000 for the State grant program instead of $1,490,000,000 as proposed by the House and $1,500,886,000 as proposed by the Senate.

Earmarks $201,054,000 for preschool incentive grants instead of $189,000,000 as proposed by the House and $216,000,000 as proposed by the Senate.

Earmarks $67,018,000 for State grants for early intervention instead of $52,000,000 as proposed by the House and $75,000,000 as proposed by the Senate. The conferees also provide for advance funding for these grants as proposed by the Senate.

Deletes language proposed by the House which would have made available $150,000 to operate a model program for the deaf, hearing impaired and handicapped students.

Inserts language proposed by the Senate permitting $479,000 to be used for a National coordinating center authorized by section 621(d) of the basic law, and sets aside a minimum funding requirement for existing regional centers. The House bill contained no similar provision.

Inserts language proposed by the Senate which extends the availability of the 1987 appropriation for the Early Intervention Program until September 30, 1989. The House bill contained no similar provision.

The conferees agree that of the funds provided for Part D, 73 percent will be allocated for institutions of higher educaton under section 631(a); 7 percent will be allocated for special projects under section 631(b) to nonprofit agencies; 10 percent shall be allocated to private nonprofit agencies of parent training centers under section 631(c); and 10 percent shall be allocated for personnel training programs under section 632.

Consistent with the amendments to Section 632 of the Education of the Handicapped Act enacted by Public Law 99-457, the Secretary of Education must provide an opportunity for each State educational agency to apply for a noncompetitive grant. If a State educational agency decides not to apply for a noncompetitive grant, then institutions of higher education in that State may apply for such grant. The conferees expect these noncompetitive grants to be of sufficient size and scope to enable each State to develop high-priority projects with the funds. If the Secretary decides to make available a small percentage of funds for competitive grants under section 632, it is the intent of the conferees that such competition be limited to State educational agencies.

The conferees also recommend that within the funds provided herein, the Department increase funding for Recordings for the Blind, Inc. by up to $479,000.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

Appropriates $1,590,400,000 instead of $1,561,940,000 as proposed by the House and $1,619,395,000 as proposed by the Senate.

Earmarks $1,379,500,000 for basic state grants instead of $1,350,000,000 as proposed by the House and $1,409,000,000 as proposed by the Senate.

Inserts language proposed by the Senate which earmarks $16,590,00 for special demonstration programs, and deletes language proposed by the Senate which would have earmarked $750,000 of that amount for a grant to the Louise Rude Center for Deaf Adults in Anchorage, Alaska, for the construction of a residential center for deaf adults. This language also set aside limitation contained in section 311 of the Rehabiliation Act. The House bill contained no similar provision.

Modifies language proposed by the Senate making available $500,000 for research and training for hearing loss assessments for native Hawaiian children, and extends the availability of these funds until September 30, 1989. The conferees are agreed that the funds appropriated are to be made available on a competitive basis. The House bill contained no similar provision.

Inserts language proposed by the Senate extending the availability of 1987 funds for Supported Employment Grants until September 30, 1989. The House bill contained no similar provision.

Vocational and Adult Education

Appropriates $1,005,557,000 instead of $1,029,600,000 as proposed by the House and $1,072,450,000 as proposed by the Senate.

Earmarks $25,658,000 for National research and data programs instead of $13,000,000 as proposed by the House and $22,050,000 as proposed by the Senate. The conference agreement also includes $7,276,000 for research, $14,792,000 for demonstrations and $3,590,000 for data systems.

The conferees agree that in lieu of the Senate provision providing $20,000,000 in start-up funding for Title III, Part E of the Perkins Act, an additional $9,574,000 has been provided for section 411(a)(2) of said Act to run a national competitive grant program. These funds will be used to demonstrate collaborative programs between the private sector and public agencies in vocational education designed to train skilled workers and technicians in high-technology occupations (including programs providing related instruction to apprentices) and projects to train skilled workers needed to produce, install, operate, and maintain high-technology equipment, systems, and processes. The matching requirements set forth in Section 342(b)(3) of the Perkins Act apply to these demonstration projects. The conferees further agree that for $4,787,000 shall be for the dropout prevention initiative described in the Senate report.

Earmarks $7,851,000 for State advisory councils instead of $7,900,000 as proposed by the House and $8,500,000 as proposed by the Senate.

Earmarks $6,845,000 for Community based organizations instead of $6,300,000 as proposed by the House and $8,000,000 as proposed by the Senate.

Earmarks $32,791,000 for Consumer and homemaking education instead of $33,500,000 as proposed by the House and $35,000,000 as proposed by the Senate.

Deletes language proposed by the Senate earmarking $20,000,000 for Business partnerships in high technologies. The House bill contained no similar provision.

Inserts language proposed by the Senate allowing pregnant women to be eligible for services provided by programs for single parents and homemakers. The conferees have amended the Senate language making it applicable to fiscal year 1988 only. The House bill contained no similar provision.

Student Financial Assistance

Appropriates $5,544,792,000 instead of $5,806,000,000 as proposed by the House and $5,837,098,000 as proposed by the Senate.

The conference agreement also provides a maximum Pell Grant of $2,200 that a student may receive in the 1988-89 award year instead of $2,300 as proposed by the House and $2,100 as proposed by the Senate.

Guaranteed Student Loans

Appropriates $2,565,000,000 instead of $2,425,000,000 as proposed by the House and $2,935,600,000 as proposed by the Senate.

Higher Education

Appropriates $152,370,000 for institutional development instead of $180,000,000 as proposed by the House and $138,300,000 as proposed by the Senate.

The conferees recognize the severe financial difficulties faced by Atlanta University. Funding for section 326 grants has been increased significantly, and the conferees urge the Department to give the needs of Atlanta University every consideration as these grants are awarded through the competitive process.

Earmarks $73,161,500 for historically Black colleges and universities instead of $84,533,000 proposed by the House and $68,300,000 as proposed by the Senate.

The conferees agree that in light of the declining rate of Black enrollment in higher education and the critical role that historically Black colleges and universities have and continue to play in the extension of educational opportunity to Blacks and other disadvantaged youth, the conferees have provided $73,161,500 for the historically Black college and university program enhancement and infrastructure development.

The Conferees included a substantial increase in funding for the TRIO programs because of grave concern over declining enrollment of low-income and minority students in college. It is the Conferees view that the TRIO increase should be used to fund the Ronald McNair Post-baccalaureate Achievement Program at a level of $957,000 to provide increases to all continuing TRIO projects to compensate for cuts they have experienced in real dollar terms since 1980, and to fund new EOC, Talent Search, Upward Bound and Support Services projects on a proportionate basis.

Appropriates $367,884,000 for higher education programs excluding institutional development and special higher education projects instead of $391,900,000 as proposed by the House and $356,798,000 as proposed by the Senate.

Modifies language proposed by the Senate providing $239,000 of the amount for the Patricia Roberts Harris Fellowships to be used for a consortium of historically Black colleges and doctoral granting institutions that provides supplemental financial aid to students and faculty from historically Black colleges who are pursuing doctoral degrees. The conferees are agreed that the funds appropriated are to be available on a competitive basis. The House bill contained no similar provision.

Deletes language proposed by the Senate earmarking funds for planning and feasibility studies for a graduate science research lab and a textiles science research center in South Carolina. The House bill contained no similar provision.

Appropriates $14,217,000 for special higher education projects instead of $12,550,000 as proposed by the House and $16,850,000 as proposed by the Senate.

Deletes language proposed by the Senate which would have provided $500,000 to remain available until expended for a study by the National Academy of Sciences on the use of volunteers in the classroom. The House bill contained no similar provision.

Inserts language proposed by the Senate which waives two statutory limitations in title VII of the Higher Education Act so that any funding provided for part B of title VII could be awarded to a consortium of institutions that may compete for such funding.

College Construction Loan Insurance

Appropriates $19,148,000 instead of $20,000,000 as proposed by the House and Senate.

College Housing and Academic Facilities Loans

Provides $62,231,000 in obligational authority instead of $90,000,000 as proposed by the House and $40,000,000 as proposed by the Senate.

Education Research and Statistics

Appropriates $67,526,000 instead of $73,801,000 as proposed by the House and $69,231,000 as proposed by the Senate. The conference agreement includes $7,563,000 for the National Assessment of Educational Progress and $3,830,000 for a rural education program.

Earmarks $13,390,000 for the Center for Education Statistics instead of $14,486,000 as proposed by the House and $12,686,000 as proposed by the Senate. The conference agreement intends that $479,000 be used to develop a National School Retention/Dropout indicator, and the Conferees expect the Center to begin work to support a panel to identify additional national statistical indicators of educational progress.

Libraries

Appropriates $135,089,000 instead of $144,500,000 as proposed by the House and $136,600,000 as proposed by the Senate.

Earmarks $22,595,000 for library construction instead of $22,500,000 as proposed by the House and $23,600,000 as proposed by the Senate.

American Printing House for the Blind

Appropriates $5,266,000 instead of $5,510,000 as proposed by the House and $5,500,000 as proposed by the Senate.

National Technical Institute for the Deaf

Modifies legal citation as proposed by the Senate.

Appropriates $31,594,000 instead of $33,000,000 as proposed by the House and the Senate. The Conferees also agree to earmark $191,000 for the endowment matching fund.

Inserts language proposed by the Senate prohibiting the use of funds to subsidize the tuition of foreign students. The House bill contained no similar provision.

Gallaudet University

Inserts legal citation as proposed by the Senate.

Appropriates $62,195,000 instead of $65,925,000 as proposed by the House and $64,000,000 as proposed by the Senate. The conferees also agreed to earmark $957,000 for the endowment program.

Howard University

Appropriates $172,203,000 instead of $179,865,000 as proposed by the House and $174,230,000 as proposed by the Senate.

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

Appropriates $163,085,000 instead of $162,191,000 as proposed by the House and $173,491,000 as proposed by the Senate.

The conferees reiterate the stipulations of the Senate report and instruct the Director to fill staff vacancies in the State and regional offices as her highest priority. The conferees further instruct the Director to provide both the House and Senate committees with quarterly reports specifying her progress toward following this instruction and implementing the new reorganized staffing plan begun on October 1, 1987. Such reports shall detail the number of filled permanent positions at each pay level for the State offices, the regional offices and the national office, as compared with the identified vacancies for each pay level at each location. These reports shall compare this data with that of the prior quarter, the FY 1987 end-of-year levels, and the July 1, 1986 levels.

Corporation for Public Broadcasting

Appropriates $232,648,000 instead of $238,000,000 as proposed by the House and $248,000,000 as proposed by the Senate.

Federal Mediation and Conciliation Service

SALARIES AND EXPENSES

Appropriates $24,510,000 instead of $25,601,000 as proposed by the House and the Senate.

Federal Mine Safety and Health Review Commission

SALARIES AND EXPENSES

Appropriates $3,906,000 instead of $4,080,000 as proposed by the House and the Senate.

National Commission on Libraries and Information Sciences

SALARIES AND EXPENSES

Appropriates $718,000 instead of $750,000 as proposed by the House and the Senate.

National Commission to Prevent Infant Mortality

SALARIES AND EXPENSES

Inserts language proposed by the Senate which specifies that funds appropriated in the 1987 Supplemental Appropriations Act (P.L. 100-71) shall remain available until expended. The House bill contained no similar provision.

National Council on the Handicapped

SALARIES AND EXPENSES

Appropriates $892,000 instead of $932,000 as proposed by the House and the Senate.

National Labor Relations Board

SALARIES AND EXPENSES

Appropriates $133,097,000 instead of $139,019,000 as proposed by the House and the Senate.

National Mediation Board

SALARIES AND EXPENSES

Appropriates $7,004,000 instead of $7,316,000 as proposed by the House and the Senate.

Occupational Safety and Health Review Commission

SALARIES AND EXPENSES

Appropriates $5,885,000 instead of $6,147,000 as proposed by the House and the Senate

Physician Payment Review Commission

SALARIES AND EXPENSES

Makes available $2,997,000 instead of $3,130,000 as proposed by the House and the Senate.

Prospective Payment Assessment Commission

SALARIES AND EXPENSES

Makes available $3,592,000 instead of $3,752,000 as proposed by the House and the Senate.

Railroad Retirement Board

DUAL BENEFITS PAYMENTS ACCOUNT

Appropriates $352,323,000 instead of $368,000,000 as proposed by the House and the Senate.

LIMITATION ON ADMINISTRATION

Makes available $57,860,000 instead of $60,434,000 as proposed by the House and the Senate.

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

Makes available $13,830,000 instead of $14,445,000 as proposed by the House and the Senate.

LIMITATION ON REVIEW ACTIVITY

Makes available $2,212,000 instead of $2,310,000 as proposed by the House and the Senate.

Soldiers' and Airmen's Home

OPERATION AND MAINTENANCE

Appropriates $35,879,000 instead of $36,647,000 as proposed by the House and $38,303,000 as proposed by the Senate.

CAPITAL OUTLAY

Appropriates $15,445,000 for the Soldiers' and Airmen's Home permanent fund instead of $16,132,000 as proposed by the Senate, and makes these funds available until expended. The House bill contained no appropriation for this account.

United States Institute of Peace

OPERATING EXPENSES

Appropriates $4,308,000 instead of $5,000,000 as proposed by the Senate. The House bill contained no appropriation for this agency.

TITLE V—GENERAL PROVISIONS

Inserts section 512 as proposed by the Senate reducing by a uniform percentage all amounts within this Act for travel, transportation, and subsistence to achieve a total outlay reduction of $23,600,000 in fiscal year 1988. The House bill contained no similar provision.

Modifies section 513 proposed by the Senate which would have prohibited the Secretary of Labor from withdrawing Federal approval of the California State occupational safety and health plan and from exercising exclusive Federal safety and health authority in the State of California until the Court of Appeal for the Third Apellate District of California had rendered a final judgment in two lawsuits concerning this matter and all direct appeals by the parties in each of the cases had been completed. As modified by the conference agreement, the prohibition established shall apply until the California Supreme Court has rendered a final disposition in the case of *Ixta* v. *Rinaldi* (Case No. 3 Civil C 002805). The House bill included no similar provision.

The conferees are aware that, since the time that the Senate passed this legislation, the Third District Court of Appeal of California, in the case of *Ixta* v. *Rinaldi*, has ruled in favor of the petitioners and ordered the Director of Cal-OSHA to fund the program. The conferees understand, however, that the Governor will appeal that decision to the California Supreme Court, which then will have 30 days to decide whether to hear the case.

The conferees believe that all reasonable efforts should be made to allow California to implement the State program fully and that the Department of Labor should not take any irrevocable action that could undermine those efforts. Thus, the conferees fully expect that the Department would not initiate any administrative proceedings under section 18(f) of the Occupational Safety and Health Act to withdraw the state plan involuntarily if the Court of Appeals' decision is upheld by the state Supreme Court. This would have the effect of requiring the Department to continue exercising concurrent jurisdiction, which would give the State a sufficient opportunity to rehire staff and restore the program to its previous level of activity.

The conferees appreciate the concern, however, that in the event that the state Supreme Court agrees to hear the case, a final resolution may take more than a year. Because of the difficulty that the Department may incur in hiring personnel to carry out concurrent jurisdiction on a temporary basis, the protection of California workers may be compromised. Thus, if the case has not yet been resolved by the end of the fiscal year, the Appropriations Committees will reevaluate the status of the Cal-OSHA program and the Court case and determine whether to extend the prohibition.

Modifies section 514 proposed by the Senate that would have prohibited any funds appropriated to the Centers for Disease Control from being used to provide AIDS education, information, or prevention materials and activities that promote or encourage, directly or indirectly, homosexual sexual activities and provided that materials and activities funded shall emphasize abstinence from sexual activity outside a sexually monogamous marriage and abstinence from the use of illegal intravenous drugs. The House bill contained no similar provision.

As modified in the conference agreement, the prohibition applies only to materials and activities that promote or encourage, directly, homosexual sexual activities.

The conferees agree that language contained in section 514 of the Act relating to AIDS education shall not be construed to prohibit descriptions of methods to reduce the risk of HIV transmission; to limit the eligibility for Federal funds of a grantee or potential grantee because of its non-Federally funded activities; nor shall it be construed to limit counseling or referrals to agencies that are not Federally funded.

Inserts section 515 as proposed by the Senate with respect to research relating to the treatment of AIDS, which states that the NIH shall take all possible steps to ensure that all experimental drugs, particularly antivirals and immunomodulators, that have shown some effectiveness against the AIDS virus, be tested in clinical trials as expeditiously as possible. The House bill contained no similar provision.

Definition of Program, Project and Activity

During fiscal year 1988, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the following information provides the definition of the term "program, project, and activity" for departments and agencies under the jurisdiction of the Labor, Health and Human Services, and Education and Related Agencies Subcommittee. The term "program, project and activity" shall include the most specific level of budget items identified in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1988, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the committee of conference and the tables inserted in the Congressional Record on the days when the bill or conference report is considered in the House.

CONFERENCE AGREEMENT

The following table displays the amounts agreed to for each program, project or activity with appropriate comparisons.

H.R. 3058 & H.J. RES. 395 - FY 1988 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1987	FY 1988	H.R. 3058	H.R. 3058	H.J. Res. 395	----- Conference H.J. Res. 395 compared with ----		
	Compararble	Budget Request	House Bill	Senate Bill	Conference	FY87 Comparable	House Bill	Senate Bill
SUMMARY								
Title I - Department of Labor:								
Federal Funds	5,163,204,000	5,475,022,000	5,959,806,000	5,824,837,000	5,653,526,000	+490,322,000	-306,280,000	-171,311,000
(Unauthorized/House deferred)	(536,000,000)	(326,000,000)	DEFER	(646,000,000)	(618,480,000)	(+82,480,000)	(+618,480,000)	(-27,520,000)
Trust Funds	(2,672,664,000)	(2,612,893,000)	(2,818,966,000)	(2,751,196,000)	(2,689,239,000)	(+16,575,000)	(-129,727,000)	(-61,957,000)
Title II - Department of Health and Human Services:								
Federal Funds (all years)	87,316,757,000	177,926,247,000	99,188,886,000	98,043,585,000	98,387,669,000	+11,070,912,000	-801,217,000	+344,084,000
Current year	(74,718,692,000)	(79,381,932,000)	(85,438,886,000)	(84,293,585,000)	(84,637,669,000)	(+9,918,977,000)	(-801,217,000)	(+344,084,000)
1989 advance	(12,598,065,000)	(84,466,323,000)	(13,750,000,000)	(13,750,000,000)	(13,750,000,000)	(+1,151,935,000)	---	---
1990 advance	---	(14,077,992,000)	---	---	---	---	---	---
(Unauthorized)	(2,461,591,000)	(2,007,957,000)	DEFER	(2,587,056,000)	(2,424,446,000)	(-37,145,000)	(+2,424,446,000)	(-162,610,000)
Trust Funds	(5,166,595,000)	(5,168,701,000)	(5,153,499,000)	(5,143,749,000)	(4,946,527,000)	(-220,068,000)	(-206,972,000)	(-197,222,000)
(Unauthorized/House deferred)	(1,050,000)	(1,050,000)	DEFER	(3,050,000)	(2,920,000)	(+1,870,000)	(+2,920,000)	(-130,000)
Title III - Department of Education:								
Federal Funds	19,473,503,000	13,985,555,000	20,636,613,000	21,211,239,000	20,125,803,000	+652,300,000	-510,810,000	-1,085,436,000
(Unauthorized/House deferred)	---	---	DEFER	(55,700,000)	(52,657,000)	(+52,657,000)	(+52,657,000)	(-3,043,000)
Title IV - Related Agencies:								
Federal Funds (all years)	993,586,000	791,054,000	991,783,000	1,035,912,000	982,800,000	-10,786,000	-8,983,000	-53,112,000
Current year	(765,586,000)	(655,954,000)	(753,783,000)	(787,912,000)	(750,152,000)	(-15,434,000)	(-3,631,000)	(-37,760,000)
1989 advance	(228,000,000)	(3,100,000)	---	---	---	(-228,000,000)	---	---
1990 advance	---	(132,000,000)	(238,000,000)	(248,000,000)	(232,648,000)	(+232,648,000)	(-5,352,000)	(-15,352,000)
Trust Funds	(64,230,000)	(66,196,000)	(69,626,000)	(69,626,000)	(66,661,000)	(+2,431,000)	(-2,965,000)	(-2,965,000)
Total, all titles:								
Federal Funds:								
Activities considered by House and Senate	112,947,050,000	198,177,878,000	126,777,088,000	126,115,573,000	125,149,798,000	+12,202,748,000	-1,627,290,000	-965,775,000
Current year	(100,120,985,000)	(99,498,463,000)	(112,789,088,000)	(112,117,573,000)	(111,167,150,000)	(+11,046,165,000)	(-1,621,938,000)	(-950,423,000)
1989 advance	(12,826,065,000)	(84,469,423,000)	(13,750,000,000)	(13,750,000,000)	(13,750,000,000)	(+923,935,000)	---	---
1990 advance	---	(14,209,992,000)	(238,000,000)	(248,000,000)	(232,648,000)	(+232,648,000)	(-5,352,000)	(-15,352,000)
Activities considered only by Senate	(2,997,591,000)	(2,333,957,000)	DEFER	(3,288,756,000)	(3,095,583,000)	(+97,992,000)	(+3,095,583,000)	(-193,173,000)
Grand Total, authorized and House deferred	(115,944,641,000)	(200,511,835,000)	(126,777,088,000)	(129,404,329,000)	(128,245,381,000)	(+12,300,740,000)	(+1,468,293,000)	(-1,158,948,000)
Trust Funds	7,903,489,000	7,847,790,000	8,042,091,000	7,964,571,000	7,702,427,000	-201,062,000	-339,664,000	-262,144,000
TITLE I, DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION PROGRAM ADMINISTRATION								
Job training programs	7,972,000	8,989,000	8,989,000	8,989,000	8,606,000	+634,000	-383,000	-383,000
Employment security	2,631,000	3,686,000	3,491,000	3,466,000	3,318,000	+687,000	-173,000	-148,000
Trust funds	(18,944,000)	(15,034,000)	(15,534,000)	(15,034,000)	(14,872,000)	(-4,072,000)	(-662,000)	(-162,000)
Financial control and management systems	15,066,000	17,325,000	17,325,000	17,446,000	16,703,000	+1,637,000	-622,000	-743,000
Trust funds	(8,063,000)	(9,847,000)	(10,147,000)	(9,847,000)	(9,715,000)	(+1,652,000)	(-432,000)	(-132,000)
Executive direction and administration	3,130,000	3,302,000	3,302,000	3,487,000	3,338,000	+208,000	+36,000	-149,000
Trust funds	(2,475,000)	(2,742,000)	(2,742,000)	(2,742,000)	(2,625,000)	(+150,000)	(-117,000)	(-117,000)
Regional operations	26,064,000	25,974,000	27,418,000	27,268,000	26,106,000	+42,000	-1,312,000	-1,162,000
Trust funds	(15,281,000)	(15,708,000)	(18,559,000)	(16,789,000)	(17,701,000)	(+2,420,000)	(-858,000)	(+912,000)
Apprenticeship services	13,213,000	14,415,000	14,415,000	14,415,000	13,801,000	+588,000	-614,000	-614,000
Federal Retiree Cost Savings/Other	---	---	-1,044,000	-1,044,000	-1,000,000	-1,000,000	+44,000	+44,000
Trust funds	---	---	(-557,000)	(-557,000)	(-533,000)	(-533,000)	(+24,000)	(+24,000)
Total, Program Administration	112,839,000	117,022,000	120,321,000	117,882,000	115,252,000	+2,413,000	-5,069,000	-2,630,000
Federal funds	68,076,000	73,691,000	73,896,000	74,027,000	70,872,000	+2,796,000	-3,024,000	-3,155,000
Trust funds	(44,763,000)	(43,331,000)	(46,425,000)	(43,855,000)	(44,380,000)	(-383,000)	(-2,045,000)	(+525,000)

	FY 1987 Comparарble	FY 1988 Budget Request	H.R. 3058 House Bill	H.R. 3058 Senate Bill	H.J. Res. 395 Conference	----- Conference H.J. Res. 395 compared with ---- FY87 Comparable	House Bill	Senate Bill
TRAINING AND EMPLOYMENT SERVICES								
Grants to States:								
Block grant	1,840,000,000	1,783,000,000	1,880,000,000	1,900,000,000	1,809,486,000	-30,514,000	-70,514,000	-90,514,000
Summer youth employment and training program:								
Summer 1988 and 1989	750,000,000	650,000,000	750,000,000	750,000,000	718,050,000	-31,950,000	-31,950,000	-31,950,000
Dislocated worker assistance (program replacement pending) (Not considered by House)	(200,000,000)	---	DEFER	(300,000,000)	(287,220,000)	(+87,220,000)	(+287,220,000)	(-12,780,000)
Federally administered programs:								
Native Americans	61,484,000	58,839,000	62,370,000	62,700,000	59,713,000	-1,771,000	-2,657,000	-2,987,000
Migrants and seasonal farmworkers	59,621,000	57,056,000	70,480,000	66,500,000	65,572,000	+5,951,000	-4,908,000	-928,000
Job Corps	656,350,000	651,684,000	783,500,000	700,000,000	716,135,000	+59,785,000	-67,365,000	+16,135,000
Veterans' employment	10,058,000	10,043,000	10,409,000	10,575,000	9,966,000	-92,000	-443,000	-609,000
National activities:								
Pilots and demonstrations	31,620,000	40,698,000	40,698,000	40,698,000	38,964,000	+7,344,000	-1,734,000	-1,734,000
Research, demonstration and evaluation	14,406,000	19,038,000	19,038,000	19,038,000	18,227,000	+3,821,000	-811,000	-811,000
Other	26,690,000	15,190,000	23,190,000	27,690,000	24,356,000	-2,334,000	+1,166,000	-3,334,000
Subtotal, National activities	72,716,000	74,926,000	82,926,000	87,426,000	81,547,000	+8,831,000	-1,379,000	-5,879,000
Subtotal, Federal activities	860,229,000	852,548,000	1,009,685,000	927,201,000	932,933,000	+72,704,000	-76,752,000	+5,732,000
Total, Job Training Partnership Act	3,450,229,000	3,285,548,000	3,639,685,000	3,577,201,000	3,460,469,000	+10,240,000	-179,216,000	-116,732,000
(Unauthorized) (Not considered by House)	(200,000,000)	---	DEFER	(300,000,000)	(287,220,000)	(+87,220,000)	(+287,220,000)	(-12,780,000)
Total, authorized and unauthorized	(3,650,229,000)	(3,285,548,000)	(3,639,685,000)	(3,877,201,000)	(3,747,689,000)	(+97,460,000)	(+108,004,000)	(-129,512,000)
Trade adjustment program activities	49,900,000	---	50,000,000	50,000,000	47,870,000	-2,030,000	-2,130,000	-2,130,000
Homeless job training	---	---	8,000,000	12,000,000	9,574,000	+9,574,000	+1,574,000	-2,426,000
Total, Training and Employment Services 1/	3,500,129,000	3,285,548,000	3,697,685,000	3,639,201,000	3,517,913,000	+17,784,000	-179,772,000	-121,288,000
Total, authorized and unauthorized	3,700,129,000	3,285,548,000	3,697,685,000	3,939,201,000	3,805,133,000	+105,004,000	+107,448,000	-134,068,000
COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS (not considered by House)	(336,000,000)	(326,000,000)	DEFER	(346,000,000)	(331,260,000)	(-4,740,000)	(+331,260,000)	(-14,740,000)
FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES								
Trade adjustment assistance	114,000,000	138,000,000	138,000,000	138,000,000	138,000,000	+24,000,000	---	---
Unemployment assistance and payments under other Federal unemployment programs	4,000,000	3,000,000	3,000,000	3,000,000	3,000,000	-1,000,000	---	---
Total, FUBA	118,000,000	141,000,000	141,000,000	141,000,000	141,000,000	+23,000,000	---	---
STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS								
Unemployment Compensation (Trust Funds):								
State Operations	(1,244,132,000)	(1,285,738,000)	(1,285,738,000)	(1,285,738,000)	(1,230,966,000)	(-13,166,000)	(-54,772,000)	(-54,772,000)
State integrity activities	(212,754,000)	(255,829,000)	(255,829,000)	(255,829,000)	(244,931,000)	(+32,177,000)	(-10,898,000)	(-10,898,000)
National Activities	(2,272,000)	(10,185,000)	(10,185,000)	(10,185,000)	(9,751,000)	(+7,479,000)	(-434,000)	(-434,000)
Contingency	(178,410,000)	(122,866,000)	(182,866,000)	(182,866,000)	(175,076,000)	(-3,334,000)	(-7,790,000)	(-7,790,000)
Subtotal, Unemployment Compensation(trust funds)	(1,637,568,000)	(1,674,618,000)	(1,734,618,000)	(1,734,618,000)	(1,660,724,000)	(+23,156,000)	(-73,894,000)	(-73,894,000)
Employment Service:								
Allotments to States:								
Federal funds	22,700,000	22,700,000	22,700,000	22,700,000	21,733,000	-967,000	-967,000	-967,000
Trust funds	(732,500,000)	(636,273,000)	(732,500,000)	(677,300,000)	(701,296,000)	(-31,204,000)	(-31,204,000)	(+23,996,000)
Subtotal	755,200,000	658,973,000	755,200,000	700,000,000	723,029,000	-32,171,000	-32,171,000	+23,029,000
National Activities:								
Federal funds	700,000	700,000	700,000	700,000	670,000	-30,000	-30,000	-30,000
Trust funds 2/	(36,833,000)	(28,894,000)	(68,894,000)	(58,894,000)	(56,385,000)	(+19,552,000)	(-12,509,000)	(-2,509,000)
Subtotal, Employment Service	792,733,000	688,567,000	824,794,000	759,594,000	780,084,000	-12,649,000	-44,710,000	+20,490,000
Federal funds	23,400,000	23,400,000	23,400,000	23,400,000	22,403,000	-997,000	-997,000	-997,000
Trust funds	(769,333,000)	(665,167,000)	(801,394,000)	(736,194,000)	(757,681,000)	(-11,652,000)	(-43,713,000)	(+21,487,000)
Total, State Unempl. Ins. and Empl. Ser. Opers.	2,430,301,000	2,363,185,000	2,559,412,000	2,494,212,000	2,440,808,000	+10,507,000	-118,604,000	-53,404,000
Federal Funds	23,400,000	23,400,000	23,400,000	23,400,000	22,403,000	-997,000	-997,000	-997,000
Trust Funds	(2,406,901,000)	(2,339,785,000)	(2,536,012,000)	(2,470,812,000)	(2,418,405,000)	(+11,504,000)	(-117,607,000)	(-52,407,000)

1/ Budget request excludes $1,130,000,000 for new retraining programs proposed for later transmittal.

	FY 1987 Comparable	FY 1988 Budget Request	H.R. 3058 House Bill	H.R. 3058 Senate Bill	H.J. Res. 395 Conference	----- Conference H.J. Res. 395 compared with ----		
						FY87 Comparable	House Bill	Senate Bill
ADVANCES TO UNEMPLOYMENT TRUST FUND AND OTHER FUNDS...	---	.30,000,000	30,000,000	30,000,000	30,000,000	+30,000,000	---	---
Total, Employment & Training Administration.....	6,161,269,000	5,936,755,000	6,548,418,000	6,422,295,000	6,244,973,000	+83,704,000	-303,445,000	-177,322,000
Federal funds..................................	3,709,605,000	3,553,639,000	3,965,981,000	3,907,628,000	3,782,188,000	+72,583,000	-183,793,000	-125,440,000
Trust funds....................................	(2,451,664,000)	(2,383,116,000)	(2,582,437,000)	(2,514,667,000)	(2,462,785,000)	(+11,121,000)	(-119,652,000)	(-51,882,000)
LABOR - MANAGEMENT SERVICES								
SALARIES AND EXPENSES								
Labor-management relations service....................	4,904,000	5,951,000	5,951,000	5,951,000	5,697,000	+793,000	-254,000	-254,000
Labor-management standards enforcement................	23,735,000	26,020,000	26,020,000	26,020,000	24,912,000	+1,177,000	-1,108,000	-1,108,000
Pension and welfare benefit programs..................	33,636,000	50,102,000	50,102,000	49,102,000	47,010,000	+13,374,000	-3,092,000	-2,092,000
Federal Retiree Cost Savings/Other....................	---	---	-881,000	-881,000	-843,000	-843,000	+38,000	+38,000
Total, LMS..	62,275,000	82,073,000	81,192,000	80,192,000	76,776,000	+14,501,000	-4,416,000	-3,416,000
PENSION BENEFIT GUARANTY CORPORATION								
Program Administration (Trust Funds).................	(36,874,000)	(40,446,000)	(40,034,000)	(40,034,000)	(38,329,000)	(+1,455,000)	(-1,705,000)	(-1,705,000)
EMPLOYMENT STANDARDS ADMINISTRATION								
SALARIES AND EXPENSES								
Enforcement of wage and hour standards................	79,018,000	87,795,000	87,275,000	88,144,000	83,557,000	+4,539,000	-3,718,000	-4,587,000
Federal contractor EEO standards enforcement..........	47,191,000	51,796,000	53,865,000	51,586,000	51,443,000	+4,252,000	-2,422,000	-143,000
Federal programs for workers' compensation............	52,073,000	65,631,000	64,735,000	62,556,000	61,977,000	+9,904,000	-2,758,000	-579,000
Trust funds......................................	(441,000)	(488,000)	(488,000)	(488,000)	(467,000)	(+26,000)	(-21,000)	(-21,000)
Executive direction and support services..............	12,768,000	14,413,000	14,081,000	14,637,000	13,481,000	+713,000	-600,000	-1,156,000
Prior year unobligated balances.......................	-8,000,000	---	---	---	---	+8,000,000	---	---
Federal Retiree Cost Savings/Other....................	---	---	-2,871,000	-2,871,000	-2,749,000	-2,749,000	+122,000	+122,000
Total, salaries and expenses....................	183,491,000	220,123,000	217,573,000	214,540,000	208,176,000	+24,685,000	-9,397,000	-6,364,000
Federal funds.................................	183,050,000	219,635,000	217,085,000	214,052,000	207,709,000	+24,659,000	-9,376,000	-6,343,000
Trust funds...................................	(441,000)	(488,000)	(488,000)	(488,000)	(467,000)	(+26,000)	(-21,000)	(-21,000)
SPECIAL BENEFITS								
Federal employees compensation act benefits...........	259,400,000	170,000,000	253,177,000	170,000,000	170,000,000	-89,400,000	-83,177,000	---
Longshore and harbor workers' benefits................	4,200,000	4,000,000	4,000,000	4,000,000	4,000,000	-200,000	---	---
Total, Special Benefits.........................	263,600,000	174,000,000	257,177,000	174,000,000	174,000,000	-89,600,000	-83,177,000	---
BLACK LUNG DISABILITY TRUST FUND								
Benefit payments and interest on advances.............	186,687,000	594,522,000	594,522,000	594,522,000	594,522,000	+407,835,000	---	---
Employment Standards Admin., salaries & expenses......	26,346,000	28,556,000	28,293,000	28,217,000	28,217,000	+1,871,000	-76,000	---
Departmental Management, salaries and expenses........	22,095,000	23,851,000	23,521,000	25,924,000	25,924,000	+3,829,000	+2,403,000	---
Departmental Management, inspector general............	612,000	515,000	506,000	506,000	506,000	-106,000	---	---
Subtotal, Black Lung Disablty. Trust Fund, apprn	235,740,000	647,444,000	646,842,000	649,169,000	649,169,000	+413,429,000	+2,327,000	---
Treasury administrative costs (indefinite)......	756,000	756,000	756,000	756,000	756,000	---	---	---
Repayment of Advances (indefinite).............	---	38,800,000	38,800,000	38,800,000	38,800,000	+38,800,000	---	---
Subtotal, indefinites.......................	756,000	39,556,000	39,556,000	39,556,000	39,556,000	+38,800,000	---	---
Total, Employment Standards Administration......	683,587,000	1,081,123,000	1,161,148,000	1,077,265,000	1,070,901,000	+387,314,000	-90,247,000	-6,364,000
Federal funds.................................	683,146,000	1,080,635,000	1,160,660,000	1,076,777,000	1,070,434,000	+387,288,000	-90,226,000	-6,343,000
Trust funds...................................	(441,000)	(488,000)	(488,000)	(488,000)	(467,000)	(+26,000)	(-21,000)	(-21,000)
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION								
SALARIES AND EXPENSES								
Safety and health standards...........................	6,345,000	6,828,000	6,828,000	6,828,000	6,537,000	+192,000	-291,000	-291,000
Enforcement:								
Federal Enforcement..............................	95,120,000	114,717,000	114,717,000	118,617,000	111,697,000	+16,577,000	-3,020,000	-6,920,000
State programs...................................	51,457,000	42,327,000	42,327,000	42,327,000	40,524,000	-10,933,000	-1,803,000	-1,803,000

	FY 1987 Compararble	FY 1988 Budget Request	H.R. 3058 House Bill	H.R. 3058 Senate Bill	H.J. Res. 395 Conference	----- Conference H.J. Res. 395 compared with ----		
						FY87 Comparable	House Bill	Senate Bill
Technical Support	15,013,000	17,379,000	17,379,000	17,379,000	16,639,000	+1,626,000	-740,000	-740,000
Compliance Assistance	36,413,000	38,034,000	38,034,000	38,034,000	36,414,000	+1,000	-1,620,000	-1,620,000
Safety and health statistics	18,949,000	20,503,000	20,503,000	20,503,000	19,630,000	+681,000	-873,000	-873,000
Executive direction and administration	5,630,000	6,072,000	6,072,000	6,072,000	5,813,000	+183,000	-259,000	-259,000
Federal Retiree Cost Savings/Other	---	---	-1,859,000	-1,859,000	-1,780,000	-1,780,000	+79,000	+79,000
Total, OSHA	228,927,000	245,860,000	244,001,000	247,901,000	235,474,000	+6,547,000	-8,527,000	-12,427,000
MINE SAFETY AND HEALTH ADMINISTRATION								
SALARIES AND EXPENSES								
Enforcement:								
Coal	81,084,000	85,343,000	85,343,000	90,234,000	84,049,000	+2,965,000	-1,294,000	-6,185,000
Metal/nonmetal	31,190,000	33,521,000	33,521,000	33,521,000	32,093,000	+903,000	-1,428,000	-1,428,000
Standards development	1,117,000	1,208,000	1,208,000	1,208,000	1,157,000	+40,000	-51,000	-51,000
Assessments	2,013,000	2,161,000	2,161,000	2,161,000	2,069,000	+56,000	-92,000	-92,000
Educational policy and development	11,808,000	12,199,000	12,199,000	12,199,000	11,679,000	-129,000	-520,000	-520,000
Technical support	20,411,000	21,300,000	21,300,000	21,300,000	20,393,000	-18,000	-907,000	-907,000
Program administration	10,798,000	11,556,000	11,556,000	11,556,000	11,064,000	+266,000	-492,000	-492,000
Federal Retiree Cost Savings/Other	---	---	-2,414,000	-2,414,000	-2,311,000	-2,311,000	+103,000	+103,000
Total, Mine Safety and Health Administration	158,421,000	167,288,000	164,874,000	169,765,000	160,193,000	+1,772,000	-4,681,000	-9,572,000
BUREAU OF LABOR STATISTICS								
SALARIES AND EXPENSES								
Employment and Unemployment Statistics	59,769,000	62,986,000	62,986,000	62,986,000	60,303,000	+534,000	-2,683,000	-2,683,000
Labor Market Information (Trust Funds)	(37,872,000)	(43,419,000)	(43,419,000)	(43,419,000)	(41,569,000)	(+3,697,000)	(-1,850,000)	(-1,850,000)
Prices and cost of living	53,341,000	60,225,000	60,225,000	60,225,000	57,659,000	+4,318,000	-2,566,000	-2,566,000
Wages and industrial relations	20,676,000	22,188,000	22,188,000	22,188,000	21,243,000	+567,000	-945,000	-945,000
Productivity and technology	5,065,000	5,487,000	5,487,000	5,487,000	5,253,000	+188,000	-234,000	-234,000
Economic growth and employment projections	3,104,000	3,386,000	3,386,000	3,386,000	3,242,000	+138,000	-144,000	-144,000
Executive direction and staff services	20,456,000	21,830,000	22,830,000	21,830,000	21,379,000	+923,000	-1,451,000	-451,000
Consumer Price Index Revision	11,393,000	9,184,000	9,184,000	9,184,000	8,793,000	-2,600,000	-391,000	-391,000
Federal Retiree Cost Savings/Other	---	---	-1,453,000	-1,453,000	-1,391,000	-1,391,000	+62,000	+62,000
Total, Bureau of Labor Statistics	211,676,000	228,705,000	228,252,000	227,252,000	218,050,000	+6,374,000	-10,202,000	-9,202,000
Federal Funds	173,804,000	185,286,000	184,833,000	183,833,000	176,481,000	+2,677,000	-8,352,000	-7,352,000
Trust Funds	(37,872,000)	(43,419,000)	(43,419,000)	(43,419,000)	(41,569,000)	(+3,697,000)	(-1,850,000)	(-1,850,000)
DEPARTMENTAL MANAGEMENT								
SALARIES AND EXPENSES								
Executive direction	13,446,000	15,575,000	15,575,000	15,575,000	14,912,000	+1,466,000	-663,000	-663,000
Legal services	41,405,000	48,364,000	48,364,000	48,364,000	46,304,000	+4,899,000	-2,060,000	-2,060,000
Trust funds	(263,000)	(291,000)	(291,000)	(291,000)	(279,000)	(+16,000)	(-12,000)	(-12,000)
International labor affairs	4,523,000	6,231,000	6,231,000	6,231,000	5,966,000	+1,443,000	-265,000	-265,000
Administration and management	24,477,000	26,255,000	26,255,000	26,255,000	25,137,000	+660,000	-1,118,000	-1,118,000
Adjudication	12,758,000	12,445,000	12,445,000	12,445,000	11,915,000	-843,000	-530,000	-530,000
Promoting employment of the handicapped	2,435,000	2,542,000	2,542,000	2,542,000	2,434,000	-1,000	-108,000	-108,000
Women's Bureau	5,848,000	6,330,000	6,330,000	6,330,000	6,060,000	+212,000	-270,000	-270,000
Civil Rights Activities	3,238,000	3,899,000	3,899,000	3,899,000	3,733,000	+495,000	-166,000	-166,000
Drugs in the workplace	3,000,000	---	---	---	---	-3,000,000	---	---
Federal Retiree Cost Savings	---	---	-1,600,000	-1,600,000	-1,532,000	-1,532,000	+68,000	+68,000
Trust funds	---	---	(-5,000)	(-5,000)	(-5,000)	(-5,000)	---	---
Total, Salaries and expenses	111,393,000	121,932,000	120,327,000	120,327,000	115,203,000	+3,810,000	-5,124,000	-5,124,000
Federal funds	111,130,000	121,641,000	120,041,000	120,041,000	114,929,000	+3,799,000	-5,112,000	-5,112,000
Trust funds	(263,000)	(291,000)	(286,000)	(286,000)	(274,000)	(+11,000)	(-12,000)	(-12,000)
VETERANS EMPLOYMENT AND TRAINING								
State Administration:								
Disabled Veterans Outreach Program	(69,212,000)	(72,019,000)	(72,019,000)	(72,019,000)	(68,951,000)	(-261,000)	(-3,068,000)	(-3,068,000)
Local Veterans Employment Program	(56,695,000)	(51,527,000)	(59,039,000)	(59,039,000)	(56,524,000)	(-171,000)	(-2,515,000)	(-2,515,000)
Subtotal, State Administration	(125,907,000)	(123,546,000)	(131,058,000)	(131,058,000)	(125,475,000)	(-432,000)	(-5,583,000)	(-5,583,000)
Federal Administration	(13,603,000)	(15,019,000)	(14,768,000)	(14,768,000)	(14,139,000)	(+536,000)	(-629,000)	(-629,000)
Total, Trust Funds	(139,510,000)	(138,565,000)	(145,826,000)	(145,826,000)	(139,614,000)	(+104,000)	(-6,212,000)	(-6,212,000)

	FY 1987	FY 1988	H.R. 3058	H.R. 3058	H.J. Res. 395	----- Conference H.J. Res. 395 compared with ----		
	Compararble	Budget Request	House Bill	Senate Bill	Conference	FY87 Comparable	House Bill	Senate Bill
OFFICE OF THE INSPECTOR GENERAL								
Audit:								
Federal funds	19,650,000	20,680,000	20,680,000	20,680,000	19,799,000	+149,000	-881,000	-881,000
Trust funds	(4,792,000)	(5,386,000)	(5,386,000)	(5,386,000)	(5,157,000)	(+365,000)	(-229,000)	(-229,000)
Investigation:								
Federal funds	5,833,000	6,382,000	6,382,000	6,382,000	6,110,000	+277,000	-272,000	-272,000
Trust funds	(1,248,000)	(1,182,000)	(1,182,000)	(1,182,000)	(1,132,000)	(-116,000)	(-50,000)	(-50,000)
Office of Labor Racketeering	6,564,000	7,461,000	7,661,000	8,137,000	7,790,000	+1,226,000	+129,000	-347,000
Executive Direction and Administration	3,802,000	4,077,000	4,077,000	4,077,000	3,903,000	+101,000	-174,000	-174,000
Federal Retiree Cost Savings/Other	---	---	-576,000	-576,000	-551,000	-551,000	+25,000	+25,000
Trust funds	---	---	(-92,000)	(-92,000)	(-88,000)	(-88,000)	(+4,000)	(+4,000)
Total, Office of the Inspector General	41,889,000	45,168,000	44,700,000	45,176,000	43,252,000	+1,363,000	-1,448,000	-1,924,000
Federal funds	35,849,000	38,600,000	38,224,000	38,700,000	37,051,000	+1,202,000	-1,173,000	-1,649,000
Trust funds	(6,040,000)	(6,568,000)	(6,476,000)	(6,476,000)	(6,201,000)	(+161,000)	(-275,000)	(-275,000)
SPECIAL FOREIGN CURRENCY PROGRAM	47,000	---	---	---	---	-47,000	---	---
Total, Departmental Management	292,839,000	305,665,000	310,853,000	311,329,000	298,069,000	+5,230,000	-12,784,000	-13,260,000
Federal funds	147,026,000	160,241,000	158,265,000	158,741,000	151,980,000	+4,954,000	-6,285,000	-6,761,000
Trust funds	(145,813,000)	(145,424,000)	(152,588,000)	(152,588,000)	(146,089,000)	(+276,000)	(-6,499,000)	(-6,499,000)
Total, Labor Department	7,835,868,000	8,087,915,000	8,778,772,000	8,576,033,000	8,342,765,000	+506,897,000	-436,007,000	-233,268,000
Federal funds	5,163,204,000	5,475,022,000	5,959,806,000	5,824,837,000	5,653,526,000	+490,322,000	-306,280,000	-171,311,000
(House deferred)	(536,000,000)	(326,000,000)	DEFER	(646,000,000)	(618,480,000)	(+82,480,000)	(+618,480,000)	(-27,520,000)
Trust funds	(2,672,664,000)	(2,612,893,000)	(2,818,966,000)	(2,751,196,000)	(2,689,239,000)	(+16,575,000)	(-129,727,000)	(-61,957,000)
Total, authorized and House deferred	(5,699,204,000)	(5,801,022,000)	(5,959,806,000)	(6,470,837,000)	(6,272,006,000)	(+572,802,000)	(+312,200,000)	(-198,831,000)
TITLE II--DEPARTMENT OF HEALTH AND HUMAN SERVICES								
PRIORITY DISEASE CONTROL AND RESEARCH ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) 1/								
Health Resorces and Services Administration:								
Training of health personnel	(1,900,000)	(6,600,000)	---	(14,600,000)	(11,106,000)	(+9,206,000)	(+11,106,000)	(-3,494,000)
Facilities renovation grants	---	---	(10,000,000)	(4,000,000)	(6,702,000)	(+6,702,000)	(-3,298,000)	(+2,702,000)
Pediatric health care demonstrations	---	---	---	(5,000,000)	(4,787,000)	(+4,787,000)	(+4,787,000)	(-213,000)
Service demonstrations, general	(10,000,000)	---	---	(20,000,000)	(14,361,000)	(+4,361,000)	(+14,361,000)	(-5,639,000)
Undistributed	---	---	(28,500,000)	---	---	---	(-28,500,000)	---
Subtotal, HRSA	(11,900,000)	(6,600,000)	(38,500,000)	(43,600,000)	(36,956,000)	(+25,056,000)	(-1,544,000)	(-6,644,000)
Centers for Disease Control	(136,249,000)	(234,011,000)	(306,750,000)	(310,011,000)	(304,942,000)	(+168,693,000)	(-1,808,000)	(-5,069,000)
National Institutes of Health:								
National Cancer Institute	(61,674,000)	(93,946,000)	(93,946,000)	(93,946,000)	(89,944,000)	(+28,270,000)	(-4,002,000)	(-4,002,000)
National Heart, Lung, and Blood Institute	(17,091,000)	(25,839,000)	(25,839,000)	(25,839,000)	(24,738,000)	(+7,647,000)	(-1,101,000)	(-1,101,000)
National Institute of Dental Research	(2,733,000)	(3,310,000)	(3,310,000)	(3,310,000)	(3,169,000)	(+436,000)	(-141,000)	(-141,000)
National Institute of Diabetes, Digestive, and Kidney Diseases	---	(3,500,000)	(3,500,000)	(3,500,000)	(3,351,000)	(+3,351,000)	(-149,000)	(-149,000)
National Institute of Neurological and Communicative Disorders and Stroke	(2,413,000)	(12,755,000)	(12,755,000)	(12,755,000)	(12,212,000)	(+9,799,000)	(-543,000)	(-543,000)
National Institue of Allergy and Infectious Diseases	(145,850,000)	(223,323,000)	(223,323,000)	(233,323,000)	(223,383,000)	(+77,533,000)	(+60,000)	(-9,940,000)
National Institute of General Medical Sciences	---	(2,500,000)	(2,500,000)	(2,500,000)	(2,394,000)	(+2,394,000)	(-106,000)	(-106,000)
National Institute of Child Health and Human Development	(4,186,000)	(9,928,000)	(9,928,000)	(14,928,000)	(14,292,000)	(+10,106,000)	(+4,364,000)	(-636,000)
National Eye Institute	(250,000)	(4,000,000)	(4,000,000)	(4,000,000)	(3,830,000)	(+3,580,000)	(-170,000)	(-170,000)
National Institute of Environmental Health Sciences	(250,000)	(4,091,000)	(4,091,000)	(4,091,000)	(3,917,000)	(+3,667,000)	(-174,000)	(-174,000)
National Institute on Aging	(252,000)	(377,000)	(377,000)	(377,000)	(361,000)	(+109,000)	(-16,000)	(-16,000)
Research Resources	(7,784,000)	(25,661,000)	(25,661,000)	(52,661,000)	(50,418,000)	(+42,634,000)	(+24,757,000)	(-2,243,000)
National Center for Nursing Research	---	(533,000)	(533,000)	(533,000)	(510,000)	(+510,000)	(-23,000)	(-23,000)
John E. Fogarty International Center	---	(1,200,000)	(1,200,000)	(4,700,000)	(4,500,000)	(+4,500,000)	(+3,300,000)	(-200,000)
Office of the Director	(10,000,000)	(11,465,000)	(61,465,000)	(11,465,000)	(10,977,000)	(+977,000)	(-50,488,000)	(-488,000)
Subtotal, NIH	(252,483,000)	(422,428,000)	(472,428,000)	(467,928,000)	(447,996,000)	(+195,513,000)	(-24,432,000)	(-19,932,000)

	FY 1987	FY 1988	H.R. 3058	H.R. 3058	H.J. Res. 395	----- Conference H.J. Res. 395 compared with ----		
	Comparарble	Budget Request	House Bill	Senate Bill	Conference	FY87 Comparable	House Bill	Senate Bill
Alcohol, Drug Abuse & Mental Health Administration:								
Mental Health	(14,859,000)	(29,514,000)	(29,514,000)	(32,514,000)	(31,129,000)	(+16,270,000)	(+1,615,000)	(-1,385,000)
Drug Abuse	(31,324,000)	(66,732,000)	(66,732,000)	(79,732,000)	(76,335,000)	(+45,011,000)	(+9,603,000)	(-3,397,000)
Alcoholism	(2,370,000)	(5,006,000)	(5,006,000)	(5,006,000)	(4,793,000)	(+2,423,000)	(-213,000)	(-213,000)
Subtotal, ADAMHA	(48,553,000)	(101,252,000)	(101,252,000)	(117,252,000)	(112,257,000)	(+63,704,000)	(+11,005,000)	(-4,995,000)
Office of the Assistant Secretary for Health	---	(2,100,000)	(5,000,000)	(2,600,000)	(2,872,000)	(+2,872,000)	(-2,128,000)	(+272,000)
Office of Minority Health	---	---	(1,500,000)	---	(1,436,000)	(+1,436,000)	(-64,000)	(+1,436,000)
Contingency funds / Public Health Emergency Fund	(30,000,000)	---	(20,000,000)	(5,000,000)	---	(-30,000,000)	(-20,000,000)	(-5,000,000)
Total Priority disease control and research (AIDS)	(479,185,000)	(766,391,000)	(945,430,000)	(946,391,000)	(906,459,000)	(+427,274,000)	(-38,971,000)	(-39,932,000)
Acquired Immune Deficiency Syndrome (AIDS) 1/	---	---	---	(-946,391,000)	(-906,459,000)	(-906,459,000)	(-906,459,000)	(+39,932,000)
HEALTH RESOURCES AND SERVICES ADMINISTRATION								
HEALTH RESOURCES AND SERVICES 2/								
Health Care Delivery and Assistance:								
Maternal and Child Health Block Grant	496,750,000	478,000,000	535,000,000	557,000,000	526,570,000	+29,820,000	-8,430,000	-30,430,000
Native Hawaiian child health (sec. 301)	1,000,000	---	---	---	---	-1,000,000	---	---
Community health centers	419,550,000	400,000,000	400,000,000	400,000,000	382,960,000	-36,590,000	-17,040,000	-17,040,000
Infant mortality (unauthorized)	---	---	DEFER	(23,000,000)	(19,148,000)	(+19,148,000)	(+19,148,000)	(-3,852,000)
Health care for the homeless	46,000,000	---	30,000,000	15,000,000	14,361,000	-31,639,000	-15,639,000	-639,000
Migrant health	45,400,000	45,400,000	45,400,000	45,400,000	43,466,000	-1,934,000	-1,934,000	-1,934,000
Infant mortality (unauthorized)	---	---	DEFER	(2,000,000)	(957,000)	(+957,000)	(+957,000)	(-1,043,000)
Black lung clinics	3,400,000	3,400,000	3,400,000	3,400,000	3,255,000	-145,000	-145,000	-145,000
Family planning (unauthorized) 2/	(145,798,000)	(144,059,000)	DEFER	(145,877,000)	(139,663,000)	(-6,135,000)	(+139,663,000)	(-6,214,000)
National Health Service Corps	(39,984,000)	(43,163,000)	DEFER	(60,000,000)	(52,657,000)	(+12,673,000)	(+52,657,000)	(-7,343,000)
(Limitation on direct loans)	(1,000,000)	(1,000,000)	DEFER	(1,000,000)	(957,000)	(-43,000)	(+957,000)	(-43,000)
Hansen's disease services (Carville)	18,688,000	19,057,000	19,057,000	19,057,000	18,245,000	-443,000	-812,000	-812,000
Payment to Hawaii treatment of Hansen's Disease	3,300,000	3,300,000	3,300,000	3,300,000	3,159,000	-141,000	-141,000	-141,000
Rural health research centers	---	---	1,500,000	1,500,000	1,436,000	+1,436,000	-64,000	-64,000
Home health services demonstrations	---	---	DEFER	(5,000,000)	(4,787,000)	(+4,787,000)	(+4,787,000)	(-213,000)
Total, Healtn Care Delivery & Assistance	1,034,088,000	949,157,000	1,037,657,000	1,044,657,000	993,452,000	-40,636,000	-44,205,000	-51,205,000
Health Professions:								
Health professions student assistance:								
National Health Service Scholarships	(2,300,000)	---	DEFER	(2,300,000)	(2,202,000)	(-98,000)	(+2,202,000)	(-98,000)
Exceptional need scholarships	7,000,000	---	7,000,000	7,000,000	6,702,000	-298,000	-298,000	-298,000
Health professions institutional assistance:								
Financial distress	3,800,000	---	---	---	---	-3,800,000	---	---
Excellence in minority health education grants	---	---	---	8,000,000	9,574,000	+9,574,000	+9,574,000	+1,574,000
Public health/health administration:								
Public Health capitation	5,000,000	---	5,000,000	5,000,000	4,787,000	-213,000	-213,000	-213,000
Health Administration grants	1,500,000	---	1,500,000	1,500,000	1,436,000	-64,000	-64,000	-64,000
Public Health traineeships	3,000,000	---	3,000,000	3,000,000	2,872,000	-128,000	-128,000	-128,000
Health Administration traineeships	500,000	---	500,000	500,000	479,000	-21,000	-21,000	-21,000
Preventive medicine residencies	1,600,000	---	1,600,000	1,600,000	1,532,000	-68,000	-68,000	-68,000
Family Med/Gen Dentistry res. & trns	35,960,000	21,300,000	38,000,000	35,960,000	35,405,000	-555,000	-2,595,000	-555,000
General Internal Medicine and Pediatrics	18,500,000	---	18,500,000	18,500,000	17,712,000	-788,000	-788,000	-788,000
Family medicine departments	7,000,000	5,000,000	7,000,000	7,000,000	6,702,000	-298,000	-298,000	-298,000
Physician assistants	4,800,000	---	4,800,000	4,800,000	4,596,000	-204,000	-204,000	-204,000
Area health education centers	18,000,000	---	18,000,000	18,000,000	17,233,000	-767,000	-767,000	-767,000
Health professions data analysis	2,000,000	---	2,000,000	2,000,000	1,915,000	-85,000	-85,000	-85,000
Disadvantaged Assistance	27,250,000	---	30,000,000	27,250,000	27,406,000	+156,000	-2,594,000	+156,000

1/ Senate and conference amounts appropriated in individual accounts. Shown under Priority Disease Control for comparison purposes only.

2/ Proposed for transfer to OASH in Budget request.

	FY 1987 Comparable	FY 1988 Budget Request	H.R. 3058 House Bill	H.R. 3058 Senate Bill	H.J. Res. 395 Conference	----- Conference H.J. Res. 395 compared with ----		
						FY87 Comparable	House Bill	Senate Bill
Special Projects: (sections 788 and 301)								
Health professions spec ed initiatives........	2,500,000	4,200,000	2,500,000	2,500,000	2,394,000	-106,000	-106,000	-106,000
Geriatric training and research..............	10,000,000	---	12,000,000	14,000,000	12,446,000	+2,446,000	+446,000	-1,554,000
Two year medical schools.....................	500,000	---	500,000	500,000	479,000	-21,000	-21,000	-21,000
Pediatric emergency care (unauthorized)...........	(2,000,000)	---	DEFER	(3,000,000)	(1,915,000)	(-85,000)	(+1,915,000)	(-1,085,000)
Pacific Basin activities (including Medical Officer training)................................	1,500,000	---	1,229,000	3,729,000	2,326,000	+826,000	+1,097,000	-1,403,000
Nurse training:								
Advanced nurse training......................	16,750,000	---	17,500,000	17,500,000	16,755,000	+5,000	-745,000	-745,000
Nurse practitioner...........................	12,000,000	---	12,000,000	12,000,000	11,489,000	-511,000	-511,000	-511,000
Special projects (includes sec. 820 (d)(2))...	11,175,000	---	12,200,000	12,200,000	11,680,000	+505,000	-520,000	-520,000
Traineeships.................................	11,750,000	---	13,000,000	13,000,000	12,446,000	+696,000	-554,000	-554,000
Nurse Anesthetists...........................	800,000	---	800,000	800,000	766,000	-34,000	-34,000	-34,000
Faculty fellowships..........................	825,000	---	800,000	1,100,000	910,000	+85,000	+110,000	-190,000
Subtotal, Nurse training..................	53,300,000	---	56,300,000	56,600,000	54,046,000	+746,000	-2,254,000	-2,554,000
Total, Health professions......................	203,710,000	30,500,000	209,429,000	217,439,000	210,042,000	+6,332,000	+613,000	-7,397,000
Resources Development:								
Organ transplantation............................	7,400,000	---	4,000,000	6,300,000	6,032,000	-1,368,000	+2,032,000	-268,000
Outpatient health facilities construction.........	5,000,000	---	---	---	---	-5,000,000	---	---
Health teaching facilities interest subsidies.....	---	100,000	100,000	100,000	96,000	+96,000	-4,000	-4,000
Total, Resources Development...................	12,400,000	100,000	4,100,000	6,400,000	6,128,000	-6.272.000	+2,028,000	-272,000
Buildings and facilities............................	750,000	750,000	750,000	750,000	718,000	-32,000	-32,000	-32,000
Program management/Program support, HRSA............	91,165,000	76,707,000	91,540,000	91,790,000	87,640,000	-3,525,000	-3,900,000	-4,150,000
Acquired Immune Deficiency Syndrome (AIDS) 1/.........	---	---	---	43,600,000	36,956,000	+36,956,000	+36,956,000	-6,644,000
Total, Health Resources and Services............	1,342,113,000	1,057,214,000	1,343,476,000	1,404,636,000	1,334,936,000	-7,177,000	-8,540,000	-69,700,000
(Unauthorized)................................	(190,082,000)	(187,222,000)	DEFER	(241,177,000)	(221,329,000)	(+31,247,000)	(+221,329,000)	(-19,848,000)
Total, authorized and unauthorized.............	(1,532,195,000)	(1,244,436,000)	(1,343,476,000)	(1,645,813,000)	(1,556,265,000)	(+24,070,000)	(+212,789,000)	(-89,548,000)
MEDICAL FACILITIES GUARANTEE AND LOAN FUND...........	20,000,000	22,000,000	22,000,000	22,000,000	22,000,000	+2,000,000	---	---
HEAL loan guarantees (non-add).......................	(290,000,000)	(100,000,000)	(305,000,000)	(305,000,000)	(305,000,000)	(+15,000,000)	---	---
CENTERS FOR DISEASE CONTROL 1/								
DISEASE CONTROL								
Preventive Health Services Block Grant (unauthorized).	(89,525,000)	(89,536,000)	DEFER	(89,551,000)	(85,736,000)	(-3,789,000)	(+85,736,000)	(-3,815,000)
Prevention centers (unauthorized).....................	(1,500,000)	---	DEFER	(2,000,000)	(1,915,000)	(+415,000)	(+1,915,000)	(-85,000)
Sexually transmitted diseases: (unauthorized)								
Grants...	(50,000,000)	(46,000,000)	DEFER	(50,000,000)	(54,572,000)	(+4,572,000)	(+54,572,000)	(+4,572,000)
Direct operations................................	(10,691,000)	(11,079,000)	DEFER	(11,130,000)	(10,656,000)	(-35,000)	(+10,656,000)	(-474,000)
Subtotal, unauthorized.........................	(60,691,000)	(57,079,000)	DEFER	(61,130,000)	(65,228,000)	(+4,537,000)	(+65,228,000)	(+4,098,000)
Immunization: (unauthorized)								
Grants...	(75,000,000)	(80,924,000)	DEFER	(94,000,000)	(86,166,000)	(+11,166,000)	(+86,166,000)	(-7,834,000)
Direct operations................................	(8,375,000)	(8,580,000)	DEFER	(8,618,000)	(8,251,000)	(-124,000)	(+8,251,000)	(-367,000)
Vaccine stockpile................................	(4,000,000)	(4,000,000)	DEFER	(4,000,000)	(3,830,000)	(-170,000)	(+3,830,000)	(-170,000)
Subtotal, unauthorized.........................	(87,375,000)	(93,504,000)	DEFER	(106,618,000)	(98,247,000)	(+10,872,000)	(+98,247,000)	(-8,371,000)
Infectious disease excluding AIDS....................	36,250,000	37,676,000	43,125,000	39,125,000	37,458,000	+1,208,000	-5,667,000	-1,667,000
Reappropriation....................................	---	---	---	9,500,000	---	---	---	-9,500,000
Tuberculosis grants (unauthorized)...................	(7,000,000)	(4,000,000)	DEFER	(7,000,000)	(6,702,000)	(-298,000)	(+6,702,000)	(-298,000)
Chronic & environmental disease prevention...........	34,001,000	31,932,000	45,272,000	43,422,000	43,415,000	+9,414,000	-1,857,000	-7,000
Occupational Safety and Health (NIOSH):								
Research...	60,193,000	59,433,000	62,975,000	63,775,000	60,292,000	+99,000	-2,683,000	-3,483,000
Training...	9,900,000	6,600,000	9,900,000	10,150,000	9,718,000	-182,000	-182,000	-432,000
Subtotal, NIOSH................................	70,093,000	66,033,000	72,875,000	73,925,000	70,010,000	-83,000	-2,865,000	-3,915,000

1/ House considered AIDS funding under consolidated AIDS account. Senate and conference under individual accounts.

	FY 1987 Compararble	FY 1988 Budget Request	H.R. 3058 House Bill	H.R. 3058 Senate Bill	H.J. Res. 395 Conference	----- Conference H.J. Res. 395 compared with ---- FY87 Comparable	House Bill	Senate Bill
Epidemic services	53,351,000	55,452,000	57,193,000	57,193,000	54,757,000	+1,406,000	-2,436,000	-2,436,000
Buildings and facilities	11,800,000	2,000,000	2,000,000	2,000,000	1,915,000	-9,885,000	-85,000	-85,000
Program management	2,963,000	3,233,000	3,233,000	3,233,000	3,095,000	+132,000	-138,000	-138,000
Federal Retiree Cost Savings/Other	1,237,000	---	-1,721,000	-1,721,000	-1,648,000	-2,885,000	+73,000	+73,000
Acquired Immune Deficiency Syndrome (AIDS) 1/	---	---	---	310,011,000	304,942,000	+304,942,000	+304,942,000	-5,069,000
Total, Disease Control	209,695,000	196,326,000	221,977,000	536,688,000	513,944,000	+304,249,000	+291,967,000	-22,744,000
(Unauthorized)	(246,091,000)	(244,119,000)	DEFER	(266,299,000)	(257,828,000)	(+11,737,000)	(+257,828,000)	(-8,471,000)
Total, authorized and unauthorized	(455,786,000)	(440,445,000)	(221,977,000)	(802,987,000)	(771,772,000)	(+315,986,000)	(+549,795,000)	(-31,215,000)
NATIONAL INSTITUTES OF HEALTH 1/								
National Cancer Institute	1,341,757,000	1,217,927,000	1,448,411,000	1,433,108,000	1,379,383,000	+37,626,000	-69,028,000	-53,725,000
AIDS funding	---	---	---	93,946,000	89,944,000	+89,944,000	+89,944,000	-4,002,000
Subtotal	1,341,757,000	1,217,927,000	1,448,411,000	1,527,054,000	1,469,327,000	+127,570,000	+20,916,000	-57,727,000
National Heart, Lung, and Blood Institute	913,278,000	801,064,000	990,808,000	974,510,000	940,798,000	+27,520,000	-50,010,000	-33,712,000
AIDS funding	---	---	---	25,839,000	24,738,000	+24,738,000	+24,738,000	-1,101,000
Subtotal	913,278,000	801,064,000	990,808,000	1,000,349,000	965,536,000	+52,258,000	-25,272,000	-34,813,000
National Institute of Dental Research	115,323,000	105,266,000	128,965,000	128,249,000	123,128,000	+7,805,000	-5,837,000	-5,121,000
AIDS funding	---	---	---	3,310,000	3,169,000	+3,169,000	+3,169,000	-141,000
Subtotal	115,323,000	105,266,000	128,965,000	131,559,000	126,297,000	+10,974,000	-2,668,000	-5,262,000
National Institute of Diabetes, Digestive, and Kidney Diseases	511,430,000	440,504,000	563,768,000	546,284,000	531,382,000	+19,952,000	-32,386,000	-14,902,000
AIDS funding	---	---	---	3,500,000	3,351,000	+3,351,000	+3,351,000	-149,000
Subtotal	511,430,000	440,504,000	563,768,000	549,784,000	534,733,000	+23,303,000	-29,035,000	-15,051,000
National Institute of Neurological and Communicative Disorders and Stroke	488,140,000	420,250,000	554,039,000	537,417,000	522,480,000	+34,340,000	-31,559,000	-14,937,000
AIDS funding	---	---	---	12,755,000	12,212,000	+12,212,000	+12,212,000	-543,000
Subtotal	488,140,000	420,250,000	554,039,000	550,172,000	534,692,000	+46,552,000	-19,347,000	-15,480,000
National Institute of Allergy and Infectious Diseases	399,985,000	349,429,000	439,667,000	428,135,000	415,417,000	+15,432,000	-24,250,000	-12,718,000
AIDS funding	---	---	---	233,323,000	223,383,000	+223,383,000	+223,383,000	-9,940,000
Subtotal	399,985,000	349,429,000	439,667,000	661,458,000	638,800,000	+238,815,000	+199,133,000	-22,658,000
National Institute of General Medical Sciences	571,221,000	482,004,000	666,037,000	650,617,000	630,282,000	+59,061,000	-35,755,000	-20,335,000
AIDS funding	---	---	---	2,500,000	2,394,000	+2,394,000	+2,394,000	-106,000
Subtotal	571,221,000	482,004,000	666,037,000	653,117,000	632,676,000	+61,455,000	-33,361,000	-20,441,000
National Institute of Child Health and Human Development	362,811,000	312,604,000	405,673,000	393,406,000	382,519,000	+19,708,000	-23,154,000	-10,887,000
AIDS funding	---	---	---	14,928,000	14,292,000	+14,292,000	+14,292,000	-636,000
Subtotal	362,811,000	312,604,000	405,673,000	408,334,000	396,811,000	+34,000,000	-8,862,000	-11,523,000
National Eye Institute	216,542,000	184,564,000	234,382,000	227,529,000	221,117,000	+4,575,000	-13,265,000	-6,412,000
AIDS funding	---	---	---	4,000,000	3,830,000	+3,830,000	+3,830,000	-170,000
Subtotal	216,542,000	184,564,000	234,382,000	231,529,000	224,947,000	+8,405,000	-9,435,000	-6,582,000

1/ AIDS funding considered by House under consolidated account. Senate and conference under individual accounts.

	FY 1987	FY 1988	H.R. 3058	H.R. 3058	H.J. Res. 395	----- Conference H.J. Res. 395 compared with ----		
	Compararble	Budget Request	House Bill	Senate Bill	Conference	FY87 Comparable	House Bill	Senate Bill
National Institute of Environmental Health Sciences...	209,201,000	196,856,000	225,724,000	216,618,000	211,749,000	+2,548,000	-13,975,000	-4,869,000
AIDS funding....................................	---	---	---	4,091,000	3,917,000	+3,917,000	+3,917,000	-174,000
Subtotal..	209,201,000	196,856,000	225,724,000	220,709,000	215,666,000	+6,465,000	-10,058,000	-5,043,000
National Institute on Aging...........................	177,540,000	155,797,000	203,034,000	199,265,000	194,385,000	+16,845,000	-8,649,000	-4,880,000
AIDS funding....................................	---	---	---	377,000	361,000	+361,000	+361,000	-16,000
Subtotal...........	177,540,000	155,797,000	203,034,000	199,642,000	194,746,000	+17,206,000	-8,288,000	-4,896,000
National Institute of Arthritis and Musculoskeletal and Skin Diseases.................................	138,780,000	123,009,000	154,632,000	153,867,000	147,679,000	+8,899,000	-6,953,000	-6,188,000
Research Resources..................................	315,122,000	254,754,000	338,991,000	314,754,000	317,735,000	+2,613,000	-21,256,000	+2,981,000
AIDS funding....................................	---	---	---	52,661,000	50,418,000	+50,418,000	+50,418,000	-2,243,000
Subtotal..	315,122,000	254,754,000	338,991,000	367,415,000	368,153,000	+53,031,000	+29,162,000	+738,000
National Center for Nursing Research..................	20,018,000	15,997,000	24,744,000	23,033,000	22,870,000	+2,852,000	-1,874,000	-163,000
AIDS funding....................................	---	---	---	533,000	510,000	+510,000	+510,000	-23,000
Subtotal..	20,018,000	15,997,000	24,744,000	23,566,000	23,380,000	+3,362,000	-1,364,000	-186,000
John E. Fogarty International Center..................	11,429,000	11,166,000	12,128,000	11,166,000	11,151,000	-278,000	-977,000	-15,000
AIDS funding....................................	---	---	---	4,700,000	4,500,000	+4,500,000	+4,500,000	-200,000
Subtotal..	11,429,000	11,166,000	12,128,000	15,866,000	15,651,000	+4,222,000	+3,523,000	-215,000
National Library of Medicine..........................	61,926,000	64,399,000	71,465,000	70,399,000	67,910,000	+5,984,000	-3,555,000	-2,489,000
Office of the Director................................	47,312,000	49,819,000	71,389,000	49,819,000	50,842,000	+3,530,000	-20,547,000	+1,023,000
AIDS funding....................................	---	---	---	11,465,000	10,977,000	+10,977,000	+10,977,000	-488,000
Subtotal..	47,312,000	49,819,000	71,389,000	61,284,000	61,819,000	+14,507,000	-9,570,000	+535,000
Buildings and facilities..............................	31,900,000	5,000,000	30,000,000	50,000,000	47,870,000	+15,970,000	+17,870,000	-2,130,000
Subtotal, Regular appropriation.................	5,933,715,000	5,190,409,000	6,563,857,000	6,408,176,000	6,218,697,000	+284,982,000	-345,160,000	-189,479,000
Subtotal, AIDS funding in NIH.................	---	---	---	467,928,000	447,996,000	+447,996,000	+447,996,000	-19,932,000
Total, National Institutes of Health............	5,933,715,000	5,190,409,000	6,563,857,000	6,876,104,000	6,666,693,000	+732,978,000	+102,836,000	-209,411,000
Comparative total, NIH (non-add)................	6,186,198,000	5,612,837,000	7,036,285,000	6,876,104,000	6,666,693,000	+480,495,000	-369,592,000	-209,411,000
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION								
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH								
Alcohol, Drug Abuse and Mental Health Block Grant (unauthorized).......................................	(508,860,000)	(495,000,000)	DEFER	(509,000,000)	(487,317,000)	(-21,543,000)	(+487,317,000)	(-21,683,000)
Office of Substance Abuse : (unauthorized)								
Substance Abuse Grants to States.................	(162,855,000)	---	DEFER	171,000,000)	(155,917,000)	(-6,938,000)	(+155,917,000)	(-15,083,000)
Federal demonstration grants.....................	(52,569,000)	(11,264,000)	DEFER	(41,264,000)	(34,240,000)	(-18,329,000)	(+34,240,000)	(-7,024,000)
Homeless to States....................................	32,200,000	---	---	17,000,000	11,489,000	-20,711,000	+11,489,000	-5,511,000
Mental Health:								
Research..	235,406,000	216,852,000	265,541,000	265,541,000	254,229,000	+18,823,000	-11,312,000	-11,312,000
Research training...............................	19,000,000	19,949,000	19,949,000	19,949,000	19,099,000	+99,000	-850,000	-850,000
Clinical training...............................	15,000,000	5,000,000	17,500,000	17,500,000	16,755,000	+1,755,000	-745,000	-745,000
Community Support Demonstrations.................	15,000,000	20,000,000	20,000,000	20,000,000	19,148,000	+4,148,000	-852,000	-852,000
Homeless Services Demonstrations.................	9,300,000	---	---	---	---	-9,300,000	---	---
Mental health state planning grants..............	---	---	---	5,000,000	4,787,000	+4,787,000	+4,787,000	-213,000

1/ $2,726,000,000 requested for the forward funding of research grants not considered by the Committee. $422,428,000 requested for AIDS considered under consolidated AIDS account by the House, under individual accounts by Senate and Conference.

	FY 1987	FY 1988	H.R. 3058	H.R. 3058	H.J. Res. 395	----- Conference H.J. Res. 395 compared with ----		
	Compararble	Budget Request	House Bill	Senate Bill	Conference	FY87 Comparable	House Bill	Senate Bill
Protection and advocacy	10,500,000	7,000,000	10,800,000	11,025,000	10,555,000	+55,000	-245,000	-470,000
Direct operations	33,348,000	34,225,000	34,225,000	34,225,000	32,767,000	-581,000	-1,458,000	-1,458,000
Subtotal, mental health	337,554,000	303,026,000	368,015,000	373,240,000	357,340,000	+19,786,000	-10,675,000	-15,900,000
Drug Abuse:								
Research (unauthorized)	(106,000,000)	(74,881,000)	DEFER	(125,655,000)	(107,972,000)	(+1,972,000)	(+107,972,000)	(-17,683,000)
Research training	2,250,000	2,400,000	2,400,000	2,400,000	2,298,000	+48,000	-102,000	-102,000
Direct operations	13,227,000	12,154,000	12,154,000	13,154,000	12,115,000	-1,112,000	-39,000	-1,039,000
Subtotal, drug abuse	15,477,000	14,554,000	14,554,000	15,554,000	14,413,000	-1,064,000	-141,000	-1,141,000
Alcoholism:								
Research (unauthorized)	(69,075,000)	(64,153,000)	DEFER	(80,135,000)	(74,388,000)	(+5,313,000)	(+74,388,000)	(-5,747,000)
Alcohol services demonstration, homeless	9,200,000	---	---	---	---	-9,200,000	---	---
Research training	2,500,000	2,651,000	2,651,000	2,651,000	2,538,000	+38,000	-113,000	-113,000
Direct operations	9,517,000	9,762,000	9,762,000	9,762,000	9,346,000	-171,000	-416,000	-416,000
Subtotal, alcoholism	21,217,000	12,413,000	12,413,000	12,413,000	11,884,000	-9,333,000	-529,000	-529,000
Buildings and facilities	600,000	200,000	200,000	200,000	191,000	-409,000	-9,000	-9,000
Program management, ADAMHA	10,938,000	7,965,000	7,965,000	7,965,000	7,626,000	-3,312,000	-339,000	-339,000
Federal Retiree Cost Savings/Other	---	---	-1,365,000	-1,365,000	-1,307,000	-1,307,000	+58,000	+58,000
Acquired Immune Deficiency Syndrome (AIDS) 1/	---	---	---	117,252,000	112,257,000	+112,257,000	+112,257,000	-4,995,000
Total, Alcohol, Drug Abuse & Mental Health	417,986,000	338,158,000	401,782,000	542,259,000	513,893,000	+95,907,000	+112,111,000	-28,366,000
(Unauthorized)	(899,359,000)	(645,298,000)	DEFER	(927,054,000)	(859,834,000)	(-39,525,000)	(+859,834,000)	(-67,220,000)
Total, authorized and unauthorized	(1,317,345,000)	(983,456,000)	(401,782,000)	(1,469,313,000)	(1,373,727,000)	(+56,382,000)	(+971,945,000)	(-95,586,000)
ST. ELIZABETH'S HOSPITAL:								
Operating budget	141,182,000	68,312,000	68,312,000	68,312,000	65,402,000	-75,780,000	-2,910,000	-2,910,000
Less reimbursements	-100,401,000	---	---	---	---	+100,401,000	---	---
Subtotal, St. Elizabeth's Hospital	40,781,000	68,312,000	68,312,000	68,312,000	65,402,000	+24,621,000	-2,910,000	-2,910,000
New advance, biennial budget, FY 89	---	24,000,000	---	---	---	---	---	---
Total, ADAMHA	458,767,000	430,470,000	470,094,000	610,571,000	579,295,000	+120,528,000	+109,201,000	-31,276,000
(Unauthorized)	(899,359,000)	(645,298,000)	DEFER	(927,054,000)	(859,834,000)	(-39,525,000)	(+859,834,000)	(-67,220,000)
Total, authorized and unauthorized	(1,358,126,000)	(1,075,768,000)	(470,094,000)	(1,537,625,000)	(1,439,129,000)	(+81,003,000)	(+969,035,000)	(-98,496,000)
Total, Current Year auhorized and unauthorized	(1,358,126,000)	(1,051,768,000)	(470,094,000)	(1,537,625,000)	(1,439,129,000)	(+81,003,000)	(+969,035,000)	(-98,496,000)
OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH								
PUBLIC HEALTH SERVICE MANAGEMENT 1/								
Health Services Research and Technology Assessment:								
Research	(17,277,000)	(17,459,000)	DEFER	(17,459,000)	(16,715,000)	(-562,000)	(+16,715,000)	(-744,000)
Trust funds	(1,050,000)	(1,050,000)	DEFER	(3,050,000)	(2,920,000)	(+1,870,000)	(+2,920,000)	(-130,000)
Program support	(1,568,000)	(1,720,000)	DEFER	(1,720,000)	(1,647,000)	(+79,000)	(+1,647,000)	(-73,000)
Subtotal	(18,845,000)	(19,179,000)	DEFER	(19,179,000)	(18,362,000)	(-483,000)	(+18,362,000)	(-817,000)
Health Statistics:								
Program operations	(49,025,000)	(47,770,000)	DEFER	(47,770,000)	(45,735,000)	(-3,290,000)	(+45,735,000)	(-2,035,000)
Program support	(3,100,000)	(3,345,000)	DEFER	(3,345,000)	(3,203,000)	(+103,000)	(+3,203,000)	(-142,000)
Subtotal	(52,125,000)	(51,115,000)	DEFER	(51,115,000)	(48,938,000)	(-3,187,000)	(+48,938,000)	(-2,177,000)
Population Affairs:								
Adolescent family life (unauthorized)	(14,097,000)	(10,074,000)	DEFER	(14,097,000)	(9,645,000)	(-4,452,000)	(+9,645,000)	(-4,452,000)

1/ AIDS funding considered by House under consolidated account, Senate and conference under individual accounts.

	FY 1987 Comparable	FY 1988 Budget Request	H.R. 3058 House Bill	H.R. 3058 Senate Bill	H.J. Res. 395 Conference	Conference H.J. Res. 395 compared with		
						FY87 Comparable	House Bill	Senate Bill
Health Initiatives :								
Office of Disease Prevention and Health Promotion	(3,657,000)	(3,067,000)	DEFER	(3,657,000)	(3,501,000)	(-156,000)	(+3,501,000)	(-156,000)
Lister Hill Health Prevention Center	(5,000,000)	---	---	---	---	(-5,000,000)	---	---
Physical fitness and sports	(1,378,000)	(1,466,000)	DEFER	(1,466,000)	(1,404,000)	(+26,000)	(+1,404,000)	(-62,000)
Minority health	(3,000,000)	(3,000,000)	DEFER	(3,000,000)	(2,872,000)	(-128,000)	(+2,872,000)	(-128,000)
Health Service Management	(18,783,000)	(18,287,000)	DEFER	(19,287,000)	(18,465,000)	(-318,000)	(+18,465,000)	(-822,000)
Federal Retirement cost savings / other	---	---	DEFER	(-792,000)	(-758,000)	(-758,000)	(-758,000)	(+34,000)
Acquired Immune Deficiency Syndrome (AIDS) 1/	---	---	---	7,600,000	4,308,000	+4,308,000	+4,308,000	-3,292,000
Total, PHS management	116,885,000	106,188,000	---	118,609,000	106,737,000	-10,148,000	+106,737,000	-11,872,000
RETIREMENT PAY AND MED. BENEFITS FOR COMM. OFFICERS								
Retirement payments	69,688,000	72,013,000	72,013,000	72,013,000	72,013,000	+2,325,000	---	---
COLA	---	2,280,000	2,280,000	2,280,000	2,280,000	+2,280,000	---	---
Survivors benefits	3,837,000	4,077,000	4,077,000	4,077,000	4,077,000	+240,000	---	---
Dependent's medical care	10,243,000	10,806,000	10,806,000	10,806,000	10,806,000	+563,000	---	---
Reserve Fund	---	5,000,000	---	---	---	---	---	---
Total, Retirement pay and medical benefits	83,768,000	94,176,000	89,176,000	89,176,000	89,176,000	+5,408,000	---	---
New advance related to biennial budget, FY 89.	---	100,350,000	---	---	---	---	---	---
Total, Public Health Service	8,527,243,000	7,857,336,000	9,656,010,000	9,546,775,000	9,210,352,000	+683,109,000	-445,658,000	-336,423,000
Current year appropriation request	8,527,243,000	7,732,986,000	9,656,010,000	9,546,775,000	9,210,352,000	+683,109,000	-445,658,000	-336,423,000
New advance, biennial budget, FY 89	---	124,350,000	---	---	---	---	---	---
(Unauthorized)	(1,452,417,000)	(1,182,827,000)	DEFER	(1,545,539,000)	(1,441,420,000)	(-10,997,000)	(+1,441,420,000)	(-104,119,000)
HEALTH CARE FINANCING ADMINISTRATION								
GRANTS TO STATES FOR MEDICAID								
Medicaid current law benefits	25,267,500,000	26,667,812,000	28,593,812,000	28,593,812,000	28,593,812,000	+3,326,312,000	---	---
State and local administration	1,372,500,000	1,452,188,000	1,452,188,000	1,452,188,000	1,452,188,000	+79,688,000	---	---
Subtotal, medicaid program level	26,640,000,000	28,120,000,000	30,046,000,000	30,046,000,000	30,046,000,000	+3,406,000,000	---	---
Less funds advanced in prior year	-6,500,000,000	-7,100,000,000	-7,100,000,000	-7,100,000,000	-7,100,000,000	-600,000,000	---	---
Total appropriation, current request 2/	20,140,000,000	21,020,000,000	22,946,000,000	22,946,000,000	22,946,000,000	+2,806,000,000	---	---
New advance, biennial budget, FY 89	7,100,000,000	30,870,000,000	8,000,000,000	8,000,000,000	8,000,000,000	+900,000,000	---	---
New advance, biennial budget, FY 90	---	8,500,000,000	---	---	---	---	---	---
PAYMENTS TO HEALTH CARE TRUST FUNDS								
Supplemental medical insurance	20,285,000,000	25,152,000,000	25,418,000,000	24,889,000,000	25,418,000,000	+5,133,000,000	---	+529,000,000
Hospital insurance for uninsured	435,000,000	461,000,000	461,000,000	461,000,000	461,000,000	+26,000,000	---	---
Federal uninsured payment	12,000,000	14,000,000	14,000,000	14,000,000	14,000,000	+2,000,000	---	---
Total, Payment to Trust Funds 3/	20,732,000,000	25,627,000,000	25,893,000,000	25,364,000,000	25,893,000,000	+5,161,000,000	---	+529,000,000
New advance related to biennial budget, FY 89.	---	30,306,000,000	---	---	---	---	---	---

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1/ AIDS funds considered under consolidated account, Senate and conference under individual accounts.

2/ Budget proposes legislative savings of $1,256 million for later transmittal.

3/ Budget proposes legislative savings of $1,215 million for later transmittal.

	FY 1987	FY 1988	H.R. 3058	H.R. 3058	H.J. Res. 395	----- Conference H.J. Res. 395 compared with ----		
	Compararble	Budget Request	House Bill	Senate Bill	Conference	FY87 Comparable	House Bill	Senate Bill
PROGRAM MANAGEMENT								
Research, demonstration, and evaluation:								
Federal funds	10,000,000	17,000,000	10,000,000	10,000,000	9,574,000	-426,000	-426,000	-426,000
Trust funds 1/	(18,000,000)	(19,000,000)	(20,000,000)	(20,000,000)	(17,233,000)	(-767,000)	(-2,767,000)	(-2,767,000)
Subtotal, Research and evaluation	28,000,000	36,000,000	30,000,000	30,000,000	26,807,000	-1,193,000	-3,193,000	-3,193,000
Medicare Contractors (Trust Funds):								
Operating funds	(1,093,100,000)	(1,141,800,000)	(1,182,000,000)	(1,141,800,000)	(1,122,073,000)	(+28,973,000)	(-59,927,000)	(-19,727,000)
Contingency fund	(8,900,000)	(20,000,000)	(50,000,000)	(90,200,000)	(57,444,000)	(+48,544,000)	(+7,444,000)	(-32,756,000)
Subtotal, Contractors	(1,102,000,000)	(1,161,800,000)	(1,232,000,000)	(1,232,000,000)	(1,179,517,000)	(+77,517,000)	(-52,483,000)	(-52,483,000)
Less P.L. 99-272 funds (COBRA)	(-105,000,000)	(-105,000,000)	(-105,000,000)	(-105,000,000)	(-100,527,000)	(+4,473,000)	(+4,473,000)	(+4,473,000)
State Certification:								
Medicare certification, trust funds	(54,200,000)	(60,499,000)	(60,499,000)	(60,499,000)	(57,922,000)	(+3,722,000)	(-2,577,000)	(-2,577,000)
General program support, federal funds	3,525,000	8,290,000	8,290,000	8,290,000	7,937,000	+4,412,000	-353,000	-353,000
Federal Administration:								
Federal funds	84,880,000	86,510,000	90,340,000	90,340,000	86,492,000	+1,612,000	-3,848,000	-3,848,000
Less user fees	---	-6,050,000	-6,050,000	-6,050,000	-5,792,000	-5,792,000	+258,000	+258,000
Trust funds	(154,333,000)	(176,281,000)	(184,079,000)	(174,329,000)	(171,570,000)	(+17,237,000)	(-12,509,000)	(-2,759,000)
Catastrophic insurance contingency	---	---	(30,000,000)	(30,000,000)	(47,870,000)	(+47,870,000)	(+17,870,000)	(+17,870,000)
Subtotal, Federal Administration	239,213,000	256,741,000	298,369,000	288,619,000	300,140,000	+60,927,000	+1,771,000	+11,521,000
Total, Program management	1,321,938,000	1,418,330,000	1,524,158,000	1,514,408,000	1,471,796,000	+149,858,000	-52,362,000	-42,612,000
Federal funds	98,405,000	105,750,000	102,580,000	102,580,000	98,211,000	-194,000	-4,369,000	-4,369,000
Trust funds	(1,223,533,000)	(1,312,580,000)	(1,421,578,000)	(1,411,828,000)	(1,373,585,000)	(+150,052,000)	(-47,993,000)	(-38,243,000)
Total, Health Care Financing Administration:								
Federal funds	48,070,405,000	116,428,750,000	56,941,580,000	56,412,580,000	56,937,211,000	+8,866,806,000	-4,369,000	+524,631,000
Current year	40,970,405,000	46,752,750,000	48,941,580,000	48,412,580,000	48,937,211,000	+7,966,806,000	-4,369,000	+524,631,000
New advance, biennial budget, FY 89	7,100,000,000	61,176,000,000	8,000,000,000	8,000,000,000	8,000,000,000	+900,000,000	---	---
New advance, biennial budget, FY 90	---	8,500,000,000	---	---	---	---	---	---
Trust funds	(1,223,533,000)	(1,312,580,000)	(1,421,578,000)	(1,411,828,000)	(1,373,585,000)	(+150,052,000)	(-47,993,000)	(-38,243,000)
management in conference.								
SOCIAL SECURITY ADMINISTRATION								
PAYMENTS TO SOCIAL SECURITY TRUST FUNDS 2/	131,638,000	105,298,000	105,298,000	105,298,000	105,298,000	-26,340,000	---	---
New advance, biennial budget, FY 89	---	93,291,000	---	---	---	---	---	---
SPECIAL BENEFITS FOR DISABLED COAL MINERS								
Benefit payments	957,000,000	897,416,000	897,416,000	909,416,000	909,416,000	-47,584,000	+12,000,000	---
Administration	6,437,000	6,486,000	6,486,000	6,486,000	6,486,000	+49,000	---	---
Subtotal, Black Lung, program level	963,437,000	903,902,000	903,902,000	915,902,000	915,902,000	-47,535,000	+12,000,000	---
Less funds advanced in prior year	-270,000,000	-252,450,000	-252,450,000	-252,450,000	-252,450,000	+17,550,000	---	---
Total, Black Lung, current request	693,437,000	651,452,000	651,452,000	663,452,000	663,452,000	-29,985,000	+12,000,000	---
New advance related to biennial budget, FY 89	252,450,000	862,590,000	250,000,000	250,000,000	250,000,000	-2,450,000	---	---
New advance related to biennial budget, FY 90.	---	220,050,000	---	---	---	---	---	---
SUPPLEMENTAL SECURITY INCOME								
Federal benefit payments	9,875,770,000	11,210,000,000	11,108,000,000	11,108,000,000	11,108,000,000	+1,232,230,000	---	---
Beneficiary services	8,200,000	12,474,000	12,474,000	12,474,000	12,474,000	+4,274,000	---	---
Research demonstration	275,000	275,000	275,000	275,000	275,000	---	---	---

1/ FY 1988 House bill includes $2,000,000 for Patient Outcome Studies appropriated under PHS

2/ Military credits now funded in Dept. of Defense.

	FY 1987 Compararble	FY 1988 Budget Request	H.R. 3058 House Bill	H.R. 3058 Senate Bill	H.J. Res. 395 Conference	----- Conference H.J. Res. 395 compared with ---- FY87 Comparable	House Bill	Senate Bill
Administration	979,693,000	1,080,184,000	1,080,184,000	1,080,184,000	1,080,184,000	+100,491,000	---	---
FY 1986 & 1987 shortfall, federal administrative costs	---	---	99,451,000	99,451,000	99,451,000	+99,451,000	---	---
Subtotal, Supplemental Security Income, program.	10,863,938,000	12,302,933,000	12,300,384,000	12,300,384,000	12,300,384,000	+1,436,446,000	---	---
Less funds advanced in prior year	-2,339,250,000	-2,765,000,000	-2,765,000,000	-2,765,000,000	-2,765,000,000	-425,750,000	---	---
Total, SSI, current request	8,524,688,000	9,537,933,000	9,535,384,000	9,535,384,000	9,535,384,000	+1,010,696,000	---	---
New advances biennial budget FY 89	2,765,000,000	12,102,224,000	3,000,000,000	3,000,000,000	3,000,000,000	+235,000,000	---	---
New advances biennial budget FY 90	---	2,684,000,000	---	---	---	---	---	---
LIMITATION ON ADMINISTRATIVE EXPENSES (Trust Funds)	(3,871,562,000)	(3,805,121,000)	(3,680,921,000)	(3,680,921,000)	(3,524,114,000)	(-347,448,000)	(-156,807,000)	(-156,807,000)
Working Capital Fund Costs, federal funds	23,987,000	---	---	---	---	-23,987,000	---	---
Total, Social Security Administration:								
Federal funds	12,391,200,000	26,256,838,000	13,542,134,000	13,554,134,000	13,554,134,000	+1,162,934,000	+12,000,000	---
Current year	9,373,750,000	10,294,683,000	10,292,134,000	10,304,134,000	10,304,134,000	+930,384,000	+12,000,000	---
New advances biennial budget FY 89	3,017,450,000	13,058,105,000	3,250,000,000	3,250,000,000	3,250,000,000	+232,550,000	---	---
New advances biennial budget FY 90	---	2,904,050,000	---	---	---	---	---	---
Trust funds	(3,871,562,000)	(3,805,121,000)	(3,680,921,000)	(3,680,921,000)	(3,524,114,000)	(-347,448,000)	(-156,807,000)	(-156,807,000)
FAMILY SUPPORT ADMINISTRATION								
FAMILY SUPPORT PAYMENTS TO STATES								
Aid to Families with Dependent Children (AFDC)	8,940,275,000	8,742,800,000	9,624,132,000	9,624,132,000	9,624,132,000	+683,857,000	---	---
Payments to territories	13,368,000	13,368,000	13,368,000	13,368,000	13,368,000	---	---	---
Emergency assistance and repatriation	82,900,000	100,000,000	100,000,000	100,000,000	100,000,000	+17,100,000	---	---
State and local welfare administration	1,061,200,000	1,045,500,000	1,045,500,000	1,045,500,000	1,045,500,000	-15,700,000	---	---
Subtotal, Welfare payments	10,097,743,000	9,901,668,000	10,783,000,000	10,783,000,000	10,783,000,000	+685,257,000	---	---
Child Support Enforcement:								
State and local administration	733,000,000	772,000,000	772,000,000	772,000,000	772,000,000	+39,000,000	---	---
Federal incentive payments	194,000,000	216,000,000	216,000,000	216,000,000	216,000,000	+22,000,000	---	---
Less federal share collections	-611,000,000	-646,000,000	-646,000,000	-646,000,000	-646,000,000	-35,000,000	---	---
Subtotal, Child support	316,000,000	342,000,000	342,000,000	342,000,000	342,000,000	+26,000,000	---	---
Total, payments to states	10,413,743,000	10,243,668,000	11,125,000,000	11,125,000,000	11,125,000,000	+711,257,000	---	---
Less funds advanced in previous years	-2,364,504,000	-2,480,615,000	-2,480,615,000	-2,480,615,000	-2,480,615,000	-116,111,000	---	---
Total, Payments to States, current request	8,049,239,000	7,763,053,000	8,644,385,000	8,644,385,000	8,644,385,000	+595,146,000	---	---
New advance, biennial budget, FY 89	2,480,615,000	10,107,868,000	2,500,000,000	2,500,000,000	2,500,000,000	+19,385,000	---	---
New advance, biennial budget, FY 90	---	2,673,942,000	---	---	---	---	---	---
LOW INCOME HOME ENERGY ASSISTANCE								
Energy Assistance Block Grant	1,822,265,000	1,237,000,000	1,822,265,000	1,237,000,000	1,531,840,000	-290,425,000	-290,425,000	+294,840,000
REFUGEE AND ENTRANT ASSISTANCE 1/ 2/								
Cash and medical assistance	225,316,000	178,700,000	216,256,000	225,316,000	207,043,000	-18,273,000	-9,213,000	-18,273,000
State administration	33,797,000	21,000,000	21,000,000	33,797,000	26,231,000	-7,566,000	+5,231,000	-7,566,000
Social services	68,617,000	45,529,000	45,529,000	68,617,000	65,694,000	-2,923,000	+20,165,000	-2,923,000
Voluntary agency program	3,828,000	2,000,000	8,000,000	5,828,000	7,659,000	+3,831,000	-341,000	+1,831,000
Preventive health	8,039,000	6,100,000	6,100,000	8,039,000	5,840,000	-2,199,000	-260,000	-2,199,000
Targeted assistance	---	---	24,000,000	48,000,000	34,466,000	+34,466,000	+10,466,000	-13,534,000
Total, Refugee Resettlement	339,597,000	253,329,000	320,885,000	389,597,000	346,933,000	+7,336,000	+26,048,000	-42,664,000

1/ Special education payments transferred to Dept. of Education.

2/ State legalization payment of $1 billion is a permanent appropriation.

	FY 1987 Comparable	FY 1988 Budget Request	H.R. 3058 House Bill	H.R. 3058 Senate Bill	H.J. Res. 395 Conference	----- Conference H.J. Res. 395 compared with ---- FY87 Comparable	House Bill	Senate Bill
WORK INCENTIVES								
Grants to States (new authorization pending)..........	(126,000,000)	---	DEFER	(96,669,000)	(92,551,000)	(-33,449,000)	(+92,551,000)	(-4,118,000)
COMMUNITY SERVICES BLOCK GRANT								
Grants to States (General)...........................	335,000,000	310,000,000	335,000,000	345,670,000	325,516,000	-9,484,000	-9,484,000	-20,154,000
Grants for services to the homeless..................	36,800,000	---	35,000,000	20,000,000	19,148,000	-17,652,000	-15,852,000	-852,000
Discretionary funds..................................	29,736,000	---	32,700,000	34,830,000	32,360,000	+2,624,000	-340,000	-2,470,000
Community Partnerships...............................	1,000,000	---	3,000,000	4,000,000	2,872,000	+1,872,000	-128,000	-1,128,000
Community Food and Nutrition.........................	2,500,000	---	2,500,000	2,500,000	2,394,000	-106,000	-106,000	-106,000
Total, Community Services appropriation.........	405,036,000	310,000,000	408,200,000	407,000,000	382,290,000	-22,746,000	-25,910,000	-24,710,000
PROGRAM ADMINISTRATION								
Federal Administration:								
Aid to Families with Dependent Children...........	32,954,000	---	---	32,954,000	---	-32,954,000	---	-32,954,000
Child Support.....................................	24,883,000	---	---	21,883,000	---	-24,883,000	---	-21,883,000
Energy Assistance.................................	2,735,000	---	---	2,735,000	---	-2,735,000	---	-2,735,000
Refugee and Entrant Assistance....................	6,030,000	---	---	6,030,000	---	-6,030,000	---	-6,030,000
WIN...	7,000,000	---	---	7,000,000	---	-7,000,000	---	-7,000,000
Community Services Block Grant....................	4,115,000	---	---	4,115,000	---	-4,115,000	---	-4,115,000
Working Capital Fund Costs........................	4,135,000	---	---	4,135,000	---	-4,135,000	---	-4,135,000
Interstate child support enforcement..............	12,000,000	---	---	8,000,000	---	-12,000,000	---	-8,000,000
Research..	3,150,000	2,750,000	2,750,000	2,750,000	---	-3,150,000	-2,750,000	-2,750,000
Consolidated Request..............................	---	73,046,000	73,046,000	---	79,464,000	+79,464,000	+6,418,000	+79,464,000
Federal Retiree Cost Savings/other................	---	---	-883,000	-883,000	---	---	+883,000	+883,000
Undistributed reduction...........................	---	---	---	-5,100,000	---	---	---	+5,100,000
Total, Program Administration..................	97,002,000	75,796,000	74,913,000	83,619,000	79,464,000	-17,538,000	+4,551,000	-4,155,000
Total, Family Support Administration............	13,193,754,000	22,420,988,000	13,770,648,000	13,261,601,000	13,484,912,000	+291,158,000	-285,736,000	+223,311,000
Current year..................................	10,713,139,000	9,639,178,000	11,270,648,000	10,761,601,000	10,984,912,000	+271,773,000	-285,736,000	+223,311,000
Total, current year, authorized and unauthorized..............................	10,839,139,000	9,639,178,000	11,270,648,000	10,858,270,000	11,077,463,000	+238,324,000	-193,185,000	+219,193,000
New advance, biennial budget, FY 89...........	2,480,615,000	10,107,868,000	2,500,000,000	2,500,000,000	2,500,000,000	+19,385,000	---	---
New advance, biennial budget, FY 90...........	---	2,673,942,000	---	---	---	---	---	---
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES								
SOCIAL SERVICES BLOCK GRANT (TITLE XX)................	2,700,000,000	2,700,000,000	2,700,000,000	2,700,000,000	2,700,000,000	---	---	---
HUMAN DEVELOPMENT SERVICES								
Social Services Discretionary Programs................	---	1,384,712,000	---	---	---	---	---	---
(Unauthorized activities).........................	---	(825,130,000)	DEFER	DEFER	---	---	---	---
Programs for Children, Youth, and Families:								
Head start..	1,130,542,000	---	1,256,000,000	1,263,000,000	1,206,324,000	+75,782,000	-49,676,000	-56,676,000
Child abuse :								
State grants (unauthorized)..................	(12,000,000)	---	DEFER	(12,000,000)	(11,489,000)	(-511,000)	(+11,489,000)	(-511,000)
Discretionary activities (unauthorized).......	(13,898,000)	---	DEFER	(13,898,000)	(13,306,000)	(-592,000)	(+13,306,000)	(-592,000)
Challenge grants (unauthorized)..............	(5,000,000)	---	DEFER	(5,000,000)	(4,787,000)	(-213,000)	(+4,787,000)	(-213,000)
Subtotal, child abuse (unauthorized)..........	(30,898,000)	---	DEFER	(30,898,000)	(29,582,000)	(-1,316,000)	(+29,582,000)	(-1,316,000)
Child development associate scholarships..........	1,000,000	---	1,500,000	1,500,000	1,436,000	+436,000	-64,000	-64,000
Runaway youth.....................................	23,250,000	---	27,250,000	27,250,000	26,089,000	+2,839,000	-1,161,000	-1,161,000
Dependent Care Planning and Development...........	5,000,000	---	10,000,000	7,500,000	8,377,000	+3,377,000	-1,623,000	+877,000
Family violence (unauthorized)....................	(8,500,000)	---	DEFER	(8,500,000)	(8,138,000)	(-362,000)	(+8,138,000)	(-362,000)
Temporary childcare/crisis nurseries..............	---	---	5,000,000	5,000,000	4,787,000	+4,787,000	-213,000	-213,000
Child welfare assistance..........................	222,500,000	---	260,000,000	240,000,000	239,350,000	+16,850,000	-20,650,000	-650,000
Child welfare training............................	3,823,000	---	3,823,000	3,823,000	3,660,000	-163,000	-163,000	-163,000
Adoption opportunities (unauthorized).............	(5,000,000)	---	DEFER	(5,000,000)	(4,787,000)	(-213,000)	(+4,787,000)	(-213,000)
Child welfare research............................	11,340,000	---	11,340,000	11,340,000	10,857,000	-483,000	-483,000	-483,000
Subtotal, Children, Youth & Families............	1,397,455,000	1,384,712,000	1,574,913,000	1,559,413,000	1,500,880,000	+103,425,000	-74,033,000	-58,533,000
(Unauthorized)................................	(44,398,000)	(825,130,000)	DEFER	(44,398,000)	(42,507,000)	(-1,891,000)	(+42,507,000)	(-1,891,000)

	FY 1987 Compararble	FY 1988 Budget Request	H.R. 3058 House Bill	H.R. 3058 Senate Bill	H.J. Res. 395 Conference	----- Conference H.J. Res. 395 compared with ----		
						FY87 Comparable	House Bill	Senate Bill
Programs for the Aging:								
Grants to States:								
Supportive Services and Centers	(270,000,000)	---	DEFER	(285,000,000)	(268,072,000)	(-1,928,000)	(+268,072,000)	(-16,928,000)
Nutrition:								
Congregate meals	(348,000,000)	---	DEFER	(365,000,000)	(344,664,000)	(-3,336,000)	(+344,664,000)	(-20,336,000)
Home-delivered meals	(75,400,000)	---	DEFER	(79,000,000)	(75,635,000)	(+235,000)	(+75,635,000)	(-3,365,000)
Grants to Indians	(7,500,000)	---	DEFER	(7,500,000)	(7,181,000)	(-319,000)	(+7,181,000)	(-319,000)
Research, training, and special projects	(25,000,000)	---	DEFER	(25,000,000)	(23,935,000)	(-1,065,000)	(+23,935,000)	(-1,065,000)
Federal Council on Aging	(200,000)	---	DEFER	(200,000)	(191,000)	(-9,000)	(+191,000)	(-9,000)
Health Education	---	---	DEFER	(1,000,000)	---	---	---	(-1,000,000)
Homecare ombudsman demo	---	---	DEFER	(1,000,000)	(957,000)	(+957,000)	(+957,000)	(-43,000)
Frail elderly in-house services demo	---	---	DEFER	(5,000,000)	(4,787,000)	(+4,787,000)	(+4,787,000)	(-213,000)
Subtotal, Aging programs	(726,100,000)	---	DEFER	(768,700,000)	(725,422,000)	(-678,000)	(+725,422,000)	(-43,278,000)
Developmental disabilities program:								
State grants	(56,500,000)	---	DEFER	(62,200,000)	(58,401,000)	(+1,901,000)	(+58,401,000)	(-3,799,000)
Protection and advocacy	(15,500,000)	---	DEFER	(20,000,000)	(19,148,000)	(+3,648,000)	(+19,148,000)	(-852,000)
Special projects	(2,500,000)	---	DEFER	(3,650,000)	(2,872,000)	(+372,000)	(+2,872,000)	(-778,000)
University affiliated facilities	(9,187,000)	---	DEFER	(13,900,000)	(12,446,000)	(+3,259,000)	(+12,446,000)	(-1,454,000)
Subtotal, Developmental disabilities	(83,687,000)	---	DEFER	(99,750,000)	(92,867,000)	(+9,180,000)	(+92,867,000)	(-6,883,000)
Native American Programs	(28,989,000)	---	DEFER	(32,000,000)	(29,679,000)	(+690,000)	(+29,679,000)	(-2,321,000)
Program direction	66,824,000	67,524,000	66,543,000	67,524,000	64,177,000	-2,647,000	-2,366,000	-3,347,000
Total, Human Development Services	1,464,279,000	1,452,236,000	1,641,456,000	1,626,937,000	1,565,057,000	+100,778,000	-76,399,000	-61,880,000
(Unauthorized/House deferred)	(883,174,000)	(825,130,000)	DEFER	(944,848,000)	(890,475,000)	(+7,301,000)	(+890,475,000)	(-54,373,000)
Total, authorized and House deferred	(2,347,453,000)	(2,277,366,000)	(1,641,456,000)	(2,571,785,000)	(2,455,532,000)	(+108,079,000)	(+814,076,000)	(-116,253,000)
FAMILY SOCIAL SERVICES								
Foster care	764,184,000	685,022,000	703,178,000	703,178,000	703,178,000	-61,006,000	---	---
Adoption assistance	97,947,000	97,018,000	108,000,000	108,000,000	108,000,000	+10,053,000	---	---
Total, Family Social Services	862,131,000	682,040,000	811,178,000	811,178,000	811,178,000	-50,953,000	---	---
Total, Asst. Sec. for Human Development	5,026,410,000	4,834,276,000	5,152,634,000	5,138,115,000	5,076,235,000	+49,825,000	-76,399,000	-61,880,000
(House deferred)	(883,174,000)	(825,130,000)	DEFER	(944,848,000)	(890,475,000)	(+7,301,000)	(+890,475,000)	(-54,373,000)
Total, authorized and House deferred	(5,909,584,000)	(5,659,406,000)	(5,152,634,000)	(6,082,963,000)	(5,966,710,000)	(+57,126,000)	(+814,076,000)	(-116,253,000)
DEPARTMENTAL MANAGEMENT								
GENERAL DEPARTMENTAL MANAGEMENT:								
Federal funds	45,874,000	67,135,000	66,359,000	66,359,000	63,532,000	+17,658,000	-2,827,000	-2,827,000
Cancer center construction	4,500,000	---	---	4,500,000	4,308,000	-192,000	+4,308,000	-192,000
Trust funds	(27,500,000)	(7,000,000)	(7,000,000)	(7,000,000)	(6,702,000)	(-20,798,000)	(-298,000)	(-298,000)
Total, Departmental management	77,874,000	74,135,000	73,359,000	77,859,000	74,542,000	-3,332,000	+1,183,000	-3,317,000
OFFICE OF THE INSPECTOR GENERAL:								
Federal funds	32,778,000	38,439,000	37,361,000	37,361,000	35,769,000	+2,991,000	-1,592,000	-1,592,000
Trust funds	(40,000,000)	(40,000,000)	(40,000,000)	(40,000,000)	(38,296,000)	(-1,704,000)	(-1,704,000)	(-1,704,000)
Total, Inspector General	72,778,000	78,439,000	77,361,000	77,361,000	74,065,000	+1,287,000	-3,296,000	-3,296,000
OFFICE FOR CIVIL RIGHTS:								
Federal funds	16,306,000	17,395,000	17,070,000	17,070,000	16,343,000	+37,000	-727,000	-727,000
Trust funds	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	(3,830,000)	(-170,000)	(-170,000)	(-170,000)
Total, Civil Rights	20,306,000	21,395,000	21,070,000	21,070,000	20,173,000	-133,000	-897,000	-897,000
POLICY RESEARCH	8,287,000	5,090,000	5,090,000	5,090,000	4,873,000	-3,414,000	-217,000	-217,000

Maintenance of real property	−10,062,000
Total	−25,262,000

The conferees agree to fund all other items in conference at the level proposed by the House as shown below:

California—Fort Irwin	$30,000,000
Illinois—St. Louis Support Center	9,700,000
Virginia—Fort AP Hill	2,200,000
Kwajalein	0

California—Fort Irwin.—The conferees recommend $30,000,000 to begin construction of the first increment of a 525 unit family housing project at Fort Irwin. This increment includes full funding of the supporting facilities for the entire project. The conferees direct the Department to include the funds necessary to complete this project as part of the budget request for fiscal year 1989.

Kwajalein.—The conferees agree to defer funding for construction of housing units for civilian contractor personnel at the Kwajalein Missile Range. The conferees recognize that there is no private sector housing available at this isolated location, and that existing housing is substandard due to age, structural condition, and rapid deterioration caused by the corrosive salt-laden atmosphere of the atoll. There is justification for providing government-furnished housing rather than requiring contractors to construct their own housing. Therefore, the conferees direct the Secretary of the Army to explore all alternatives which may lower the life-cycle cost of Kwajalein housing, and to resubmit a budget request under the Army Family Housing account.

Construction Improvements.—Within funds provided for post-acquisition construction, the conferees will expect the Army to accomplish the programmed project at Fort Bliss, Texas.

FAMILY HOUSING, NAVY

Appropriates $767,942,000 for Family Housing, Navy instead of $781,159,000 as proposed by the House and $723,093,000 as proposed by the Senate. The conferees are agreed that $237,914,000 is appropriated for construction, and that $530,028,000 is appropriated for operations and maintenance and for debt payment. In addition, $400,000 of fiscal year 1985 budget authority and $8,800,000 of fiscal year 1986 budget authority is rescinded. The conferees have agreed to the following addition and deletions to the amounts and line items as proposed by the House:

New York—Nuclear Power Trng Unit Ballston Spa	−$7,000,000
Operating Expenses:	
Unspecified reduction	−1,000,000
Leasing	+2,000,000
Maintenance of real property	−7,217,000
Total	−13,217,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

California—Marine Corps Base Camp Pendleton	$25,760,000
California—Public Works Center San Diego	52,840,000
New York—Naval Station New York	25,490,000
Iceland—Naval Station Keflavik	20,000,000
Construction Improvements	39,000,000

FAMILY HOUSING, AIR FORCE

Appropriates $844,293,000 for Family Housing, Air Force, instead of $862,513,000 as proposed by the House and $830,253,000 as proposed by the Senate. In addition, $2,400,000 of fiscal year 1985 budget authority and $12,300,000 of fiscal year 1986 budget authority is rescinded. The conferees are agreed that $152,310,000 is appropriated for construction, and that $691,983,000 is appropriated for operations and maintenance and for debt payment. The conferees have agreed to the following addition and reductions to the amounts and line items as proposed by the House:

Construction Improvements	−$13,810,000
Operating Expenses:	
Unspecified reduction	+1,000,000
Maintenance of real property	−5,410,000
Total	−18,220,000

The conferees agreed to fund the following item in conference at the level proposed by the House, as shown below:

Philippines—Clark AFB	$23,260,000

Construction Improvements.—Within the funds provided for post-acquisition construction, the conferees will expect the Air Force to accomplish the programmed project at Fairchild AFB for improvement of existing Wherry housing units.

FAMILY HOUSING, DEFENSE AGENCIES

Appropriates $20,700,000 for Family Housing, Defense Agencies as proposed by the House instead of $19,700,000 as proposed by the Senate. The conferees are agreed that $1,186,000 is appropriated for construction and $19,514,000 is appropriated for operations and maintenance. The conferees have agreed to fund the item in conference at the level proposed by the House, as shown below:

CONUS Various—Housing Pilot Program	$1,000,000

FOREIGN CURRENCY FLUCTUATIONS, CONSTRUCTION, DEFENSE

Appropriates $85,000,000 for Foreign Currency Fluctuations, Construction, Defense instead of $125,000,000 as proposed by the House. This matter is discussed in detail at the beginning of this report.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

Appropriates $2,800,000 as proposed by both the House and Senate.

GENERAL PROVISIONS

Section 121.—Deletes the word "shall" and inserts the word "may", as proposed by the Senate. The conferees agree to this change to the House provision in order to allow, rather than require, the use of lapsed funds to pay the cost of supervision for any project being completed with lapsed funds.

Section 122.—Further amends language proposed by the House and amended by the Senate with regard to legislative liaison, and to budgetary and fiscal management and requires prohibition to apply only the Air Force. The conferees agree that the certification requirement contained in the Senate report does not apply to the Army and Navy.

Section 123.—Amends language agreed to by both the House and Senate. The conferees agree to waive certification requirements and to direct the Secretary of Defense to provide funds for design of two access road projects and two replacement bridges.

Senate-Proposed Section 124.—Deletes language proposed by the Senate which denied the use of funds to deactivate, relocate or transfer the 474th Tactical Fighter Wing at Nellis AFB, Nevada.

Senate-Proposed Section 125.—Deletes language proposed by the Senate which denied the use of funds to deactivate, relocate or transfer the 5th Fighter Intercepter Squadron at Minot AFB, North Dakota.

Senate-Proposed Section 126.—Deletes language proposed by the Senate which stated the sense of Congress that NATO should provide facility construction funds if the Tactical Fighter Wing at Torrejon AB, Spain is relocated. This matter is addressed earlier in this report.

Senate-Proposed Section 127.—Renumbered to Section 124. Provides language proposed by the Senate which prohibits the use of funds provided in this Act to initiate design of the Pentagon Annex.

Senate-Proposed Section 128.—Deletes language proposed by the Senate which would require notification to the Committees on Appropriations after a determination has been made to utilize premobilization construction authority. Such authority has failed authorization.

Senate-Proposed Section 129.—Renumbered to 125. Provides language proposed by the Senate that prohibits the use of funds for the National Test Facility until certain conditions of development are met and the Committees on Appropriations are notified by interim and detailed reports on such development. Language also prohibits the use of funds in connection with early deployment of a ballistic missile defense system.

Senate-Proposed Section 130.—Renumbered to 126. Prohibits the use of appropriated funds for transferring equipment, operation or personnel from Edgewood Arsenal, Maryland.

Senate-Proposed Section 131.—Renumbered to 127. Provides language proposed by the Senate which amends current law to provide that a Treasury property account established by the Alaska Native Claims Settlement Act of 1976 shall be available for acquisition of U.S. property.

Senate-Proposed Section 132.—Deletes language proposed by the Senate regarding construction of a chapel at Dugway Proving Ground, Utah.

Senate-Proposed Section 133 and 134.—Deletes language proposed by the Senate regarding the Section 801 (build-to-lease) and Section 802 (rental guarantee) family housing programs.

Senate-Proposed Section 135.—Deletes language proposed by the Senate which would permit the lease of property at the Oakland, California Naval Supply Center.

Senate-Proposed Section 136.—Deletes language proposed by the Senate regarding community planning assistance. The conferees agree to provide $250,000 for Everett, Washington and $300,000 for the Gulf Coast Homeports, as authorized, under "Military Construction, Navy".

Senate-Proposed Section 137.—Deletes language proposed by the Senate which would amend current law to permit a land conveyance at Fort Jackson, South Carolina.

Senate-Proposed Section 138.—Deletes language proposed by the Senate which denied funds for projects that use the services of any foreign country that denies fair market opportunities.

New Section 128.—Adds language to correct a $150,000 deficiency for FY 1986 due to obligations incurred for mortgage debt payment which exceed the amount request-

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONF AUTH COMPARED TO BUDGET	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
AIR FORCE RESERVE					
LANGLEY AFB					
CIVIL ENGINEER TRAINING FACILITY	800	---	800	800	800
TOTAL, VIRGINIA	264,063	-51,448	149,375	229,228	193,775
WASHINGTON					
ARMY					
FORT LEWIS					
SENSITIVE COMPARTMENTED INFORMATION FAC	960	---	960	960	960
NAVY					
NAVAL AIR STATION WHIDBEY ISLAND					
MAINTENANCE HANGAR	8,270	---	8,270	8,270	8,270
OPERATIONAL TRAINER FACILITY	4,380	---	4,380	4,380	4,380
NAVAL STATION EVERETT					
CARRIER SUPPORT COMPLEX (INCREMENT III)	64,800	-38,400	30,800	30,800	26,400
COMMUNITY IMPACT ASSISTANCE	---	+250	---	---	250
DEFENSE ACCESS ROAD	10,000	---	10,000	10,000	10,000
LAND ACQUISITION	11,100	---	11,100	11,100	11,100
NAVAL SUBMARINE BASE BANGOR					
BACHELOR ENLISTED QUARTERS	5,070	-5,070	5,070	---	---
NAVAL UNDERSEA WARFARE ENGR STA KEYPORT					
EXPLOSIVES OPERATING FACILITY	2,170	---	2,170	2,170	2,170
MISSILE MAGAZINES	6,000	---	6,000	6,000	6,000
UNDERSEA WARFARE ENGINEERING CENTER	10,000	-10,000	10,000	---	---
TRIDENT REFIT FACILITY BANGOR					
ELECTRICAL DISTR SYSTEM IMPROVEMENTS	1,080	---	1,080	---	1,080
AIR FORCE					
FAIRCHILD AFB					
ASBESTOS REMOVAL/STEAMPLANT	---	+2,050	2,050	---	2,050
MISSION OPERATIONS FACILITY	3,950	---	3,950	3,950	3,950
DEFENSE AGENCIES					
DEFENSE FUEL SUPPORT POINT MUKILTEO					
FUEL PIER	7,290	-7,290	7,290	---	---
FT LEWIS					
MADIGAN ARMY MEDICAL CENTER PHASE IV	86,000	---	86,000	86,000	86,000
WHIDBEY ISLAND NAVAL AIR STATION					
HOSPITAL CLINIC ADDITION	16,500	---	16,500	---	16,500
AIR NATIONAL GUARD					
FOUR LAKES					
MOBILITY STORAGE FACILITY	300	---	300	300	300
SEATTLE AGS					
MOBILITY STORAGE FACILITY	225	---	225	225	225
ARMY RESERVE					
CAMP BONNEVILLE					
LOCAL TRAINING AREA	2,183	---	2,183	2,183	2,183
AIR FORCE RESERVE					
MCCHORD AFB					
ADDITION HEADQUARTERS BUILDING	390	---	390	390	390
TOTAL, WASHINGTON	240,668	-58,460	208,718	166,728	182,208
WEST VIRGINIA					
ARMY NATIONAL GUARD					
BUCKHANNON					
ORGANIZATIONAL MAINTENANCE SHOP ADD/ALT	436	---	436	436	436
CAMP DAWSON					
TRNG SITE, TRAINING FACILITIES PH I	796	---	796	796	796
POINT PLEASANT					
ARMORY ADDITION/ALTERATION	1,020	---	1,020	1,020	1,020
AIR NATIONAL GUARD					
YEAGER AIRPORT					
FIRE SUPPRESSION SYSTEM	1,450	---	1,450	1,450	1,450
VEHICLE MAINT/REFUELER SHOP	1,100	---	1,100	1,100	1,100
ARMY RESERVE					
NEW MARTINSVILLE					
ADD/ALTER USARC W/MAINT FAC	1,345	---	1,345	1,345	1,345
TOTAL, WEST VIRGINIA	6,147	---	6,147	6,147	6,147
WISCONSIN					
ARMY					
FORT MCCOY					
INSULATE BUILDINGS	720	---	720	720	720
ARMY NATIONAL GUARD					
ABBOTSFORD					
60 PERSON ARMORY	---	+775	775	1,100	775
BLACK RIVER FALLS					
MOTOR VEHICLE STORAGE BUILDING	193	---	193	193	193
EAU CLAIRE					
MOTOR VEHICLE STORAGE BUILDING	284	---	284	284	284
FOND DU LAC					
60 PERSON ARMORY	---	+625	625	---	625
MADISON					
ADD/ALTER ARMORY	---	---	563	---	---
100 PERSON ARMORY	---	+2,700	---	2,709	2,700
WAUPACA					
60 PERSON ARMORY	---	+695	695	---	695
AIR NATIONAL GUARD					
MITCHELL FIELD					
SUPPORT FACILITIES ADDITION/ALTERATION	---	+4,500	5,000	4,500	4,500
ARMY RESERVE					
EAU CLAIRE					
LAND ACQUISITION	300	---	300	300	300
MILWAUKEE					
ARMY RESERVE CENTER/MAINT FAC/INDOOR RANGE	11,207	---	11,207	11,207	11,207
TOTAL, WISCONSIN	12,704	+9,295	20,362	21,013	21,999
WYOMING					
AIR FORCE					
FE WARREN AFB					
ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	2,100	-2,100	2,100	---	---
CORROSION CONTROL FACILITY	308	---	308	308	308
DATA PROCESSING FACILITY	1,800	-1,800	1,800	---	---
ARMY NATIONAL GUARD					
CAMP GUERNSEY					
TRNG SITE, FIRE STATION/AIR OPERATIONS	493	---	493	493	493
WASH PLATFORMS	148	---	148	148	148
TOTAL, WYOMING	4,849	-3,900	4,849	949	949
CONUS CLASSIFIED					
AIR FORCE					
CLASSIFIED LOCATION					
CLASSIFIED PROJECT	1,500	---	1,500	---	---
DEFENSE AGENCIES					
CLASSIFIED LOCATION					
CLASSIFIED PROJECT	43,148	---	43,148	43,148	43,148
CLASSIFIED PROJECT	25,386	---	25,386	25,386	25,386
TOTAL, CONUS CLASSIFIED	70,034	---	70,034	68,534	68,534

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONF AUTH COMPARED TO BUDGET	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
CONUS VARIOUS					
ARMY					
VARIOUS CONUS LOCATIONS					
CLASSIFIED PROJECT	4,000	---	4,000	4,000	4,000
HISTORIC FACILITIES	6,000	-6,000	---	---	---
NAVY					
GULF COASE HOMEPORTS					
COMMUNITY IMPACT ASSISTANCE	---	+300	---	---	300
AIR FORCE					
AIR FORCE UNSPECIFIED COMMAND					
HISTORIC FACILITIES SUPPORT	2,800	-2,800	---	---	---
SPECIAL TACTICAL DETACHMENT	19,073	---	19,073	19,073	19,073
CONUS VARIOUS					
CENT CONUS OTH-B REAL ESTATE ACQUISITION	6,000	-6,000	---	6,000	---
DEFENSE AGENCIES					
CONUS VARIOUS					
HISTORIC FACILITIES	1,500	-1,500	---	---	---
AIR NATIONAL GUARD					
CONUS VARIOUS					
AIRCRAFT ARRESTING SYSTEM	350	---	350	350	350
FLIGHT SIMULATOR FACILITY	950	---	950	950	950
POWER CHECK PAD	4,220	-4,220	---	4,220	---
TOTAL, CONUS VARIOUS	44,893	-20,220	24,373	34,593	24,673
ANTIGUA					
NAVY					
NAVAL SUPPORT FACILITY					
NAVAL SUPPORT FACILITY UPGRADE	3,250	---	---	3,250	3,250
TOTAL, ANTIGUA	3,250	---	---	3,250	3,250
BELGIUM					
AIR FORCE					
FLORENNES					
ALTER MUNITIONS STORAGE FACILITIES	410	-410	---	---	---
CW PROTECT-CENTRAL SECURITY CONTROL	1,700	-1,700	---	---	---
CW PROTECT-WING COMMAND POST	1,700	-1,700	---	---	---
GLCM-CHEM WARFARE PROT-HF TELECOMM FAC	1,100	-1,100	---	---	---
GLCM-COMMUNICATIONS SQUADRON FACILITY	510	-510	---	---	---
GLCM-FIRE STATION	330	-330	---	---	---
GLCM-SECURITY POLICE OPERATIONS FACILITY	800	-800	---	---	---
GLCM-TRP SUBSISTENCE WHSE/BS COLD STORAGE	1,100	-1,100	---	---	---
GLCM-VEHICLE MAINTENANCE COMPLEX	1,500	-1,500	---	---	---
GLCM-YOUTH CENTER	800	-800	---	---	---
TOTAL, BELGIUM	9,950	-9,950	---	---	---
BERMUDA					
NAVY					
NAVAL AIR STATION BERMUDA					
BACHELOR OFFICER QTRS NEW & MODERNIZATION	3,150	-3,150	---	---	---
TOTAL, BERMUDA	3,150	-3,150	---	---	---
CANADA					
NAVY					
NAVAL FACILITY ARGENTIA NEWFOUNDLAND					
HEATING PLANT	400	-400	---	---	---
TOTAL, CANADA	400	-400	---	---	---
DIEGO GARCIA					
NAVY					
NAVY SUPPORT FACILITY					
DAIRY PLANT	1,000	---	1,000	1,000	1,000
AIR FORCE					
DIEGO GARCIA					
AIR FORCE CANTONMENT AREA	14,500	---	14,500	14,500	14,500
GPS INTERNET FACILITIES	4,100	---	4,100	4,100	4,100
TOTAL, DIEGO GARCIA	19,600	---	19,600	19,600	19,600
GERMANY					
ARMY					
BAD KREUZNACH					
FACILITY MODERNIZATION	10,200	---	10,200	---	---
BAUMHOLDER					
FACILITY MODERNIZATION PHASE IV	10,800	---	10,800	---	---
EINSIEDLERHOF					
TRAINING EXERCISE FACILITY	5,900	---	5,900	---	5,900
GIESSEN					
CHILD DEVELOPMENT CENTER	1,250	---	1,250	1,250	1,250
HARDSTAND/FACILITY UPGRADE	13,600	-13,600	---	6,100	---
GRAFENWOEHR TNG AREA					
CHILD DEVELOPMENT CENTER	1,800	---	1,800	1,800	1,800
UPGRADE TANK GUNNERY RANGE	3,900	---	3,900	---	3,900
HANAU					
HARDSTAND	1,300	---	1,300	---	1,300
HOHENFELS TNG AREA					
UTILITIES SUPPORT	15,500	---	15,500	15,500	15,500
UTILITIES SUPPORT	3,750	-3,750	3,750	---	---
MAINZ					
ORGANIZATIONAL VEHICLE PARKING	1,100	---	1,100	---	---
MANNHEIM					
HARDSTAND/FACILITY UPGRADE	14,400	-14,400	---	5,000	---
RHEINBERG					
CHILD DEVELOPMENT CENTER	1,050	---	1,050	1,050	1,050
FACILITIES ENGINEER SHOP MODERNIZATION	6,400	-6,400	---	6,400	---
LOGISTICAL SUPPLY FACILITY	8,300	---	8,300	8,300	8,300
UTILITIES AND OPERATIONS UPGRADE	7,600	---	7,600	7,600	7,600
SCHWEINFURT					
HARDSTAND/FACILITY UPGRADE	9,500	-9,500	---	6,700	---
STUTTGART					
CHILD DEVELOPMENT CENTER	1,800	---	1,800	---	---
OPERATIONS BUILDING MODIFICATIONS	5,400	---	5,400	---	5,400
POL STORAGE FACILITY UPGRADE	7,000	---	7,000	---	7,000
VARIOUS SITES					
RANGE MODERNIZATION	30,000	-15,000	15,000	15,000	15,000
WARTIME HOST NATION SUPPORT	4,500	---	2,000	4,500	4,500
VILSECK					
ADMINISTRATION FACILITY	1,150	---	1,150	1,150	1,150
AMMUNITION STORAGE	2,700	---	2,700	2,700	2,700
BARRACKS	7,800	---	7,800	7,800	7,800
BATTALION HEADQUARTERS	1,450	---	1,450	1,450	1,450
BATTALION HEADQUARTERS ADDITION	800	---	800	800	800
COMMUNITY CENTER	5,400	---	5,400	5,400	5,400
COMPANY OPERATIONS FACILITY	750	---	750	750	750
DINING FACILITY	3,600	---	3,600	3,600	3,600
FACILITIES ENGINEER COMPLEX	13,400	-13,400	13,400	---	---

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONF AUTH COMPARED TO BUDGET	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
GENERAL PURPOSE WAREHOUSE	1,950	-1,950	---	---	---
HARDSTAND/TACTICAL EQUIPMENT SHOP	5,700	---	5,700	5,700	5,700
HARDSTAND/TACTICAL EQUIPMENT SHOP	15,000	-15,000	15,000	---	---
HARDSTAND/TACTICAL EQUIPMENT SHOP	17,000	---	17,000	17,000	17,000
LIBRARY AND EDUCATION CENTER	1,150	---	1,150	1,150	1,150
OPERATIONS FACILITY	4,050	---	---	4,050	4,050
POL STORAGE FACILITY	5,100	---	---	5,100	5,100
UNDISTRIBUTED REDUCTION	---	---	---	-9,000	---
VEHICLE WASH FACILITY	3,750	---	---	3,750	3,750
WIESBADEN					
AIRCRAFT MAINTENANCE HANGAR	30,000	---	---	30,000	30,000
AIRCRAFT MAINTENANCE HANGAR	8,500	-8,500	---	---	---
CHILD DEVELOPMENT CENTER	2,250	---	2,250	2,250	2,250
HARDSTAND	2,550	-2,550	2,550	---	---
HARDSTAND/TACTICAL EQUIPMENT SHOP	2,500	-2,500	2,500	---	---
HARDSTAND/TACTICAL EQUIPMENT SHOP	4,400	---	4,400	---	4,400
HARDSTAND/TACTICAL EQUIPMENT SHOP	2,250	---	2,250	---	2,250
WILDFLECKEN					
HARDSTAND	11,400	---	11,400	---	---
VEHICLE WASH FACILITY	4,700	---	4,700	---	4,700
ZWEIBRUECKEN					
CHAPEL AND RELIGIOUS EDUCATION FACILITY	1,900	---	1,900	---	---
VARIOUS					
AIR FORCE					
BITBURG AB					
ADD TO AND ALTER FIRE STATION	440	---	440	440	440
ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	2,850	---	2,850	2,850	2,850
VEHICLE MAINTENANCE FACILITY	1,400	---	1,400	---	1,400
BUCHEL					
ALTER MUNITIONS STORAGE FACILITIES	2,000	-2,000	---	2,000	---
REPROGRAMMING ALLOWANCE	---	+2,000	---	---	2,000
HAHN AB					
ADD TO VEHICLE MAINTENANCE FACILITY	1,900	-1,900	1,900	---	---
COMBAT AMMUNITIONS CONTROL CENTER	770	---	770	770	770
PETROLEUM OPERATIONS FACILITY	590	---	590	590	590
POST OFFICE	960	---	960	960	960
UNACCOMPANIED ENLISTED PERSONNEL HOUSING	3,450	---	3,450	3,450	3,450
MEMMINGEN					
ALTER MUNITIONS STORAGE FACILITIES	2,000	-2,000	---	2,000	---
REPROGRAMMING ALLOWANCE	---	+2,000	---	---	2,000
PRUEM AS					
CHAPEL	850	---	850	850	850
COMPOSITE RECREATION CENTER	1,150	---	1,150	1,150	1,150
RAMSTEIN AB					
ADD-ALTER NCO ACADEMY (KAPUN)	1,750	-1,750	---	---	---
ALTER MUNITIONS STORAGE FACILITIES	9,900	-9,900	---	9,900	---
REPROGRAMMING ALLOWANCE	---	+9,900	---	---	9,900
ALTER UNACCOMPANIED ENLISTED PERSONNEL HSG	2,900	---	2,900	2,900	2,900
COMBAT AMMUNITIONS CONTROL CENTER	1,250	-1,250	---	---	---
FIRE STATION	560	---	560	560	560
VEHICLE MAINTENANCE SHOP	7,200	-7,200	---	---	---
WAREHOUSE	2,150	-2,150	---	---	---
RHEIN-MAIN AB					
ADD-ALTER AIR PASSENGER TERMINAL	9,900	---	9,900	---	9,900
FLIGHTLINE SECURITY LIGHTING	500	---	500	500	500
RRR KIT STORAGE FACILITY	1,050	---	1,050	1,050	1,050
SEMBACH AB					
SQUADRON OPERATIONS FACILITY	1,100	---	1,100	1,100	1,100
UPG WATER STORAGE AND DISTRIB SYSTEM	2,250	-2,250	---	---	---
VEHICLE MAINTENANCE FACILITY	1,050	*	1,050	1,050	1,050
SPANGDAHLEM AB					
F16-ADD/ALTER FLIGHT SIMULATOR FACILITY	1,850	---	1,850	1,850	1,850
UNACCOMPANIED ENLISTED PERSONNEL HOUSING	3,200	---	3,200	3,200	3,200
WENIGERATH					
MUNITIONS SECURITY LIGHTING	1,750	---	1,750	1,750	1,750
WUESCHHEIM					
ALTER MUNITIONS STORAGE FACILITIES	450	-450	---	---	---
GLCM-COMM SQUADRON FACILITY	800	-800	---	---	---
GLCM-CW PROTECT HF TELECOMM FACILITY	990	-990	---	---	---
GLCM-CW PROTECT-CENTRAL SECURITY CONTROL	1,650	-1,650	---	---	---
GLCM-CW PROTECT-WING COMMAND POST	1,750	-1,750	---	---	---
ZWEIBRUCKEN AB					
UNACCOMPANIED ENLISTED PERSONNEL HOUSING	1,850	---	1,850	---	1,850
UNACCOMPANIED ENLISTED PERSONNEL HOUSING	2,650	---	2,650	2,650	2,650
DEFENSE AGENCIES					
BITBURG					
ELEMENTARY AND HIGH SCHOOL ADDITIONS	2,413	---	2,413	2,413	2,413
RHEINBERG					
DISPENSARY & DENTAL CLINIC	2,250	---	2,250	2,250	2,250
SCHWAEBISCH-GMUEND					
ELEMENTARY SCHOOL ADDITION	1,950	*	1,950	1,950	1,950
SCHWEINFURT					
JUNIOR HIGH SCHOOL	5,320	---	5,320	5,320	5,320
SEMBACH					
ELEMENTARY SCHOOL ADDITION	2,930	---	2,930	2,930	2,930
SPANGDALEN AIR BASE					
HIGH SCHOOL	7,300	---	7,300	---	7,300
STUTTGART					
PATCH ELEMENTARY SCHOOL ADDITION	1,530	---	1,530	1,530	1,530
PATCH HIGH SCHOOL ADDITION	1,500	---	1,500	1,500	1,500
STUTTGART-PATCH BARRACKS					
DCA/EUROPE BUILDING EXPANSION	1,030	---	1,030	1,030	1,030
WUERTZBURG					
MIDDLE SCHOOL	10,913	---	10,913	10,913	10,913
TOTAL, GERMANY	440,246	-128,690	291,356	234,256	274,356
GREECE					
AIR FORCE					
ARAXOS					
ALTER MUNITIONS STORAGE FACILITIES	1,800	-1,800	---	1,800	---
DEFENSE AGENCIES					
IRAKLION AIR STATION					
SECOND ECHELON MEDICAL LOGISTICS STORAGE	340	---	---	340	340
TOTAL, GREECE	2,140	-1,800	---	2,140	340
GREENLAND					
AIR FORCE					
THULE AB					
ALTER UNACCOMPANIED ENLISTED PERS HSG	3,000	---	3,000	3,000	3,000
TOTAL, GREENLAND	3,000	---	3,000	3,000	3,000
GUAM					
NAVY					
MOBILE CONSTR BATTALION CAMP COVINGTON					
BACHELOR ENLISTED QUARTERS AND MESS HALL	14,700	---	14,700	14,700	14,700
NAVAL FACILITY					
PUBLIC WORKS FACILITY	650	---	---	650	---

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONF AUTH COMPARED TO BUDGET	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
NAVAL MAGAZINE					
ORDNANCE MAINTENANCE FACILITY	10,800	---	10,800	10,800	10,800
NAVAL SHIP REPAIR FACILITY					
EQUIPMENT MAINTENANCE FACILITY	8,460	---	8,460	8,460	8,460
REPAIR WHARVES IMPROVEMENT	5,100	---	5,100	5,100	5,100
NAVAL SUPPLY DEPOT					
SUPPLY MAINTENANCE FACILITY	5,700	---	---	5,700	5,700
NAVY PUBLIC WORKS CENTER GUAM					
BOILER PLANT MODIFICATIONS	2,360	---	2,360	2,360	2,360
AIR FORCE					
ANDERSEN AFB					
ADD-ALTER PHYSICAL FITNESS CENTER	3,600	---	3,600	---	---
ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	5,100	---	5,100	5,100	5,100
TOTAL, GUAM	56,470	---	50,120	52,870	52,220
GUANTANAMO BAY, CU					
NAVY					
NAVAL AIR STATION GUANTANAMO BAY					
BACHELOR OFFICER QUARTERS MODERNIZATION	1,770	---	1,770	1,770	1,770
NAVAL STATION GUANTANAMO BAY					
FACILITY ENERGY IMPROVEMENTS	917	---	917	917	917
TOTAL, GUANTANAMO BAY, CU	2,687	---	2,687	2,687	2,687
HONDURAS					
ARMY					
HONDURAS					
TROOP SUPPORT FACILITY UPGRADE	4,150	---	4,150	---	---
TOTAL, HONDURAS	4,150	---	4,150	---	---
ICELAND					
NAVY					
NAVAL AIR STATION KEFLAVIK					
AIRFIELD PAVEMENTS	1,820	---	1,820	1,820	1,820
COMBINED OPERATIONS CENTER SUPPORT FAC	3,050	---	---	3,050	3,050
FUEL FACILITIES	12,300	-12,300	---	---	---
NAVAL FACILITY KEFLAVIK					
STANDBY GENERATOR PLANT	700	*	700	700	700
TOTAL, ICELAND	17,870	-12,300	2,520	5,570	5,570
ITALY					
NAVY					
NAV COM AREA MASTER STATION MED NAPLES					
SIGONELLA TRANSMITTER FACILITIES	5,300	---	5,300	5,300	5,300
NAVAL AIR STATION SIGONELLA					
PHYSICAL SECURITY IMPROVEMENTS	2,460	---	2,460	2,460	2,460
NAVAL SUPPORT ACTIVITY NAPLES					
CMD CTRL COMMS & INTELLIGENCE CPX (PH I)	24,900	-5,500	---	24,900	---
SECURITY IMPROVEMENTS	750	---	750	750	750
NAVY SUPPORT OFFICE LA MADDALENA					
COLD-IRON UTILITIES SUPPORT	7,480	---	7,480	---	7,480
AIR FORCE					
AVIANO AB					
CW PROTECT-SQUADRON OPS FACILITY	1,450	---	1,450	1,450	1,450
COMISO AB					
GLCM-ADD-ALTER BASE COLD STORAGE	760	-760	---	---	---
GLCM-COMMUNICATIONS SQUADRON FACILITY	480	-480	---	---	---
GLCM-CW PROTECT HF TELECOMM FACILITY	1,100	-1,100	---	---	---
GLCM-LIBRARY	230	-230	---	---	---
GLCM-MWR CENTRAL STORAGE FACILITY	380	-380	---	---	---
GLCM-SECURITY POLICE OPERATIONS FACILITY	610	-610	---	---	---
GLCM-VEHICLE MAINTENANCE COMPLEX	2,250	-2,250	---	---	---
SAN VITO AS					
EDUCATION CENTER	390	---	390	390	390
DEFENSE AGENCIES					
NAPLES					
HOSPITAL REPLACEMENT	30,000	-30,000	---	---	---
SAN VITO AIR STATION					
SECOND ECHELON MEDICAL LOGISTICS STORAGE	670	---	670	670	670
SIGONELLA NAVAL AIR STATION					
HOSPITAL REPLACEMENT	20,000	---	20,000	20,000	20,000
TOTAL, ITALY	99,210	-41,310	38,500	55,920	38,500
JAPAN					
ARMY					
JAPAN VARIOUS					
AMMUNITION STORAGE COMPLEXES	20,000	-12,000	10,000	8,000	8,000
AMMUNITION SURVEILLANCE FACILITY	1,500	---	1,500	---	---
RELOCATE FIELD OFFICES	1,750	---	1,750	---	---
NAVY					
MARINE CORPS AIR STATION FUTENMA OKINAWA					
CRASH FIRE STATION ADDITION	1,000	---	1,000	1,000	1,000
FLIGHT LINE SECURITY IMPROVEMENTS	3,790	-3,790	3,790	---	---
MARINE CORPS AIR STATION IWAKUNI					
FLIGHT LINE SECURITY IMPROVEMENTS	1,080	---	1,080	1,080	1,080
MARINE CORPS BASE CAMP BUTLER OKINAWA					
BACHELOR ENLISTED QUARTERS IMPROVEMENTS	11,300	-11,300	---	6,300	---
AIR FORCE					
KADENA AB					
ALTER UNACCOMPANIED PERSONNEL HOUSING	2,850	-2,850	---	---	---
F16-ADD/ALTER AVIONICS SHOP	5,000	---	5,000	5,000	---
FIRE PROTECTION-VARIOUS FACILITIES	1,850	-1,850	1,850	---	---
JET FUEL STORAGE PHASE V	5,500	-5,500	---	---	---
YOKOTA AB					
ADD-ALTER CORROSION CONTROL FACILITY	3,150	-3,150	---	---	---
ALTER COMMAND CENTER	2,600	-2,600	---	---	---
DEFENSE AGENCIES					
CAMP LESTER OKINAWA					
HOSPITAL LIFE SAFETY UPGRADE	1,400	---	1,400	1,400	1,400
MISAWA AFB					
COMPOSITE MEDICAL FACILITY	4,700	---	4,700	4,700	4,700
TOTAL, JAPAN	67,470	-43,040	32,070	27,480	16,180
JOHNSTON ISLAND					
DEFENSE AGENCIES					
DNA HDQTRS FIELD COMMAND					
FITNESS CENTER	2,000	---	2,000	2,000	2,000
SEWAGE TREATMENT PLANT	2,100	---	2,100	2,100	2,100
TOTAL, JOHNSTON ISLAND	4,100	---	4,100	4,100	4,100

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONF AUTH COMPARED TO BUDGET	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
KOREA					
ARMY					
CAMP CASEY					
BARRACKS	28,000	---	28,000	28,000	28,000
CAMP CASTLE					
BARRACKS	3,200	---	3,200	---	---
CAMP HENRY					
BARRACKS	11,800	-11,800	---	---	---
CAMP HOVEY					
BARRACKS	11,800	---	11,800	11,800	11,800
CAMP HOWZE					
BARRACKS	4,150	---	4,150	4,150	4,150
CAMP HUMPHREYS					
BARRACKS	6,700	-6,700	---	---	---
CAMP JACKSON					
BARRACKS	4,350	---	4,350	4,350	4,350
CAMP KYLE					
BARRACKS	2,750	---	2,750	---	2,750
CAMP MARKET					
BARRACKS	2,200	-2,200	2,200	---	---
CAMP MERCER					
BARRACKS	720	---	720	720	720
CAMP NIMBLE					
BARRACKS	2,200	---	---	2,200	2,200
CAMP PAGE					
BARRACKS	5,900	---	5,900	5,900	5,900
CAMP RED CLOUD					
BARRACKS	8,500	---	8,500	8,500	8,500
KOREA VARIOUS					
AMMUNITION STORAGE	4,850	---	4,850	4,850	4,850
YONGSAN					
SENSITIVE COMPARTMENTED INFORMATION FAC	3,750	---	3,750	3,750	3,750
AIR FORCE					
CAMP HUMPHREYS					
OPERATION MAINTENANCE AND STORAGE FAC	5,550	---	---	---	---
KUNSAN AB					
ALTER AIRCRAFT SHELTER	7,000	-3,000	7,000	4,000	4,000
RRR EQUIPMENT STORAGE FACILITY	950	---	950	950	950
UPG ELECTRICAL DISTRIB SYSTEM PHASE-III	2,250	-2,250	2,250	---	---
VEHICLE OPERATION/MAINTENANCE COMPLEX	5,000	-5,000	---	---	---
WAR READINESS MATERIAL WHSE	800	---	800	800	800
KWANG-JU AB					
WRM VEHICLE PARKING	900	-900	---	---	---
OSAN AB					
ADD TO NUMBERED AIR FORCE HEADQUARTERS	1,750	-1,750	---	---	---
AIRCRAFT MAINTENANCE FACILITY	3,000	-3,000	3,000	---	---
AIRCRAFT SHELTERS	1,500	---	1,500	1,500	1,500
AIRCRAFT SHELTERS	2,800	---	2,800	2,800	2,800
CONTROL TOWER CAB	400	---	400	400	400
MUNITIONS STORAGE FACILITY	1,600	---	1,600	1,600	1,600
SECURITY POLICE OPERATIONS FACILITY	2,200	---	---	---	---
UNACCOMPANIED ENLISTED PERSONNEL HOUSING	4,500	---	4,500	4,500	4,500
UPG PRIMARY ELECTRIC DISTR SYS PH-II	7,000	---	7,000	7,000	7,000
WAR READINESS MATERIAL WHSE	940	---	940	940	940
SUWON					
SEMIHARDENED COMMAND POST	3,650	---	---	---	---
WAR READINESS MATERIAL WHSE	650	*	650	650	650
TOTAL, KOREA	153,310	-36,600	113,560	99,360	102,110
KWAJALEIN					
ARMY					
KWAJALEIN					
AIRCRAFT MAINTENANCE FACILITY	3,950	---	3,950	3,950	3,950
MULTI-STATIC MEASUREMENT SYSTEM FACILITY	890	---	890	890	890
POWER PLANT REPLACEMENT	21,000	---	21,000	21,000	21,000
RADAR CONTROL FACILITY	720	---	720	720	720
DEFENSE AGENCIES					
MISSILE RANGE					
BERTHING & TERMINAL FACILITIES	2,100	---	2,100	2,100	2,100
ERIS MISSILE LAUNCH	7,900	---	7,900	7,900	7,900
HEDI MISSILE LAUNCH	6,565	---	6,565	6,565	6,565
TOTAL, KWAJALEIN	43,125	---	43,125	43,125	43,125
LUXEMBOURG					
DEFENSE AGENCIES					
ECHTERNACH					
MEDICAL CONTINGENCY COMPLEX	15,500	-15,500	---	---	---
TOTAL, LUXEMBOURG	15,500	-15,500	---	---	---
NETHERLANDS					
AIR FORCE					
CAMP NEW AMSTERDAM					
ADD TO BASE SUPPLY COMPLEX	2,600	---	2,600	---	2,600
WOENSDRECHT AB					
ALTER MUNITIONS STORAGE FACILITIES	400	-400	---	---	---
GLCM-ADMINISTRATIVE SUPPORT FACILITY	2,750	-2,750	---	---	---
GLCM-ATHLETIC FIELDS AND COURTS	550	-550	---	---	---
GLCM-BASE THEATER	900	-900	---	---	---
GLCM-CHAPEL CENTER	1,650	-1,650	---	---	---
GLCM-CHILD DEVELOPMENT CENTER	600	-600	---	---	---
GLCM-COMMUNITY RECREATION CENTER	1,600	-1,600	---	---	---
GLCM-CONSOLIDATED HOBBY SHOP	830	-830	---	---	---
GLCM-DATA PROCESSING FACILITY	1,350	-1,350	---	---	---
GLCM-FORMS AND PUBLICATIONS WAREHOUSE	280	-280	---	---	---
GLCM-GROUP HEADQUARTERS FACILITY	4,950	-4,950	---	---	---
GLCM-PHYSICAL FITNESS FACILITY	2,500	-2,500	---	---	---
GLCM-RECREATION LIBRARY	520	-520	---	---	---
GLCM-SERVICES SUPPLY WAREHOUSE	700	-700	---	---	---
GLCM-TRAFFIC MANAGEMENT FACILITY	1,450	-1,450	---	---	---
GLCM-VEHICLE MAINTENANCE COMPLEX	1,600	-1,600	---	---	---
GLCM-VISITING AIRMEN QUARTERS	1,350	-1,350	---	---	---
GLCM-VISITING OFFICERS QUARTERS	1,400	-1,400	---	---	---
GLCM-YOUTH CENTER	500	-500	---	---	---
GLCM FACILITIES-UNDISTRIBUTED REDUCTION	---	---	---	---	---
DEFENSE AGENCIES					
WOENSDRECHT					
CLINIC/DENTAL CLINIC	6,800	-6,800	---	---	---
MEDICAL WAREHOUSE	360	---	360	---	360
TOTAL, NETHERLANDS	35,640	-32,680	2,960	---	2,960
OMAN					
AIR FORCE					
MASIRAH AB					
CARETAKER CONTRACTOR SUPPORT FACS-MAINT	1,400	---	1,400	1,400	1,400
RELOCATABLE WAREHOUSE	1,200	---	1,200	1,200	1,200
VORTAC SITE SUPPORT	725	---	725	725	725

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONF AUTH COMPARED TO BUDGET	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
SEEB AB					
CARETAKER CONTRACTOR SPT FACILITY	4,900	---	2,500	4,900	2,500
COMM MAINTENANCE AND MGMT FACILITY	810	---	810	810	810
RELOCATABLE WAREHOUSE	2,550	---	2,550	2,550	2,550
THUMRAIT AB					
CARETAKER CONTRACTOR SUPPORT FACS-MAINT	1,400	---	1,400	1,400	1,400
COMM MAINT AND MGMT FACILITY	810	---	810	810	810
INSTRU LAND SYSTEM SITE SUPPORT	725	---	725	725	725
RELOCATABLE WAREHOUSE	1,350	---	1,350	1,350	1,350
VORTAC SITE SUPPORT	725	---	725	725	725
TOTAL, OMAN	16,595	---	14,195	16,595	14,195
PANAMA					
ARMY					
COROZAL					
IMAGERY FACILITY	6,000	-6,000	---	---	---
FORT KOBBE					
AIRCRAFT PARKING APRON EXTENSION	6,700	-6,700	---	6,700	---
NAVY					
NAVAL SECURITY GROUP ACTIVITY GALETA ISLAND					
OPERATIONS BUILDING ADDITION	---	---	---	1,000	---
AIR FORCE					
HOWARD AFB					
ADD-ALTER RECONNAISSANCE PHOTO LAB	940	-940	---	940	---
FLIGHTLINE SECURITY LIGHTING	310	---	310	310	310
MUNITIONS FACILITIES	2,450	-2,450	---	---	---
STOL BEDDOWN SUPPORT FACILITIES	7,000	-7,000	---	7,000	---
UPGRADE AIRFIELD FACILITIES	10,690	---	---	10,690	10,690
TOTAL, PANAMA	34,090	-23,090	310	26,640	11,000
PHILIPPINES					
NAVY					
NAVAL AIR STATION CUBI POINT					
FLIGHT LINE SECURITY IMPROVEMENTS	1,490	---	1,490	1,490	1,490
MAINTENANCE HANGAR	12,800	-12,800	---	---	---
NAVY PUBLIC WORKS CENTER SUBIC BAY					
WATER TREATMENT PLANT IMPROVEMENTS	7,680	---	7,680	7,680	7,680
AIR FORCE					
CLARK AFB					
ADD-ALTER FUEL SYSTEM MAINTENANCE DOCK	1,650	-1,650	---	---	---
AEROMED EVAC AIRLIFT SQUADRON FACILITY	1,300	-1,300	---	---	---
ALTER INTELLIGENCE FACILITY PHASE-I	440	---	440	440	440
COPE THUNDER OPERATIONS RAMP	2,100	---	2,100	2,100	2,100
EQUIPMENT MAINTENANCE FACILITY	800	-800	800	---	---
FIRE PROTECTION -VARIOUS FACILITIES	2,150	-2,150	---	2,150	---
FLOW THROUGH SHELTERS PHASE-I	8,600	-8,600	8,600	---	---
MC-130H AVIONICS SHOP	1,350	---	1,350	1,350	1,350
MC-130H SQUADRON OPS FAC	2,650	---	2,650	2,650	2,650
UNACCOMPANIED ENLISTED PERSONNEL HOUSING	6,400	-6,400	6,400	---	---
WATER SUPPLY/STORAGE/DISTRIB SYSTEM	3,000	---	3,000	---	3,000
DEFENSE AGENCIES					
CLARK AFB					
COMPOSITE MEDICAL FACILITY ADD/ALTER	40,000	-40,000	40,000	---	---
SAN MIGUEL					
OH PERRY ELEMENTARY SCHOOL	2,960	---	2,960	2,960	2,960
SUBIC BAY					
HOSPITAL REPLACEMENT PHASE I	3,500	---	3,500	---	---
TOTAL, PHILIPPINES	98,870	-73,700	80,970	20,820	21,670
PORTUGAL					
NAVY					
NAVAL SECURITY GRP ACT TERCERIA IS AZORES					
PUBLIC WORKS FACILITY	700	---	700	700	700
AIR FORCE					
LAJES FIELD					
RAMP LIGHTING	4,600	---	---	2,300	---
TOTAL, PORTUGAL	5,300	---	700	3,000	700
PUERTO RICO					
NAVY					
LANT FLT WPNS TRAINING FAC ROOSEVELT ROADS					
TELEMETRY BUILDING	2,020	---	2,020	2,020	2,020
NAVAL SECURITY GROUP ACTIVITY SABANA SECA					
SECURITY IMPROVEMENTS	400	---	400	400	400
DEFENSE AGENCIES					
FORT BUCHANAN					
ELEMENTARY SCHOOL AIR CONDITIONING	1,200	---	1,200	1,200	1,200
ARMY NATIONAL GUARD					
FORT BUCHANAN					
U.S. PROPERTY & FISCAL OFFICER WAREHOUSE	1,755	---	1,755	1,755	1,755
CAMP SANTIAGO SALINAS					
ISLA GRANDE (SAN JUAN)					
ARMY AVIATION SUPPORT FACILITY	4,347	---	4,347	4,347	4,347
ARMY RESERVE					
ROOSEVELT ROADS					
ARMY RESERVE CENTER W/MAINT FAC	4,751	---	4,751	4,751	4,751
SALINAS					
STORAGE/ADMIN SPACE	375	---	375	375	375
TOTAL, PUERTO RICO	14,848	---	14,848	14,848	14,848
SCOTLAND					
NAVY					
NAVAL SECURITY GROUP ACTIVITY EDZELL					
OPERATIONS FACILITY ADDITION	---	+4,200	---	4,200	---
SECURITY GATEHOUSE	770	---	770	770	770
TOTAL, SCOTLAND	770	+4,200	770	4,970	770
TURKEY					
AIR FORCE					
ANKARA					
ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	2,250	---	2,250	2,250	2,250
CHAPEL	950	-950	950	950	---
INCIRLIK AB					
BASE SUPPLY ADMINISTRATION FACILITY	1,000	*	1,000	1,000	1,000
RAPID RUNWAY REPAIR EQUIPMENT STORAGE FACILITY	780	-780	---	780	---
VISITING AIRMEN QUARTERS	3,750	---	3,750	3,750	3,750
VISITING OFFICER QUARTERS	3,000	---	3,000	3,000	3,000
DEFENSE AGENCIES					
INCIRLIK					
ELEMENTARY AND HIGH SCHOOL ADDITION	7,746	---	7,746	7,746	7,746
INCIRLIK AIR BASE					
COMPOSITE MEDICAL FACILITY REPLACEMENT	14,400	---	14,400	14,400	14,400
SECOND ECHELON MEDICAL LOGISTICS STORAGE	860	---	---	860	860
TOTAL, TURKEY	34,736	-1,730	33,096	34,736	33,006

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONF AUTH COMPARED TO BUDGET	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
UNITED KINGDOM					
NAVY					
NAVAL ACTIVITIES LONDON					
AUTOMOTIVE VEHICLE MAINTENANCE SHOP	600	---	600	---	---
NAVAL FACILITY BRAWDY WALES					
STAND-BY GENERATOR PLANT UPGRADE	850	---	850	850	850
AIR FORCE					
MOLESWORTH					
GLCM-COMMUNICATIONS SQUADRON FACILITY	450	-450	---	---	---
RAF ALCONBURY					
ADD TO WATER STORAGE	890	-890	---	890	---
CW PROTECT-SQUADRON OPS FAC	1,600	---	1,600	1,600	1,600
INSTALL FIRE SUPPRESSION SYSTEM	550	---	550	550	550
RAF BENTWATERS					
ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	3,700	---	3,700	3,700	3,700
CONSOLIDATED SUPPORT CENTER	6,200	---	6,200	6,200	6,200
CW PROTECT-SQUADRON OPS FAC	1,600	-1,600	---	1,600	---
SECURITY POLICE OPERATIONS FACILITY	1,310	-1,310	1,310	---	---
RAF CHICKSANDS					
DIGITAL EUROPEAN BACKBONE FACILITY	1,250	---	1,250	1,250	1,250
RAF CROUGHTON					
ADD-ALTER WATER STORAGE AND DISTRIB SYST	900	---	900	900	900
RAF FAIRFORD					
ADD-ALTER PHYSICAL FITNESS CTR	1,700	---	---	---	---
DIGITAL EUROPEAN BACKBONE FACILITY	1,250	---	---	---	---
JET FUEL STORAGE/HYDR REFUEL SYST	7,800	---	---	7,800	---
T-9 NOISE SUPPRESSOR SUPPORT FACILITY	800	---	---	800	---
RAF GREENHAM COMMON					
GLCM-ARTS AND CRAFTS SHOP	550	-550	---	---	---
GLCM-AUTO HOBBY SHOP	600	-600	---	---	---
GLCM-YOUTH CENTER	990	-990	---	---	---
RAF LAKENHEATH					
BASE OPERATIONS FACILITY	620	---	620	620	620
BASE SUPPLY STORAGE SHED	550	*	550	550	550
COMBAT ARMS RANGE COMPLEX	950	---	950	950	950
CONTROL TOWER (NATO/US)	850	---	850	850	850
POST OFFICE	1,200	---	1,200	1,200	1,200
RAF UPPER HEYFORD					
ADD TO/ALTER VEHICLE MAINTENANCE SHOP	2,400	-2,400	2,400	---	---
CONSOLIDATED SUPPORT CENTER	5,600	-5,600	5,600	---	---
RAF WELFORD					
AIR BASE GRND DEF MUNITIONS IGLOOS	1,200	---	1,200	1,200	1,200
RAF WETHERSFIELD					
DIGITAL EUROPEAN BACKBONE FACILITY	1,300	---	1,300	1,300	1,300
RAF WOODBRIDGE					
SUPPLY WAREHOUSE	1,650	-1,650	1,650	---	---
DEFENSE AGENCIES					
BICESTER					
ELEMENTARY SCHOOL	5,650	-5,650	5,650	---	---
RAF BENTWATERS					
SECOND ECHELON MEDICAL LOGISTICS STORAGE	1,300	---	1,300	1,300	1,300
RAF CROUGHTON					
DCA/EUR ERS UPGRADE	500	---	500	500	500
RAF WETHERSFIELD					
SECOND ECHELON MEDICAL LOGISTICS STORAGE	740	---	740	740	740
ROYAL AIR FORCE FAIRFORD					
MEDICAL/DENTAL CLINIC REPLACEMENT	7,300	---	---	7,300	---
UPWOOD					
ELEMENTARY SCHOOL ADDITION	3,900	-3,900	3,900	---	---
TOTAL, UNITED KINGDOM	69,300	-25,590	45,370	42,650	24,260
VIRGIN ISLANDS					
ARMY NATIONAL GUARD					
ST CROIX					
400 PERSON ARMORY	4,703	---	4,703	4,703	4,703
ORGANIZATIONAL MAINTENANCE SHOP	383	---	383	383	383
ST THOMAS					
200 PERSON ARMORY	2,798	---	2,798	2,798	2,798
TOTAL, VIRGIN ISLANDS	7,884	---	7,884	7,884	7,884
CLASSIFIED					
AIR FORCE					
OVERSEAS CLASSIFIED					
CLASSIFIED PROJECT (FOREST GREEN)	---	---	2,630	2,630	2,630
DEFENSE AGENCIES					
CONUS CLASSIFIED					
CLASSIFIED PROJECT	15,000	---	15,000	15,000	15,000
CLASSIFIED PROJECT	12,000	-12,000	12,000	---	---
OVERSEAS CLASSIFIED					
CLASSIFIED PROJECT	6,400	---	6,400	6,400	6,400
CLASSIFIED PROJECT	7,000	---	7,000	7,000	7,000
TOTAL, OVERSEAS CLASSIFIED	40,400	-12,000	43,030	31,030	31,030
NATO					
NATO INFRASTRUCTURE	396,000	-10,000	376,000	386,000	381,000
RESCISSION	---	---	-8,000	-8,000	-8,000
WORLDWIDE UNSPECIFIED					
ARMY					
PLANNING AND DESIGN	133,120	-5,000	133,120	120,120	120,120
UNSPECIFIED MINOR CONSTRUCTION	15,600	---	15,600	18,600	15,600
DEFICIENCY ALLOWANCE (DOLLAR DEVALUATION)	---	---	---	70,000	---
GENERAL REDUCTION	---	---	-49,000	---	---
RESCISSION	---	---	-34,800	-34,800	-34,800
NAVY					
PLANNING AND DESIGN	148,655	-5,000	148,655	130,000	130,000
UNSPECIFIED MINOR CONSTRUCTION	16,500	---	16,500	17,500	16,500
GENERAL REDUCTION	---	---	-49,068	---	---
RESCISSION	---	---	-26,200	-26,200	-26,200
AIR FORCE					
PLANNING AND DESIGN	124,536	-4,200	121,036	115,000	115,000
UNSPECIFIED MINOR CONSTRUCTION	16,000	---	16,000	18,000	16,000
DEFICIENCY ALLOWANCE (DOLLAR DEVALUATION)	---	---	---	35,000	40,000
GENERAL REDUCTION	---	---	-48,950	---	---
RESCISSION	---	---	-24,800	-24,800	-24,800
DEFENSE AGENCIES					
CONTINGENCY CONSTRUCTION	10,000	---	10,000	10,000	10,000
PLANNING AND DESIGN	62,800	-6,800	62,800	55,000	55,000
UNSPECIFIED MINOR CONSTRUCTION	10,000	-4,000	6,000	10,000	6,000
DEFICIENCY ALLOWANCE (DOLLAR DEVALUATION)	---	---	---	10,000	---
RESCISSION	---	---	-7,200	-7,200	-7,200
ARMY NATIONAL GUARD					
PLANNING AND DESIGN	13,861	---	13,861	13,861	13,861
UNSPECIFIED MINOR CONSTRUCTION	5,400	---	5,400	5,400	5,400
UNDISTRIBUTED REDUCTION	---	-16,000	---	---	---
RESCISSION	---	---	-2,500	-2,500	-2,500

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONF AUTH COMPARED TO BUDGET	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
AIR NATIONAL GUARD					
PLANNING AND DESIGN	13,783	---	13,783	13,783	13,783
UNSPECIFIED MINOR CONSTRUCTION	2,202	---	2,202	2,202	2,202
UNDISTRIBUTED REDUCTION	---	-10,200	---	---	---
RESCISSION	---	---	-3,500	-3,500	-3,500
ARMY RESERVE					
PLANNING AND DESIGN	9,300	---	9,300	9,300	9,300
UNSPECIFIED MINOR CONSTRUCTION	1,600	---	1,600	1,600	1,600
UNDISTRIBUTED REDUCTION	---	-7.000	---	---	---
RESCISSION	---	---	-1,800	-1,800	-1,800
NAVY RESERVE					
PLANNING AND DESIGN	4,770	---	4,770	4,770	4,770
UNSPECIFIED MINOR CONSTRUCTION	1,500	---	1,500	1,500	1,500
UNDISTRIBUTED REDUCTION	---	-5,000	---	---	---
RESCISSION	---	---	-1,200	-1,200	-1,200
AIR FORCE RESERVE					
PLANNING AND DESIGN	6,130	---	6,130	6,130	6,130
UNSPECIFIED MINOR CONSTRUCTION	2,688	---	2,688	2,688	2,688
UNDISTRIBUTED REDUCTION	---	-5,000	---	---	---
RESCISSION	---	---	-2,000	-2,000	-2,000
TOTAL, WORLDWIDE UNSPECIFIED	598,445	-68,200	339,927	566,454	481,454
WORLDWIDE VARIOUS					
NAVY					
LAND ACQUISITION					
LAND ACQUISITION	8,091	---	8,091	8,091	8,091
VARLOCS-HISTORIC					
HISTORIC PROPERTIES	6,800	-6,800	---	---	---
DEFENSE AGENCIES					
VARIOUS LOCATIONS					
CONFORMING STORAGE FACILITIES	11,400	-6,400	---	11,400	5,000
TOTAL, WORLDWIDE VARIOUS	26,291	-13,200	8,091	19,491	13,091
FAMILY HOUSING, ARMY					
ALABAMA					
FORT RUCKER	110	---	110	110	110
ALASKA					
FORT WAINWRIGHT	29,000	-18,200	---	29,000	10,800
CALIFORNIA					
FORT IRWIN	54,000	-24,000	30,000	24,000	30,000
FORT ORD	19,000	---	19,000	19,000	19,000
HAWAII					
HELEMANO	21,000	---	21,000	21,000	21,000
PEARL CITY AREA	6,700	---	6,700	6,700	6,700
SCHOFIELD BARRACKS	11,200	---	11,200	11,200	11,200
ILLINOIS					
ST. LOUIS SUPPORT CENTER	---	+9,700	9,700	---	9,700
LOUISIANA					
FORT POLK	27,000	---	27,000	27,000	27,000
NEW YORK					
FORT DRUM	10,000	-10,000	10,000	---	---
TEXAS					
FORT HOOD	9,400	---	---	---	---
VIRGINIA					
FORT AP HILL	---	+2,200	2,200	---	2,200
FORT EUSTIS	480	---	480	480	480
GERMANY					
BAMBERG	11,200	---	11,200	11,200	11,200
BAUMHOLDER	12,600	---	12,600	12,600	12,600
VILSECK	17,000	---	17,000	17,000	17,000
KWAJALEIN					
KWAJALEIN	41,000	-41,000	---	34,000	---
PANAMA					
FORT CLAYTON	21,000	-21,000	---	---	---
VARIOUS					
CONSTRUCTION IMPROVEMENTS	144,886	-36,886	116,000	120,000	105,000
PLANNING	21,900	---	21,900	21,900	21,900
OPERATING EXPENSES					
FURNISHINGS ACCOUNT	144,671	---	144,671	144,671	144,671
MANAGEMENT ACCOUNT	84,965	---	84,965	84,965	84,965
MISCELLANEOUS ACCOUNT	1,539	---	1,539	1,539	1,539
SERVICES ACCOUNT	53,423	---	53,423	53,423	53,423
UNSPECIFIED REDUCTION	---	-16,000	-11,000	-18,000	-16,000
UTILITIES ACCOUNT	273,487	---	273,487	273,487	273,487
SUBTOTAL	558,085	-16,000	547,085	540,085	542,085
LEASING	180,130	---	180,130	180,130	180,130
MAINTENANCE OF REAL PROPERTY	540,062	-10,000	540,062	528,062	530,000
INTEREST PAYMENTS	120	---	120	120	120
MORTGAGE INSURANCE PREMIUMS	40	---	40	40	40
SUBTOTAL, NET BUDGET AUTHORITY	1,278,437	-26,000	1,267,437	1,248,437	1,252,375
DEBT REDUCTION	2,746	---	2,746	2,746	2,746
RESCISSION					
RESCISSION, 1985	---	---	-900	-900	-900
RESCISSION, 1986	---	---	-19,400	-19,400	-19,400
TOTAL, FAMILY HOUSING, ARMY	1,738,659	-165,186	1,565,973	1,586,073	1,540,711
FAMILY HOUSING, NAVY					
CALIFORNIA					
MARCOR AIR-GRND COMB CTR TWENTYNINE PALMS	11,530	---	11,530	11,530	11,530
MARINE CORPS AIR STATION EL TORO	8,660	---	8,660	8,660	8,660
MARINE CORPS BASE CAMP PENDLETON	25,760	---	25,760	17,760	25,760
PUBLIC WORKS CENTER SAN DIEGO	52,840	---	52,840	27,840	52,840
PUBLIC WORKS CENTER SAN FRANCISCO	38,380	---	38,380	38,380	38,380
MISSOURI					
MARCOR FINANCE CENTER KANSAS CITY	120	---	120	120	120
NEW YORK					
NAVAL STATION NEW YORK	25,490	---	25,490	13,490	25,490
NUCLEAR POWER TRNG UNIT BALLSTON SPA	15,810	-7,000	15,810	8,810	8,810
SOUTH CAROLINA					
MARCOR AIR STATION BEAUFORT	540	---	540	540	540
MARCOR RECRUIT DEPOT PARRIS ISLAND	370	---	370	370	370
VIRGINIA					
MARCOR DEV EDUC COM QUANTICO	166	---	166	166	166
ICELAND					
NAVAL STATION KEFLAVIK	20,367	-367	20,000	20,367	20,000
CONSTRUCTION IMPROVEMENTS	48,943	-9,000	39,000	40,000	39,000
PLANNING	6,248	---	6,248	6,248	6,248

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONF AUTH COMPARED TO BUDGET	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
OPERATING EXPENSES					
FURNISHINGS ACCOUNT	14,875	---	14,875	14,875	14,875
MANAGEMENT ACCOUNT	43,485	---	43,485	43,485	43,485
MISCELLANEOUS ACCOUNT	389	---	389	389	389
SERVICES ACCOUNT	32,184	---	32,184	32,184	32,184
UNSPECIFIED REDUCTION	---	-6,000	-5,000	-7,000	-6,000
UTILITIES ACCOUNT	176,073	---	176,073	176,073	176,073
SUBTOTAL	267,006	-6,000	262,006	260,006	261,006
LEASING	36,567	---	34,000	36,567	36,000
MAINTENANCE OF REAL PROPERTY	238,217	-7,000	238,217	230,217	231,000
INTEREST PAYMENTS	42	---	42	42	42
MORTGAGE INSURANCE PREMIUMS	179	---	179	179	179
SUBTOTAL, NET BUDGET AUTHORITY	542,011	-13,000	534,444	527,011	528,227
DEBT REDUCTION	1,801	---	1,801	1,801	1,801
RESCISSION					
RESCISSION, 1985	---	---	-400	-400	-400
RESCISSION, 1986	---	---	-8,800	-8,800	-8,800
TOTAL, FAMILY HOUSING, NAVY	799,036	-29,367	771,959	713,893	768,742
FAMILY HOUSING, AIR FORCE					
ARIZONA					
HOLBROOK	2,530	---	2,530	2,530	2,530
NETHERLANDS					
WOENSDRECHT AB	35,500	-35,500	---	---	---
PHILIPPINES					
CLARK AFB	23,260	---	23,260	---	23,260
UNITED KINGDOM					
RAF BENTWATERS	330	---	330	330	330
CONSTRUCTION IMPROVEMENTS	154,520	-21,720	133,000	130,000	119,190
PLANNING	7,000	---	7,000	7,000	7,000
OPERATING EXPENSES					
FURNISHINGS ACCOUNT	52,832	---	52,832	52,832	52,832
MANAGEMENT ACCOUNT	29,481	---	29,481	29,481	29,481
MISCELLANEOUS ACCOUNT	5,780	---	5,780	5,780	5,780
SERVICES ACCOUNT	22,334	---	22,334	22,334	22,334
UNSPECIFIED REDUCTION	---	-6,000	-7,000	-6,000	-6,000
UTILITIES ACCOUNT	242,130	---	242,130	242,130	242,130
SUBTOTAL	352,557	-6,000	345,557	346,557	346,557
LEASING	76,842	---	76,842	76,842	76,842
MAINTENANCE OF REAL PROPERTY	272,410	-5,000	272,410	265,410	267,000
INTEREST PAYMENTS	31	---	31	31	31
MORTGAGE INSURANCE PREMIUMS	120	---	120	120	120
SUBTOTAL, NET BUDGET AUTHORITY	701,960	-11,000	694,960	688,960	690,550
DEBT REDUCTION	1,433	---	1,433	1,433	1,433
RESCISSION					
RESCISSION, 1985	---	---	-2,400	-2,400	-2,400
RESCISSION, 1986	---	---	-12,300	-12,300	-12,300
TOTAL, FAMILY HOUSING, AIR FORCE	926,533	-68,220	847,813	815,553	829,593
FAMILY HOUSING, DEFENSE AGENCIES					
CONUS VARIOUS					
HOUSING PILOT PROGRAM	---	+1,000	1,000	---	1,000
NSA CLASSIFIED PROJECT	1,000	---	1,000	1,000	1,000
CONSTRUCTION IMPROVEMENTS	186	---	186	186	186
OPERATING EXPENSES					
FURNISHINGS ACCOUNT	1,882	---	1,882	1,882	1,882
MISCELLANEOUS ACCOUNT	600	---	600	600	600
SERVICES ACCOUNT	11	---	11	11	11
UTILITIES ACCOUNT	125	---	125	125	125
LEASING	15,188	---	15,188	15,188	15,188
MAINTENANCE OF REAL PROPERTY	708	---	708	708	708
TOTAL, FAMILY HOUSING, DEFENSE AGENCIES	19,700	+1,000	20,700	19,700	20,700
HOMEOWNERS ASSISTANCE FUND					
OPERATING EXPENSES	2,800	---	2,800	2,800	2,800
FOREIGN CURRENCY FLUCTUATIONS CONSTRUCTION, DEFENSE					
FOREIGN CURRENCY FLUCTUATIONS	---	---	125,000	---	85,000

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONF AUTH COMPARED TO BUDGET	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
RECAPITULATION					
ARMY	1,191,700	-147,310	873,360	939,830	942,790
NAVY	1,844,072	-342,121	1,354,655	1,478,872	1,391,111
AIR FORCE	1,500,900	-205,560	1,091,150	1,154,214	1,216,454
DEFENSE AGENCIES	859,200	-257,584	557,686	595,665	551,246
NATO INFRASTRUCTURE	396,000	-10,000	368,000	378,000	373,000
ARMY NATIONAL GUARD	170,400	+6,889	155,552	192,425	181,905
AIR NATIONAL GUARD	160,800	-19,709	122,975	166,516	147,791
ARMY RESERVE	95,100	-7,000	93,300	93,300	93,300
NAVAL RESERVE	73,737	-5,000	66,437	72,537	72,537
AIR FORCE RESERVE	79,300	-5,000	67,620	77,300	77,300
TOTAL MILITARY CONSTRUCTION	6,371,209	-992,395	4,750,735	5,148,659	5,047,434
FAMILY HOUSING, ARMY	1,738,659	-165,186	1,565,973	1,586,073	1,540,711
PORTION APPLIED TO DEBT REDUCTION	-2,746	---	-2,746	-2,746	-2,746
FAMILY HOUSING, NAVY	799,036	-29,367	771,959	713,893	758,742
PORTION APPLIED TO DEBT REDUCTION	-1,801	---	-1,801	-1,801	-1,801
FAMILY HOUSING, AIR FORCE	926,533	-68,220	847,813	815,553	829,593
PORTION APPLIED TO DEBT REDUCTION	-1,433	---	-1,433	-1,433	-1,433
FAMILY HOUSING, DEFENSE AGENCIES	19,700	+1,000	20,700	19,700	20,700
HOMEOWNERS ASSISTANCE FUND	2,800	---	2,800	2,800	2,800
FOREIGN CURRENCY FLUCTUATIONS, CONSTRUCTION, DEFENSE	---	---	125,000	---	85,000
GRAND TOTAL	9,851,957	-1,254,168	8,079,000	8,280,698	8,279,000

1/ AUTHORIZED IN HJ RES 395
* INDICATES PREVIOUSLY OR PERMANENTLY AUTHORIZED.

RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS ACT

Amendment No. 12: Section 101(k) of House Joint Resolution 395 provides appropriations for programs, projects and activities provided for in the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988. The House version of the joint resolution provides appropriations for programs, projects and activities at a rate of operations and to the extent and in the manner provided for in H.R. 3520 as reported to the House of Representatives on October 20, 1987. The Senate version of the joint resolution provides appropriations for these programs, projects and activities at the rate and in the manner provided for in S. 1800 as reported to the Senate on October 16, 1987, with certain additional provisions and exceptions provided for in the joint resolution.

The conference agreement on House Joint Resolution 395 incorporates some of the provisions of both the House and Senate versions of the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988, and has the effect of enacting the Act into law. The language and allocations set forth in House Report 100-386 and Senate Report 100-203 should be complied with unless specifically addressed in this joint resolution and statement of the managers to the contrary. Report language included by the House which is not changed by the statement of the managers or Senate report language which is not changed by the statement of the managers is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. The Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988, put in place by this joint resolution incorporates the following agreements of the managers:

TITLE OF THE BILL

The conference agreement provides that the title of the bill is the "Rural Development, Agriculture, and Related Agencies Appropriations Act" as proposed by the House instead of the "Agriculture, Rural Development, and Related Agencies Appropriations Act" as proposed by the Senate. The conferees have agreed to this change in an effort to place added emphasis on the importance of rural development programs within the Department of Agriculture.

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

The conference agreement appropriates $1,466,000 for the Office of the Secretary as proposed by the House instead of $1,872,000 as proposed by the Senate.

INVESTIGATION OF LARGE PAYMENTS

The conference agreement appropriates $100,000 as proposed by the House to enable the Secretary to investigate the accuracy and legality of large payments under the price support programs. The Senate bill contained no similar provision. The conference agreement deletes language in the House bill which required the study to be completed "prior to the next sign up period."

OFFICE OF THE DEPUTY SECRETARY

The conference agreement appropriates $321,000 for the Office of the Deputy Secretary instead of $551,000 as proposed by the House. The Senate bill funded the Office of the Deputy Secretary as part of the appropriation for the Office of the Secretary of Agriculture. The agreement deletes House funding for an Assistant Secretary position.

OFFICE OF THE ASSISTANT SECRETARY FOR SPECIAL SERVICES

The conference agreement appropriates $416,000 for the Office of the Assistant Secretary for Special Services for purposes of providing special services to the Department, but provides that none of these funds shall be available for the supervision of Natural Resources and Environment activities, the Soil Conservation Service, or the Forest Service.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

The conference agreement appropriates $498,000 for the Office of the Assistant Secretary for Administration as proposed by the House instead of $524,000 as proposed by the Senate.

RENTAL PAYMENTS (USDA)

The conference agreement appropriates $49,665,000 for rental payments (USDA) as proposed by the House instead of $56,407,000 as proposed by the Senate. The agreement also includes House language which provides that $3,000,000 of these funds may be retained by the Department for nonrecurring repairs as determined by the Department.

BUILDING OPERATIONS AND MAINTENANCE

The conference agreement appropriates $20,024,000 for building operations and maintenance as proposed by the House instead of $21,645,000 as proposed by the Senate.

ADVISORY COMMITTEES (USDA)

The conference agreement appropriates $1,308,000 for advisory committees as proposed by the Senate instead of $1,508,000 as proposed by the House. The agreement includes House language which allows the Food and Drug Administration to transfer funds for and Advisory Committee on Microbiological Quality for Foods to the Department of Agriculture. The agreement does not earmark an amount for any specific advisory committee.

HAZARDOUS WASTE MANAGEMENT

The conference agreement appropriates $2,000,000 for the hazardous waste management program as proposed by the House. The Senate bill proposed $10,000,000 for hazardous waste management as a part of the appropriation for Departmental Administration.

DEPARTMENTAL ADMINISTRATION

The conference agreement appropriates $25,004,000 for Departmental Administration instead of $25,036,000 as proposed by the House and $35,036,000 as proposed by the Senate. The agreement includes $4,252,000 for the Budget and Program Analysis Office, $110,000 for the National Communications System Network, and $20,642,000 for other offices in Departmental Administration.

WORKING CAPITAL FUND

The conference agreement appropriates $5,708,000 for the Working Capital Fund as proposed by the House instead of $6,000,000 as proposed by the Senate.

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AND PUBLIC AFFAIRS

The conference agreement appropriates $347,000 for the Office of the Assistant Secretary for Governmental and Public Affairs as proposed by the House instead of $368,000 as proposed by the Senate.

PUBLIC AFFAIRS

The conference agreement appropriates $7,700,000 for the Public Affairs Office instead of $7,755,000 as proposed by the House and $7,750,000 as proposed by the Senate. The agreement also provides for a specific heading for the appropriation.

CONGRESSIONAL RELATIONS

The conference agreement appropriates $497,000 for the Congressional Relations Office instead of $465,000 as proposed by the House and $512,000 as proposed by the Senate. The agreement also provides for a specific heading for the appropriation.

INTERGOVERNMENTAL AFFAIRS

The conference agreement appropriates $476,000 for the Intergovernmental Affairs Office as proposed by the House instead of $478,000 as proposed by the Senate.

OFFICE OF THE INSPECTOR GENERAL

The conference agreement appropriates $48,795,000 for the Office of the Inspector General as proposed by the House instead of $50,092,000 as proposed by the Senate.

OFFICE OF THE GENERAL COUNSEL

The conference agreement appropriates $18,734,000 for the Office of the General Counsel as proposed by the House instead of $19,765,000 as proposed by the Senate.

OFFICE OF THE ASSISTANT SECRETARY FOR ECONOMICS

The conference agreement appropriates $484,000 for the Office of the Assistant Secretary for Economics as proposed by the House instead of $509,000 as proposed by the Senate.

ECONOMIC RESEARCH SERVICE

The conference agreement appropriates $48,186,000 for the Economic Research Service instead of $47,986,000 as proposed by the House and $48,923,000 as proposed by the Senate. The agreement includes $750,000 for research and analysis work in support of the U.S. Trade Representative as proposed by the House and an increase of $200,000 to increase the sample size for the farm costs and returns survey as proposed by the Senate.

NATIONAL AGRICULTURAL STATISTICS SERVICE

The conference agreement appropriates $61,176,000 for the National Agricultural Statistics Service instead of $60,952,000 as proposed by the House and $63,238,000 as proposed by the Senate. The agreement includes $400,000 for crop data improvement and $250,000 for improved Agricultural Statistics Board methodology as proposed by the House. The Senate bill proposed $800,000 and $500,000, respectively, for these two items. The agreement also restores $500,000 for the "Catfish Processors and Growers Survey" and the annual "Aquaculture Situation" report as proposed by the Senate. In addition, the agreement includes a $45,000 increase for a quarterly "Barley Stocks" report and $15,000 to reinstate the July and September "Barley Production" reports as proposed by the Senate.

WORLD AGRICULTURAL OUTLOOK BOARD

The conference agreement appropriates $1,730,000 for the World Agricultural Outlook Board as proposed by the House instead of $1,790,000 as proposed by the Senate.

OFFICE OF THE ASSISTANT SECRETARY FOR SCIENCE AND EDUCATION

The conference agreement appropriates $386,000 for the Office of the Assistant Secretary for Science and Education as proposed by the House instead of $403,000 as proposed by the Senate.

AGRICULTURAL RESEARCH SERVICE

The conference agreement appropriates $540,684,000 for salaries and expenses of the Agricultural Research Service instead of $540,363,000 as proposed by the House and $548,994,000 as proposed by the Senate.

The conference agreement provides the following amounts for human nutrition research:

	House bill	Senate bill	Conference agreement
Beltsville (MD)		$500,000	
Grand Forks (ND)		500,000	$500,000
Tufts University (MA)	$1,000,000	1,000,000	1,000,000
Baylor College of Medicine (TX)	2,000,000	3,000,000	2,250,000
Western Center (CA)		500,000	250,000

The conference agreement provides the following increases over the budget request for potato research:

	House bill	Senate bill	Conference agreement
Potato scab	$50,000		$50,000
Ring rot	350,000	650,000	500,000
Early dying	175,000	500,000	350,000
Varietal development		800,000	
Marketing	350,000	1,000,000	350,000
East Grand Forks (MN)		237,000	237,000
Potato breeding	(1)	(54,000)	(1)

[1] House bill included and conference agreement provides $36,000 under CSRS special grants.

Items proposed by the House, not included in the Senate bill, and agreed to by the conferees are as follows: increased research on the pecan aphid, $175,000; plant and moisture stress work at Texas Tech, $250,000; research on cornstarch-based biodegradable plastic, $350,000; and the tri-fly experiment in Hawaii, $500,000.

Sugarcane research.—The conference agreement includes $435,000 for sugarcane research in Hawaii as proposed by the House instead of $650,000 as proposed by the Senate.

National Arboretum.—The conference agreement includes $50,000 for the bird garden at the National Arboretum as proposed by the House.

Meadowfoam.—The conference agreement includes an additional $250,000 for federal supported cooperative research on meadowfoam to accelerate commercial development by enhancing ongoing yield increase research at Oregon State University coordinated with oil utilization research at the USDA Regional Research Laboratory, Peoria, Illinois.

Eastern filbert blight.—The conference agreement includes an increase of $65,000 over the budget for eastern filbert blight as proposed by the House. An additional $35,000 shall be made available for the program out of existing funds.

Kenaf research.—The conference agreement includes an increase of $300,000 over the budget request for kenaf research as proposed by the House.

Forage Seed Research Center.—The conference agreement includes an increase of $180,000 for the Forage Seed Research Center in Oregon, as proposed by the Senate.

Appalachian Fruit Research Laboratory.—The conference agreement includes an increase of $90,000 over the budget for the Appalachian Fruit Research Laboratory in West Virginia, as proposed by the Senate.

Soil and Water Laboratory.—The conference agreement includes an increase of $138,000 over the budget for the Appalachian Soil and Water Laboratory in West Virginia, as proposed by the Senate.

Pesticide application research.—The conference agreement includes $400,000 for pesticide application research instead of $300,000 as proposed by the House and $500,000 as proposed by the Senate.

Beltsville Renaissance '93.—The conference agreement deletes the increase of $4,894,000 for the Beltsville Renaissance '93 project proposed by the Senate since this item is funded under the Agricultural Research Service, Buildings and Facilities account.

Sunflower and sugar beets.—The conference agreement includes an increase of $500,000 for sunflower and sugar beets research as proposed by the Senate.

Sheep research.—The conference agreement deletes the increase of $150,000 for the U.S. Sheep Experiment Station in Idaho proposed by the Senate since increased funds were included in the budget request.

Funding reductions.—The conference agreement includes a general reduction of $2,775,000.

Low-input research.—The conference agreement provides $100,000 for low-input research in Minnesota. In the House bill this item had been funded under the special grants program of the Cooperative State Research Service.

Special Fund.—The conference agreement provides $1,800,000 for the Special Fund instead of $1,799,000 as proposed by the House and $2,000,000 as proposed by the Senate.

BUILDINGS AND FACILITIES

The conference agreement appropriates $57,815,000, of which $7,500,000 will not become available until fiscal year 1989, for buildings and facilities of the Agricultural Research Service instead of $14,680,000 as proposed by the House and $49,967,000 as proposed by the Senate. The following table reflects the conference agreement:

	House bill	Senate bill	Conference agreement
National Seed Storage Laboratory at Fort Collins, CO (planning)	$1,000,000	$1,000,000	$1,000,000
National Veterinary Center for Equine and Bovine Biotechnology Research at Oklahoma State U:			
(Feasibility)			50,000
(Feasibility and planning)	300,000		
Agricultural Biotechnology Center at VPI (feasibility)	50,000		50,000
Agricultural Biotechnology Center at U of Arizona (construction)		6,100,000	4,575,000
Agricultural Biotechnology Institute at U of Florida (feasibility)		50,000	50,000
Agricultural Biotechnology Facility at Houston, TX (feasibility)	50,000	50,000	50,000
Plant Bioscience Center at Rutgers U (feasibility)	50,000		50,000
Center for Applied Aquaculture in Hawaii (planning and construction)	850,000		6,375,000
Beltsville Agriculture Research Center: [1]			
A. Renovation of Bldg. 007	2,000,000		2,000,000
B. Upgrade existing facilities	2,600,000		2,600,000
C. Clean and reline water pipes	1,150,000		1,150,000
U.S. Vegetable Lab at Charleston, SC (feasibility of replacement)	50,000		50,000
National Center for Food and Industrial Agricultural Product Development at Iowa State U:			
(Feasibility and planning)	530,000		
(Planning and construction)		8,500,000	6,375,000
U.S. Fruit and Vegetable Lab at Yakima, WA (planning for replacement)	1,000,000		1,000,000
Poultry Lab at West Virginia U:			
(Feasibility)	50,000		
(Planning and construction)		3,750,000	
(Planning)			375,000
Poultry Lab and Isolation Facilities at U of Ark (general upgrading)		500,000	375,000
Poultry Lab and Isolation Facility at Athens, GA:			
(Planning and construction)		2,500,000	
Biocontainment Center at U of Georgia:			
(Feasibility)			50,000
Regional Center for Information and Technology at Gonzaga U, Spokane, WA:			
(Feasibility and planning)	1,000,000		
(Planning and construction)			7,500,000
Food and Nutrition Center at Wash. State U (construction)	4,000,000	11,079,000	5,540,000
Western Regional Wheat Marketing Center in Portland, OR (construction)		6,000,000	6,000,000
Stafford-Aiken Center for Microbiology in Vermont (construction)		3,600,000	2,200,000
North Dakota Agricultural Experiment Station (facilities consolidation)		400,000	300,000
Agricultural Research Facility at Oregon State U:			
(Construction)		[2] 5,000,000	[3] 10,000,000
National Center for Development of Natural Products at U of Miss:			
(Feasibility)			50,000
(Feasibility and planning)	(4)	1,000,000	
Equine Medical Center Isolation Unit at Leesburg, VA:			
(Feasibility)			50,000
(Planning and construction)		438,000	
Total	14,680,000	49,967,000	57,815,000

[1] Senate bill included an increase of $4,894,000 for Renaissance '93 projects under ARS, Salaries and Expenses.

[2] Senate report stated this would be first of two equal payments.

[3] $7,500,000 to become available in fiscal year 1989.

[4] House report earmarked $50,000 for a feasibility study under FDA appropriations.

The conferees agree that moveable equipment, furnishings and fixtures needed at the Sunflower and Sugar Beet Research Laboratory may be acquired by using available balances from previous appropriations for planning and constructing the facility at Fargo, North Dakota.

The conferees will expect that as part of the work being done in reviewing the proposals for biotechnology centers, the Department will provide the Committee with a report prior to the fiscal year 1989 hearings regarding existing biotechnological research capabilities by location. This report should include work on the application of biotechnological techniques in the development of new products.

COOPERATIVE STATE RESEARCH SERVICE

The conference agreement appropriates $303,654,000 for the Cooperative State Research Service instead of $273,131,000 as proposed by the House and $329,113,000 as proposed by the Senate.

McIntire-Stennis.—The conference agreement earmarks $17,500,000 for the McIntire-Stennis cooperative forestry program instead of $12,975,000 as proposed by the House and $25,000,000 as proposed by the Senate.

International Trade Centers.—The conference agreement includes $1,000,000 for the two international trade development centers in the State of Washington (CINTRAFOR and IMPACT) as proposed by the House. For the Mid-America International Trade Center the conference agreement includes $2,500,000 instead of $5,000,000 as proposed by the Senate. This Center will comprise a regional partnership of private enterprise and state governments in Colorado, Kansas, Nebraska, North Dakota, South Dakota, and Wyoming, to strengthen the international competitiveness of economically stressed middle-America through the development of world trade. Also included in the agreement are $100,000 for the Trade Center at Oklahoma State University as proposed by the House and $227,000 for a trade center in Kentucky as proposed by the Senate.

Low-input Agriculture.—For low-input agriculture the conference agreement includes a total of $3,900,000 instead of $9,000,000 as proposed by the Senate. The House bill included a total of $2,600,000 for low-input agriculture distributed as follows: Cooperative State Research Service, $1,000,000; Extension Service, $1,500,000; National Agricultural Library, $100,000. The conferees agreed that additional funds for low-input agriculture should be funded in a single account within the Department of Agriculture.

Pircon-Peck.—The conference agreement provides $2,100,000 for the Pircon-Peck research project in Illinois, instead of $4,200,000 as proposed by the Senate.

Alternative Crops.—The conference agreement includes $500,000 for research on oilseeds in North Dakota, as proposed by the Senate and $175,000 for research on crambe and winter rapeseed in Iowa, Michigan, Kansas, New Mexico, and Idaho, instead of $225,000 as proposed by the Senate.

The conference agreement deletes the following items funded in the Senate bill under this account since they are funded elsewhere under the provisions of the conference agreement: biodegradable plastics, $300,000; redfish research, $300,000; hybrid/striped bass research, $237,000; guayule research, $100,000; and other research on alternative crops, $238,000.

Critical Agricultural Materials Act.—For research under the Critical Agricultural Materials Act the conference agreement provides $668,000 for research on guayule as proposed by the House. For additional funding at the Polymer Institute at the University of Southern Mississippi the conference agreement provides $3,750,000 instead of $1,000,000 as proposed by the House and $7,500,000 as proposed by the Senate. For the National Center for Physical Acoustics the conference agreement includes $500,000 as proposed by the House. The Senate bill had proposed to fund this project as a special research grant.

Aquaculture Centers.—The conference agreement provides $3,500,000 for the aquaculture centers as specified by the House instead of $3,750,000 as specified by the Senate.

Special Research Grants.—The conference agreement provides $31,185,000 for special research grants instead of $28,411,000 as proposed by the House and $33,809,000 as proposed by the Senate. The agreement includes the following amounts by project:

[In thousands of dollars]

	House bill	Senate bill	Conference agreement
Special Research Grants (P.L. 89–106):			
STEEP-Soil Erosion in N.W.	591	591	591
Food Systems Research Group (Wisconsin)	148	148	148
Pest management	2,940	2,940	2,940
Rural Development Centers	363	600	475
Soybean Cyst Nematode (Missouri)	285		285
Bean and Beet (Michigan)	93		93
Animal Health	5,705	5,705	5,705
Aquaculture (Stoneville)	400	545	500
Dairy and Beef Photoperiod (Michigan)	33		33
Pesticide Clearance	1,369	1,369	1,369
Minor use animal drugs (IR–4)	250	229	229
Pesticide Impact Assessment	1,968	1,968	1,968
Dairy goat research (Texas)		100	95
Aquaculture (general)	585	200	660
Milk consumption (Pennsylvania)	285		285
International Livestock program (Kansas)		95	95
Stored grain insects (Kansas)		285	285
Blueberry shoestring virus (Michigan)	92		92
Peach tree short life (South Carolina)	183	183	183
TCK Smut (wheat)	193	193	193
Mosquito research	456		456
Int'g. Prod. Systems (Oklahoma)	188		188
Preservation and processing research (Oklahoma)	267		267
Dried Bean (North Dakota)	75	75	75
Sunflower insects (North Dakota and South Dakota)	190	190	190
Tropical and subtropical	3,091	3,091	3,091
Potato research	797	1,161	997
Dark end syndrome	150	150	150
Asparagus yield decline (Michigan)	95		95
Bio-control of grasshoppers	48	48	48
Wool research (Texas)	142	142	142
Ag Policy Institute (Iowa and Missouri.)	357	500	425
Biomass from dairy processing waste (Missouri)	285		285
Stone fruit decline (Michigan)	285		285
EDB replacement (Hawaii)	285	285	285
Wood utilization research	2,852	2,852	2,852
Integrated reproduction management (NEB)	95		95
Cranberry/Blueberry disease and breeding (New Jersey)	260	345	260
Atlernative cropping systems (Southeast)	285	285	285
Maple research (Vermont)		100	100
Apple quality research (Michigan)	95		95
Multi-cropping strategies for aquaculture (Hawaii)	152	152	152
Fruit and vegetable production and marketing (Kentucky)	142		142
Southwest Consortium for plant genetics and water resources	385	385	385
Prime farm land reclamation	450		450
Belgian endive	60		60
Remote Sensing (Kansas)	191	191	191
Acid precipitation	661	661	661
Low-input agriculture (Minnesota)	200		100
Agricultural Diversification (Hawaii)	156	235	156
Sandhills grazing management practices (Nebraska)	100		100
New uses for agricultural products (Ohio)	133		133
Native wildflowers (New Mexico)		50	50
Atlernative fuels (North Dakota)		370	370
Food marketing policy center (Connecticut)		300	150
Acoustics research (Mississippi)		500	
Environmental Contamination (North Dakota)		600	500
Water quality research		5,000	
Food processing research (Mississippi)		240	195
Poultry research (Arkansas)		750	500
Total, special research grants	28,411	33,809	31,185

Aquaculture.—The $500,000 provided for aquaculture research at Stoneville, Mississippi, includes $100,000 for the joint project with Mississippi Power and Light for research on redfish. The $660,000 provided under aquaculture (general) includes $175,000 for hybrid/stripped bass research in Maryland, Virginia, and North Carolina, and $200,000 for research in Louisiana.

Potato Research.—Included in the $997,000 for potato research are increases of $36,000 for the potato research project in Maine, as proposed by the House and $200,000 for the tri-state potato research project as proposed by the Senate.

Water Quality.—The conferees are aware that the Joint Council on Food and Agricultural Sciences has ranked the maintenance and preservation of water quality as its number one priority. The need for an accelerated water-related research effort to alleviate the contamination of surface and groundwater and to develop integrated systems for managing and conserving water is great and continues to grow. Therefore, the conferees expect the President to submit a budget request to reflect the emphasis on water quality research as part of the 1989 budget.

Competitive Grants.—For competitive grants the conference agreement provides $42,372,000 instead of $28,368,000 as proposed by the House and $44,500,000 as proposed by the Senate. The following table reflects the conference agreement:

[In thousands of dollars]

	House bill	Senate bill	Conference agreement
Competitive research grants:			
Plant Science	6,500	15,484	12,126
Biotechnology	(6,500)		(5,000)
Soybean research			(493)
Alcohol fuels			(514)
Animal Science	2,852	7,000	6,000
Brucellosis	(475)		(475
Reproductive efficiency	(2,377)		(2,377)
Pest Science			2,853
Gypsy moths			(951)
Boll weevil/Boll worm			(951)
Pine bark beetle			(951)
Human Nutrition		3,000	2,377
Biotechnology	19,016	19,016	19,016
Total, Competitive research grants	28,368	44,500	42,372

Federal Administration.—The conference agreement provides a total of $4,094,000 for Federal administration instead of $7,026,000 as proposed by the House and $4,644,000 as proposed by the Senate. Included in the conference agreement is $2,236,000 for shrimp aquaculture instead of $2,436,000 as proposed by the House and $2,036,000 as proposed by the Senate. For curriculum development at Mississippi State Valley College the conference agreement includes $625,000 instead of $500,000 as proposed by the House and $750,000 as proposed by the Senate. For the Ag in the Classroom project the conference agreement includes $74,000 as proposed by the House. For the Office of Biotechnology the conference agreement includes $400,000 as proposed by the Senate, and for the Office of Grants the agreement provides $659,000 as proposed by the House instead of $680,000 as proposed by the Senate. Also included in the total is $250,000 for the Federal Employees Retirement System and pay costs as proposed by the House instead of $528,000 as proposed by the Senate. The conference agreement deletes $1,000,000 for low-input agriculture and $2,107,000 for the Iowa Center for Food and Agricultural Products, both as proposed by the House, since these two projects are funded elsewhere by the conference agreement.

Extension Service

The conference agreement provides a total of $357,963,000 for the Cooperative Extension Service instead of $362,684,000 as proposed by the House and $361,463,000 as proposed by the Senate. The following table reflects the conference agreement:

[In thousands of dollars]

	House bill	Senate bill	Conference agreement
Extension Service:			
Smith Lever 3(b) & 3(c)	248,094	249,394	241,594
Smith Lever: 3(d):			
Pest Management	7,164	7,364	7,164
Farm Safety	970	970	970
Urban Gardening	3,329	2,000	3,329
Food and Nutrition Education (EFNEP)	19,008	60,000	19,008
(Transfer from food stamp program)	(39,627)		(39,627)
Pesticide Impact Assessment	1,633	1,633	1,633
Financial Management and counseling	1,427	1,427	1,427
Integrated reproduction management (Nebraska)	47		47
Rural development centers	689	1,000	903
1890's Colleges and Tuskegee	18,291	18,291	18,291
1890's facilities grants	9,508	5,000	9,508
Renewable Resources Extension Act		2,765	2,765
Payments to District of Columbia (other)	935	970	935
Section 1440 pilot projects	4,000	3,350	3,350
Federal administration and special grants	7,962	7,299	7,412
Total, Extension Service	323,057	361,463	318,336

The agreement provides a total of $241,594,000 for funding under the Smith-Lever Act instead of $248,094,000 as proposed by the House and $249,394,000 as proposed by the Senate. The reduction below both the House and Senate bills reflects later estimates related to the cost of the Federal Employees Retirement System.

The conference agreement provides $9,508,000 for construction of facilities at the 1890 land-grant colleges and Tuskegee University as proposed by the House instead of $5,000,000 as proposed by the Senate.

The conference agreement provides $7,164,000 for the pest management program as proposed by the House instead of $7,364,000 as proposed by the Senate. Included within the total amount provided is $200,000 for a handbook on wheat diseases as proposed by the Senate.

The conference agreement provides a total of $58,635,000 for the expanded food and nutrition education program (EFNEP) as proposed by the House instead of $60,000,000 as proposed by the Senate. The conference agreement includes a direct appropriation of $19,008,000 and a transfer from the food stamp program of $39,627,000. The Senate bill had proposed to fund the EFNEP program through a direct appropriation of $60,000,000.

The conference agreement provides $3,329,000 for the urban gardening program as proposed by the House instead of $2,000,000 as proposed by the Senate. The agreement also provides $47,000 for the integrated reproductive management program as proposed by the House. The Senate bill contained no funding for this program.

The conference agreement provides $2,765,000 for funding under the Renewable Resources Extension Act as proposed by the Senate. The House bill contained no funding for this program.

The conference agreement provides $903,000 for the rural development centers instead of $689,000 as proposed by the House and $1,000,000 as proposed by the Senate. The conference agreement includes funds for expanding the four existing centers as well as establishment of a fifth center in North Dakota.

The conference agreement provides $3,350,000 for section 1440 grants as proposed by the Senate instead of $4,000,000 as proposed by the House. The agreement also provides $935,000 for funding for the District of Columbia extension program as proposed by the House instead of $970,000 as proposed by the Senate.

The conference agreement provides a total of $7,412,000 for Federal administration instead of $7,962,000 as proposed by the House and $7,299,000 as proposed by the Senate. Included in this total are $333,000 for the pilot project for technology transfer; $190,000 for rural development work in Nebraska; $433,000 for rural development work in Oklahoma; $750,000 for the appropriate technology transfer for rural areas program (ATTRA); and $65,000 for a grant to the University of Nebraska Cooperative Extension Service in cooperation with the Agricultural Experiment Stations to be coordinated with the crambe and rapeseed programs in the States of Iowa, Kansas, Missouri, and New Mexico, for the purpose of demonstrating the feasibility of the production and marketing of crambe and rapeseed. Also included in the total is $650,000 for agricultural development in the American Pacific instead of $1,300,000 as proposed by the Senate. The House bill contained no funding for agricultural development in the American Pacific. The conferees agree that funds are included for a position in Massachusetts to work in support of the livestock guarding dog program and vertebrate damage control activities.

National Agricultural Library

The conference agreement appropriates $12,194,000 for the National Agricultural Library instead of $11,962,000 as proposed by the House and $12,795,000 as proposed by the Senate. The conference agreement includes $370,000 for the independent center for agricultural law project at the University of Arkansas instead of $493,000 as proposed by the Senate. The conferees stipulate that the $750,000 transferred to this appropriation from APHIS shall be used only for purposes of the Animal Welfare Act as specified in 7 U.S.C. 2143(e).

Office of the Assistant Secretary for Marketing and Inspection Services

The conference agreement appropriates $363,000 for the Office of the Assistant Secretary for Marketing and Inspection Services as proposed by the House instead of $377,000 as proposed by the Senate.

Animal and Plant Health Inspection Service

SALARIES AND EXPENSES

The conference agreement appropriates $329,330,000 for salaries and expenses of the Animal and Plant Health Inspection Service instead of $317,622,000 as proposed by the House and $349,455,000 as proposed by the Senate.

The following table sets forth the conference agreement by program:

[In thousands of dollars]

	House bill	Senate bill	Conference agreement
1. Plant disease and past control:			
(a) Plant protection programs:			
1 Bio control	3,337	4,818	4,318
2 Boll weevil	2,079	18,744	12,079
3 Golden nematode	1,024	1,018	1,018
4 Grasshopper and Mormon cricket	3,870	3,165	3,850
Reserve fund	5,000	5,000	5,000
5 Gypsy moth	5,477	5,442	5,442
6 Imported fire ant	5,000	5,526	5,000
7 International programs	2,118	2,110	2,110
8 Mediterranean fruit fly	9,721	10,218	9,706
9 Mexican fruit fly	1,558	1,553	1,553
10 Tri-fly		700	
11 Miscellaneous plant pests	1,128	1,124	1,124
12 Noxious weeds	750	322	443
13 Pest detection	3,942	3,928	3,928
14 Pink bollworm	2,330	1,087	1,700
15 Witchweed	5,300	5,281	5,281
Total, Plant protection	52,634	70,036	62,552
(b) Agricultural quarantine inspection	60,040	66,468	60,040
Total, Plant disease and pest control	112,674	136,504	122,592
2. Animal disease and pest control:			
(a) Animal health programs:			
1 Animal welfare	6,197	7,000	6,197
2 Brucellosis eradication	65,841	65,617	65,617
3 Cattle ticks	6,294	6,258	6,258
4 Animal disease detection	3,069	3,052	3,052
5 Foot-and-mouth disease (Darien Gap)	3,059	3,053	3,053
6 Horse protection	161	161	161
7 Import-export inspection	8,649	8,604	8,604
8 International programs	2,047	2,034	2,034
9 Animal health compliance and enforcement	14,790	14,694	14,694
10 National poultry improvement plan	220	219	219
11 Poultry diseases	647	1,000	825
12 Pseudorabies	2,000	2,800	2,400
13 Screwworm	32,102	32,045	32,045
14 Swine health protection	3,283	3,265	3,265
15 Tuberculosis eradication	3,903	3,889	3,889
16 Veterinary diagnostics	10,907	10,867	10,867
17 Miscellaneous animal diseases	2,008	1,998	1,998
Total, Animal health	165,177	166,556	165,178
(b) Veterinary biologics	8,681	8,641	8,641
(c) Animal damage control	22,590	23,754	24,419
Total, Animal disease and pest control	196,448	198,951	198,238
3. Biotechnology	4,000	4,000	4,000
4. Contingencies:			
(a) Plant disease and pest control	2,250	5,000	2,250
(b) Animal disease and pest control	2,250	5,000	2,250
Total, Contingencies	4,500	10,000	4,500
5. Supplemental pay and FERS			
Total, salaries and expenses	317,622	349,455	329,330

Leafy spurge.—The conference agreement includes up to $1,500,000 for a leafy spurge program under the biocontrol program as proposed by the Senate.

Boll weevil.—The conference agreement includes $12,079,000 for continuation of the Southeast, Southwest, and High Plains programs instead of $2,079,000 as proposed by the House and $18,744,000 as proposed by the Senate.

Grasshopper and Mormon cricket.—For the grasshopper and Mormon cricket program the conference agreement includes $3,850,000 instead of $3,870,000 as proposed by the House and $3,165,000 as proposed by the Senate. Also included in the agreement is $5,000,000 for the program reserve. The conferees agree that $3,000,000 of the funds remaining in the reserve fund are to be used to support the second year of the integrated pest management program in North Dakota and Idaho.

Pink bollworm.—The conference agreement includes the following earmarking of funds within the pink bollworm program: sterile moth facility, $500,000; San Joaquin Valley program, $180,000; regulatory activities, $500,000; methods development work, $400,000; and suvey activities, $120,000.

Animal damage control.—The conference report provides a total of $24,419,000 for the animal damage control program instead of $22,590,000 as proposed by the House and $23,754,000 as proposed by the Senate.

The agreement includes $100,000 in the animal damage control account to continue the conditioned taste aversion research in Arizona, California, Texas, and Nevada. The conferees understand that delays in the allocation of these funds in past years have slowed progress on planned research activities for each fiscal year. Therefore, the conferees instruct APHIS to make every effort to allocate promptly the full $100,000 to the various research entities in fiscal year 1988 so that planned activities for the full 1988 fiscal year can be undertaken.

The conferees will expect the Department to give increased emphasis to its research on developing environmentally acceptable toxicants or repellants to assist in minimizing the economic loss created by blackbirds, starlings and grackles in rice, sunflowers and other crops, and included in the total is funding to continue the blackbird pilot project.

The conference agreement includes $300,000 for grackle control in the Lower Rio Grande Valley and $240,000 for rat control in Hawaii. For upgrading of the Denver Center the conference agreement provides $317,000 for maintenance and $489,000 for equipment. The conference agreement also includes $500,000 for completing work on the environmental impact statement for the animal damage control program. For the guarding dog program the conference agreement includes a total of $200,000; $100,000 for the Oregon/Washington program, $55,000 for the Idaho/Wyoming program, and $45,000 for the Minnesota program.

The conference agreement includes $40,000 for pest damage to maple sap pipelines in Vermont.

The agreement includes $100,000 for beaver damage in Wisconsin as proposed by the House instead of $150,000 as proposed by the Senate. For mountain beaver damage in the Western States the conference agreement includes $100,000 instead of $200,000 as proposed by the House.

The conference agreement includes $225,000 for research on nuisance animals in the Delta States, including cormorant research in Mississippi, instead of a total of $325,000 as proposed by the Senate. The agreement includes an increase of $100,000 to expand animal damage control efforts in the State of Montana instead of $260,000 as proposed by the Senate. The agreement also includes $150,000 for deer damage to seedlings in the Northeast instead of $200,000 as proposed by the House.

The conference agreement also includes language contained in the House-passed continuing resolution which had been stricken by the Senate extending the authorities under the animal damage control program to certain nonagricultural pests.

Noxious weeds.—The conference agreement provides $443,000 for noxious weeds instead of $750,000 as proposed by the House and $322,000 as proposed by the Senate. Included in the conference agreement are $121,000 for common crupina in Idaho, $51,000 for hydrilla in Florida, $150,000 for hydrilla in California, and $121,000 for weed identification work. Furthermore, the conferees are aware of hydrilla control efforts in Imperial Valley, California, and direct that up to $140,000 be used in this effort which has shown tremendous success. The conferees understand that these funds will be augmented by $200,000 from state and private sources.

BUILDINGS AND FACILITIES

The conference agreement appropriates $2,246,000 for buildings and facilities of the Animal and Plant Health Inspection Service as proposed by the House instead of $2,347,000 as proposed by the Senate.

FOOD SAFETY AND INSPECTION SERVICE

The conference agreement appropriates $392,009,000 for the Food Safety and Inspection Service as proposed by the House instead of $395,354,000 as proposed by the Senate.

The conferees commend the Department of Agriculture for establishing the Advisory Committee on Microbiological Quality for Foods, jointly with the Food and Drug Administration, which will review microbiological criteria for assessing the safety and wholesomeness of food, based on the most up-to-date science. The Advisory Committee will report its findings after careful review of all existing information, and the agencies will be able to review their regulations in light of this report.

Until this report is prepared and the results of the planned Food Safety and Inspection Service study of microorganisms on meat and poultry are known, it would be premature to prejudge the findings or to establish bacterial contamination baselines. The conferees also expect the Advisory Committee to make recommendations on reprocessing or washing poultry carcasses for selling for human food consumption. The Advisory Committee findings are needed and will be in accordance with existing law. The Advisory Committee should also assist in providing guidance to develop an efficient swab test for determining bacterial contamination. The conference agreement includes an increase of $700,000 for testing and analyzing additional samples of meat and poultry for bacterial contaminants as proposed by the Senate.

FEDERAL GRAIN INSPECTION SERVICE

SALARIES AND EXPENSES

The conference agreement appropriates $7,020,000 for salaries and expenses of the Federal Grain Inspection Service instead of $7,122,000 as proposed by the House and $7,081,000 as proposed by the Senate.

AGRICULTURAL COOPERATIVE SERVICE

The conference agreement appropriates $4,611,000 for the Agricultural Cooperative Service instead of $4,422,000 as proposed by the House and $4,697,000 as proposed by the Senate. The agreement includes a savings of $50,000 in connection with the charging of fees for publications as authorized by the Food Security Act of 1985.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

The conference agreement appropriates $32,409,000 for marketing services of the Agricultural Marketing Service instead of $32,693,000 as proposed by the House and $32,819,000 as proposed by the Senate. The agreement includes not less than $1,591,000 for the wholesale market development program as proposed by the House instead of $1,610,000 as proposed by the Senate.

LIMITATION ON ADMINISTRATIVE EXPENSES

The conference agreement provides a limitation on administrative expenses of $30,628,000 as proposed by the Senate instead of $30,742,000 as proposed by the House.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

The conference agreement provides $7,601,000 for funds for strengthening markets, income, and supply (section 32) as proposed by the House instead of $7,660,000 as proposed by the Senate.

OFFICE OF TRANSPORTATION

The conference agreement appropriates $2,397,000 for the Office of Transportation as proposed by the Senate instead of $2,516,000 as proposed by the House.

PACKERS AND STOCKYARDS ADMINISTRATION

The conference agreement appropriates $9,402,000 for the Packers and Stockyards Administration instead of $9,535,000 as proposed by the House and $9,369,000 as proposed by the Senate.

FARM INCOME STABILIZATION

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

The conference agreement appropriates $524,000 for the Office of the Under Secretary for International Affairs and Commodity Programs as proposed by the House instead of $545,000 as proposed by the Senate.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

The conference agreement provides for a transfer from Commodity Credit Corporation funds of $565,000,000 for salaries and expenses of the Agricultural Stabilization and Conservation Service instead of $34,438,000 as proposed by the House and $586,000,000 as proposed by the Senate. The conferees direct the Department to maintain the existing staffing levels in the Knott County, Kentucky, ASCS office.

It is the intent of the conferees that the Department continue to give recognition to contractual agreement between agricultural cooperatives marketing honey and their producer members, pursuant to which the producers agree to forego immediate disbursement of loan proceeds acquired through the Honey Marketing Program in order to assist the cooperative to market such honey.

DAIRY INDEMNITY PROGRAM

The conference agreement appropriates $95,000 for the dairy indemnity program as proposed by the House instead of $100,000 as proposed by the Senate.

CORPORATIONS

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATION EXPENSES

The conference agreement appropriates $200,000,000 for the administrative and operation expenses of the Federal Crop Insurance Corporation as proposed by the House instead of $214,995,000 as proposed by the Senate.

Relying on numerous investigations and reports of mismanagement and inefficiency in the delivery and loss adjusting of crop insurance, the conferees direct FCIC to regain the loss adjustment function in cases of disregard for FCIC policy in accordance with the terms added to its 1988 Reinsurance Agreement. The conferees direct FCIC to engage immediately in quality control and compliance activities that will assure a rapid and sharp reduction in errors and overpayments. The conferees further direct FCIC to institute compliance measures to eliminate fraud and errors to the maximum extent possible and to report to Congress on its progress.

FEDERAL CROP INSURANCE CORPORATION FUND

The conference agreement appropriates $228,523,000 for the Federal Crop Insurance Corporation Fund instead of $189,000,000 as proposed by the House and $284,823,000 as proposed by the Senate. The agreement provides no funds for interest expense reimbursements.

Commodity Credit Corporation

OPERATING EXPENSES

The conference agreement appropriates $21,133,658,000 for the operating expenses of the Commodity Credit Corporation under 17 major program accounts as proposed by the House. The Senate bill had proposed a single appropriation account for the reimbursement for net realized losses. The conference agreement amends House regarding the transfer of funds to provide for a specific amount of the transfer. The conferees will expect the Department to notify the appropriate committees of Congress of any transfers made under this authority. In addition, the conference agreement also adds a provision which specifies that the appropriation provisions shall not interfere with the Corporation's discharge of its responsibilities.

The conference agreement increases the total borrowing authority of the Corporation from $25,000,000,000 to $30,000,000,000. The Senate bill proposed to increase the Corporation's borrowing authority to $40,000,000,000 and the House bill contained no similar provision.

The conference agreement provides that the Commodity Credit Corporation shall pay an interest penalty, determined on the basis of the provisions of the Prompt Payment Act, on the amount of all payments and price support loans which the Commodity Credit Corporation is obligated to make if payment is not made by the required payment date. This provision shall be applicable to all such payments for obligations incurred after January 1, 1988.

FARM PROGRAM

In view of the situation facing many farmers, who under present policy are dependent upon a check from the Treasury which is threatened with reduction because of increased loss to the government, the managers on the part of the House urge the Department to take the following actions. If there is any reduction in the target price for basic commodities—wheat, corn, cotton, tobacco, rice, peanuts, and soybeans—from that in crop year 1988, the Secretary of Agriculture should provide a system of loans as existed during the period 1949 to 1981, as authorized by existing law, to make up the difference. The production quotas shall be those deemed necessary to meet domestic demands, to fill supply lines, and to regain our normal share of foreign markets at competitive prices over a period of three years.

The managers on the part of the Senate do not concur.

GENERAL SALES MANAGER

The conference agreement provides $7,157,000 for the Office of the General Sales Manager instead of $7,253,000 as proposed by the House and $7,244,000 as proposed by the Senate. The conference agreement restores House language which provides that up to $4,000,000 of the funds available to the General Sales Manager shall be used to support the sale of surplus agricultural commodities in world trade at competitive prices. The agreement provides that the Sales Manager shall report directly to the Secretary of Agriculture as proposed by the House instead of the Board of Directors of the Commodity Credit Corporation as proposed by the Senate. The agreement also provides that the Sales Manager shall submit quarterly reports to the Congress as proposed by the House instead of semiannual reports as proposed by the Senate.

TITLE II—RURAL DEVELOPMENT PROGRAMS

Rural Development Assistance

Office of the Under Secretary for Small Community and Rural Development

The conference agreement appropriates $440,000 for the Office of the Under Secretary for Small Community and Rural Development as proposed by the House instead of $462,000 as proposed by the Senate.

Farmers Home Administration

RURAL HOUSING INSURANCE FUND

The conference agreement provides $1,844,990,000 for loans from the Rural Housing Insurance Fund instead of $1,845,090,000 as proposed by the House and $1,918,093,000 as proposed by the Senate. For low-income, single family loans (section 502) the agreement provides $1,266,710,000 as proposed by the House instead of $1,339,800,000 as proposed by the Senate. The agreement also provides that $50,000,000 of these loans shall be unsubsidized loans as proposed by the House. For rural rental housing loans (section 515) the agreement provides $554,900,000 as proposed by the Senate instead of $555,000,000 as proposed by the House. For rural housing repair loans (section 504) the agreement provides $11,330,000 as proposed by the House instead of $11,335,000 as proposed by the Senate. For farm labor housing loans (section 514) the agreement provides $11,480,000 as proposed by the House instead of $11,484,000 as proposed by the Senate. For site loans (section 524) the agreement provides $570,000 as proposed by the House instead of $574,000 as proposed by the Senate.

REIMBURSEMENT FOR INTEREST SUBSIDES AND LOSSES

The conference agreement appropriates $2,964,249,000 for reimbursement for interest subsidies and losses to the Rural Housing Insurance Fund as proposed by the Senate instead of $2,785,500,000 as proposed by the House.

AGRICULTURAL CREDIT INSURANCE FUND

The conference agreement provides $115,000,000 for direct and insured farm ownership loans instead of $100,000,000 as proposed by the House and $130,000,000 as proposed by the Senate. The agreement also provides $390,000,000 for guaranteed farm ownership loans, the same level as proposed by both the House and Senate. For direct and insured operating loans the agreement provides $900,000,000 instead of $1,000,000,000 as proposed by the House and $870,000,000 as proposed by the Senate. For guaranteed operating loans the agreement provides $2,400,000,000 as proposed by the House instead of $2,610,000,000 as proposed by the Senate. The agreement also provides that $12,000,000 shall be transferred to the Commodity Credit Corporation out of disaster loans in order to make disaster payments under the provisions of Public Law 100-45 as proposed by the House.

REIMBURSEMENT FOR INTEREST SUBSIDIES AND LOSSES

The conference agreement appropriates $3,627,153,000 for reimbursement for interest subsidies and losses to the Agricultural Credit Insurance Fund as proposed by the Senate instead of $3,410,700,000 as proposed by the House.

RURAL DEVELOPMENT INSURANCE FUND

REIMBURSEMENT FOR INTEREST SUBSIDIES AND LOSSES

The conference agreement appropriates $842,682,000 for reimbursement for interest subsidies and losses to the Rural Development Insurance Fund as proposed by the Senate instead of $784,282,000 as proposed by the House.

RURAL DEVELOPMENT LOAN FUND

The conference agreement provides a total of $14,000,000 for loans under the Rural Development Loan Fund. This amount includes $7,500,000 to be transferred from the Rural Development Insurance Fund and $6,500,000 currently in the Fund. The Senate proposed a total of $16,500,000 for this account. The House had no similar provision.

RURAL HOUSING PRESERVATION GRANTS

The conference agreement appropriates $19,140,000 for rural housing preservation grants as proposed by the House instead of $20,000,000 as proposed by the Senate.

RURAL DEVELOPMENT GRANTS

The conference agreement appropriates $6,500,000 for rural development grants instead of $400,000 as proposed by the House and $10,000,000 as proposed by the Senate. The agreement earmarks $3,000,000 for planning and construction costs for a rural industrialization center in economically depressed Pontotoc County, Oklahoma.

Office of the Administrator

The conference agreement appropriates $600,000 for the Office of the Administrator of the Farmers Home Adminstration instead of $394,000 as proposed by the House. The Senate bill funded the Office of the Administrator as a part of the salaries and expenses account of the agency. The conferees will expect the Administrator as a part of the salaries and expenses account of the agency. The conferees will expect the Administrator of the Farmers Home Administration to submit monthly reports on vacant positions and lending activity of the agency to the appropriate committees of Congress.

DISASTER LOAN ASSISTANCE

The conferees are aware of the Department of Agriculture's extremely narrow interpretation of law and rules relating to the Farmers Home Administration disaster loan assistance program under the newly imposed eligibility requirement that producers must buy Federal crop insurance when available.

The conferees are aware that thousands of eligible farmers are being denied disaster program benefits because of rigid applications of regulations implementing the program.

The conferees expect the Secretary to report by January 31, 1988, on the results of operations of the disaster loan assistance program in the 1,546 counties that were declared disaster areas in 1987.

The conferees expect the report to include a detailed, comprehensive study and analysis of the disaster loan assistance actually delivered through the program to producers in Scotts Bluff County and adjacent counties, Nebraska, as a result of the disaster declarations following two devastating storms in these counties affecting hundreds of producers in 1987. The conferees expect a full explanation why almost none of these producers were assisted by the disaster program in recovering from loss of crops valued at nearly $20,000,000.

The conferees expect the report to include recommendations for changing the disaster assistance program so that maximum benefits are received by eligible producers.

The conferees are aware of provisions in the conference agreement on H.R. 3030, the Farm Credit Act, that would require the Farmers Home Administration to allow water and waste and community facility borrowers with loans closed between October 1, 1981 and November 12, 1983, to choose the lower of the interest rate in effect at the date of loan obligation or the date of loan closure. This clarifies a provision included in the Supplemental Appropriations Act, 1985. Upon enactment of said provision, FmHA is to provide immediate relief by reducing the amount of interest payable by qualified borrowers electing such relief, rather than by reducing the time to maturity of the loan.

SALARIES AND EXPENSES

The conference agreement appropriates $407,634,000 for salaries and expenses of the Farmers Home Administration instead of $412,267,000 as proposed by the House and $408,235,000 as proposed by the Senate. The agreement reduces funding for the Federal Employees Retirement System by $4,223,000 below the amended budget request. The conference agreement does not include funds for the following increases over the fiscal year 1987 levels that were proposed in the budget request: increased operating costs ($4,534,000), general increase for inflation ($3,724,000), and increase in health costs ($1,500,000).

The conference agreement includes $13,630,000 to restore staff reductions proposed in the budget request. The agreement also earmarks $2,675,000 for the circuit rider program instead of $2,450,000 as proposed by the House and $2,900,000 as proposed by the Senate. The conference agreement also restores a House proposed reduction of $250,000 for the New York State Office of the Farmers Home Administration.

The conferees recommend that, within available funds for salaries and expenses of the Farmers Home Administration, not to exceed $50,000 be made available for a feasibility study on the need for a regional center for coordinating efforts devoted to improving the living conditions in rural depressed areas of Kentucky, to be established in connection with the University of Kentucky's Somerset Community College. This center will be designed to assist in providing agricultural education programs and training for business, industry and other targeted groups presently involved in development activities.

CITY OF LINCOLN

The conferees have included a provision providing for the continuance of rural housing programs in Lincoln, North Dakota.

RURAL ELECTRIFICATION ADMINISTRATION

REIMBURSEMENT TO THE RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND

The conference agreement appropriates $327,675,000 for reimbursement for interest subsidies and losses to the Rural Electrification and Telephone Revolving Fund as proposed by the Senate instead of $20,000,000 as proposed by the House.

OFFICE OF THE ADMINISTRATOR

The conference agreement appropriates $155,000 for the Office of the Administrator of the Rural Electrification Administration as proposed by the House. The Senate bill funded the Office of the Administrator under the salaries and expenses account for this agency. The conferees agree that the Administrator of the Rural Electrification Administration shall submit monthly reports on vacant positions and lending activity of the agency to the appropriate committees of Congress.

SALARIES AND EXPENSES

The conference agreement appropriates $30,713,000 for salaries and expenses of the Rural Electrification Administration instead of $30,470,000 as proposed by the House and $31,140,000 as proposed by the Senate.

CONSERVATION

OFFICE OF THE ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

The conference agreement provides no funds for the Office of the Assistant Secretary for Natural Resources and Environment as proposed by the House instead of $416,000 as proposed by the Senate. The conferees agree to provide funding for an Assistant Secretary for Special Services.

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

The conference agreement appropriates $398,670,000 for conservation operations as proposed by the House instead of $403,810,000 as proposed by the Senate. The agreement restores and amends the House language providing not less than $310,000,000 for personnel compensation and benefits.

The conference agreement provides $4,856,000 for operation of plant materials centers and includes full funding to complete the establishment and operation of a center at Booneville, Arkansas.

The progress to date on the estuarian restoration of the Chesapeake Bay project is significant. The conferees have provided $1,143,000 for full funding of the 31 staff positions assigned to this task.

The conference agreement also provides $11,000,000 for the combined efforts of inventory and monitoring, resource appraisal and program development activities of the Soil Conservation Service.

Within the amount provided, the conference agreement includes $452,000 to continue the fourth year of the Eastern Arkansas water conservation study; $200,000 to continue the Michigan sub-irrigation study; $150,000 for technical assistance to soil conservation districts in Idaho; and $250,000 for the land records information project at the University of Wisconsin.

RIVER BASIN SURVEYS AND INVESTIGATIONS

The conference agreement appropriates $12,051,000 for river basin surveys and investigations as proposed by the Senate instead of $12,624,000 as proposed by the House. Included in this appropriation is $150,000 for the Little Kanawha River Basin study.

WATERSHED PLANNING

The conference agreement appropriates $8,651,000 for watershed planning as proposed by the Senate instead of $9,061,000 as proposed by the House.

WATERSHED AND FLOOD PREVENTION OPERATIONS

The conference agreement appropriates $165,873,000 for watershed and flood prevention operations instead of $171,130,000 as proposed by the House and $184,128,000 as proposed by the Senate. Within the total funds available, $50,000 is included for a feasibility study concerning crop irrigation in the Arkansas River Valley.

Of the funds available for the emergency watershed protection program, the conferees agree to provide $3,500,000 for streambank stabilization and erosion control efforts in the Jackson, Mississippi, area, including the communities of Brandon, Canton, Madison, Pearl, and Ridgeland. These measures are necessary to restore these areas to pre-flood damage conditions.

The conference agreement provides increases of $750,000 to raise the water depth in reservoirs in the Tillatabia watershed and to complete the plan for Town Creek, and $250,000 to expedite work on the Tuscumbia watershed.

RESOURCE CONSERVATION AND DEVELOPMENT

The conference agreement appropriates $25,120,000 for resource conservation and development as proposed by the House instead of $25,020,000 as proposed by the Senate.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

WATER BANK PROGRAM

The conference agreement appropriates $8,371,000 for the water bank program instead of $5,000,000 as proposed by the House and $12,000,000 as proposed by the Senate.

EMERGENCY CONSERVATION PROGRAM

The conference agreement appropriates $1,000,000 for the emergency conservation program instead of $10,000,000 as proposed by the House and $773,000 as proposed by the Senate.

The conferees agree that $132,000 of funds available for the emergency conservation program are to be used to defray costs associated with the emergency repair of severe storm damage to cooperatively owned farm irrigation canals near Scottsbluff, Nebraska. These repairs were made necessary be severe storms during the late summer. Local residents had no choice but to act quickly to prevent further damage to the canals. Now that repairs have been completed, local residents have no readily available means to pay these costs, and it is appropriate to use emergency conservation program funds for this purpose.

COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

The conference agreement appropriates $4,904,000 for the Colorado River Basin salinity control program as proposed by the House instead of $6,000,000 as proposed by the Senate.

CONSERVATION RESERVE PROGRAM

The conference agreement appropriates $1,131,000,000 for the conservation reserve program instead of $1,217,000,000 as proposed by the House and $1,388,000,000 as proposed by the Senate. The conference agreement provides the current estimate of appropriation requirements based on the latest estimate for the conservation reserve program developed by the Department of Agriculture.

The conference agreement also provides that 4 percent of the funds appropriated for the conservation reserve program shall be transferred to the Soil Conservation Service for activities in connection with the Food Security Act of 1985. The House bill provided for a transfer of 5 percent of the conservation reserve funds, whereas the Senate bill provided for a transfer of $40,000,000 for the same purposes. The conferees agreed that these funds are in addition to the $1.00 per acre reimbursement from the Agricultural Stabilization and Conservation Service to the Soil Conservation Service for assistance related to the conservation reserve program sign up. The conferees expect the agency to make the optimum use of its temporary and part-time employment authorities while utilizing these funds.

TITLE III—DOMESTIC FOOD PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

The conference agreement appropriates $365,000 for the Office of the Assistant Secretary for Food and Consumer Services as proposed by the House instead of $380,000 as proposed by the Senate.

The conferees direct the Food and Nutrition Service to comply fully with the notice and comment requirements for proposed rulemaking of Chapter 5, title 5 of the United States Code in publishing, implementing, or enforcing provisions of any regulation. This restriction does not apply when a new public law expressly requires that regulations be issued on an interim/final basis. The conferees direct the Secretary to ensure compliance with the notice and comment period envisioned for all but emergency regulations.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

The conference agreement provides a total of $4,497,629,000 for the child nutrition programs instead of $4,492,629,000 as proposed by the House and $4,475,226,000 as proposed by the Senate. Within this total, the agreement provides for a transfer from section 32 of $3,817,803,000 as proposed by the Senate instead of $3,822,556,000 as proposed by the House, and a direct appropriation of $679,826,000 instead of $670,073,000 as proposed by the House and $657,423,000 as proposed by the Senate. The agreement includes $5,000,000 for the adult day care program as authorized by the Older Americans Act.

Of the amount included for the child nutrition programs, $50,000 is provided for a feasibility study of a proposal to establish a School Food Service Management Institute in Mississippi. This Institute would provide expanded school food service research, a wide range of developmental activities, and technical training for school food and nutrition personnel. The conferees will expect the study to include consideration of an appropriate site within the State.

SPECIAL MILK PROGRAM

The conference agreement appropriates $21,500,000 for the special milk program as proposed by the Senate instead of $33,974,000 as proposed by the House.

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

The conference agreement appropriates $1,802,363,000 for the special supplemental food program for women, infants, and children (WIC) instead of $1,803,497,000 as proposed by the House and $1,804,497,000 as proposed by the Senate. The conferees agree that the Department of Agriculture should conduct a study of Medicaid savings in the first 60-day period after birth of newborns of WIC participants.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

The conference agreement appropriates $50,000,000 for the commodity supplemental food program as proposed by the House instead of $47,732,000 as proposed by the Senate. The conferees agree that this program is of significant benefit to recipients. Therefore, the conferees provide for limited expansion of the program at existing sites and provide funding to allow for the opening of new sites in states without projects in 1987. The conferees expect that the funds available for new sites will be divided proportionally among sites with approved state plans so that each site receives some startup funds in fiscal year 1988.

FOOD STAMP PROGRAM

The conference agreement appropriates $13,557,757,000 for the food stamp program instead of $12,935,508,000 as proposed by the House and $13,680,757,000 as proposed by the Senate. Conferees direct the Food and Nutrition Service to provide quarterly updates on estimates for future food stamp program needs. These quarterly reports should be based on current law estimates and not include unrealistic expectations such as error liability collections. It is the intent of the conferees to provide the maximum eligible benefits to recipients and this can only be done with the cooperation of the Department.

In the past several years, the Administration's budget requests for the food stamp program were grossly inadequate in assumptions for state error liability sanction collections. Using this historical base, the conferees expect that beginning with the 1989 and all future budget requests, the Department will more accurately describe sanction collections. Further, the conferees are concerned that the current food stamp quality control system does not accurately measure state administrative performance according to statistically acceptable criteria. Therefore, the conferees direct the Secretary to review and reform the method for determining state error rates and associated liability in administration of the food stamp program, taking into consideration the recommendations of the National Academy of Sciences and other outside groups. The conferees expect that new regulations for improving the food stamp quality control system will be in place before the next fiscal year.

For nutrition assistance for Puerto Rico the conferees earmark $879,250,000 instead of $878,958,000 as proposed by the House and $879,750,000 as proposed by the Senate.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

The conference agreement appropriates $194,108,000 for the food donations programs for selected groups as proposed by the House instead of $197,505,000 as proposed by the Senate.

FOOD PROGRAM ADMINISTRATION

The conference agreement appropriates $85,828,000 for food program administration as proposed by the House instead of $87,302,000 as proposed by the Senate.

HUMAN NUTRITION INFORMATION SERVICE

The conference agreement appropriates $8,623,000 for the Human Nutrition Information Service instead of $8,704,000 as proposed by the House and $8,674,000 as proposed by the Senate.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 defined certain lead agency responsibilities for the Department of Agriculture in nutrition research. In accordance with this law, the conferees will expect the Human Nutrition Information Service to provide the policy basis for issuing Federal nutritional guidance to the public. The Human Nutrition Information Services, on behalf of the Department of Agriculture and in conjunction with the Department of Health and Human Services, shall reestablish a Dietary Guidelines Advisory Group on a periodic basis. This Advisory Group will review the scientific data relevant to nutritional guidance and make recommendations on appropriate changes to the Secretaries of the Departments of Agriculture and Health and Human Services.

TITLE IV—INTERNATIONAL PROGRAMS

FOREIGN AGRICULTURAL SERVICE

The conference agreement appropriates $92,017,00 for the Foreign Agricultural Service instead of $88,049,000 as proposed by the House and $100,000,000 as proposed by the Senate. The conferees strongly support the work of the Foreign Agricultural Service and the idea of U.S. Trade Missions because of the extreme importance of overseas trade contacts to the sale of U.S. agricultural commodities. Trade Missions serve an important and vital function for foreign buyers to make contacts with U.S. exporters.

The conference agreement provides that $10,000,000 of section 32 funds shall be used to purchase sunflower oil and that these purchases shall be used to facilitate additional sales of sunflower oil in world markets. The conferees expect that these commodities will be used as incentives to enhance the volume of U.S. sunflower exports sold at competitive prices in world markets with the objective of regaining the U.S. share of the world sunflower market as existed in 1980/1981.

PUBLIC LAW 480

The conference agreement appropriates $1,059,596,000 for the Public Law 480 program as proposed by the Senate instead of $964,596,000 as proposed by the House. The conference agreement provides for a direct appropriation for titles I and III of $429,596,000 and a program level of $852,000,000. For title II the conference agreement provides a direct appropriation of $630,000,000 and a program level of $630,000,000. The agreement also provides for a transfer between titles of not to exceed 10 percent as proposed by the House rather than a 15-percent transfer as proposed by the Senate. When purchasing commodities for Public Law 480 distribution, the conferees expect the Department to use grades commonly accepted in commercial sales.

FOOD ASSISTANCE FOR LEBANON

The conferees recognize the urgent and compelling need for humanitarian food assistance to Lebanon, a "friendly" nation experiencing economic hardship, natural disaster, and civil strife. To help alleviate this need, the conferees direct the Department of Agriculture to provide assistance to Lebanon through government-to-government or private and nonprofit voluntary organization agreements authorized under Public Law 480, title II. It is expected that significant increases in commodities made available to Lebanon will include up to 150,000 metric tons of wheat.

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

The conference agreement appropriates $5,295,000 for the Office of International Cooperation and Development instead of $3,803,000 as proposed by the House and $5,592,000 as proposed by the Senate. The conference agreement provides a total of $1,492,000 for foreign scholarships, the same as the amount proposed by the Senate. The House bill contained no similar provision.

The conference also adopts the Senate language regarding funding of employees working for international organizations. This language was proposed by the House as a General Provision.

SCIENTIFIC ACTIVITIES OVERSEAS

(FOREIGN CURRENCY PROGRAM)

The Conference appropriates $1,500,000 for scientific activities overseas as proposed by the House instead of $2,500,000 as proposed by the Senate.

TITLE V—RELATED AGENCIES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

The conference agreement appropriates $450,504,000 for salaries and expenses of the Food and Drug Administration as proposed by the House instead of $454,109,000 as proposed by the Senate.

For the Federal Employees Retirement System the conference agreement provides $4,011,000. In addition to the amount appropriated in fiscal year 1987, the conference agreement provides increases for the following activities:

Human Drugs and Biologics	+$3,500,000
Medical Devices	+2,000,000
Acquired Immune Deficiency Syndrome	+8,880,000
Orphan Products Program	+500,000
Safety	+2,500,000
Program Management	+600,000
National Center for Toxicological Research	+1,000,000
Equipment Replacement	+3,500,000

The increase for AIDS-related work provides a total of $24,770,100.

The conferees are concerned about the reported outbreaks of milk-borne disease and recommend that additional resources be allocated for Federal, state and industry training for personnel involved in milk safety training.

For the Center for Development of Natural Products the conference agreement provides $50,000 for a feasibility study under the Agricultural Research Service, Buildings and Facilities account.

RENTAL PAYMENTS (FDA)

The conference agreement appropriates $25,612,000 for rental payments of the Food and Drug Administration as proposed by the House instead of $34,495,000 as proposed by the Senate.

COMMODITY FUTURES TRADING COMMISSION

The conference agreement appropriates $32,813,00 for the Commodity Futures Trading Commission as proposed by the House instead of $32,607,000 as proposed by the Senate.

FARM CREDIT ADMINISTRATION

LIMITATION OF REVOLVING FUND FOR ADMINISTRATIVE EXPENSES

The conference agreement provides a limitation on administrative expenses of the Farm Credit Administration of $35,000,000 instead of $30,724,000 as proposed by the House and $39,420,000 as proposed by the Senate. The conferees retain the limit of $1,500 on official reception and representation allowance for the Farm Credit Administration. This limit is consistent with other agencies of similar size and stature.

TITLE VI—GENERAL PROVISIONS

SEC. 632. The conference agreement restores House language which requires the Secretary to allow exemptions to the Farmers Home Administration dwelling size limitations if the dwelling is modest in design, size and cost for the area in which it is located.

SEC. 633. The conference agreement restores House language which allows a borrower of an REA loan made by the Federal Financing Bank and guaranteed by REA to prepay such a loan. Prepayments in excess of $2,500,000,000 shall be subject to the approval of the Secretary of the Treasury.

SEC. 634. The conference agreement amends House language to make it clear that the language applies to all agencies of the Federal Government and to change the effective date from January 1, 1987 to January 1, 1986.

SEC. 635. The conference agreement adopts House language which provides that none of the funds in this Act or otherwise made available by this Act shall be used to sell loans made by the Agricultural Credit Insurance Fund.

SEC. 636. The conference agreement deletes House language which allows the Department to assist international organizations in meeting the costs of Federal employees and others that may transfer to that organization. The conference agreement includes this same provision under the Office of International Cooperation and Development as proposed by the Senate.

SEC. 636. The conference agreement adopts Senate language which amends the Food Security Act of 1985 with regard to nonprofit national rural development and finance corporations by extending the authorization for one year.

SEC. 637. The conference agreement deletes language providing $18,000,000 for a sunflower indemnity payment program proposed by the Senate and inserts a provision directing the use of $10,000,000 of section 32 funds to purchase sunflower oil to promote the export of U.S. sunflower oil.

SEC. 638. The conference agreement adopts Senate language which provides that any reductions in the dairy price support program required by a Sequester Order be achieved through an across-the-board assessment of all milk produced in the United States. The agreement makes this section a provision of permanent law.

SEC. 639. The conference agreement adds Senate language extending the school lunch pilot project (cash or letter of credit in lieu of commodities) until June 30, 1988.

PROGRAM, PROJECT, AND ACTIVITY

During fiscal year 1988, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) or the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), the following information provides the definition of the term "program, project, and activity" for departments and agencies under the jurisdiction of the Rural Development, Agriculture, and Related Agencies Subcommittee. The term "program, project, and activity" shall include the most specific level of budget items identified in the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988, the House and Senate Committee reports, and the conference report and accompanying joint explanatory statement of the managers of the committee of conference.

If a Sequestration Order is necessary, in implementing the Presidential Order, departments and agencies shall apply any percentage reduction required for fiscal year 1988 pursuant to the provisions of Public Law 99-177 or Public Law 100-119 to all items specified in the explanatory notes submitted to the Committees on Appropriations of the House and Senate in support of the fiscal year 1988 budget estimates, as amended, for such departments and agencies, as modified by congressional action, and in addition:

For the Agricultural Research Service the definition shall include specific research locations as identified in the explanatory notes and lines of research specifically identified in the reports of the House and Senate Appropriations Committees.

For the Soil Conservation Service the definition shall include individual flood prevention projects as identified in the explanatory notes and individual operational watershed projects as summarized in the notes.

For the Farmers Home Administration the definition shall include individual state, district and county offices.

For the Agricultural Stabilization and Conservation Service the definition shall include individual state and county offices.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1988

Amendment No. 13: Section 101(l) of House Joint Resolution 395 enacts fiscal year 1988 appropriations for programs, projects, and activities of the Department of Transportation and related agencies. The House version of the joint resolution provides appropriations for programs, projects, and activities at a rate of operations and to the extent and in the manner provided for in H.R. 2890 as passed by the House of Representatives on July 13, 1987. The Senate version of the joint resolution provides appropriations for these programs, projects, and activities at a rate of operations and to the extent and in the manner provided for in H.R. 2890 as passed by the Senate on October 29, 1987.

The conference agreement incorporates some of the provisions of both the House and Senate versions of H.R. 2890, H.J. Res. 395, and certain additional provisions, and has the effect of enacting the Department of Transportation and Related Agencies Appropriations Act, 1988, into law.

The conferees agree that the language and allocations set forth in House Reports 100-202 and 100-415 or Senate Reports 100-198 and 100-238 shall be complied with unless specifically addressed to the contrary in this joint resolution and the statement of the managers.

The Department of Transportation and Related Agencies Appropriations Act, 1988, as part of this joint resolution, incorporates the following agreements of the managers.

ECONOMIC SUMMIT BUDGET REDUCTIONS

In order to achieve the levels of deficit reduction agreed to in the recent economic summit by the President and Joint Leadership of the Congress, all new budget authority and limitations for the Department of Transportation and related agencies (except Coast Guard, retired pay) have been reduced from the levels that the conferees had otherwise agreed to provide to achieve approximately $367,000,000 in new discretionary budget outlay savings. The reductions amount to approximately a 3 percent reduction for "Federal Aviation Administration, operations"; a 4 percent reduction for "Grants to the National Railroad Passenger Corporation", "Coast Guard, operating expenses", and various salaries and expenses appropriations; and a 5 percent reduction for most other programs.

PROGRAM, PROJECT, AND ACTIVITY

During fiscal year 1988 and any year thereafter, for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended, with respect to funds provided for the Department of Transportation and related agencies, the terms "program, project, and activity" shall mean any item for which a dollar amount is contained in an appropriation Act (including joint resolutions providing continuing appropriations) or accompanying reports of the House and Senate Committees on Appropriations, or accompanying conference reports and joint explanatory statements of the committee of conference. In addition, the reductions made pursuant to any sequestration order to funds appropriated for "Facilities and equipment, Federal Aviation Administration" and for "Acquisition, construction, and improvements, Coast Guard", shall be applied equally to each "budget item" that is listed under said accounts in the budget justifications submitted to the House and Senate Committees on Appropriations as modified by subsequent appropriation Acts and accompanying committee reports, conference reports, or joint explanatory statements of the committee of conference. The conferees recognize that adjustments to the above allocations may be required due to changing program requirements or priorities. The conferees expect any such adjustments, if required, to be accomplished only through the normal reprogramming process.

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

Provides a total of $51,352,000, including $15,360,000 derived by transfer, for salaries and expenses of the Office of the Secretary instead of $53,600,000 as proposed by the Senate and a total of $54,850,000, including $16,000,000 derived by transfer, as proposed by the House. The conference agreement distributes these funds as follows:

	Appropriation	Positions
Immediate Office of the Secretary	$1,050,000	14
Immediate Office of the Deputy Secretary	451,000	11
General Counsel	5,785,000	108
Policy and International Affairs	7,796,000	148
Budget and Programs	2,105,000	38
Governmental Affairs	2,367,000	47
Administration	[1] 22,099,000	175
Public Affairs	1,459,000	29
Executive Secretariat	798,000	22
Contract Appeals Board	430,000	7
Office of Civil Rights	1,244,000	23
Office of Commercial Space Transportation	384,000	7
Office of Small and Disadvantaged Business Utilization	3,042,000	17
Office of Essential Air Service	1,700,000	30
Regional Representatives	642,000	12

[1] Includes $15,360,000 derived by transfer.

Transfer Authority.—Provides authority (Section 333) to transfer funds between the Office of the Secretary, salaries and expenses accounts not to exceed 2.5 percent of the total amount appropriated for any office. The Senate bill provided transfer authority not to exceed 5 percent of the total amount appropriated for any office. The House bill had no similar provision.

Reservation of funds.—Requires that 5 percent of the funds appropriated for the Immediate Office of the Secretary, the Immediate Office of the Deputy Secretary, and the General Counsel's office be withheld from obligation until the date that final rules are issued to (1) require the installation of flight data recorders and cockpit voice recorders on commuter aircraft, and (2) require the installation of altitude-encoding (Mode C) radar transponders for all aircraft operating in controlled airspace. The House bill required that 5 percent of the funds appropriated for all Office of the Secretary offices be withheld until these rules are issued. The Senate bill contained no similar provision.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

Provides $4,987,000 derived by transfer instead of $5,000,000 derived by transfer as proposed by the House and $4,900,000 derived by transfer as proposed by the Senate. The conference agreement distributes these funds as follows:

Personnel compensation and benefits	$2,280,000
Policy office positions	(24)
Commercial space office positions	[1] (10)
Administrative costs	161,500
Travel	28,000
Contracts	2,517,500
National strategic transportation planning study	(617,500)
Nashville-Davidson County, TN long-range transportation planning study	(237,500)
New York, New Jersey, Connecticut metropolitan region long-range transportation planning study	(237,500)
Sacramento-San Francisco-Oakland region transportation planning study	(237,500)
Southern New Jersey/southeast Pennsylvania long-range transportation planning study	(237,500)
Washington, D.C., long-range transportation planning study	(237,500)
Commercial space contracts	(712,500)

[1] Including detailees from other federal agencies.

WORKING CAPITAL FUND

Limits obligations to $127,801,000 instead of $134,527,000 as proposed by the Senate and $135,000,000 as proposed by the House.

Appropriates $1,805,000 instead of $1,900,000 as proposed by the Senate and $2,000,000 as proposed by the House. The conference agreement includes $1,601,000 for development of a Department-wide Accounting and Financial Information System and $204,000 for office space reduction activities.

PAYMENTS TO AIR CARRIERS

Appropriates $28,500,000 instead of $32,000,000 as proposed by the Senate and $38,000,000 as proposed by the House.

COAST GUARD

OPERATING EXPENSES

Appropriates $1,789,106,000 instead of $1,879,400,000 as proposed by the House and $1,948,193,000 as proposed by the Senate. In addition, $100,000,000 has been made available in the Department of Defense Appropriations Act, 1988, to be used in support of the Coast Guard's military readiness missions.

Provides that $21,600,000 shall be expended from the Boat Safety Account instead of $15,000,000 as proposed by the Senate and $30,000,000 as proposed by the House.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Appropriates $247,000,000 instead of $260,000,000 as proposed by the House and $270,600,000 as proposed by the Senate. The conference agreement assumes the availability of an additional $10,100,000 from delayed or cancelled acquisition, construction, and improvement projects. The total program level of $257,100,000 is distributed as follows:

Vessels	$182,780,000
Aircraft	
Command, control and communications	1,900,000
Shore facilities	45,650,000
Aids-to-navigation	3,230,000
Administration	23,540,000

Bahamian docking facility.—The conferees are concerned about preliminary proposals being developed within the Coast Guard to expand the previously funded Bahamian docking facility into a full-fledged operating base. The Committees on Appropriations wish to review fully the merits of establishing a new base on foreign soil at a time when the administration has proposed base closures and consolidations within the United States. The Committees on Appropriations also will review carefully any proposed contractual relationships with foreign parties to ensure that United States Government capital assets remain in United States Government ownership and control.

ALTERATION OF BRIDGES

Appropriates $940,000 instead of $990,000 as proposed by the Senate and $1,000,000 as proposed by the House. The conference agreement includes $470,000 for the Norfolk and Southern bridge at Hannibal, Missouri, and $470,000 for the CSX (L&N) Railroad bridge in Pascagoula, Mississippi.

RESERVE TRAINING

Appropriates $62,880,000 instead of $65,500,000 as proposed by the Senate and $66,300,000 as proposed by the House.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Appropriates $19,000,000 instead of $19,700,000 as proposed by the Senate and $20,000,000 as proposed by the House. The conference agreement includes $729,000 for a tracking system for sludge vessels in the New York/New Jersey area, and $165,000 for a tracking system for garbage vessels.

BOAT SAFETY

(LIQUIDATION OF CONTRACT AUTHORIZATION)

Appropriates $22,500,000 for liquidation of obligations for recreational boating safety assistance instead of $15,000,000 as proposed by the House and $30,000,000 as proposed by the Senate.

BOAT SAFETY

(LIMITATION ON OBLIGATIONS)

Limits obligations for recreational boating safety to $21,375,000 instead of $15,000,000 as proposed by the House and $30,000,000 as proposed by the Senate.

Federal Aviation Administration

HEADQUARTERS ADMINISTRATION

Appropriates $35,520,000 instead of $37,000,000 as proposed by the Senate and $37,500,000 as proposed by the House.

OPERATIONS

Appropriates $3,148,520,000 instead of $3,236,602,000 as proposed by the Senate and $3,257,550,000 as proposed by the House.

The conference agreement provides that $825,955,000 of the amount provided for operations shall be derived from the Airport and Airway Trust Fund instead of $786,250,000 as proposed by the House and $851,500,000 as proposed by the Senate.

FAA Staffing Levels.—The conference agreement includes the following staffing levels:

Air traffic controllers (end-of-year employment)	15,900
Flight service stations (positions)	4,410
Field maintenance (full-time equivalents)	8,551
Aviation safety inspectors (positions)	2,198

The conferees direct the FAA to give the highest priority to meeting these staffing levels despite the reductions from the levels of funding contained in the House and Senate bills required by the budget summit agreement. The conferees expect that these reductions can be achieved through savings from over-estimated FERS costs and managerial improvements. Any substantial shortfalls from the staffing levels provided above or in any other safety-related activities should be promptly reported to the House and Senate Committees on Appropriations.

Leased Telecommunications Services.—The conferees direct the FAA to proceed expeditiously with programs, such as the radiocommunications link program, that are designed to reduce the increasing need for leased telecommunications services.

Salisbury, Maryland Flight Service Station.—The conferees strongly support the decision to keep the Salisbury Flight Service Station open through 1989. The planned reduction in the station's daily hours of operation, however, raises concern that equal or better service, which was directed in the Senate Report (100-48) accompanying the Supplemental Appropriations Act, 1987, cannot be provided. The conferees expect FAA to take the following steps to correct service problems in Salisbury:

(1) Begin immediate and meaningful discussions with Salisbury airport officials to develop a long-term capital improvement stategy at the airport, with completion of such discussions by May 15, 1988;

(2) Keep the Salisbury Flight Service Station open each day for a minimum of 16 hours;

(3) Install a direction finder in Salisbury within 80 days; and

(4) Install a pilot-controlled lighting system at Salisbury that is operational by March 1, 1988.

In addition, the conferees are concerned that the Maryland State Police medivac helicopter can no longer obtain direct access to weather information at Salisbury due to contractor liability problems. The FAA should review this situation and submit to the House and Senate Committees on Appropriations by March 31, 1988, a report on options for resolving this problem.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

Appropriates $1,108,056,000 instead of $1,170,000,000 as proposed by the Senate and $1,258,000,000 as proposed by the House. The conference agreement includes the following:

Long range radar	$37,050,000
Improve air traffic control en route radar facilities	20,007,100
Tower/TRACON modernization	21,350,900
Gary, Indiana BRITE radar	95,000
Instrument landing systems (ILS)	950,000
(Ardmore, Oklahoma glideslope transmitter)	
(Petersburg, West Virginia localizer)	
Unmanned buildings and equipment	10,994,800
Airport cable loop systems.	9,473,000
Power systems	10,323,800
Systems engineering and integration	90,446,000
Aircraft and related equipment	29,296,000
Jetstar replacement	4,275,000
Other	25,021,000
Airway science programs	5,225,000

The conference agreement eliminates funding for the radar training facility and Gary, Indiana DME and reduces all other House and Senate project allocations by 5 percent.

Jetstar replacement.—The conference agreement includes $4,275,000 to acquire a replacement for the L-1329 Jetstar aircraft under a lease-purchase arrangement. The conferees believe that adequate support of FAA training, currency, and evaluation programs requires an aircraft equipped with state-of-the-art systems and capable of operating in speed and altitude ranges that are representative of the capabilities of civil aircraft operating in the national airspace system. Adequate support of high priority transportation requirements will require an aircraft capable of high speed and long range (up to approximately 3,000 nautical miles). The aircraft will also have to be capable of carrying 10 to 12 people (excluding crew) and special equipment/clothing to support accident investigation activities. It will be used to support activities in remote areas on a demand or emergency basis as well as in any of the 15 foreign countries where the FAA has offices to conduct worldwide international aviation activities. In view of the authorized lease period and the anticipated need for the House and Senate Committees on Appropriations to consider further appropriations for this item, the conferees expect the FAA to report to the House and Senate Appropriations Committees by March 15, 1989, as to the usage made of the Jetstar replacement aircraft relative to each of its mission requirements.

Airport surveillance radars.—The conference agreement includes $38,000,000 to establish or upgrade airport surveillance radars at Charlottesville-Albemarle Airport, Virginia; Nantucket, Massachusetts; Gainesville, Florida; and Missoula International Airport, Montana.

Terminal doppler weather radar.—The conference agreement includes $9,500,000 to initiate the procurement of terminal doppler weather radar systems to be installed at high activity terminal locations. The conferees are fully supportive of this program and intend to provide sufficient funds in future years to continue the program on an expeditous schedule. The conferees direct that, should additional funds be needed to initiate this procurement during fiscal year 1988, the Federal Aviation Administration should submit immediately a reprogramming request that would provide sufficient funds from the $1,183,687,000 facilities and equipment unobligated balance to continue this procurement in a timely fashion.

Airway science programs.—The conference agreement includes $5,225,000 for the airway science curriculum program instead of $4,000,000 as proposed by the House and $8,000,000 as proposed by the Senate. These funds are to be distributed as follows:

University of North Dakota	$475,000
Florida Memorial College	1,425,000
Auburn University	237,500
Embry-Riddle Aeronautical University	1,425,000
Polytechnic University	1,425,000
Florida Institute of Technology	237,500

The conferees understand that, while the approved airway science curriculum requires a 4-year program, 2-year schools can participate in the airway science program through articulation agreements with 4-year institutions. This permits the pooling of courses from both schools to meet the spirit and intent of the model curriculum developed by the Federal Aviation Administration.

Limits federal participation in any airway science construction project to 50 percent of the total project cost, beginning in fiscal year 1989 and every year thereafter.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

Appropriates $153,425,000 instead of $161,500,000 as proposed by the House and $165,000,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Air traffic control	$95,023,000
Advanced computers	7,356,000
Navigation	7,087,000
Aviation weather	17,771,000
Aviation medicine	4,077,000
Aircraft safety	20,366,000
Environment	1,745,000

Airport Capacity Improvements.—The conferees are concerned that insufficient attention has been given to research and development for airport capacity improvements. The conferees, therefore, direct FAA to give high priority to completing the capacity improvement tests at Raleigh/Durham and Memphis airports. These programs are designed to verify the safety of, and capacity benefits to be gained by, using simultaneous IFR approaches to more closely spaced parallel and converging runways. The conferees further direct that future budgets should present and justify all projects related to airport capacity as a separate category.

Joint Civil-Military Use of Airfields.—The conferees direct the Federal Aviation Administration to study the technical feasibility of joint civil-military aviation use at El Toro Marine Base, California; Selfridge Field, Michigan; and Scott Air Force Base, Illinois. This study should consider airfield, terminal, and access issues, and any previous studies conducted by Federal, State, regional or local authorities that evaluate the short- and long-term importance of using these facilities to alleviate the shortage of civil airport and airspace capacity. The FAA shall report to the House and Senate Committees on Appropriations not later than March 31, 1988, and, if joint-use is determined to be technically feasible, the FAA shall recommend those steps that are necessary to implement joint-use agreements.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

Appropriates $1,063,000,000 to liquidate contract authority obligations as proposed by the Senate instead of $1,030,000,000 as proposed by the House.

Limits obligations for airport development and planning grants to $1,268,725,000 instead of $1,335,500,000 as proposed by the Senate and $1,720,000,000 as proposed by the House.

In addition to the specific projects identified in the House and Senate Committee reports, the conferees direct that priority consideration be accorded to grant applications involving construction or further development at the following airports:

Addison Municipal Airport, Texas
Essex County airport, New Jersey
Grant County Airport, West Virginia
Jackson County Airport, Mississippi

Philadelphia International Airport/Northeast Philadelphia Airport.—The conferees expect applications for discretionary funds from Philadelphia International Airport/Northeast Philadelphia Airport to receive high priority consideration. Until last year, Philadelphia, the nation's fifth largest metropolitan area, was one of only a few primary airport sites that had neither requested nor received discretionary funding under the 1982 Airport and Airway Improvement Act. Projects which are beginning and for which applications are being made will provide substantial and necessary air service expansions and economic stimuli for the tri-state region served by these facilities.

North Fort Worth Airport, Texas.—The conferees expect applications for approximately $25,000,000 of discretionary funds for the new North Fort Worth Airport, Texas, to receive high priority consideration. The major components of this project include airfield paving, lighting, navigational aids, drainage and flood control measures, terminal building construction, and airport roads, including joint access roads for the airport and industrial area development.

The conferees conclude that the construction of this new airport is essential to provide necessary general aviation access to the area and to aid in the economic recovery and development of the region. Thus, the conferees direct the Federal Aviation Administration to place high priority on providing maximum discretionary funding for the timely completion of the project.

Greenwood-Leflore County Airport, Mississippi.—The conferees expect the Greenwood-Leflore County Airport to receive high priority consideration for funding the extension of the present runway from 5,000 to 8,000 feet. This project, together with other improvements, including a locally funded flight control tower, will enable the facility to become a regional airport serving eight counties, increase activity at the aviation-related industrial park at the airport, and provide great potential for economic development in an area with an unemployment rate in excess of 12 percent. In addition, the runway extension will permit the Air Force to operate training missions between Columbus Air Force Base and Greenwood-Leflore County Airport.

Instrument landing systems.—The conferees direct the Federal Aviation Administration to allocate up to $10,000,000 from the grants-in-aid for airports program for purchase or lease and installation of instrument landing systems and approach lighting at the following airports:

Appleton, Wisconsin
Hilton Head, South Carolina
Salt Lake City, Utah (runway 16R, CAT.III)
Newark, New Jersey (runway 22R)
Elizabethtown, Kentucky
Port Huron, Michigan
Newport, Oregon
Rogers, Arkansas
Las Cruces, New Mexico
Jimmy Stewart Airport, Pennsylvania

FEDERAL HIGHWAY ADMINISTRATION

(LIMITATION ON GENERAL OPERATING EXPENSES)

Limits operating expenses to $206,736,000 instead of $212,248,000 as proposed by the Senate and $215,350,000 as proposed by the House.

Provides that $37,566,000 shall remain available until expended instead of $38,243,000 as proposed by the House and $40,288,000 as proposed by the Senate.

The following table summarizes the conferees' recommendations:

Program direction, coordination, and general support	$143,867,000
Working capital fund	15,475,000
Demonstration projects	2,856,000
Central support and other services	7,117,000
National Highway Institute	1,361,000
Contract programs:	37,566,000
R&D, highways	(11,642,000)
Skill training	(2,375,000)
Highway safety R&D	(6,650,000)
Minority business enterprise	(9,500,000)
Commodity flow study	(428,000)
Interjurisdictional trucking program	(570,000)
Rural transportation	(4,596,000)
Southwest Indiana study	(475,000)
North central West Virginia study	(95,000)
Great River Bridge study	(475,000)
Quad cities intermodal study	(475,000)
U.S. Highway 171 study	(285,000)
Less: Reduction based on project delays	−1,506,000
Total	206,736,000

The conferees direct that any remaining funds after completion of the Southwestern Indiana highway study be used to study the possibility of extending the thoroughfare to Owensboro, Kentucky.

Motor Carrier Access.—Based on information provided by the Transportation Research Board of the National Academy of Sciences, the conferees believe that the study mandated in Public Law 100-17 on "reasonable access" could be completed within 18 months. The conferees, therefore, direct the Board to submit within 18 months the report required in section 158(b)(4) of Public Law 100-17. The report on reasonable access should include the definition of "terminal". The Department of Transportation is directed to refrain from issuing a final rule on this issue until after the board has issued its report. The Department may proceed with its current efforts in this area including soliciting comments from interested parties through a notice of proposed rulemaking. The Department must accord substantial weight to the findings and recommendations contained in the Board report, with safety being the foremost consideration in the rulemaking process. To the extent that the Department's proposed final rule differs from the findings and recommendations of the Board report, the Department must explain fully the reasons for such differences in explanatory material before issuing a final rule. Such material should be provided to the House and Senate Committees on Appropriations and the authorizing committees with jurisdiction over these matters. The conferees encourage the Board to expenditiously complete its work with possible completion as early as 15 months after the date of enactment of this Act.

HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

(HIGHWAY TRUST FUND)

Appropriates $6,650,000 instead of $7,000,000 as proposed by the House. The Senate proposed $7,000,000 from "Federal-aid highways, limitation on general operating expenses" to fund this activity.

HIGHWAY-RELATED SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

Appropriates $9,900,000 to liquidate contract authority for highway-related safety grants as proposed by the Senate instead of $10,000,000 as proposed by the House.

Limits obligations for highway-related safety grants to $9,405,000 instead of $9,900,000 as proposed by the Senate and $10,000,000 as proposed by the House.

RAILROAD-HIGHWAY CROSSINGS DEMONSTRATION PROJECTS

Appropriates $7,790,000 instead of $2,470,000 as proposed by the Senate and $14,000,000 as proposed by the House. Of this amount, $5,193,333 shall be derived from the Highway Trust Fund instead of $1,646,667 as proposed by the Senate and $9,333,333 as proposed by the House.

The conference agreement includes the following amounts:

Augusta, Georgia	$1,187,500
Lincoln, Nebraska	1,140,000
Pine Bluff, Arkansas	1,900,000
Carbondale, Illinois	1,425,000
Brownsville, Texas	712,500
Springfield, Illinois	1,425,000

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

Limits obligations for the federal-aid highways and highway safety construction programs to $11,780,000,000 instead of $12,220,000,000 as proposed by the Senate and $12,500,000,000 as proposed by the House.

Interstate transfer-highways.—The conference agreement includes the following allocations of interstate transfer-highways discretionary funds:

Colorado	$5,000,000
Connecticut	36,606,784
Illinois	46,151,902
Iowa	16,670,000
Maryland	20,000,000
Minnesota	6,000,000
Nebraska	8,630,538
Ohio	12,000,000

Oregon	9,300,000
Pennsylvania	12,000,000
Virginia	3,505,420
Other (149(d) set-aside)	9,135,356

Lake Street Bridge, Minnesota.—The conferees are aware of the serious need for replacement of the Lake Street Bridge across the Mississippi River, connecting Minneapolis and St. Paul, Minnesota. The conferees, recognizing the safety concerns and the importance of this bridge to the Twin Cities, direct the Secretary to give priority to the Lake Street Bridge in the allocation of discretionary bridge funds.

MOTOR CARRIER SAFETY

Appropriates $22,790,000 instead of $23,740,000 as proposed by the Senate and $24,000,000 as proposed by the House.

MOTOR CARRIER SAFETY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

Limits obligations for motor carrier safety grants to $46,992,000 instead of $49,465,000 as proposed by the Senate and $50,000,000 as proposed by the House.

ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES

Appropriates $1,786,000 instead of $1,880,000 as proposed by the Senate. The House bill contained no funds for this program.

BALTIMORE-WASHINGTON PARKWAY

(HIGHWAY TRUST FUND)

Appropriates $14,250,000 instead of $15,000,000 as proposed by the House. The Senate bill contained no funds for this project.

WASTE ISOLATION PILOT PROJECT ROADS

Appropriates $15,504,000 instead of $16,320,000 as proposed by the Senate. The House bill contained no funds for this project.

EXPRESSWAY GAP CLOSING DEMONSTRATION PROJECT

Appropriates $7,885,000 instead of $8,300,000 as proposed by the House. The Senate bill contained no funds for this project.

INTERMODAL URBAN DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

Appropriates $9,500,000 instead of $10,000,000 as proposed by the House. The Senate bill contained no funds for this project.

HIGHWAY SAFETY AND ECONOMIC DEVELOPMENT DEMONSTRATION PROJECTS

(HIGHWAY TRUST FUND)

Appropriates $9,500,000 instead of $4,950,000 as proposed by the Senate and $10,000,000 as proposed by the House.

HIGHWAY SAFETY IMPROVEMENT DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

Appropriates $1,900,000 instead of $2,000,000 as proposed by the House. The Senate bill contained no funds for this project.

HIGHWAY-RAILROAD GRADE CROSSING SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

Appropriates $9,500,000 instead of $10,000,000 as proposed by the House. The Senate bill contained no funds for this project.

BRIDGE IMPROVEMENT DEMONSTRATION PROJECT

Appropriates $4,750,000 instead of $5,000,000 as proposed by the House. The Senate bill contained no funds for this project.

VEHICULAR AND PEDESTRIAN SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

Appropriates $6,650,000 instead of $7,000,000 as proposed by the House. The Senate bill contained no funds for this project.

HIGHWAY BRIDGE RELOCATION DEMONSTRATION PROJECT

Appropriates $2,470,000 instead of $2,600,000 as proposed by the House. The Senate bill contained no funds for this project.

HIGHWAY BYPASS DEMONSTRATION PROJECT

Appropriates $1,900,000 instead of $2,000,000 as proposed by the House. The Senate bill contained no funds for this project.

HIGHWAY WIDENING AND IMPROVEMENT DEMONSTRATION PROJECT

Appropriates $2,375,000 instead of $2,500,000 as proposed by the House. The Senate bill contained no funds for this project.

CORRIDOR SAFETY IMPROVEMENT PROJECT

(HIGHWAY TRUST FUND)

Appropriates $4,702,000 and inserts permanent authorizing language, including a permanent exemption from any limitation on obligations for Federal-aid highways and highway safety construction programs. The Senate bill contained permanent authorizing language, including an exemption from any limitation on obligations, and appropriated $4,950,000 for this project. The House bill contained no similar provision.

BRIDGE CAPACITY IMPROVEMENTS

(HIGHWAY TRUST FUND)

Appropriates $237,000 and inserts permanent authorizing language, including a permanent exemption from any limitation on obligations for Federal-aid highways and highway safety construction programs. The Senate bill contained permanent authorizing language, including an exemption from any limitation on obligations. The House bill contained no similar provision.

TRAFFIC IMPROVEMENT DEMONSTRATION PROJECT

Appropriates $475,000 and inserts permanent authorizing language, including a permanent exemption from any limitation on obligations for Federal-aid highways and highway safety construction programs. The House bill (amendment number 38) contained permanent authorizing language, including a permanent exemption from any limitation on obligations, and appropriated $500,000. The Senate bill contained no similar provision.

HIGHWAY WIDENING DEMONSTRATION PROJECT

Inserts (sec. 352) permanent authorizing language, including a permanent exemption from any limitation on obligations for Federal-aid highways and highway safety construction programs. The House and Senate bills contained no similar provision.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

Appropriates $62,534,000 instead of $58,220,000 as proposed by the Senate and $65,140,000 as proposed by the House.

Provides that $29,331,000 shall remain available until expended instead of $23,300,000 as proposed by the Senate and $30,553,000 as proposed by the House.

Provides that $6,480,000 of the amount provided for "Operations and research" shall be available to implement the recommendations of the 1985 National Academy of Sciences report on trauma research instead of $7,000,000 as proposed by the House. The Senate bill contained no similar provision for this program.

OPERATIONS AND RESEARCH

(HIGHWAY TRUST FUND)

Appropriates $30,346,000 instead of $31,610,000 as proposed by the House and $31,700,000 as proposed by the Senate.

Provides that, of the funds appropriated for "Operations and research (Highway Trust Fund)", $1,680,000 shall be available for light truck and van safety research and analysis. The House bill provided $2,000,000 for light truck and van research and analysis, and $3,000,000 to implement the National Academy of Sciences trauma research recommendations. The Senate bill contained no similar provision.

The conference agreement includes the following distribution for the Operations and Research activity:

	Program level	Positions
Rulemaking	$7,488,000	90
Enforcement	11,841,600	101
Highway safety	[1] 22,080,000	176
Research and analysis	[2] 45,264,000	145
General administration	[3] 7,992,000	88
Office of the administrator	[4] 2,870,400	48

[1] Includes $3,495,360 derived from section 402 grant program.

[2] Includes $6,480,000 for Center for Injury Control grants and $1,680,000 for light truck and van research and analysis.

[3] Includes $870,720 derived from section 402 grant program.

[4] Includes $289,920 derived from section 402 grant program.

Within the funds provided, the conference agreement includes the following distribution and program guidance. The conferees stress that the following is in addition to the mutually agreed upon funding allocations and program guidance contained in House Report 100-202 and Senate Report 100-198.

Center for Injury Control grants	$6,480,000
Light truck and van safety initiative	1,680,000
Occupant Protection Information Program	3,360,000
Dade County, Florida EMS	144,000
Goodfellow AFB building improvements	72,000
Study of 65-mph speed limit safety impacts	336,000
Study of truck fuel tank safety	96,000
EMS sensitivity index demonstration project	240,000

Center for Injury Control program evaluation.—The conferees have agreed to include $6,480,000 for the third year of a trauma research pilot project conducted at the Centers for Disease Control that was initiated in fiscal year 1986. This project implements the recommendations of the National Academy of Sciences (NAS) that were made in its 1985 report, "Injury in America." It was anticipated that this project would be evaluated after an appropriate interval to determine if it were an effective way to address the problems identified in the NAS study. The conferees believe that enough experience now has been accumulated to make a meaningful assessment. The National Highway Traffic Safety Administration, therefore, is directed to enter into an agreement with the National Academy of Sciences to reconvene the Committee on Trauma Research. The Committee shall examine the joint NHTSA/CDC injury prevention research program and evaluate the progress made to date. At a minimum, the Committee shall evaluate how effectively the recommendations made in "Injury in America" are being pursued and which recommendations, if any, should be reconsidered or modified. The National Academy of Sciences shall complete its evaluation and report to the Congress as soon after May 15, 1988, as is possible. NHTSA shall use not more then $95,000 for this purpose. Accompanying the report of the NAS shall be a report by NHTSA and CDC on how all funds appropriated for Center for Injury Control activities have been obligated or spent.

Light truck and van safety initiative.—The conferees reiterate the concerns raised in House Report 100-202 that NHTSA research and regulatory activities have not kept pace with the increasing popularity of light trucks and vans—particularly for use as passenger-carrying vehicles. Providing a level of safety in these vehicles that is at least equivalent to that provided in passenger cars should be a top NHTSA priority. The agency is directed, within funds included in the bill, to accelerate and expand light truck and van safety regulatory activities as specified in the House report. NHTSA research should be directed toward the early initiation of rulemaking activity in the areas of braking, occupant containment/protection, side impact protection, and amendments to the occupant restraint rule to be concluded at the earliest feasible dates.

State motor vehicle inspection study.—The conferees direct that, within available funds, NHTSA conduct a comprehensive evaluation of the effectiveness of state motor vehicle safety inspection programs in (1) reducing highway accidents that result in injuries and deaths, and (2) limiting the number of defective or unsafe motor vehicles on the highways. The conferees expect NHTSA to solicit, evaluate and document the views of states, user groups, and other highway safety organizations in the development of the study plan and in the conduct of this study. The conferees request that a study plan describing study methodology and specifying a detailed study timetable be submitted to the House and Senate Appropriations Committees and to appropriate authorizing committees by not later than February 15, 1988.

Speed limit safety impact study.—The conferees have reviewed the speed limit study plan that was submitted in response to requests made in House Report 100-202 and Senate Report 100-198. While this plan appears to be comprehensive, the conferees are concerned about the timeliness of the proposed reporting dates (September 30, 1988, and September 30, 1989, for interim reports; and December 30, 1990, for the final report). The conferees anticipate that there will be considerable legislative interest in the coming year on this issue and believe that more timely interim reports are necessary. The conferees, therefore, direct NHTSA to submit its first interim report on March 15, 1988. In addition to the areas proposed for study, this report and all subsequent reports should explicitly answer the following question:

Based on the best information available to date, has raising the speed limit from 55 mph to 65 mph on certain rural interstate highways significantly contributed to an increased number and/or rate of crashes, injuries, and deaths?

In addition, the conferees direct that this study incorporate an assessment of any changes in the nature of traffic accidents due to the higher speed limit and an assessment of the relative truck safety impacts of dual versus uniform speed limits for cars and trucks.

EMS sensitivity index.—The conference agreement includes $240,000 for a four to five state demonstration project on the use and effectiveness of an emergency medical services sensitivity index. The conferees expect that one of the states chosen for this demonstration shall be New Jersey.

Side impact rulemaking.—The conferees are dissatisfied with the pace at which the administration is proceeding with promulgation of a revised side impact regulation for passenger cars. Testimony received last spring indicated that, after much delay, a notice was planned for issuance in May or June 1987. This notice has yet to be issued. The conferees expect NHTSA to make every effort to issue a rulemaking notice forthwith, and will expect the Secretary and the NHTSA Administrator to provide a complete accounting of actions taken to expedite this proceeding at the fiscal year 1989 budget hearings.

Rear seat belt rulemaking.—The conferees strongly concur in the Secretary's expressed desire to ensure that the issuance of an advance notice of proposed rulemaking regarding the installation of lap/shoulder safety belts in the rear seats of passenger vehicles does not slow down the overall rulemaking process on this issue. The conferees expect NHTSA to give priority to achieving the rulemaking timetable established by the Secretary and will expect a full report on NHTSA actions in this regard during the fiscal year 1989 budget hearings.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

Appropriates $135,000,000 to liquidate contract authorizations as proposed by the Senate instead of $133,000,000 as proposed by the House.

Limits state and community highway safety grant obligations to $114,950,000 instead of $121,000,000 as proposed by the House and $124,650,000 as proposed by the Senate.

Limits alcohol safety incentive grant obligations to $13,533,000 instead of $14,245,000 as proposed by the Senate and $14,400,000 as proposed by the House.

Limits total obligations made pursuant to section 209 of Public Law 95-599, as amended, to $4,750,000 as proposed by the Senate. The House bill contained no similar provision.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

Provides $24,777,000, including $1,900,000 by transfer, instead of $19,400,000 as proposed by the House and $23,830,000 as proposed by the Senate.

The conference agreement is distributed as follows:

	Program level
Salaries and expenses	$11,981,000
(staff years)	(190)
Contractual support	720,000
Washington Union Station	2,880,000
Local Rail Service Assistance	9,600,000
Alaska Railroad Workers' Compensation	1,824,000
Total program level	$27,005,000
Carryover	(2,228,000)
By transfer	(1,900,000)
Total appropriation	$22,877,000

Washington Union Station.—The conferees believe that a discounted purchase of the Union Station lease may be in the best interest of the taxpayers. The conferees believe an arrangement between the Federal Government and the current owners of Union Station can be made to provide a substantial saving of federal funds which would otherwise be required for the full term of the lease. The conferees are concerned that negotiations between the FRA and the owners of Union Station over the terms of a possible lease purchase have become protracted and may jeopardize the opportunity to realize these savings. Accordingly, the conferees direct the FRA to consult with the owners of Union Station and to submit to the House and Senate Committees on Appropriations by March 1, 1988, recommendations for the essential terms and price (determinated on a present value basis to include all costs and revenue to the Federal Government and to the owner) for the purchase of the Union Station lease.

Provides that $9,600,000 of the funds available under this head may be used only for local rail service assistance grants instead of $6,000,000 as proposed by the House and $8,000,000 as proposed by the Senate.

LRSA Discretionary Allocations.—Provides that $7,200,000 of local rail service assistance funds shall be available on a discretionary basis instead of $3,500,000 as proposed by the House and $5,500,000 as proposed by the Senate. Of the discretionary funds available for local rail service assistance, the conferees direct that funds be reserved for the following projects:

Massachusetts rail rehabilitation needs	$960,000
Mississippi rail rehabilitation needs	960,000
Manteno, Illinois rail spur	580,000
Binghamton rail structure, New York	385,000
Soo Line RR Wheat Line, North Dakota	375,000
Wheeling Terminal Chapline Tunnel, West Virginia	300,000
Chicago Central & Pacific Line, Iowa	865,000
New York, Susquehanna & Western, New Jersey	960,000
Keokuk Junction Railway, Illinois	580,000
Burlington Northern Railroad, Illinois	290,000
CSX line, Midland City to Greenfield, Ohio	915,000
Alleghany RR, Emporium to Erie, Pennsylvania	(1)
Canton to East Wye, South Dakota	(1)

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(1) Priority.

RAILROAD SAFETY

Appropriates $27,968,000 instead of $28,825,000 as proposed by the House and $29,770,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Federal enforcement	$22,301,000
(Permanent positions)	(379)
Automated track inspection program	1,140,000
Grants-in-aid for railroad safety	950,000

Safety regulation and program administration	3,577,000
(Permanent positions)	(65)

Bangor, Maine District Office.—The conferees are aware of ongoing railroad safety problems on the Guilford system, particularly in the State of Maine. The conferees, therefore, direct that the district office of the Federal Railroad Administration located at Bangor, Maine shall not be closed without the express approval of the House and Senate Committees on Appropriations. The conferees direct the FRA to terminate plans to consolidate the Bangor, Maine office with the Cambridge, Massachusetts office, and to restore the Bangor office to adequate personnel levels including, but not limited to, a motive power and equipment inspector and a track safety inspector. One of these inspectors should be certified for hazardous material inspections.

Provides that $2,090,000 shall remain available until expended instead of $2,530,000 as proposed by the Senate.

RAILROAD RESEARCH AND DEVELOPMENT

Appropriates $9,286,000 instead of $9,775,000 as proposed by the Senate and $10,000,000 as proposed by the House.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

Authorizes as eligible projects North Philadelphia station improvements as proposed by the House and North Tunnel renovation work as proposed by the Senate.

Provides $27,550,000, including $950,000 by transfer, instead of $24,730,000 as proposed by the Senate and $27,000,000 as proposed by the House.

The conference agreement distributes these funds as follows:

Communications and signal upgrades	$6,365,000
Electric traction system upgrades	760,000
Passenger car modifications	4,038,000
Locomotive modifications	1,425,000
North Philadelphia Station	4,750,000
North Tunnel renovation	10,212,000

In addition, funds are to be made available under "Urban Mass Transportation Administration, Discretionary grants" for additional North Philadelphia station improvements.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

Appropriates $580,800,000 for Amtrak operations, capital improvements, and labor protection costs instead of $595,555,000 as proposed by the Senate and $614,000,000 as proposed by the House.

The conferees reiterate the Senate language regarding Amtrak's planned tests of tilt and turbo technologies, and direct that, to the extent possible, not more than $240,000 be made available for an independent, third-party assessment of Amtrak's evaluation of these technologies.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

Requires the Secretary of Transportation to sell all securities or promissory notes held by the Department of Transportation under authority of sections 502, 505-507, 509, and 511-513 of Public Law 94-210, as amended, as proposed by the Senate. The House proposed that such sales be made by the Secretary of the Treasury. In addition, the bill requires a written certification to and approval by the House and Senate Committees on Appropriations that all amounts to be realized for each transaction are equal to or greater than the net present value of each equity instrument. The bill also requires that any contracts for financial or underwriting services be competitively bid.

The conferees emphasize their concern that equity transactions such as those authorized under this section generate a fair return to the Federal Government. While recognizing the useful role of financial advisors and investment bankers in helping achieve the highest return possible to the Federal Government, it is the conferees' strong view that any financial advisor should be limited to providing technical financial and market advice to the Department and should not act in the full stead of the Department in the negotiation and completion of these transactions.

The bill also clarifies that any outlay reductions resulting from the authority granted in this section shall be considered as new domestic discretionary outlay offsets against the total outlays of Transportation Appropriations Acts.

URBAN MASS TRANSPORTATION ADMINISTRATION

ADMINISTRATIVE EXPENSES

Appropriates $31,882,000 instead of $33,210,000 as proposed by the Senate and $33,850,000 as proposed by the House.

Charter bus regulation.—The conferees direct UMTA to undertake a rulemaking on a proposed amendment to its charter bus regulation that would permit non-profit social service agencies with clear needs for affordable and/or handicapped-accessible equipment to seek bids for charter services from publicly funded operators. In such cases, the public operator will be required to identify to the chartering organization any private operator that has notified it of its willingness and abiliity to provide comparable charter service.

These non-profit agencies shall be limited to government entities and those entities subject to sections 501(c) 1, 3, 5, and 19 of the Internal Revenue Code. An exemption from this rule shall also be provided to those public transit authorities which purchased charter rights entirely with non-federal funds prior to enactment of the Urban Mass Transportation Act of 1964. The conferees encourage UMTA to continue exploring the issue of whether public transit authorities that offer only standard transit buses for charter services should be permitted to compete against private operators.

RESEARCH, TRAINING, AND HUMAN RESOURCES

Appropriates $12,217,000 instead of $12,860,000 as proposed by the Senate and $15,150,000, of which $4,000,000 shall be derived from unobligated balances of "Urban Mass Transportation Fund", as proposed by the House.

The conference agreement is distributed as follows:

Research and training assistance	$9,510,000
Management training	474,000
University research	713,000
Human resources	1,520,000

The conferees direct UMTA to proceed immediately on the final phase of the cold weather transit technology program, which is the deicing system and its use with existing transit equipment. The conferees are concerned that funds originally appropriated in fiscal year 1986 for the final phase of this program have still not been released by UMTA.

FORMULA GRANTS

Appropriates $1,731,703,000 instead of $1,780,690,000 as proposed by the Senate and $1,865,000,000 as proposed by the House. An additional $4,750,000 is available for section 18(h) program.

Adds $12,350,000 to the section 18 allocation prior to the apportionment of formula grant funds instead of $20,710,000 as proposed by the Senate. The House bill had no similar provision.

Limits funds for operating assistance of $804,691,892 instead of $847,044,097 as proposed by the Senate. The House bill had no similar provision.

Deletes language proposed by the Senate that would have limited operating assistance reductions to urbanized areas with a population of 1 million or more.

DISCRETIONARY GRANTS

Limits obligations to $1,130,500,000 instead of $1,187,160,000 as proposed by the Senate and $1,200,000,000 as proposed by the House.

The conference agreement includes the following amounts:

Bus and bus facilities	$145,500,000
Rail modernization and extensions	427,000,000
New systems and new extensions	407,750,000
Los Angeles	(140,500,000)
Seattle	(67,500,000)
Miami	(17,500,000)
Atlanta	(106,000,000)
St. Louis	(54,450,000)
Denver	(14,200,000)
Salt Lake City	(3,600,000)
Jacksonville	(4,000,000)
Planning	45,000,000
Elderly and handicapped, and innovative techniques	35,000,000
University centers	5,000,000
Section 9B formula grants	65,250,000

Philadelphia rail modernization projects.—The conferees direct that $19,000,000 be made available out of rail modernization funds to the Southeastern Pennsylvania Transportation Authority (SEPTA) to be used solely as follows:

$9,500,000 for automatic speed controls;

$5,700,000 for the Temple University intermodal transportation demonstration project and regional rail division station to be developed in cooperation with Temple University;

$950,000 for improvements at the Amtrak North Philadelphia station site under the refurbishment project developed by Amtrak in cooperation with the Philadelphia Industrial Development Corporation; and

$2,850,000 for the construction of a new University City rail station to serve the Civic center, Veterans Hospital complex, University of Pennsylvania, Drexel University and Franklin Field.

The intermodal transportation demonstration project is designed to meet the needs of the elderly and handicapped, and the conferees expect the university and SEPTA to report to UMTA on how the project improved the mobility of these persons.

Bay Area Rapid Transit District.—The conferees understand that in lieu of an amendment restricting funding for the Bay Area Rapid Transit District (BART), and in keeping with resolutions adopted by the Metropolitan Transportation Commission (MTC), no funds shall be approved by the MTC for the SamTrans Colma BART station project until an agreement that satisfies the concerns of the Bay Area Congressional and State legislative delegations is reached among the involved parties on the priority and funding of the Colma project in the context of a regional program of rail extensions. The conferees further understand that the MTC resolutions do not intend to affect any other current or future BART project and relate only to the project currently under discussion.

INTERSTATE TRANSFER GRANTS-TRANSIT

Appropriates $123,500,000 instead of $128,610,000 as proposed by the Senate and $130,000,000 as proposed by the House.

The conference agreement includes the following discretionary allocations:

Chicago	$42,465,000
Boston	4,904,546
New York City	8,941,704
Baltimore	5,130,000
Construction management	308,750

The conferees recognize that delays in some regions' projects might necessitate adjustments to the above allocations. The conferees expect these adjustments, if required, to be accomplished through the normal reprogramming process.

It is the goal of the conferees to provide sufficient funds to complete the funding of all substitute projects commensurate with the completion of the Interstate highway system.

WASHINGTON METRO

Appropriates $180,500,000 instead of $183,000,000 as proposed by the Senate and $201,119,500 as proposed by the House.

WMATA interest payments.—To the extent that funds appropriated under the head "Interest Payments" are insufficient to meet the federal obligations under Public Law 96-184 and the Initial Bond Repayment Participation Agreement, the conferees expect WMATA to finance any shortfall from section 9 formula grant or other available funds.

Saint Lawrence Seaway Development Corporation

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

Appropriates $10,806,000 to be derived from the Harbor Maintenance Trust Fund instead of $11,375,000 to be derived from the Harbor Maintenance Trust Fund as proposed by the Senate and $11,500,000 to be derived from the Harbor Maintenance Trust Fund as proposed by the House.

Research and Special Programs Administration

RESEARCH AND SPECIAL PROGRAMS

Appropriates $12,832,000 instead of $12,900,000 as proposed by the House and $13,367,000 as proposed by the Senate.

The conference agreement includes the following distribution:

Operations	$10,893,000
Research and development	$1,939,000
Positions:	
Administrator	(4)
Chief counsel	(8)
Deputy administrator and science advisor	(7)
Program management and Administration	(15)
Aviation information management	(11)
Emergency transportation	(10)
Hazardous materials	(84)
Transportation Systems Center	(527)

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

Appropriates $8,550,000 instead of $9,200,000 as proposed by the House and $9,400,000 as proposed by the Senate. The conference agreement includes the following distribution:

Personnel Compensation and Benefits	$2,156,500
(Positions)	(47)
Administrative costs	719,200
Program funds	781,800
Research and development	617,500
State grants	4,275,000

Provides that $4,892,000 be made available until expended instead of $5,150,000 as proposed by the House and $5,650,000 as proposed by the Senate.

The conferees have argued not to require an additional 3 days of inspector travel per month as proposed by the House. The conferees intend to request the General Accounting Office to review the current pipeline safety inspector travel practices and inspection intervals and to recommend appropriate improvements.

OFFICE OF THE INSPECTOR GENERAL

SALARIES AND EXPENSES

Appropriates $27,898,000 instead of $28,828,000 as proposed by the Senate and $29,300,000 as proposed by the House.

TITLE II—RELATED AGENCIES

Architectural and Transportation Barriers Compliance Board

SALARIES AND EXPENSES

Appropriates $1,891,000 instead of $1,970,000 as proposed by the Senate and $2,000,000 as proposed by the House.

National Transportation Safety Board

SALARIES AND EXPENSES

Appropriates $24,000,000 instead of $25,000,000 as proposed by the Senate and $25,400,000 as proposed by the House.

Interstate Commerce Commission

SALARIES AND EXPENSES

Appropriates $44,294,000 instead of $46,000,000 as proposed by the Senate and $46,625,000 as proposed by the House.

The conference agreement includes the following amounts:

Chairman	$566,400
Staff years	(7)
Commissioners	1,857,600
Staff years	(24)
Satellite offices	854,400
Staff years	(15)
Secretary	3,456,000
Staff years	(87)
General Counsel	1,862,400
Staff years	(27)
Proceedings	7,603,000
Staff years	(120)
Hearings	374,200
Staff years	(5)
Public Assistance	1,012,800
Staff years	(15)
Transportation Analysis	2,208,000
Staff years	(28)
Accounts	4,262,400
Staff years	(65)
Traffic	3,148,800
Staff years	(70)
Compliance & Consumer Assistance	12,816,000
Staff years	(210)
Managing Director	4,272,000
Staff years	(77)

Railroad Accounting Principles Board.—The conferees direct the Interstate Commerce Commission to initiate without delay regulatory proceedings with respect to implementation of the findings of the Railroad Accounting Principles Board. The Commission should complete its proceedings and implement its decisions as expeditiously as sound analysis and evaluation will allow. The Commission is instructed to report back to the House and Senate Committees on Appropriations on the status of implementation efforts no later than March 31, 1988, and every 6 months thereafter. To the extent that the Commission's findings differ from the findings and recommendations of the Board, the Commission should explain fully the reasons for such differences in explanatory material provided to the House and Senate Committees on Appropriations.

Panama Canal Commission

OPERATING EXPENSES

Appropriates $407,088,000 instead of $424,050,000 as proposed by the Senate and $422,950,000 as proposed by the House.

CAPITAL OUTLAY

Appropriates $33,715,000 instead of $35,120,000 as proposed by the Senate and $33,250,000 as proposed by the House.

The conferees agree that any payments under article XIII, paragraph 4(c) of the Panama Canal Treaty to the present Government of Panama should be avoided. The conferees note, however, that the Commission has already lowered its initial estimates of toll revenues for this fiscal year. Given the uncertain outlook for international trade and the world economy in general, the conferees believe this downward trend in tolls could continue. If, however, a later assessment indicates that Commission revenues are likely to exceed expenditures at year end, the Committees on Appropriations will consider such supplemental requests as may be submitted.

Department of the Treasury

REBATE OF SAINT LAWRENCE SEAWAY TOLLS

(HARBOR MAINTENANCE TRUST FUND)

Appropriates $9,880,000 to be derived from the Harbor Maintenance Trust Fund instead of $10,585,000 as proposed by the Senate and $10,700,000 as proposed by the House.

Congressional Award Board

CONGRESSIONAL AWARD PROGRAM

Deletes Senate provision that appropriates $275,000 to the Congressional Award Board.

TITLE II

General Provisions

AIR TRAFFIC CONTROLLER WORK FORCE

Requires that the Federal Aviation Administration meet the following air traffic controller work force staffing requirements by September 30, 1988:

(1) total work force level of 15,900 personnel;

(2) total full performance level work force of 10,450 personnel; and

(3) at least 70 percent of the air traffic controller work force, excluding common screen students, at each center and level 3 and above terminal shall have achieved operational controller status.

The Conference requirements reflect the changes in work force accounting recommended by the General Accounting Office and described in the Senate Report (Report 100-198).

The House bill proposed (1) a total work force level of 15,900; (2) a total operational controller level of 12,250; (3) a total full performance level of 10,350; and (4) a 70 percent operational controller level at centers and level 3 and above towers. The Senate bill proposed (1) a total work force level of 15,800; and (2) a full performance level of 10,450.

Allows the Secretary to waive any of the air traffic controller work force requirements should it be determined that air safety would be adversely affected.

RENTAL PAYMENTS TO GENERAL SERVICES ADMINISTRATION

Limits rental payments made to the General Services Administration to 100 percent of the rates paid during fiscal year 1987 as proposed by the Senate instead of 104 percent as proposed by the House. The bill also prohibits any reduction from the level of rental space or service provided in fiscal year 1987.

VIRGINIA STREET BRIDGE

Exempt, the Virginia Street Bridge in Charleston, West Virginia from 23 U.S.C. 144 (g)(2).

LONG ISLAND RAILROAD SMOKING PROHIBITION

Denies federal funds in this or any other Act for the New York Metropolitan Transportation Authority unless, within 90 days of enactment, all smoking is prohibited on the Long Island Railroad. The House bill prohibited all funds unless a ban was implemented within 30 days of enactment. The Senate bill contained no comparable provision.

ACROSS-THE-BOARD REDUCTION

Deletes the two percent across-the-board funding reduction proposed by the House. The Senate bill contained no similar provision.

AIRLINE SMOKING PROHIBITION

Prohibits smoking in the passenger cabin or lavoratory on any scheduled airline flight in intrastate, interstate, or overseas air transportation if such flight is scheduled for 2 hours or less in duration. The bill stipulates that this requirement shall be in effect for a 24-month period. The House bill denied the use of federal airport development or planning funds to any airport that permitted service by air carriers that did not prohibit smoking on scheduled flights of 2 hours or less. The Senate bill prohibited smoking on any air carrier flight scheduled for 90 minutes or less for a 24-month period.

The conference agreement establishes a uniform national policy with respect to smoking on regularly scheduled commercial aircraft. Thus, the provisions adopted preempt any inconsistent legal action by States and their local subdivisions during the period they are in effect. The language agreed to also authorizes the Secretary to develop appropriate enforcement procedures through regulation. These regulations are to be issued under the Federal Aviation Act of 1958 (49 U.S.C. 1374), as amended, and will have the same status as any other regulation issued pursuant to the provisions of that Act. The conferees intend that no civil or criminal liability shall attach to good faith efforts by airline employees to comply with the requirements of the regulations adopted. The conferees also agree that the prohibition on smoking applies to flights scheduled for 2 hours or less, regardless of the actual duration of such flights.

The language adopted also prohibits tampering with or disabling aircraft smoke detection devices and subjects violators to civil penalties of up to $2,000.

RAILROAD MAINTENANCE AND REPAIR WORK

Deletes provision proposed by the Senate requiring that necessary maintenance and repair work on the Boston & Maine Railroad lines between Springfield and East Northfield, Massachusetts, and between Brattleboro and Windsor, Vermont, be performed in accordance with provisions of existing contracts of the classes or crafts involved and the owners of the lines. The House bill contained no comparable provision.

SIXTY-FIVE MPH SPEED LIMIT DEMONSTRATION PROGRAM

Waives the penalty provisions specified under sections 154(a) and 141(a) of title 23, United States Code, in fiscal years 1988, 1989, 1990 and 1991 for up to 20 states that establish maximum speed limits of sixty-five miles per hour for certain roads and under certain conditions before July 1, 1988. It also covers certain highways that are described under section 139(c) of title 23, United States Code. The Senate bill provided similar authority without limit to the number of eligible states, the time period for which sanctions are temporarily waived, or the time period during which states could take action to post higher speed limits. The House bill contained no comparable provision.

In light of previously enacted legislation to raise the maximum speed limit on certain rural interstate highways, this provision is intended to permit higher speeds on other highways that essentially meet the same design and construction standards as rural interstate highways. The conferees have provided that participation in this determination program is limited to the first 20 states that post maximum speed limits of sixty-five miles per hour on qualified highways before July 1, 1988. Under certain circumstances, it may be necessary for the Secretary to determine whether highways covered by this provision are adequate to safely accommodate higher speeds. In those cases, the conferees expect that any such determinations, if necessary, shall be completed on an expedited basis. Since the conferees do not intend to diminish the ability of interested States to participate in this program before the July 1, 1988 deadline, the Secretary is directed to complete any required determinations within 30 days after a state acts to raise the speed limit on highways in accordance with this provision.

The Secretary, in consultation with the National Association of Governors' Highway Safety Representatives, shall report to the House and Senate Committees on Appropriations and to the appropriate authorizing committees at the end of each fiscal year on the safety effects of this demonstration program. These reports shall include an analysis of the number and rate of accidents, injuries, and fatalities occurring on such highway segments compared to the experience on high speed rural interstate highway segments as well as to the previous safety experience on each highway segment.

COMMUTER RAIL SERVICE ASSISTANCE

Makes certain costs incurred by states, bodies and agencies as a result of the discontinuance of Conrail commuter rail services eligible for reimbursement under section 17(f) of the Urban Mass Transportation Act of 1964, as amended, as proposed by the Senate. The House bill contained no comparable provision.

TECHNICAL CORRECTIONS

Makes technical corrections to the Surface Transportation and Uniform Relocation Assistance Act of 1987 concerning certain Idaho highway projects, as proposed by the Senate. The House bill contained no comparable provision.

UNION CANAL

Declares a portion of the Union Ship Canal in Buffalo, New York to be a nonnavigable waterway under the General Bridge Act of 1946, as proposed by the Senate. The House bill contained no comparable provision.

OFFICE OF THE SECRETARY TRANSFER AUTHORITY

Authorizes transfer authority of up to 2.5 percent for each office funded under "Office of the Secretary, salaries and expenses". The Senate bill allowed transfers of up to 5 percent for each office. The House bill contained no comparable provision.

ATLANTIC CITY AIRPORT

Restricts FAA property transfer and additional funds for the Atlantic City Airport as proposed by the Senate. The House bill contained no comparable provision.

HONOLULU AIRPORT DEED OF CONVEYANCE AND GRANT ELIGIBILITY

Deletes provision proposed by the Senate releasing restrictions on Postal Service property to facilitate transfer to Honolulu Airport. The House bill contained no comparable provision.

Deletes provision proposed by the Senate allowing Hawaii to be reimbursed for the cost of land acquired for Honolulu Airport. The House bill contained no comparable provision.

WYOMING TRUCK ACCESS DEMONSTRATION PROJECT

Extends the Wyoming truck access demonstration project to October 1, 1991, as proposed by the Senate. The House bill contained no comparable provision.

TRANSFER OF UNUSED SECTION 9 FUNDS

Allows the Governor of Louisiana to transfer between urbanized areas up to $5,000,000 of unused apportionments available under section 9 of the Urban Mass Transportation Act of 1964, as amended as proposed by the Senate. The House bill contained no comparable provision.

TECHNICAL CORRECTION

Makes a technical correction to the Surface Transportation and Uniform Relocation Assistance Act of 1987 regarding a project in Louisiana as proposed by the Senate. The House bill contained no comparable provision.

DENIAL OF FUNDS FOR PROJECTS USING CERTAIN SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES

Deletes a provision proposed by the Senate prohibiting the use of funds for any transportation project to which certain services are provided from foreign countries that deny fair market opportunities. The House bill contained no comparable provision.

TECHNICAL CORRECTIONS

Sections 338 through 352 make various technical corrections to the Suface Transportation and Uniform Relocation Assistance Act of 1987, and title 23, United States Code. Significant programs and projects addressed are as follows:

Railroad-Highway crossings information program

Feasibility studies:

Springville, New York-Pennsylvania state line

Sebastopol, California

Buffalo, New York

Chicago, Illinois-Kansas City, Missouri

Birmingham, Alabama
I-4R transfer authority
Toll pilot projects:
Orange County, California
Pennsylvania-West Virginia
State of Georgia
Bridge formula exemption
Cumberland Gap
Interstate Route I-420 withdrawal procedural requirements
Demonstration projects
State of Nevada
Douglas County, Kansas
Tampa, Florida
Compton, California
Concord, California
Bloomington, Minnesota
Modesto, California
Iowa-Nebraska Missouri River bridge
Aurora-Hoyt Lakes, Minnesota
Fosston-Bagley-Shevlin, Minnesota
El Segundo, California
Lawrence, Massachusetts
King of Prussia, Pennsylvania
Schoharie Creek Bridge, New York
Railroad-highway crossings demonstration program federal match
North Dakota access roads

The Senate versions of H.R. 2890 and H.J. Res. 395 contained various technical amendments. The House bills contained no comparable provisions.

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS ACT

Amendment No. 14: Section 101(m) of House Joint Resolution 395 provides appropriations for programs, projects, and activities provided for in the Treasury, Postal Service, and General Government Appropriations Act, 1988. The House version of the joint resolution provides appropriations for programs, projects, and activities at a rate of operations and to the extent and in the manner provided for in H.R. 2907 as passed the House of Representatives on July 15, 1987. The Senate version of the joint resolution provides appropriations for these programs, projects, and activities at the rate and in the manner provided for in H.R. 2907 as passed by the Senate on September 25, 1987, with certain additional provisions and exceptions provided for in the joint resolution.

The conference agreement on House Joint Resolution 395 incorporates some of the provisions of both the House and Senate versions of the Treasury, Postal Service, and General Government Appropriations Act, 1988, and has the effect of enacting the Act into law. The language and allocations set forth in House Report 100-211 and Senate Report 100-160 should be complied with unless specifically addressed in this joint resolution and statement of the managers to the contrary. The Treasury, Postal Service, and General Government Appropriations Act, 1988, put in place by this joint resolution, incorporates the following agreements of the managers.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

During fiscal year 1988, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended, the following information provides the definition of the term "program, project, and activity" for departments and agencies under the jurisdiction of the Treasury, Postal Service, and General Government Subcommittee. The term "program, project, and activity" shall include the most specific level of budget items identified as a dollar amount in the Treasury, Postal Service, and General Government Appropriations Act, 1988 (H.R. 2907), the House and Senate committee reports (H. Rept. 100-211 and S. Rept. 100-160), and the conference report and accompanying joint explanatory statement of the managers of the committee of conference (Under the above definition, the Federal Buildings Fund, the Bureau of Engraving and Printing Fund, and other intragovernmental funds are among the accounts exempt from sequestration altogether.).

In implementing a Presidential Order, departments and agencies shall apply the percentage reduction required for fiscal year 1988 pursuant to the provisions of Public Law 99-177, as amended, to each budget item that is listed under said accounts in the budget justifications submitted to the House and Senate Committees on Appropriations as modified by subsequent appropriations acts (including joint resolutions providing continuing appropriations), and accompanying House and Senate Committee reports, conference reports, or joint explanatory statements of the committee of conference.

TITLE I—DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

Establishes separate appropriation accounts for the Office of the Secretary and International Affairs as proposed by the House instead of consolidating those accounts into one account as proposed by the Senate. Appropriates $55,681,000 for salaries and expenses of the Office of the Secretary instead of $56,650,000 as proposed by the House and appropriates $23,422,000 for international affairs instead of $24,391,000 as proposed by the House. The Senate proposed total funding of $77,165,000 for both accounts combined.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

Makes available funds for the development of a Master Plan for future land and facility use at Glynco, Georgia as proposed by the Senate.

Mandates that the Center maintain a certain level of employment as proposed by the Senate.

Designates the name of the new residential facility at Glynco, Georgia as proposed by the Senate.

Appropriates $28,672,000 for salaries and expenses instead of $26,133,000 as proposed by the House and $30,000,000 as proposed by the Senate.

FINANCIAL MANAGEMENT SERVICE

Appropriates $265,000,000 for salaries and expenses instead of $270,004,000 as proposed by the House and $196,667,000 as proposed by the Senate.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

Establishes a limitation which provides for the purchase of a maximum 500 vehicles as proposed by the Senate instead of 300 vehicles as proposed by the House.

Authorizes the training and provision of laboratory assistance to State and local law enforcement agencies as proposed by the Senate.

Appropriates $217,531,000 for salaries and expenses instead of $218,226,000 as proposed by the House and $225,000,0000 as proposed by the Senate.

The Committee of Conference notes that the Bureau of Alcohol, Tobacco, and Firearms has developed a program which targets, and results in the apprehension of violent repeat offenders. Statistics show that the armed, habitual career criminal has a devastating criminal effect on society and must be addressed with a vigorous, effective Federal law enforcement apprehension effort. Therefore, the Committee of Conference concurs with the Senate in recommending that, within the overall aggregate appropriation for BATF, an additional $10,000,000 be made available for the hiring of additional law enforcement personnel in the Armed Career Criminal Apprehension Program for fiscal year 1988.

Mandates that the Bureau maintain a certain level of personnel as proposed by the Senate.

U.S. CUSTOMS SERVICE

Establishes a limitation which provides for the total acquisition of 700 motor vehicles for replacement only instead of 1,000 as proposed by the Senate and for the purchase of 680 replacement motor vehicles instead of 500 replacement motor vehicles as proposed by the House and 980 as proposed by the Senate establishes a limitation which provides for the purchase of 250 new motor vehicles instead of 500 new motor vehicles as proposed by the Senate.

Establishes a limitation of $10,000 on official reception and representation expenses as proposed by the House instead of $20,000 as proposed by the Senate. Only $10,000 was contained in the budget request.

Appropriates $966,000,000 for salaries and expenses instead of $963,090,000 as proposed by the House and $986,809,000 as proposed by the Senate. This amount provides for approximately 1,235 additional personnel instead of 800 as proposed by the House and 1,735 as proposed by the Senate.

Deletes language proposed by the House regarding funds made available from the customs User Fee Account.

Makes available $4,000,000 for research as proposed by the Senate instead of $1,000,000 as proposed by the House. The Customs Service is directed to report to the House and Senate Committees on Appropriations on specific use of these funds in both fiscal years 1987 and 1988.

Restores language stricken by the Senate regarding the Equal Employment Opportunity Program of the Customs Service.

Establishes a minimum employment level of 16,099 positions instead of 15,837 positions as proposed by the House and 16,361 as proposed by the Senate.

Restores language stricken by the Senate which provides that not less than $300,000 shall be expended for part-time and temporary positions in the Honolulu Customs District.

The Conferees have been informed that there is growing concern regarding inspectional services at the Palm Beach International Airport in West Palm Beach, Florida. Specifically, the Conferees have learned that only one U.S. Customs Federal Inspection Service station is servicing this growing Palm Beach airport. The Conferees have been informed that potential safety problems could arise because of the lack of adequate inspectional capabilities at this important international airport. Therefore, the Conferees recommend that the Customs Service give the strongest possible consideration to staffing a second Federal Inspection Service facility at the Palm Beach International Airport. It is hoped that this additional staffing will alleviate any safety problems that could arise or have arisen at this international airport.

The Conferees concur with the language in the Senate report concerning International Airline Antismuggling Procedures.

The Committee of Conference notes that the Senate has directed the General Accounting Office to conduct a thorough review of the Automated Commercial System (ACS) program at Customs. This Committee of Conference recommends that the language contained in Senate Report 100-160 in this regard be augmented with the following on page 31 report before the heading "Additional Commercial Operations Concerns":

Furthermore, the Committee is concerned that an environment conducive to voluntary compliance with the Customs laws be sustained in the development of ACS. Customs will never be able to inspect a hundred percent of all shipments or review a hundred percent of all entries, therefore it is encumbent upon Congress and the Administration to take steps to foster a high degree of voluntary compliance. This is best accomplished through soundly conceived enforcement efforts, and responsive services to brokers, importers and others who need Customs' assistance in order to comply.

The cost of delay associated with Customs processing is mounting rapidly, imposing ever more stringent demands to meet shipping schedules and sharply compressing the time allowed for enforcement activities. Customs is responding to these challenges through rapid automation, including ACS. The integrity of enforcement efforts under ACS, however, rely on the validity of data entered into the cargo selectivity system, and the ability of Inspectors and Import Specialists to communicate with each other and exercise judgment in identifying shipments for inspection and overriding the selectivity system where appropriate. The Committee is concerned that the history of examinations and their results presently obtained with the cargo selectivity system are inadequate to serve as a reliable basis for determining the type of examinations to be conducted in the future, and that Inspectors and Imports Specialists are hampered by restrictions placed on their ability to exercise their best judgment within the ACS process as it is now operating. The former high degree of communication between Inspectors and Import Specialists, which contributed to sound enforcement, is breaking down as Inspectors communicate more with computers than with Import Specialists. The full consequences of this breakdown are unknown.

In addition, as Congress considers the provision of additional resources for Customs to carry out its mission, it is essential for the Committee to have qualitative estimates of the incremental revenue yield from Customs direct enforcement activities in the commercial area.

The Committee hopes that all major problems with ACS will be resolved before Customs appears before the Committee for Customs' fiscal year 1989 budget hearings. In order to obtain additional information affecting its concerns, the Committee requests the General Accounting Office to conduct a detailed review of ACS, assessing the resources assigned to the system and its impact on the performance of Customs in enhancing voluntary compliance, deterring commercial fraud, enforcing the trade laws, and collecting revenue. The report should contain recommendations aimed at assuring that Customs is on the right track in automating its many commercial functions in the most cost effective manner, and that Customs systems will efficiently interface with new transportation and communications systems which are revolutionizing cargo movement technology. The nation needs a Customs support infrastructure capable of both servicing the trade community and enforcing the trade laws into the 21st century. GAO officials should consult with both administration and private sector officials and Customs employees on this matter. In assessing the factors shaping voluntary compliance with the trade laws, the study should include a systematic effort to record both errors and revenue loss associated with entry submissions and verification of entry data through physical inspection of shipments. In considering trade law compliance, the study should identify the complex activities performed by Customs that collect tariffs, enforce quotas, deters circumvention of antidumping and countervailing duty penalties, and safeguards intellectual property rights, and the need to perform these activities in a cost effective manner. Finally, the review will assess the revenue yield from Customs' commercial enforcement activities, and provide the Committee with a quantitative estimate of the incremental revenue yield from Customs direct enforcement activities in the commercial area. The Committee expects the final report to be finished no later than February 15, 1987.

The Committee of Conference notes that the Senate has directed the General Accounting Office to conduct a thorough analysis of the Customs Service's Centralized Examination Station (CES) program. In addition to the language contained in the Senate Report (S. Report 100-160) the Committee of Conference directs that during the pendency of the CES study by GAO, and until such time as a decision is made as to the advisability of the CES program, GAO is to closely monitor Customs' ongoing utilization of personnel at J.F.K. Airport and other airports at which CES programs are being delayed or terminated. This monitoring shall include necessary consultation with the users of Customs services and is intended to insure that Customs passenger and cargo processing not be adversely impacted or delayed. GAO is directed to report to the Committee by no later than March 15, 1988, regarding any indication that Customs personnel are not being utilized as efficiently and effectively as possible. Finally, GAO should be particularly sensitive to any suggestion of Customs retaliation, if any, against the industry for drawing the attention of the Committee to this important matter.

The Conferees have recommended a total of $966,000,000 for the U.S. Customs Service Salaries and Expenses account, which will provide approximately 1,235 additional positions for the agency in fiscal year 1988 over and above current levels. The Committee of Conference believes that a major infusion of new commercial operations positions is required at Customs in order to assure substantially improved service to the trade community and to enhance the Customs crackdown on commercial fraud and other violations of Customs law. Therefore, the Conferees direct the Customs Service to allocate at least 70 percent of the additional new positions to commercial operations programs in the highest priority areas around the country. The Commissioner of Customs is directed to report semiannually regarding the actual hiring of the additional positions provided for fiscal year 1988 and urges him to expedite the process of putting these additional, important personnel slots on-line.

CUSTOMS COVERAGE AT TAMIAMI AIRPORT, FLORIDA

The Committee directs that the Customs Service initiate Customs coverage at the Tam-iami Airport as soon as possible.

The Committee feels that one shift should meet the needs at this airport without the closing of service at any other airport.

It is requested that a report be submitted to the Committees on Appropriation on this directive not later than January 15, 1988.

AIR INTERDICTION PROGRAM

Appropriates $140,000,000 for operation and maintenance instead of $86,210,000 as proposed by the House and $150,000,000 as proposed by the Senate.

Provides that no aircraft or related equipment shall be transferred on a permanent basis to any office outside the Department of the Treasury in fiscal year 1988 as proposed by the Senate.

ALBUQUERQUE, N. MEX. HANGAR

The Committee of Conference recommends that, within the total amount provided for the Customs air interdiction program in fiscal year 1988, $2,000,000 shall be made available to initiate construction of a hangar and administrative office complex at the Albuquerque, New Mexico, Air Branch. This important air interdiction facility is required in order to enhance the Albuquerque Air Branch's role in drug interdiction along the southwest border. The Conferees note that the total cost of this important project is estimated to be $4,580,000. It is the clear intention of the Conferees that the balance of the funding for this important project will be provided in fiscal year 1989. The Customs Service shall report regularly to the Committees on Appropriations of the House and Senate regarding the initiation of this critical drug interdiction facility project in Albuquerque.

PAYMENT TO THE GOVERNMENT OF PUERTO RICO

Provides for the payment of a grant of $7,800,000 instead of $12,000,000 as proposed by the Senate to Puerto Rico for an aerostat radar drug interdiction surveillance system as proposed by the Senate.

UNITED STATES MINT

Appropriates $42,000,000 for salaries and expenses instead of $44,000,000 as proposed by the Senate and makes available $75,000 to host the International Mint Directors' Conference instead of $100,000 as proposed by the Senate. This $75,000 is in addititon to the fees collected from participants.

BUREAU OF THE PUBLIC DEBT

Appropriates $215,000,000 for administering the public debt instead of $217,000,000 as proposed by the Senate and $241,426,000 as proposed by the House.

PAYMENT OF GOVERNMENT LOSSES IN SHIPMENT

Appropriates $400,000 for payment of government losses in shipment as proposed by the Senate.

INTERNAL REVENUE SERVICE

Appropriates $87,165,000 for salaries and expenses as proposed by the House instead of $86,382,000 as proposed by the Senate.

Appropriations $1,691,076,000 for processing tax returns instead of $1,702,576,000 as proposed by the House and $1,680,020,000 as proposed by the Senate.

Provides that $17,800,000 be available for the Statistics of Income Program in fiscal year 1988 instead of $16,900,000 as proposed by the Senate.

Appropriates $1,849,581,000 for examination and appeals instead of $1,856,581,000 as

Government agency concerns in this regard were also addressed.

RURAL DEVELOPMENT, AGRICULTURE AND RELATED AGENCIES

For the Department of Agriculture, the Food and Drug Administration, the Commodity Futures Trading Commission, and related agencies, the conference agreement contains $52.36 billion in new BA. This represents an increase of $977.5 million over the fiscal year 1987-enacted level, an increase of $996.7 million over the budget request, an increase of $1.5 billion over the House committee-reported bill—H.R. 3520—and a decrease of $621.5 million from the Senate committee-reported bill—S. 1800.

Total obligational outlays contained in this agreement represent an increase of $1.34 billion over the administration's request, and $691 million over the House committee-reported fiscal year 1988 bill.

Increases over fiscal year 1987-enacted levels: Among the increases over fiscal 1987-enacted levels recommended in the conference agreement, I am particularly pleased by the $139 million increase we have included for the WIC Program.

Some of the other major recommendations include, for the first time in many years, full loss reimbursements for the revolving funds with increases of $1.9 billion for the ACIF, $667.9 million for the RHIF, and $186 million for the RDIF. The agreement also includes an increase of $307.7 million for REA loss reimbursements.

The conferees have recommended increases over the fiscal year 1987 level of: $873 million for food stamps; $264 million for child nutrition; $105 million for ACIF real estate loans; $27.3 million for the Food and Drug Administration.

The $17.8 million increase for APHIS includes a $319,000 increase for Animal Welfare Act enforcement; and $83.2 million for the Federal Crop Insurance Corporation. Of the overall $42.9 million increase for the Agricultural Research Service, I am pleased that the conferees agreed to an additional $1 million for the Human Nutrition Research Center on Aging. And of the $18.99 million increase for the Extension Service, I am pleased that the conferees have agreed to provide additional resources for a new vertebrate IPM specialist.

This specialist is to be located at the University of Massachusetts at Amherst Extension office to assist farmers throughout New England in using alternative, nonlethal, wildlife damage control techniques.

For the Farmers Home Administration, the conferees agreed to an overall increase over fiscal year 1987 of $2.78 billion, most of which is for loss reimbursement. But included in this total is $14 million for loans under the Rural Development Loan Fund of which, in accordance with the Senate report, $1 million will be made available through the six regional Rural Community Assistance Programs.

These RCAP's are located in Massachusetts, Virginia, Minnesota, Arkansas, Ohio, and California and, with these funds, will be able to assist rural communities with small-scale water problems.

Increases over the fiscal year 1988 administration requests: Among the major increases over the administration's fiscal year 1988 requests recommended in the conference agreement include: $933.1 million for REA guaranteed loans; $770.2 million for food stamps; $571.3 million for REA insured loans; and $327.7 million for REA loss reimbursements.

We have added $154.6 million for Soil Conservation Service activities; $95 million for Public Law 480 programs; $84 million for Rural Telephone direct loans; $60.4 million for Agricultural Research projects; $50 million for the Temporary Emergency Food Assistance Program [TEFAP]; $32.9 million for APHIS; and $18.95 million for the FDA.

I am particularly pleased by the $114.8 million increase over the request that we have been able to provide for the WIC Program, and the $95.4 million restoration we have included for Extension activities.

Of the $63.4 million increase for the Cooperative State Research Service, I am also pleased that the conferees have agreed to include $60,000 for the Belgian endive research project at the University of Massachusetts at Amherst and $260,000 for cranberry research. And, as specified in the House report, we have also requested a joint ARS/CSRS plan for the further upgrading and expansion of the Center for Cranberry and Blueberry Research in time for hearings on the fiscal year 1989 budget.

Recommended reductions: For the Commodity Credit Corporation, the conferees have recommended the $21.1-billion administration estimate, a full $4.29 billion below the amount required for fiscal year 1987. The conference agreement includes a $71.5-million reduction in the administration's request for the Federal Crop Insurance Corporation, and a $257-million reduction in the request for the Conservation Reserve. The conferees have reduced the FmHA rural housing loan account by $188.1 million from the fiscal year 1987 level, and FmHA ACIF operating loan account by $295 million.

Major issues: Mr. Speaker, amendment No. 12 contains conference agreements on the largest of all our domestic discretionary spending bills. Unfortunately, Members of this House have never had a chance to separately examine or vote on our committee's recommendations. And, because we have not done so, we will be back in the spring, if not before, with a supplemental and probably with some authorization bills to address some of the more controversial provisions in this agreement.

These provisions involve normalized prices, REA refinancing and, of course, the Commodity Credit Corporation.

Normalized prices: Mr. Speaker, I regret that the conferees agreed not only to accept but to expand the House language on normalized prices or "double-dipping," and to make the provision retroactive to January 1, 1986. The method of computing normalized prices for agricultural commodities was carefully worked out between several Federal agencies including the Departments of the Interior, the Army and Agriculture and the Tennessee Valley Authority to more precisely evaluate benefits from agricultural products.

The administration's intent was to put an end to the growing cost of growing surplus federally subsidized crops with cheap, federally subsidized water.

The agreement announced in June of this year was designed to ensure that only economically sound agricultural development water projects are supported by the taxpayers in the future. The new procedures were estimated to save 17 percent of the cost of future federally subsidized water projects. It is my hope that the authorizing committees of both houses will reconsider this entire issue in the next session.

We must put an end to this costly practice of counting Federal crop subsidies as a benefit in the attempt to justify Federal water projects.

REA: On the issue of REA prepayments, I regret that the best the conferees were able to do was to place a cap of $2.5 billion on the level of premium-free prepayments of REA-guaranteed FFB loans permitted in fiscal 1988. The Secretary of the Treasury has already determined that prepayments adversely affect the operation of the FFB.

But this amendment permits up to $2.5 billion in prepayments without his approval, at a long-term cost to the taxpayers of over $1 billion in anticipated premiums. I hope that the valid concerns and objections of the Secretary will be addressed in the next session by the committees of proper jurisdiction.

CCC: For the CCC, I regret to say that the conferees have adopted the House language with only minor modifications, including a restatement of the Corporation's 7 percent transfer authority and a $5 billion increase in borrowing authority.

It includes "prompt payment" language that, to my knowledge, has not been analyzed by anyone. The Secre-

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared with Enacted
TITLE I - CONGRESSIONAL OPERATIONS						
SENATE						
Payments to Widows and Heirs of Deceased Members of Congress						
Gratuities, deceased Members	164,600	---	---	---	---	-164,600
Mileage of the Vice President and Senators and Expense Allowances of the Vice President, the President Pro Tempore, Majority and Minority Leaders, Majority and Minority Whips, and Chairmen of the Majority and Minority Conference Committees						
Mileage of the Vice President and Senators	60,000	60,000	---	60,000	60,000	---
Expense allowances of the Vice President, the President Pro Tempore, Majority and Minority Leaders Majority and Minority Whips, and Chairmen of the Majority and Minority Conference Committees:						
Vice President	10,000	10,000	---	10,000	10,000	---
President Pro Tempore of the Senate	10,000	10,000	---	10,000	10,000	---
Majority Leader of the Senate	10,000	10,000	---	10,000	10,000	---
Minority Leader of the Senate	10,000	10,000	---	10,000	10,000	---
Majority Whip of the Senate	5,000	5,000	---	5,000	5,000	---
Minority Whip of the Senate	5,000	5,000	---	5,000	5,000	---
Chairmen of the Majority and Minority Conference Committees	6,000	6,000	---	6,000	6,000	---
Representation allowances for the Majority and Minority Leaders	20,000	20,000	---	20,000	20,000	---
Total, expense allowances	76,000	76,000	---	76,000	76,000	---
Total, Vice President and Senators	136,000	136,000	---	136,000	136,000	---
Salaries, Officers and Employees						
Office of the Vice President	1,137,000	1,145,000	---	1,145,000	1,145,000	+8,000
Office of the President Pro Tempore	152,000	153,000	---	153,000	153,000	+1,000
Office of the Deputy President Pro Tempore	90,000	90,000	---	90,000	90,000	---
Offices of the Majority and Minority Leaders	1,317,000	1,388,000	---	1,388,000	1,388,000	+71,000
Offices of the Majority and Minority Whips	427,000	431,000	---	431,000	431,000	+4,000
Conference committees	1,105,000	1,113,000	---	1,113,000	1,113,000	+8,000
Offices of the secretaries of the Conference of the Majority and the Conference of the Minority	268,000	270,000	---	270,000	270,000	+2,000
Office of the Chaplain	92,000	115,000	---	115,000	115,000	+23,000
Office of the Secretary	7,243,714	8,005,000	---	8,005,000	8,005,000	+761,286
Administrative, clerical, and legislative assistance to Senators	107,552,700	109,605,500	---	109,605,500	109,605,500	+2,052,800
Office of the Sergeant at Arms and Doorkeeper	42,098,000	44,771,000	---	44,161,000	44,161,000	+2,063,000
Offices of the secretaries for the Majority and Minority	899,000	905,000	---	905,000	918,000	+19,000
Agency contributions	27,983,000	40,036,000	---	40,036,000	28,802,200	+819,200
Total, salaries, officers and employees	190,364,414	208,027,500	---	207,417,500	196,196,700	+5,832,286
Office of the Legislative Counsel of the Senate						
Salaries and expenses	1,560,900	1,764,000	---	1,764,000	1,764,000	+203,100
Office of Senate Legal Counsel						
Salaries and expenses	593,000	633,000	---	633,000	633,000	+40,000
Expense allowances for the Secretary of the Senate, Sergeant at Arms and Doorkeeper of the Senate, and Secretaries for the Majority and Minority of the Senate	12,000	12,000	---	12,000	12,000	---
Contingent Expenses of the Senate						
Senate policy committees	2,081,000	2,203,000	---	2,203,000	2,203,000	+122,000
Inquiries and investigations	55,141,000	57,161,000	---	57,161,000	57,161,000	+2,020,000
Expenses of United States Senate Caucus on International Narcotics Control	325,000	325,000	---	325,000	325,000	---
Secretary of the Senate	666,300	666,300	---	666,300	666,300	---
Sergeant at Arms and Doorkeeper of the Senate	62,420,000	66,174,000	---	68,021,000	68,021,000	+5,601,000
Reappropriation	2,200,000	---	---	---	---	-2,200,000
Miscellaneous items	11,614,000	10,183,000	---	10,183,000	10,183,000	-1,431,000
Stationery (revolving fund)	13,000	13,000	---	13,000	13,000	---
Total, contingent expenses of the Senate	134,460,300	136,725,300	---	138,572,300	138,572,300	+4,112,000
Total, Senate	327,291,214	347,297,800	---	348,534,800	337,314,000	+10,022,786

By watering down our language, the conferees are signaling that this Congress is not really serious in its determination to be a real force for peace on Cyprus.

I am convinced that we can be such a force if we are firm in our commitment to demilitarizing that troubled island. In my judgment, it is time for Congress to establish a deadline for the withdrawal of all Turkish troops from Cyprus and that deadline must occur before next year's elections in order to be effective.

Time is running out on Cyprus but I am confident that Congress can still be a constructive force for peace rather than a detriment to the settlement of a tragedy that threatens not only the people of Cyprus but that stability of the Eastern Mediterranean. I hope you will join me in this effort.

Mr. SHARP. Mr. Speaker, I take this opportunity to point out to the House that the Senate which lacks rules on germaneness has abused the appropriation process by adding in several instances provisions, like this one, that if offered in the House would be in violation of the rules. Major legislative and other provisions involving nuclear wastes, natural gas matters, oil overcharge litigation, FERC rulemaking under the National Environmental Policy Act of 1969 and others have been included in this process by the other body and the House legislative committees with jurisdiction are excluded. It is quite true that Chairman WHITTEN and the subcommittee chairmen have carefully listened to us and have encouraged our "backroom" participation so that we could help fashion the final result. They have been gentlemen. But that is not enough. That process does not give us sufficient leverage to insist on total deletion of the Senate provision or no bill. We are not conferees. We negotiate, in essence, with one hand tied behind our backs. It is a matter of great concern not only to our committee, but also to the other legislative committees as the Speaker knows. We must find a better way next year that protects the prerogatives of the House and avoids circumventing the legislative committees.

Mr. Speaker, discussing further the Iroquois provision, I call to the attention our committee's first letter of November 30, 1987, to you about this provision (and others) where we asked to be conferees. The committee said:

> Also, section 307 will not halt the Iroquois proceeding or eliminate the docketed case. It merely attempts to prevent FERC from issuing a certificate of public convenience and necessity which comes at the end of the expedited rate proceeding. FERC funds will be available to conduct the proceedings up to the point of issuance of the certificate. Even that attempt might fail if no funds are expended in such issuance. Also at that juncture, a court might possibly intervene, notwithstanding section 307, to require FERC to decide upon an application lawfully initiated and processed.
>
> The committee understands that several proposed new pipelines that could serve the Northeast have applications pending before the Commission. Congress should not presume to choose among all these different proposals. Because the benefits and drawbacks of complex projects like these require expert judgment and fair hearing for all parties, Congress has set up a neutral process at the FERC to decide such cases. However, section 307 of the Senate bill would discriminate against one specific firm by trying to bar only it from fully using the fast track procedures that FERC has set up in order to increase competition in the gas markets and benefits consumers. Other firms would not be faced with such a potential bar.
>
> Section 307 is discriminatory. It is patently permanent. It is questionably effective. It raises serious legal questions. It is legislation in an appropriation bill.

Since writing that letter, our staff had the opportunity to talk to the staff of the full Committee on Appropriations concerning this issue of permanency. That staff kindly brought to our attention rulings by the Comptroller General about this issue. Indeed, the CG, in a 1986 decision (B-222097) said:

> There is a presumption that any provision in an annual appropriation act is effective only for the covered fiscal year. 31 U.S.C. subsection 1301(c); 20 Stat. 1185, 1204 (1985) (Sec. 8008 of DOD Appropriations Act, 1986). This is because appropriation acts are by their nature non-permanent legislation. Thus, unless otherwise specified, the provisions of an appropriation act for a given fiscal year expire at the end of that fiscal year. Accordingly, it has been the longstanding position of this Office that a provision contained in an appropriation act may not be construed as permanent legislation unless the language or nature of the provision makes it clear that such was the intent of the Congress. 62 Comp. Gen. 54, 56 (182); 10 Comp. Gen. 120, 121 (1930).

In this case, there is nothing in the legislation to indicate an intention to extend this provision beyond 1 fiscal year. I also understand that the environmental impact language will be implemented in accordance with existing law. Clearly, such review is important and should be carried out by FERC under such law.

Mr. HOYER. Mr. Speaker, on my motion the conference committee has included language in its report to clarify the intent of the Senate amendment, which the conference adopted with some modification, specifying that funds appropriated for the Centers for Disease Control for AIDS education would not be used for materials that directly promote homosexual sexual activities. Much concern has been expressed about the meaning of this amendment by various State, local, and private groups who are producing and distributing information about AIDS prevention, and the report explains what this amendment does not mean.

The amendment does not mean that Federal funds cannot go to organizations that are based in the gay community, or that serve the gay community. Quite the contrary. To date, over 70 percent of reported AIDS cases have occurred among gay men, and it is critical to AIDS prevention that this community in particular be educated about the risk of AIDS. Often, educational messages must be specifically designed to reach this community, and those messages must be conveyed in ways that will be trusted in that community.

Fortunately, private groups have been formed in every State and most cities that have the experience and the contacts to develop and disseminate the information that gay men need to protect themselves from AIDS. In my own district in suburban Washington, DC, there have been innovative and very useful efforts by the Health Education and Resource Organization [HERO] of Baltimore, and by the Whitman-Walker Clinic of Washington. Largely as a result of efforts like these, sexual transmission of infectious diseases—including AIDS—in the gay community has fallen dramatically in the last several years. We want to encourage and assist that kind of private response that has proven highly effective; the last thing we want to do would be to cut off Federal funding to those community organizations.

The amendment does not mean that sexual practices cannot be frankly discussed with appropriate audiences. AIDS is sexually transmitted; more important, specific sexual practices have been shown to transmit the virus that causes AIDS, and people must be warned that those practices are dangerous. This cannot be done without discussing those practices. Numerous experts in the field have written and called to tell us that it does not work to discuss this subject with euphemisms. Care must be taken, of course, that the message is appropriate to the audience that will be reached. The message for a gay bar is not the message for national television, and neither is the message for a high school class. But with due regard for people's sensibilities we must remember that getting accurate information across to people at their own level of understanding is a matter of life and death.

Finally, this amendment does not restrict what grantees can do with non-Federal funds. Nor does it prevent a grantee from referring an individual to an organization that is not federally funded, but which is better equipped than the grantee is to answer the particular concerns of that individual. Indeed, the amendment does not intrude at all into the contents of private counseling. Thus, we want to ensure maximum flexibility for counselors on the front lines to respond to the concerns that individuals raise. It will not help prevent AIDS if counselors are judgmental in their response, or if they simply refuse to respond to the realities of an individual's situation.

Mrs. BOXER. Mr. Speaker, among the many actions that the conferees undertook on the continuing resolution, one change that I would like to note is the clarification that was made regarding the type of AIDS educational materials and activities that may be funded by the Federal Government under this act. I am pleased to say that, in the conference report accompanying this continuing resolution, the conferees have explicitly clarified that federally funded AIDS educational materials and activities may include "descriptions of methods to reduce the risk of HIV transmission."

The conferees' statement is important because it clarified that materials and activities that are targeted to the gay community may describe, for members of that community, the best methods for reducing the risk of HIV transmission. The conferees' statement reflects the widespread understanding in the public health community that descriptive and targeted materials comprise the most effective preventive efforts for halting the transmission of the AIDS virus in this county.

I would also note that the conferees underscored their intent not to prohibit effective and targeted AIDS educational materials by deleting, as well, the potentially broad terms "or indirectly" promote or encourage homosexual sexual activity from the statutory provision. Both the change and the clarification made by the conferees are important in ensuring the continued development of effective, federally funded, AIDS educational materials and programs.

AIDS is a health issue not a political issue. The conferees action is an important realization of this fact.

Mr. SCHAEFER. Mr. Speaker, I would like to take this opportunity to explain my opposition to the continuing resolution which is part of the deficit reduction agreement worked out by congressional leaders and the White House. Because I strongly believe that the economic well-being of our country requires immediate action on the Federal budget deficit, I cannot support this measure.

The continuing resolution is a combination of all 13 spending bills and assorted other provisions. It totals approximately $600 billion, enough to fund Federal programs for the remainder of the fiscal year. Out of this, the largest spending bill in history, the deficit agreement calls for $7.6 billion in savings. We are cutting less than 2 percent from this spending bill, and calling it deficit reduction. Of this $7.6 billion, $5 billion comes from defense, which accounts for less than half of the $600 billion. That leaves $2.6 billion in cuts from all other Government spending provided for in this measure. Less than a 2-percent cut is a far cry from a meaningful cut in the deficit.

Mr. Speaker, I cannot vote for the Omnibus Budget Reconciliation Act of 1987 would reduce the deficit by $23 billion. However, $9 billion of this comes from increased taxes. The leadership will claim that the tax increases will hit corporations and the wealthy, but the truth is that nearly everyone will pay. One provision would extend the 3-percent telephone excise tax. It is not only corporations and the wealthy that will pay this tax. The fact is that what the general public does not pay for directly in these taxes, they will pay for indirectly through increased costs.

I cannot believe that the American people are undertaxed. Out of a budget exceeding $1 trillion, only $16 billion of the proposed $30.2 billion deficit reduction target would come from cuts in Government spending. The rest would come from taxes and asset sales, neither of which is a long-term solution to the budget deficit. There is no way that I can support tax increases and minor spending cuts and call it responsible actions on the deficit.

Mr. KENNEDY. Mr. Speaker, I am voting against the continuing resolution because I cannot support financing our military aims against the Nicaraguan Government.

The compromise agreement increases the rate of aid by 32 percent. Over the last several months we have supported the Contras at the rate of $90,000 a day. In the CR that increases to about $120,000 a day. House Democrats have been saying "No more aid to the Contras" for the last several months, yet every few weeks we pass another short-term spending bill with aid to the Contras in it. If we pass this CR, we will have given the Contras more than $15 million in so-called humanitarian aid—aid that we all know arrives in the form of guns as well as clothes and medicine.

Because of a closed rule on the continuing resolution and Ronald Reagan's threat of a veto if the measure lacks Contra aid, Members have no other vote with which to register their opposition to the continued financing of the war in Nicaragua. I regret that I am left with no other choice but to vote against the spending bill to express my opposition to Contra aid.

Mr. HOCHBRUECKNER. Mr. Speaker, we have just completed voting on the continuing resolution for fiscal year 1988. This bill contained all 13 appropriations measures which provide the funding for all nonentitlement Government programs. Included in this bill were many measures of importance to the people I represent, including funding for water hookups, Blackhawk helicopters, the A-6F, and x-ray lithography. All of these programs were properly authorized and voted on and included for final approval in this continuing resolution. I was actively involved in getting these programs included in this bill and I am extremely pleased that they will receive their proper funding. However, for one reason I was not able to vote for these important programs. I would like to explain for the record why I could not.

Out of consideration for all Members of Congress who wished to return to their homes in time for the holidays, the House leadership worked hard to negotiate a bill which Congress would approve and that the President would sign before the holidays began. One item that the President insisted had to be in this bill was funding for the counterrevolutionaries—Contras—in Nicaragua. In a meeting of the House Democratic caucus, House Democrats voted 6-to-1 against including any funding in the continuing resolution for the Contras. Despite this fact, the leadership presented the House with a bill which included Contra funding without giving House Members a chance to vote on that measure. The final vote on this bill was 209 to 208. More Democrats voted against this bill than voted for it. My colleagues and I voted against this bill because we objected to being forced to approve funding for the Contras without being given a chance to vote yes or no on that single provision. It was our hope that the inclusion of aid to the Contras would be defeated and that a clean continuing resolution bill, without that funding, could be reported to the House and easily approved.

Mr. Speaker, when we voted on the continuing resolution, many of our colleagues had already been in Washington much longer than they wanted to be. However, in order to get a bill which we all could wholeheartedly support, I and the other Members of Congress who voted against this bill for this reason would have been more than willing to stay as long as it took to get a bill we could support. I hope that in the future the House leadership will allow Members to vote separately on important questions such as funding the Contras so that the concerns of our constituents can be most clearly represented.

Mr. COLEMAN of Texas. Mr. Speaker, I rise in support of the continuing resolution. We are used to apologies from Members who explain their support for legislation as being reluctant or unenthusiastic. This conference report is not something any of us would choose to endorse in different circumstances.

I support the report as a member of the Appropriations Committee and as a conferee who has sat through weeks of sessions with Members from the other body. I want my colleagues in the House to know that whether or not this resolution proves to be the vehicle that funds the Federal Government for the remainder of the fiscal year, the imperfections it contains should not be attributed to our chairman, the gentleman from Mississippi, or to any of the subcommittee chairmen—the gentleman from Wisconsin in particular. It bears repetition that the House passed nearly all of its appropriations bills prior to October 1 and that the Senate did not.

My colleagues who will vote "no" on the principle that Contra aid is a ruinous policy with no place in this bill should recognize that there are some of us who agree with them but who are constrained to vote for the bill. The Appropriations Committee has spent 11 months doing its business. In the 10th month, the stock market crashed and the White House entered the picture via the budget summit. The leadership of this body made a good-faith agreement that spending cuts would come from the hide of the already approved appropriations bills. The members of the committee did not particularly like the prospect of opening a sealed package, cutting projects strongly endorsed by their colleagues and arguing with members from the other body who had not even marked up their bills, but we complied with the agreement. We did so in recognition of the fact that deficit reduction cannot and should not be achieved simply through revenue increases. We did so because our constituents and the financial markets consistently told us that only immediate cuts would convince them that legislation by initiative was better than sequestration, or legislation by default.

In the 11th month, the White House again stepped in, as it has time and time again in the past 7 years, to request Contra aid. I disapprove of Contra aid. In those instances where we have had clean votes, I have consistently opposed Contra aid. I will more than likely oppose it again in early February, when the question recurs. In the meantime, we should understand the Contra language as the best we could get.

Make no mistake, this was no deal. The President has said repeatedly that he would veto the bill unless the Contra aid, lethal and nonlethal, were included. The Government could shutdown, entitlements to the needy would not be available, but the Contras were to be armed. The peace process would be jeopardized. Disregard for the purpose of this debate the reported "revelations" of Major Miranda and the Contra offensive. The timing of each suggests that these are political developments owing more to our vote than to military strategy. This administration is obsessed with aiding the Contras. This administration apparently wants to play chicken with the budget process, with the economy, for the sake of 20 days' worth of aid to the Contras.

If passage of this conference report—with Contra aid—is going to be claimed by the White House as a political victory, fine. I want no part in that victory. If the prolongation of the Contra war is to be part of the Reagan legacy, leave me out of it. I support this report because the 13 spending titles live up to an agreement and for no other reason. I urge my colleagues to do the same.

Mr. WHITTEN. Mr. Speaker, I yield myself the remaining time.

The SPEAKER. The chair will announce that the gentleman from Mississippi has 3½ minutes remaining.

Mr. WHITTEN. Mr. Speaker, it is as we knew, though the feelings of the Members differ greatly, they are deep and sincere. Personally I think we got ourselves involved in the internal affairs of others around the world. There is one thing here that is important. We bring to an end that which has been going on for a long time, on the Contra issue. That is progress.

I would like to call to my colleagues' attention that there are two ways to serve in Congress; one is to record your view, and the other is try to do something about it. We on the committee try to do something about it. This year we are faced with putting all this in one bill because we have been forced to do it. As deeply as my colleagues feel on this side or that side of the aisle, my colleagues do not have the right to bring this Nation to a halt tonight.

In all seriousness, if the conference agreement is defeated, just about every Government facility in the country will be closed tomorrow. Every thing except protection of life and property.

We want to work this thing out these matters which stir these strong feelings, and we have done our dead-level best to bring to our colleagues a bill that will do that.

While we feel deeply about what is happening elsewhere, let us be sure that we do not forget America. Go with us and vote for this bill and let us help to straighten these things out, but do not take it out on your home folks. Vote with us.

The SPEAKER. All time has expired.

Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 209, noes 208, not voting 16, as follows:

[Roll No. 510]

AYES—209

Akaka
Andrews
Annunzio
Anthony
Aspin
AuCoin
Ballenger
Barnard
Bartlett
Bateman
Bentley
Bereuter
Bevill
Bliley
Boehlert
Boggs
Boland
Borski
Boulter
Brooks
Bryant
Buechner
Bustamante
Byron
Callahan
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Conte
Cooper
Coughlin
Courter
Coyne
Darden
Davis (MI)
de la Garza
DeLay
DeWine
Dicks
Dingell
Donnelly
Dornan (CA)
Duncan
Dwyer
Dyson
Edwards (OK)
Emerson
English
Erdreich
Espy
Fascell
Fawell
Fazio
Fish
Flippo
Foglietta
Foley
Frost
Gallo
Gaydos
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gordon
Grant
Gray (IL)
Green
Guarini
Hall (TX)
Harris
Hatcher
Hayes (LA)
Hefner
Hiler
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Kanjorski
Kasich
LaFalce
Lancaster
Lantos
Latta
Leath (TX)
Lehman (FL)
Lent
Lewis (CA)
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Mack
MacKay
Madigan
Manton
Martin (NY)
McCollum
McCurdy
McDade
McEwen
McGrath
McMillen (MD)
Mica
Michel
Miller (OH)
Mollohan
Montgomery
Morella
Morrison (WA)
Murtha
Myers
Nagle
Natcher
Nelson
Nichols
Nowak
Oakar
Obey
Ortiz
Oxley
Parris
Pashayan
Patterson
Pepper
Petri
Pickett
Pickle
Price (IL)
Price (NC)
Quillen
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roe
Rogers
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Saiki
Saxton
Sisisky
Skeen
Skelton
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Snowe
Spratt
Stallings
Stangeland
Stenholm
Stratton
Swift
Tallon
Tauzin
Taylor
Thomas (GA)
Traxler
Udall
Valentine
Visclosky
Volkmer
Walgren
Walker
Watkins
Weber
Weldon
Whitten
Wilson
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOES—208

Ackerman
Anderson
Applegate
Archer
Armey
Atkins
Baker
Barton
Bates
Beilenson
Bennett
Berman
Bilbray
Bilirakis
Bonior
Bonker
Bosco
Boucher
Boxer
Brennan
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bunning
Burton
Campbell
Cardin
Clay
Coble
Collins
Combest
Conyers
Craig
Crane
Crockett
Dannemeyer
Daub
Davis (IL)
DeFazio
Dellums
Derrick
DioGuardi
Dixon
Dorgan (ND)
Downey
Dreier
Durbin
Dymally
Early
Eckart
Edwards (CA)
Evans
Feighan
Fields
Flake
Florio
Ford (MI)
Frank
Frenzel
Gallegly
Garcia
Gejdenson
Gonzalez
Goodling
Gradison
Grandy
Gray (PA)
Gregg
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hansen
Hastert
Hawkins
Hayes (IL)
Hefley
Henry
Herger
Hertel
Hochbrueckner
Holloway
Hopkins
Howard
Inhofe
Jacobs
Jontz
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
Lagomarsino
Leach (IA)
Lehman (CA)
Leland
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lowry (WA)
Markey
Marlenee
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McHugh
McMillan (NC)
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Moody
Moorhead
Morrison (CT)
Mrazek
Neal
Nielson
Oberstar
Olin
Owens (NY)
Owens (UT)
Packard
Panetta
Pease
Pelosi
Penny
Perkins
Porter
Pursell
Rahall
Rangel
Roberts
Robinson
Rodino
Roth
Roybal
Russo
Sabo
Savage
Sawyer
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Skaggs
Slattery
Slaughter (NY)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solarz
Solomon
Spence
St Germain
Staggers
Stark
Stokes
Studds
Stump
Sundquist
Sweeney
Swindall
Synar
Tauke
Thomas (CA)
Torres
Torricelli
Towns
Traficant
Upton
Vander Jagt
Vento
Vucanovich
Waxman
Weiss
Wheat
Whittaker
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—16

Alexander
Badham
Biaggi
Daniel
Dickinson
Dowdy
Ford (TN)
Gephardt
Jones (NC)
Kemp
Lipinski
Lungren
Murphy
Roemer
Rose
Williams

☐ 0215

Mr. DONALD E. LUKENS changed his vote from "no" to "aye."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 145. An act to provide for a computer standards program within the National Bureau of Standards, to provide for Government-wide computer security, and to provide for the training in security matters of persons who are involved in the management, operation, and use of Federal computer systems, and for other purposes; and

H.R. 1454. An act to permit certain private contributions for construction of the Korean War Veterans Memorial to be invested temporarily in Government securities until such contributed amounts are required for disbursement for the memorial.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 515. An act to provide for more detailed and uniform disclosure by credit and charge card issuers with respect to information relating to interest rates and other fees which may be incurred by consumers through the use of any credit or charge card; and

H.R. 1948. An act to designate the U.S. Post Office Building located at 153 East 110th Street in New York, N.Y. as the "Oscar Garcia Rivera Post Office Building."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1994. An act to prevent fraud and abuse in housing and urban development programs.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 825) "An act to amend and extend certain laws relating to housing, and for other purposes," with amendments.

□ 0230

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987

Mr. ST GERMAIN. Mr. Speaker, I offer a motion.

The **SPEAKER.** The Clerk will report the motion.

Mr. ST GERMAIN moves to take from the Speaker's table the Senate bill (S. 825) to amend and extend certain laws relating to housing, and for other purposes, with Senate amendments to the House amendments thereto, and concur in the Senate amendments to the House amendments.

The text of the Senate amendments to the House amendments is as follows:

Senate amendments to House amendments:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Housing and Community Development Act of 1987".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purpose.
Sec. 3. Budget compliance.
Sec. 4. Credit limitation.
Sec. 5. Limitation on spending authority.

TITLE I—HOUSING ASSISTANCE

Subtitle A—Programs Under United States Housing Act of 1937

PART 1—GENERAL PROVISIONS

Sec. 101. Lower income housing authorization.
Sec. 102. Tenant rental contributions.
Sec. 103. Income eligibility for assisted housing.

PART 2—PUBLIC HOUSING

Sec. 111. Discretionary preference for near elderly families in public housing projects designed for the elderly.
Sec. 112. Grants for public housing development.
Sec. 113. Limitation on public housing development and assurance of public housing quality standards.
Sec. 114. Limitation on recapture of funding reservations.
Sec. 115. Indian public housing.
Sec. 116. Location of acquired housing.
Sec. 117. Public housing child care grants.
Sec. 118. Payments for operation of lower income housing projects.
Sec. 119. Comprehensive improvement assistance program.
Sec. 120. Comprehensive improvement assistance special purpose needs.
Sec. 121. Public housing demolition and disposition.
Sec. 122. Public housing resident management.
Sec. 123. Public housing homeownership and management opportunities.
Sec. 124. Treatment of certain public housing development funds.
Sec. 125. Energy efficient public housing demonstration.
Sec. 126. Public housing comprehensive transition demonstration.

PART 3—SECTION 8 ASSISTANCE AND OTHER PROGRAMS

Sec. 141. Section 8 contracts for existing dwelling units.
Sec. 142. Section 8 fair market rentals and contract rents.
Sec. 143. Housing voucher program.
Sec. 144. Administrative fees for section 8 certificate and housing voucher programs.
Sec. 145. Portability of section 8 certificates and vouchers.
Sec. 146. Prohibition of denial of section 8 certificates and vouchers to residents of public housing.
Sec. 147. Nondiscrimination against section 8 certificate holders and voucher holders.
Sec. 148. Project-based section 8 assistance.
Sec. 149. Section 8 assistance for residents of rental rehabilitation projects.
Sec. 150. Rental rehabilitation grants.
Sec. 151. Rental development grants.
Sec. 152. Termination of rental development grant program.

Subtitle B—Other Housing Assistance Programs

Sec. 161. Housing for the elderly and handicapped.
Sec. 162. Housing for the handicapped.
Sec. 163. Congregate services.
Sec. 164. Modification of restriction on use of assisted housing by aliens.
Sec. 165. Preventing fraud and abuse in Department of Housing and Urban Development programs.
Sec. 166. Annual report on characteristics of families in assisted housing.
Sec. 167. Section 236 rental housing program.
Sec. 168. Tenant eligibility determinations in rent supplement projects.
Sec. 169. Counseling to tenants and homeowners.
Sec. 170. Housing assistance technical amendments.

Subtitle C—Multifamily Housing Management and Preservation

Sec. 181. Management and preservation of HUD-owned multifamily housing projects.
Sec. 182. Acquisition of insured multifamily housing projects.
Sec. 183. Tenant participation in multifamily housing projects.
Sec. 184. Multifamily housing disposition partnership.
Sec. 185. Multifamily housing capital improvements assistance.
Sec. 186. Flexible subsidy program.

TITLE II—PRESERVATION OF LOW INCOME HOUSING

Subtitle A—General Provisions

Sec. 201. Short title.
Sec. 202. Findings and purpose.
Sec. 203. Termination of certain provisions.

Subtitle B—Prepayment of Mortgages Insured Under National Housing Act

Sec. 221. General prepayment limitation.
Sec. 222. Notice of intent.
Sec. 223. Plan of action.
Sec. 224. Incentives to extend low income use.
Sec. 225. Criteria for approval of plan of action.
Sec. 226. Alternative State strategy.
Sec. 227. Timetable for approval of plan of action.
Sec. 228. Modification of existing regulatory agreements.
Sec. 229. Consultations with other interested parties.
Sec. 230. Right of conversion to alternative prepayment system.
Sec. 231. Insurance for second mortgage financing.
Sec. 232. Report to Congress.
Sec. 233. Definitions.
Sec. 234. Regulations.
Sec. 235. Effective date.

Subtitle C—Rural Rental Housing Displacement Prevention

Sec. 241. Prepayment and refinancing procedures.
Sec. 242. Equity recapture loans and loans to nonprofit organizations and public agencies.
Sec. 243. Use of Rural Housing Insurance Fund.

Subtitle D—Other Measures to Preserve Low Income Housing

Sec. 261. Early prepayment.
Sec. 262. Section 8 assistance.
Sec. 263. Section 515 operating reserve and equity contribution requirements.

TITLE III—RURAL HOUSING

Sec. 301. Program authorizations.
Sec. 302. Eligibility requirements.
Sec. 303. Escrowing taxes and insurance.
Sec. 304. Rural housing guaranteed loan demonstration.
Sec. 305. Definition of domestic farm labor.
Sec. 306. Conformance with low-income housing tax credit eligibility requirements.
Sec. 307. Limitation of fees on rural rental housing loans.
Sec. 308. Rural area classification.
Sec. 309. Procedures for reduction of interest credits.
Sec. 310. Rural housing preservation grant program.
Sec. 311. Rural rental rehabilitation demonstration.
Sec. 312. Study of mortgage credit in rural areas.
Sec. 313. Debt settlement authority of Secretary.
Sec. 314. Manufactured housing.
Sec. 315. Loan packaging by nonprofit organizations.
Sec. 316. Rural housing technical amendments.

TITLE IV—MORTGAGE INSURANCE AND SECONDARY MORTGAGE MARKET PROGRAMS

Subtitle A—FHA Mortgage Insurance Programs

Sec. 401. Insurance authority for FHA.
Sec. 402. Amount to be insured under National Housing Act.
Sec. 403. Limitation on Federal Housing Administration insurance premiums.
Sec. 404. Increase in maximum mortgage amount under single family insurance program.
Sec. 405. Change in definition of veteran.
Sec. 406. Limitation on use of single family mortgage insurance by investors.
Sec. 407. Actions to reduce losses under single family mortgage insurance program.
Sec. 408. Insurance of graduated payment mortgages.
Sec. 409. Refinancing mortgage insurance for hospitals, nursing homes, intermediate care facilities, and board and care homes.
Sec. 410. Mortgage insurance for nursing homes, intermediate care facilities, and board and care homes.
Sec. 411. Requirement of State approval for mortgage insurance for hospitals.
Sec. 412. Mortgage insurance for public hospitals.
Sec. 413. Mortgage insurance on Hawaiian home lands and Indian reservations.
Sec. 414. Co-insurance program.
Sec. 415. Increase in authority to insure adjustable rate single family mortgages.
Sec. 416. Penalties for equity skimming.
Sec. 417. Home equity conversion mortgage insurance demonstration.
Sec. 418. Assurance of adequate processing of applications for loan and mortgage insurance.
Sec. 419. Prohibition of lender requirements discouraging loans with lower principal amounts.
Sec. 420. Repeal of requirement to publish prototype housing costs for 1- to 4-family dwelling units.
Sec. 421. Double damages remedy for unauthorized use of multifamily housing project assets and income.
Sec. 422. Miscellaneous mortgage insurance provisions.
Sec. 423. Calculation of maximum mortgage amount under single family insurance program.
Sec. 424. Approval of individual residential water purification or treatment units.
Sec. 425. Regulation of rents in insured projects.
Sec. 426. Mortgage limits for multifamily projects.
Sec. 427. Operating loss loan insurance.
Sec. 428. Interest charges on temporary mortgage assistance payments and assignment or other assistance.
Sec. 429. Mortgage insurance technical amendments.
Sec. 430. Release of pool funds.

Subtitle B—Secondary Mortgage Market Programs

Sec. 441. Limitations on certain secondary mortgage market fees.
Sec. 442. FNMA cumulative voting.
Sec. 443. Permanent authority to purchase second mortgages on single-family properties.
Sec. 444. Period for approval of actions of FNMA.
Sec. 445. Prohibition of limitation on FHLMC mortgage operations.
Sec. 446. Limitation on GNMA guarantees of mortgage-backed securities.

TITLE V—COMMUNITY DEVELOPMENT AND MISCELLANEOUS PROGRAMS

Subtitle A—Community and Neighborhood Development and Preservation

Sec. 501. Community development authorizations.
Sec. 502. Targeting of benefits to persons of low and moderate income.
Sec. 503. City and county classifications.
Sec. 504. Eligible activities.
Sec. 505. Statement of activities and review.
Sec. 506. Alleviation of lakefront flooding and erosion.
Sec. 507. Housing assistance plans.
Sec. 508. Citizen participation plan.
Sec. 509. Conserving neighborhoods and housing by prohibiting displacement.
Sec. 510. Limited new construction of housing under community development block grant program.
Sec. 511. Availability of community development block grants for uniform emergency telephone number systems.
Sec. 512. State certifications for receiving community development block grants for nonentitlement areas.
Sec. 513. Administrative expenses of States distributing funds to nonentitlement areas.
Sec. 514. Community development block grant loan guarantees.
Sec. 515. Urban development action grant selection criteria.
Sec. 516. Prohibition on use of urban development action grants for business relocations.
Sec. 517. Urban homesteading.
Sec. 518. Rehabilitation loans.
Sec. 519. Loan cancellation.
Sec. 520. Neighborhood reinvestment corporation.
Sec. 521. Neighborhood development demonstration program.
Sec. 522. Park Central New Community Project.
Sec. 523. Community development projects labor standards.
Sec. 524. Urban planning.
Sec. 525. Community development technical amendments.

Subtitle B—Flood and Crime Insurance Programs

Sec. 541. Extension of flood insurance program.
Sec. 542. Extension of crime insurance program.
Sec. 543. Studies under national flood insurance program.
Sec. 544. Schedule for payment of flood insurance for structures on land subject to imminent collapse or subsidence.
Sec. 545. Flood and crime insurance technical amendments.

Subtitle C—Miscellaneous Programs

Sec. 561. Fair housing initiatives program.
Sec. 562. Collection of certain data.
Sec. 563. Regulatory authority.
Sec. 564. Research and development.
Sec. 565. Home mortgage disclosure.
Sec. 566. Lead-based paint poisoning prevention.
Sec. 567. Median area income.
Sec. 568. Manufactured housing construction and safety standards.
Sec. 569. Nullification of right of redemption of single-family mortgagors.
Sec. 570. Miscellaneous programs technical amendments.
Sec. 571. Use of American materials and products.
Sec. 572. Study of voluntary standards for modular homes.

TITLE VI—NEHEMIAH HOUSING OPPORTUNITY GRANTS

Sec. 601. Statement of purpose.
Sec. 602. Definitions.
Sec. 603. Assistance to nonprofit organizations.
Sec. 604. Use of assistance.
Sec. 605. Program requirements.
Sec. 606. Terms and conditions of assistance.
Sec. 607. Program selection criteria.
Sec. 608. Distribution of assistance to nonprofit organizations.
Sec. 609. Nehemiah Housing Opportunity Fund.
Sec. 610. Report.
Sec. 611. Regulations.
Sec. 612. Authorization of appropriations.
Sec. 613. Sunset.

TITLE VII—ENTERPRISE ZONE DEVELOPMENT

Sec. 701. Designation of enterprise zones.
Sec. 702. Evaluation and reporting requirements.
Sec. 703. Interaction with other Federal programs.
Sec. 704. Waiver or modification of housing and community development rules in enterprise zones.
Sec. 705. Coordination of housing and urban development programs in enterprise zones.
Sec. 706. Coordination with CDBG and UDAG programs.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) for the past 50 years, the Federal Government has taken the leading role in enabling the people of the Nation to be the best housed in the world, and recent reductions in Federal assistance have contributed to a deepening housing crisis for low- and moderate-income families;

(2) the efforts of the Federal Government have included a system of specialized lending institutions, favorable tax policies, construction assistance, mortgage insurance, loan guarantees, secondary markets, and interest and rental subsidies, that have enabled people to rent or buy affordable, decent, safe, and sanitary housing; and

(3) the tragedy of homelessness in urban and suburban communities across the Nation, involving a record number of people, dramatically demonstrates the lack of affordable residential shelter, and people living on the economic margins of our society (lower income families, the elderly, the working poor, and the deinstitutionalized) have few available alternatives for shelter.

(b) PURPOSE.—The purpose of this Act, therefore, is—

(1) to reaffirm the principle that decent and affordable shelter is a basic necessity, and the general welfare of the Nation and the health and living standards of its people require the addition of new housing units to remedy a serious shortage of housing units for all Americans, particularly for persons of low and moderate income;

(2) to make the distribution of direct and indirect housing assistance more equitable by providing Federal assistance for the less affluent people of the Nation;

(3) to provide needed housing assistance for homeless people and for persons of low and moderate income who lack affordable, decent, safe, and sanitary housing; and

(4) to reform existing programs to ensure that such assistance is delivered in the most efficient manner possible.

SEC. 3. BUDGET COMPLIANCE.

(a) IN GENERAL.—This Act and the amendments made by this Act may not be construed to provide for new budget authority, budget outlays, or new entitlement authority, for fiscal year 1988 in excess of the appropriate aggregate levels established by the concurrent resolution on the budget for such fiscal year for the programs authorized by this Act and the amendments made by this Act.

(b) DEFINITIONS.—For purposes of this section, the terms "budget authority", "budget outlays", "concurrent resolution on the budget", and "entitlement authority" have the meanings given such terms in section 3 of the Congressional Budget Act of 1974 (2 U.S.C. 622).

SEC. 4. CREDIT LIMITATION.

Any new credit authority (as defined in section 3 of the Congressional Budget Act of 1974) which is provided by this Act, or by an amendment made by this Act, shall be effective only to such extent or in such amounts as are provided in appropriation Acts.

SEC. 5. LIMITATION ON SPENDING AUTHORITY.

Any new spending authority (as defined in section 401(c) of the Congressional Budget Act of 1974) which is provided by this Act, or by an amendment made by this Act, shall be effective only to such extent or in such amounts as are provided in appropriation Acts.

TITLE I—HOUSING ASSISTANCE

Subtitle A—Programs Under United States Housing Act of 1937

PART 1—GENERAL PROVISIONS

SEC. 101. LOWER INCOME HOUSING AUTHORIZATION.

(a) AGGREGATE BUDGET AUTHORITY.—Section 5(c)(6) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence: "The aggregate amount of budget authority that may be obligated for contracts for annual contributions for assistance under section 8, for contracts referred to in paragraphs (7)(A)(iv) and (7)(B)(iv), for grants for public housing, for comprehensive improvement assistance, and for amendments to existing contracts, is increased (to the extent approved in appropriation Acts) by $7,167,000,000 on October 1, 1987, and by $7,300,945,000 on October 1, 1988.".

(b) UTILIZATION OF BUDGET AUTHORITY.—Section 5(c)(7) of the United States Housing Act of 1937 is amended to read as follows:

"(7)(A) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1988, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for public housing grants under subsection (a)(2), not more than $481,320,000, of which amount not more than $144,696,000 shall be available for Indian housing;

"(ii) for assistance under subsections (b)(1) and (o) of section 8, not more than $2,415,000,000;

"(iii) for assistance under section 8(e)(2), not more than $400,000,000;

"(iv) for assistance under section 8 in connection with projects developed under section 202 of the Housing Act of 1959, not more than $1,681,830,000;

"(v) for comprehensive improvement assistance grants under section 14, not more than $1,700,000,000;

"(vi) for assistance under section 8 for property disposition, not more than $301,700,000; and

"(vii) for assistance under section 8 for loan management, not more than $187,150,000.

"(B) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1989, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for public housing grants under subsection (a)(2), not more than $490,465,000, of which amount not more than $147,445,000 shall be available for Indian housing;

"(ii) for assistance under subsections (b)(1) and (o) of section 8, not more than $2,458,660,000;

"(iii) for assistance under section 8(e)(2), not more than $407,600,000;

"(iv) for assistance under section 8 in connection with projects developed under section 202 of the Housing Act of 1959, not more than $1,713,785,000;

"(v) for comprehensive improvement assistance grants under section 14, not more than $1,732,300,000;

"(vi) for assistance under section 8 for property disposition, not more than $307,430,000; and

"(vii) for assistance under section 8 for loan management, not more than $190,705,000.

"(C)(i) Any amount available for the conversion of a project to assistance under section 8(b)(1), if not required for such purpose, shall be used for assistance under section 8(b)(1).

"(ii) Any amount available for assistance under section 8 for property disposition, if not required for such purpose, shall be used for assistance under section 8(b)(1).".

SEC. 102. TENANT RENTAL CONTRIBUTIONS.

(a) ECONOMIC RENT.—Section 3(a) of the United States Housing Act of 1937 is amended—

(1) by inserting "(1)" after "(a)";

(2) in the last sentence, by striking "A" and inserting the following: "Except as provided in paragraph (2), a";

(3) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively; and

(4) by adding at the end the following new paragraph:

"(2)(A) Any public housing agency may provide that each family residing in a public housing project owned and operated by such agency (or in lower income housing assisted under section 8 that contains more than 2,000 dwelling units) shall pay as monthly rent for not more than a 3-year period an amount determined by such agency to be appropriate that does not exceed a maximum amount that—

"(i) is established by such agency and approved by the Secretary;

"(ii) is not more than the amount payable as rent by such family under paragraph (1); and

"(iii) is not less than the average monthly amount of debt service and operating expenses attributable to dwelling units of similar size in public housing projects owned and operated by such agency.

"(B) The 3-year limitation established in subparagraph (A) shall not apply to any family residing in a public housing project administered by an Indian public housing agency.".

(b) UTILITY ALLOWANCE.—

(1) The Comptroller General of the United States shall submit to the Congress not later than October 30, 1988, a report regarding the utility allowances provided to the residents of public housing and housing assisted under section 8 of the United States Housing Act of 1937.

(2) The report shall include the following:

(A) A description of the manner in which public housing agencies are currently calculating utility allowances, including a national survey of the calculation methods used.

(B) An estimate of the number of residents of public housing and housing assisted under section 8 of the United States Housing Act of 1937 paying more than 30 percent of monthly adjusted income for rent and utilities, including a separate estimate for each meter category.

(C) Recommendations for revisions that may be made in current law to ensure that—

(i) utility allowances will not differ solely because of the metering system of the dwelling unit;

(ii) residents of public housing and housing assisted under section 8 of the United States Housing Act of 1937 will not pay more than 30 percent of monthly adjusted income for rent and utilities; and

(iii) such residents will have a strong incentive to conserve energy and reduce utility costs, and residents who waste substantial amounts of energy will be penalized.

(D) A description of administratively feasible methods of ensuring that utility allowances will reflect differences in the size, location, and energy-conserving condition of different types of dwelling units and appliances.

(E) An estimate of the costs that will be associated with any recommendation made under subparagraph (C).

(3) In preparing the report under this subsection, the Comptroller General shall consult with the Secretary of Housing and Urban Development, other appropriate Federal officials, other knowledgeable individuals, and national and other organizations representing public housing agencies, local governments, tenants, and energy conservation interests.

SEC. 103. INCOME ELIGIBILITY FOR ASSISTED HOUSING.

(a) IMPLEMENTATION OF PERCENTAGE LIMITATIONS.—Section 16 of the United States Housing Act of 1937 is amended by adding at the end the following:

"(c) In developing admission procedures implementing subsection (b), the Secretary may not totally prohibit admission of lower income families other than very low-income families, and shall establish, as appropriate, differing percentage limitations on admission of lower income families in separate assisted housing programs that, when aggregated, will achieve the overall percentage limitation contained in subsection (b). The Secretary shall issue regulations to carry out this subsection not later than 60 days after the date of the enactment of the Housing and Community Development Act of 1987.".

(b) EXEMPTIONS FROM PERCENTAGE LIMITATIONS.—Section 16 of the United States

Housing Act of 1937 (as amended by subsection (a) of this section) is further amended by adding at the end the following new subsection:

"(d)(1) The limitations established in subsection (b) shall not apply to dwelling units made available under section 8 housing assistance contracts for the purpose of preventing displacement, or ameliorating the effects of displacement, including displacement caused by rents exceeding 30 percent of monthly adjusted family income, of lower income families from projects being rehabilitated with assistance from rehabilitation grants under section 17 and the Secretary shall not otherwise unduly restrict the use of payments under section 8 housing assistance contracts for this purpose.

"(2) The limitations established in subsections (a) and (b) shall not apply to dwelling units assisted by Indian public housing agencies.".

PART 2—PUBLIC HOUSING

SEC. 111. DISCRETIONARY PREFERENCE FOR NEAR ELDERLY FAMILIES IN PUBLIC HOUSING PROJECTS DESIGNED FOR THE ELDERLY.

Section 3(b)(3) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence: "In determining priority for admission to public housing projects designed for elderly families, the public housing agency shall give preference to such families. When the public housing agency determines (in accordance with regulations of the Secretary) that there are insufficient numbers of elderly families to fill all the units in such a project, the agency may give preference to families in which the head of household (or spouse) is at least 50 years of age but below the age of 62 before those in which the head of household and spouse, if any, are below the age of 50.".

SEC. 112. GRANTS FOR PUBLIC HOUSING DEVELOPMENT.

(a) AUTHORITY TO PROVIDE GRANTS.—Section 5(a) of the United States Housing Act of 1937 is amended to read as follows:

"(a)(1) The Secretary may make annual contributions to public housing agencies to assist in achieving and maintaining the lower income character of their projects. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payment. The contribution payable annually under this section shall in no case exceed a sum equal to the annual amount of principal and interest payable on obligations issued by the public housing agency to finance the development or acquisition cost of the lower income project involved. Annual contributions payable under this section shall be pledged, if the Secretary so requires, as security for obligations issued by a public housing agency to assist the development or acquisition of the project to which annual contributions relate and shall be paid over a period not to exceed 40 years.

"(2) The Secretary may make contributions (in the form of grants) to public housing agencies to cover the development cost of public housing projects. The contract under which such contributions shall be made shall specify the amount of capital contributions required for each project to which the contract pertains, and that the terms and conditions of such contract shall remain in effect for a 40-year period.

"(3) The amount of contributions that would be established for a newly constructed project by a public housing agency designed to accommodate a number of families of a given size and kind may be established under this section for a project by such public housing agency that would provide housing for the comparable number, sizes, and kinds of families through the acquisition and rehabilitation, or use under lease, of structures that are suitable for lower income housing use and obtained in the local market.".

(b) CONFORMING AMENDMENTS.—

(1) Section 5 of the United States Housing Act of 1937 is amended—

(A) by striking "ANNUAL" in the section heading; and

(B) by striking "annual" in subsection (e)(2).

(2) Section 6 of the United States Housing Act of 1937 is amended by striking "annual" the first place it appears in the first sentence of subsection (g), and each place it appears in subsection (d) and the first sentence of each of subsections (a) and (c).

(3) Section 7 of the United States Housing Act of 1937 is amended by striking "annual" in the proviso in the first sentence.

(4) Section 9(a)(2) of the United States Housing Act of 1937 is amended—

(A) by striking "being assisted by an annual contributions contract authorized by section 5(c)" and inserting the following: "one developed pursuant to a contributions contract authorized by section 5"; and

(B) by striking "any such annual" and inserting "any such".

(5) Section 12 of the United States Housing Act of 1937 is amended by striking "annual".

(6) Section 14 of the United States Housing Act of 1937 is amended—

(A) by striking "receive assistance under section 5(c)" in subsection (c)(2) and inserting "assisted under section 5"; and

(B) by striking "annual" in each of paragraphs (2) and (4)(C) of subsection (d).

(7) Section 15 of the United States Housing Act of 1937 is amended by striking "with loans or debt service annual contributions" in clause (2).

(8) Section 16(b) of the United States Housing Act of 1937 is amended by striking "annual".

(9) Section 18(c) of the United States Housing Act of 1937 is amended by striking "annual contributions authorized under section 5(c)" and inserting "contributions authorized under section 5".

SEC. 113. LIMITATION ON PUBLIC HOUSING DEVELOPMENT AND ASSURANCE OF PUBLIC HOUSING QUALITY STANDARDS.

Section 5 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(j)(1) After September 30, 1987, in providing assistance under this Act to a public housing agency for public housing (other than for Indian families), the Secretary shall reserve funds for the development of public housing only if—

"(A) the Secretary determines that additional amounts are required to complete the development of dwelling units for which amounts are obligated on or before such date;

"(B) the public housing agency certifies to the Secretary that 85 percent of the public housing dwelling units of the public housing agency—

"(i) are maintained in substantial compliance with the housing quality standards established by the Secretary under section 8(o)(6);

"(ii) will be so maintained upon completion of modernization for which funding has been awarded; or

"(iii) will be so maintained upon completion of modernization for which applications are pending that have been submitted in good faith under section 14 (or a comparable State or local government program) and that there is a reasonable expectation, as determined by the Secretary in writing, that the applications would be approved;

"(C) the public housing agency certifies that such development—

"(i) will replace dwelling units that are disposed of or demolished by the public housing agency, including dwelling units disposed of or lost through sale to tenants or through units redesign; or

"(ii) is required to comply with court orders or directions of the Secretary;

"(D) the public housing agency certifies that it has demands for family housing not satisfied by the rental assistance programs established in subsection (b) or (o) of section 8 for which it plans to construct or acquire projects of not more than 100 units; or

"(E) the Secretary makes such reservation under paragraph (2).

"(2) Notwithstanding any other provision of law, not more than 20 percent of the funds appropriated for development of public housing also may be committed by the Secretary for the substantial redesign, reconstruction, or redevelopment of existing public housing projects or units, which work shall be carried out pursuant to the rules and regulations applicable to the development of public housing.".

SEC. 114. LIMITATION ON RECAPTURE OF FUNDING RESERVATIONS.

Section 5 of the United States Housing Act of 1937 (as amended by section 113 of this Act) is further amended by adding at the end the following new subsection:

"(k) After the reservation of public housing development funds to a public housing agency, the Secretary may not recapture any of the amounts included in such reservation due to the failure of a public housing agency to begin construction or rehabilitation, or to complete acquisition, during the 30-month period following the date of such reservation. During such 30-month period, the public housing agency shall be permitted to change the site of the public housing project or reformulate the project, if not less than the original number of dwelling units are to be constructed, rehabilitated, or acquired. There shall be excluded from the computation of such 30-month period any delay in the beginning of construction or rehabilitation of such project caused by (1) the failure of the Secretary to process such project within a reasonable period of time; (2) any environmental review requirement; (3) any legal action affecting such project; or (4) any other factor beyond the control of the public housing agency.".

SEC. 115. INDIAN PUBLIC HOUSING.

Section 5 of the United States Housing Act of 1937 (as amended by section 114 of this Act) is further amended by adding at the end the following new subsection:

"(l) The Secretary may not use as a criterion for distributing assistance under this section the progress made by an Indian public housing agency in collecting rents owed by tenants unless—

"(1) such criterion is used as 1 of several criteria that are weighted proportionally and is established by regulations issued after public notice and opportunity to comment in accordance with section 553 of title 5, United States Code; or

"(2) the Secretary determines that the Indian public housing agency has demonstrated a pattern of substantial noncompliance with requirements governing the collection of rents.".

SEC. 116. LOCATION OF ACQUIRED HOUSING.

Section 6(h) of the United States Housing Act of 1937 is amended—

(1) by inserting before "is" the following: "in the neighborhood where the public housing agency determines the housing is needed"; and

(2) by inserting "in such neighborhood" after "rehabilitation".

SEC. 117. PUBLIC HOUSING CHILD CARE GRANTS.

Section 222 of the Housing and Urban-Rural Recovery Act of 1983 is amended to read as follows:

"PUBLIC HOUSING CHILD CARE DEMONSTRATION PROGRAM

"SEC. 222. (a) PROGRAM AUTHORITY.—

"(1) The Secretary of Housing and Urban Development shall, to the extent approved in appropriation Acts, carry out a demonstration program of making grants to nonprofit organizations to assist such organizations in providing child care services in lower income housing projects for lower income families who reside in public housing.

"(2) The Secretary shall design the program described in paragraph (1) to determine the extent to which the availability of child care services in lower income housing projects facilitates the employability of the parents or guardians of children residing in public housing.

"(b) ELIGIBILITY FOR ASSISTANCE.—The Secretary may make a grant to a nonprofit organization for child care services in a lower income housing project only if—

"(1) prior to receipt of assistance under this section, a child care services program is not in operation in the project;

"(2) the public housing agency agrees to provide suitable facilities for the provision of child care services;

"(3) the child care services program in the project will serve preschool children during the day, school children after school, or both, in order to permit the parents or guardians of such children to obtain, retain, or train for employment;

"(4) the child care services program in the project is designed, to the extent practicable, to involve the participation of the parents of children benefiting from such program;

"(5) the child care services program in the project is designed, to the extent practicable, to employ in part-time positions elderly individuals who reside in the lower income housing project involved; and

"(6) the child care services program in the project complies with all applicable State and local laws, regulations, and ordinances.

"(c) ALLOCATION OF ASSISTANCE.—In providing grants under this section, the Secretary shall—

"(1) give priority to nonprofit organizations providing child care services in lower income housing projects in which reside the largest number of preschool and school children of lower income families;

"(2) seek to ensure a reasonable distribution of such grants between urban and rural areas and among nonprofit organizations providing child care services in lower income housing projects of varying sizes; and

"(3) seek to provide such grants to the largest number of nonprofit organizations practicable, considering the amount of funds available under this section and the financial requirements of the particular child care services programs to be established in the lower income housing projects for which applications are submitted under this section.

"(d) ADMINISTRATIVE PROVISIONS.—

"(1) Applications for grants under this section shall be made by nonprofit organizations (in consultation with public housing agencies) in such form, and according to such procedures, as the Secretary may prescribe.

"(2) Any nonprofit organization receiving a grant under this section may use such grant only for operating expenses and minor renovations of facilities necessary to the provision of child care services under this section.

"(3) The Secretary shall conduct periodic evaluations of each child care services program assisted under this section for purposes of—

"(A) determining the effectiveness of such program in providing child care services and permitting the parents or guardians of children residing in public housing to obtain, retain, or train for employment; and

"(B) ensuring compliance with the provisions of this section.

"(4) No provision of this section may be construed to authorize the Secretary to establish any health, safety, educational, or other standards with respect to child care services or facilities assisted with grants received under this section. Such services and facilities shall comply with all applicable State and local laws, regulations, and ordinances, and all requirements established by the Secretary of Health and Human Services for child care services and facilities.

"(e) REPORT TO CONGRESS.—Not later than the expiration of the 3-year period following the date of the enactment of the Housing and Community Development Act of 1987, the Secretary shall prepare and submit to the Congress a detailed report setting forth the findings and conclusions of the Secretary as a result of carrying out the demonstration program established in this section. Such report shall include any recommendations of the Secretary with respect to the establishment of a permanent program of assisting child care services in lower income housing projects.

"(f) DEFINITIONS.—For purposes of this section:

"(1) The term 'lower income families' has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

"(2) The terms 'lower income housing project' and 'public housing' have the meanings given such terms in section 3(b)(1) of the United States Housing Act of 1937.

"(3) The term 'public housing agency' has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

"(4) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(g) AUTHORIZATION OF APPROPRIATIONS.—Of the total amount approved in appropriation Acts under section 103 of the Housing and Community Development Act of 1974, there shall be set aside to carry out this section $5,000,000 for fiscal year 1988 and $5,210,000 for fiscal year 1989.".

SEC. 118. PAYMENTS FOR OPERATION OF LOWER INCOME HOUSING PROJECTS.

(a) PERFORMANCE FUNDING SYSTEM.—Section 9(a) of the United States Housing Act of 1937 is amended—

(1) by striking the last sentence of paragraph (1); and

(2) by adding at the end the following new paragraph:

"(3)(A) For purposes of making payments under this section, the Secretary shall utilize a performance funding system that is substantially based on the system defined in regulations and in effect on the date of the enactment of the Housing and Community Development Act of 1987 (as modified by this paragraph), and that establishes standards for costs of operation and reasonable projections of income, taking into account the character and location of the project and the characteristics of the families served, in accordance with a formula representing the operations of a prototype well-managed project. Such performance funding system shall be established in consultation with public housing agencies and their associations, be contained in a regulation promulgated by the Secretary prior to the start of any fiscal year to which it applies, and remain in effect for the duration of such fiscal year without change. Notwithstanding the preceding sentences, the Secretary shall revise the performance funding system by June 15, 1988, to accurately reflect the increase in insurance costs incurred by public housing agencies.

"(B) Under the performance funding system established under this paragraph—

"(i) in the first year that the reductions occur, any public housing agency shall share equally with the Secretary any cost reductions due to the differences between projected and actual utility rates attributable to actions taken by the agency which lead to such reductions;

"(ii) in the case of any public housing agency that receives financing (from a person other than the Secretary) or enters into a performance contract to undertake energy conservation improvements in a public housing project, under which payment does not exceed the cost of the energy saved as a result of the improvements during a negotiated contract period of not more than 12 years that is approved by the Secretary—

"(I) the public housing agency shall retain 100 percent of any cost avoidance due to differences between projected and actual utility consumption (adjusted for heating degree days) attributable to the improvements, until the term of the financing agreement is completed, at which time the annual utility expense level 3-year rolling base procedures shall be applied using—

"(a) in the first year following the end of the contract period, the energy use during the 2 years prior to installation of the energy conservation improvements and the last contract year;

"(b) in the second year following the end of the contract period, the energy use during the 1 year prior to installation of the energy conservation improvements and the 2 years following the end of the contract period; and

"(c) in the third year following the end of the contract period, the energy use in the 3 years following the end of the contract period; or

"(II) the Secretary shall provide an additional operating subsidy above the current allowable utility expense level equivalent to the cost of the energy saved as a result of the improvements and sufficient to cover payments for the improvements through the term of the contract or agreement;

"(iii) there shall be a formal review process for the purpose of providing such revisions (either increases or reductions) to the allowable expense level of a public housing agency as necessary—

"(I) to correct inequities and abnormalities that exist in the base year expense level of such public housing agency;

"(II) to accurately reflect changes in operating circumstances since the initial determination of such base year expense level; and

"(III) to ensure that the allowable expense limit accurately reflects the higher cost of operating the project in an economically distressed unit of local government and the lower cost of operating the project in an economically prosperous unit of local government; and

"(iv) if a public housing agency redesigns or substantially rehabilitates a public housing project so that 2 or more dwelling units are combined to create a single larger dwelling unit, the payments received under this section shall not be reduced solely because of the resulting reduction in the number of dwelling units if not less than the same number of individuals will reside in the new larger dwelling unit as resided in the dwelling units that were combined to form such larger dwelling unit.".

(b) Authorization of Appropriations.—Section 9(c) of the United States Housing Act of 1937 is amended to read as follows:

"(c) There are authorized to be appropriated for purposes of providing annual contributions under this section $1,500,000,000 for fiscal year 1988 and $1,530,000,000 for fiscal year 1989.".

(c) Time of Payment.—Section 9 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(e) In the case of any public housing agency that submits its budget for any fiscal year of such agency to the Secretary in a timely manner in accordance with the regulations issued by the Secretary under this section, assistance to be provided to such agency under this section for such fiscal year shall commence not later than the 1st month of such fiscal year, and shall be paid in accordance with such payment schedule as may be agreed upon by the Secretary and such agency.".

(d) Use of Operating Subsidies To Remedy PHA Noncompliance With Audit Responsibilities.—Section 9(a)(1) of the United States Housing Act of 1937 is amended by adding at the end the following new sentences: "If the Secretary determines that a public housing agency has failed to take the actions required to submit an acceptable audit on a timely basis in accordance with chapter 75 of title 31, United States Code, the Secretary may arrange for, and pay the costs of, the audit. In such circumstances, the Secretary may withhold, from assistance otherwise payable to the agency under this section, amounts sufficient to pay for the reasonable costs of conducting an acceptable audit, including, when appropriate, the reasonable costs of accounting services necessary to place the agency's books and records in auditable condition.".

SEC. 119. COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM.

(a) Purpose of Amendments.—It is the purpose of the amendments made by this section—

(1) to provide assistance on a reliable and more predictable basis to public housing agencies in furtherance of their plans to enable them to operate, upgrade, modernize, and rehabilitate public housing projects financed under the United States Housing Act of 1937 to ensure their continued availability for the benefit of lower income families as decent, safe, and sanitary rental housing at affordable rents;

(2) to provide considerable discretion to public housing agencies to decide the specific improvements, the manner of their execution, and the timing of the expenditure of funds in the modernization of projects under section 14 of the United States Housing Act of 1937;

(3) to significantly simplify the program of Federal assistance for capital improvements in public housing projects;

(4) to provide increased opportunities and incentives for more efficient management of public housing projects; and

(5) to afford public housing agencies greater control in planning and expending funds under the United States Housing Act of 1937 for the modernization, rehabilitation, maintenance, and improvement of public housing projects to benefit lower income families.

(b) Authority To Provide Financial Assistance.—Section 14(b) of the United States Housing Act of 1937 is amended—

(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end the following new paragraph:

"(2) The Secretary may make contributions (in the form of grants) to public housing agencies under this section. The contract under which the contributions shall be made shall specify that the terms and conditions of the contract shall remain in effect for a 20-year period for any project receiving the benefit of a grant under the contract.".

(c) Applications by PHA's Managing Less Than 500 Units.—Section 14(d) of the United States Housing Act of 1937 is amended in the matter preceding paragraph (1) by inserting after "subsection (b)" the following: "to a public housing agency that owns or operates less than 500 public housing dwelling units".

(d) Comprehensive Plans.—Section 14 of the United States Housing Act of 1937 is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) No financial assistance may be made available under this section to a public housing agency that owns or operates 500 or more public housing dwelling units unless the Secretary approves (or has approved before the effective date of this subsection) a 5-year comprehensive plan submitted by the public housing agency, except that the Secretary may provide such assistance if it is necessary to correct conditions that constitute an immediate threat to the health or safety of tenants. The comprehensive plan shall contain—

"(A) a comprehensive assessment of—

"(i) the current physical condition of each public housing project owned or operated by the public housing agency;

"(ii) the physical improvements necessary for each such project to permit the project—

"(I) to be rehabilitated to a level at least equal to the modernization standards specified in the Modernization Handbook of the Department of Housing and Urban Development in effect on the date of the enactment of the Housing and Community Development Act of 1987, as well as the modernization standards established by the Secretary and in effect at the time of the preparation of the comprehensive plan; and

"(II) to comply with life-cycle cost-effective energy conservation performance standards established by the Secretary to reduce operating costs over the estimated life of the building; and

"(iii) the replacement needs of equipment systems and structural elements that will be required to be met (assuming routine and timely maintenance is performed) during the 5-year period covered by the comprehensive plan;

"(B) a comprehensive assessment of the improvements needed to upgrade the management and operation of the public housing agency and of each such project so that decent, safe, and sanitary living conditions will be provided such projects, which assessment shall include at least an identification of needs related to—

"(i) the management, financial, and accounting control systems of the public housing agency that are related to such projects;

"(ii) the adequacy and qualifications of personnel appropriate to be employed by the public housing agency (in the management and operation of such projects) for each significant category of employment; and

"(iii) the improvement of the efficacy of—

"(I) tenant programs and services in such projects;

"(II) the security of each such project and its tenants;

"(III) policies and procedures of the public housing agency for the selection and eviction of tenants in such projects; and

"(IV) other policies and procedures of the public housing agency relating to such projects, as specified by the Secretary;

"(C) an analysis, made on a project-by-project basis in accordance with standards and criteria prescribed by the Secretary, demonstrating that completion of the improvements and replacements identified under subparagraphs (A) and (B) will reasonably ensure the long-term physical and social viability of each such project at a reasonable cost;

"(D) an action plan for making the improvements and replacements identified under subparagraphs (A) and (B) that are determined under the analysis described in subparagraph (C) to reasonably ensure long-term viability of each such project at a reasonable cost, which action plan shall include at least a schedule, in order of priority established by the public housing agency, of the actions that are to be completed over a period of 5 years from the date of approval of the comprehensive plan by the Secretary (or any longer period reasonably needed to make the improvements and replacements, considering the scope of the improvements and replacements and the amount of funding provided) and that are necessary—

"(i) to make the improvements and replacements identified under subparagraph (A) for each project expected to receive capital improvements or replacements (with priority to improvements and replacements required to correct any life threatening condition); and

"(ii) to upgrade the management and operation of the public housing agency and its public housing projects as described in subparagraph (B);

"(E) a statement, to be signed by the chief local government official (or Indian tribal official, if appropriate), certifying that—

"(i) the comprehensive plan was developed by the public housing agency in consultation with appropriate local government officials (or Indian tribal officials) and with tenants of the housing projects (or tenants of the Indian housing projects) eligible for assistance under this section, which shall include at least one public hearing that shall be held prior to the initial adoption of any plan by the public housing agency for use of such assistance, and afford tenants and interested parties an opportunity to summarize their priorities and concerns, to ensure their due consideration in the planning process of the public housing agency; and

"(ii) the comprehensive plan is consistent with the assessment of the community of its lower income housing needs and that the unit of general local government (or Indian tribe) will cooperate in the provision of tenant programs and services (as defined in section 3(c)(2));

"(F) a statement, to be signed by the chief public housing official, certifying that the public housing agency will carry out the comprehensive plan in conformity with title VI of the Civil Rights Act of 1964, title VIII of the Act of April 11, 1968 (commonly known as the Civil Rights Act of 1968), and section 504 of the Rehabilitation Act of 1973;

"(G) a preliminary estimate of the total cost of the items identified in subparagraphs (A) and (B), including a preliminary estimate of the funds that will be required during each year covered by the comprehensive plan to accomplish the work pursuant to the action plan; and

"(H) such other information as the Secretary may require.

"(2)(A) The Secretary shall approve a comprehensive plan unless—

"(i) the comprehensive plan is incomplete in significant matters;

"(ii) on the basis of available significant facts and data pertaining to the physical and operational condition of the public housing projects of the public housing agency or the management and operations of the public housing agency, the Secretary determines that the identification by the public housing agency of needs is plainly inconsistent with such facts and data;

"(iii) on the basis of the comprehensive plan, the Secretary determines that the action plan described in paragraph (1)(D) is plainly inappropriate to meeting the needs identified in the comprehensive plan, or that the public housing agency has failed to demonstrate that completion of improvements and replacements identified under subparagraphs (A) and (B) of paragraph (1) will reasonably ensure long-term viability of one or more public housing projects to which they relate at a reasonable cost; or

"(iv) there is evidence available to the Secretary that tends to challenge in a substantial manner any certification contained in the comprehensive plan.

"(B) The comprehensive plan shall be considered to be approved, unless the Secretary notifies the public housing agency in writing within 75 calendar days of submission that the Secretary has disapproved the comprehensive plan as submitted, indicating the reasons for disapproval and modifications required to make the comprehensive plan approvable.

"(3)(A) Each public housing agency that owns or operates 500 or more public housing dwelling units shall, after being advised by the Secretary of the estimated assistance it will receive under this section in any fiscal year, submit to the Secretary, at a date determined by the Secretary, an annual statement of the activities and expenditures projected to be undertaken, in whole or in part, by such assistance during the 12-month period immediately following the execution of the contract for such assistance. The Secretary, in establishing the funding for a public housing agency for any fiscal year, shall review the relative needs for restoring public housing shown by the approved comprehensive plans in the regional or area office of the Department of Housing and Urban Development for such agency. As long as the activities and expenditures are consistent with the approved plan, the public housing agency shall have total discretion in expending assistance for any activity or work set forth in the plan. The annual statement shall include a certification by the public housing agency that the proposed activities and expenditures are consistent with the approved comprehensive plan of the public housing agency. The annual statement also shall include a certification that the public housing agency has provided the tenants of the public housing affected by the planned activities the opportunity to review the annual statement and comment on it, and that such comments have been taken into account in formulating the annual statement as submitted to the Secretary.

"(B) A public housing agency may propose an amendment to its comprehensive plan under paragraph (1) in any annual statement. Any such proposed amendment shall be reviewed in accordance with paragraph (2), and shall include a certification that (i) the proposed amendment has been made publicly available for comment prior to its submission; (ii) affected tenants have been given sufficient time to review and comment on it; and (iii) such comments have been taken into consideration in the preparation and submission of the amendment. A public housing agency shall have a right to amend its comprehensive plan and related statements to extend the time for performance whenever the Secretary has not provided the amount of assistance set forth in the plan or has not provided the assistance in a timely manner.

"(C) The Secretary shall approve the annual statement and any amendment to it or the comprehensive plan unless the Secretary determines that the statement or amendment is plainly inconsistent with the activities specified in the comprehensive plan. The statement or amendment shall be considered to be approved, unless the Secretary notifies the public housing agency in writing before the expiration of the 75-day period following its submission that the Secretary has disapproved it as submitted, indicating the reasons for disapproval and the modifications required to make it approvable.

"(4)(A) Each public housing agency that owns or operates 500 or more public housing dwelling units shall submit to the Secretary, on a date determined by the Secretary, a performance and evaluation report concerning the use of funds made available under this section. The report of the public housing agency shall include an assessment by the public housing agency of the relationship of such use of funds made available under this section, as well as the use of other funds, to the needs identified in the comprehensive plan of the public housing agency and to the purposes of this section. The public housing agency shall certify that the report has been made available for review and comment by affected tenants prior to its submission to the Secretary.

"(B) The Secretary shall, at least on an annual basis, make such reviews as may be necessary or appropriate to determine whether each public housing agency receiving assistance under this section—

"(i) has carried out its activities under this section in a timely manner and in accordance with its comprehensive plan;

"(ii) has a continuing capacity to carry out its comprehensive plan in a timely manner;

"(iii) has satisfied, or has made reasonable progress towards satisfying, such performance standards as shall be prescribed by the Secretary, and has made reasonable progress in carrying out modernization projects approved under this section.

"(C) Each public housing agency that owns or operates 500 or more public housing dwelling units and receives assistance under this section shall have an audit made in accordance with chapter 75 of title 31, United States Code. The Secretary, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States shall have access to all books, documents, papers, or other records that are pertinent to the activities carried out under this section in order to make audit examinations, excerpts, and transcripts.

"(D) The comprehensive plan, any amendments to the comprehensive plan, and the annual statement shall, once approved by the Secretary, be binding upon the Secretary and the public housing agency. The Secretary may order corrective action only if the public housing agency does not comply with subparagraph (A) or (B) or if an audit under subparagraph (C) reveals findings that the Secretary reasonably believes require such corrective action. The Secretary may withhold funds under this section only if the public housing agency fails to take such corrective action after notice and a reasonable opportunity to do so. In administering this section, the Secretary shall, to the greatest extent possible, respect the professional judgment of the administrators of the public housing agency.".

(e) ELIGIBLE COSTS.—Section 14(f) of the United States Housing Act of 1937 (as so redesignated by this section) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in the matter preceding paragraph (1), by inserting after "public housing agency" the following: "that owns or operates less than 500 public housing dwelling units";

(3) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D); and

(4) by adding at the end the following new paragraph:

"(2) A public housing agency that owns or operates 500 or more public housing dwelling units may use financial assistance received under subsection (b) only—

"(A) to undertake activities described in its approved comprehensive plan under subsection (e)(1) or its annual statement under subsection (e)(3);

"(B) to correct conditions that constitute an immediate threat to the health or safety of tenants and to meet special purpose needs described in section 14(i)(1)(D), whether or not the need for such correction is indicated in its comprehensive plan or annual statement; and

"(C) to prepare a comprehensive plan under subsection (e)(1), including reasonable costs that may be necessary to assist tenants in participating in the planning process in a meaningful way, an annual statement under subsection (e)(3), an annual performance and evaluation report under subsection (e)(4)(A), and an audit under subsection (e)(4)(C).".

(f) ALLOCATION OF ASSISTANCE.—Section 14 of the United States Housing Act is amended by adding at the end the following new subsection:

"(k)(1) Until the Congress establishes by law a revised method for allocating assistance under this section, assistance shall be allocated under this section in substantial accordance with the allocation method in effect on the date of the enactment of the Housing and Community Development Act of 1987.

"(2) Not later than 1 year after the date of the enactment of the Housing and Community Development Act of 1987, the Secretary shall—

"(A) complete the study of the need for public housing modernization initiated pursuant to the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 (Pub. L. 98-45) and any other studies that are necessary to evaluate the current condition and capital requirements of public housing as well as the future need for rehabilitation and replacement of public housing facilities;

"(B) submit to the Congress proposed methods for determining the relative allocation of funds between activities to correct existing deficiencies and the annual accrual of resources to meet future needs;

"(C) submit to the Congress proposed alternatives for allocating funds among public housing agencies to correct existing deficiencies, including formulas for distributing funds to public housing agencies, to regional and field offices of the Department of Housing and Urban Development, or to States, as well as such other allocation methods as the Secretary may wish to recommend;

"(D) provide the Congress with—

"(i) an analysis of data and other information used to develop recommendations for measuring existing deficiencies, future needs, and anticipated emergencies;

"(ii) an analysis of the bases underlying each of the proposed allocation methods; and

"(iii) a comparison of proposed allocations to previous allocations under this section;

"(E) propose to the Congress criteria for distinguishing capital replacement activities that are routine from those that are not routine;

"(F) propose to the Congress alternative methods—

"(i) to allocate funds to public housing agencies to meet predictable routine modernization and regular capital replacement expenses; and

"(ii) provide for unpredictable, infrequent, or extraordinary future capital replacement needs through a fund administered on a national, regional, State, or local level or through such other methods as the Secretary may recommend;

"(G) consult at least on a quarterly basis with organizations and individuals representing public housing agencies, local government, and tenants regarding progress on the studies referred to in subparagraph (A) and the development of alternatives for improving this section; and

"(H) estimate, for not less than the 200 largest public housing agencies, the amount that will be received annually under each such alternative allocation system and compare such amounts to funds received in prior years under this section.".

(g) Annual Report.—Section 14 of the United States Housing Act (as amended by subsection (f) of this section) is further amended by adding at the end the following new subsection:

"(l) The Secretary shall include in the annual report under section 8 of the Department of Housing and Urban Development Act—

"(1) a description of the allocation, distribution, and use of assistance under this section on a regional basis and on the basis of public housing agency size; and

"(2) a national compilation of the total funds requested in comprehensive plans for all public housing agencies owning or operating 500 or more public housing dwelling units.".

(h) Regulations.—Section 14 of the United States Housing Act (as amended by subsection (g) of this section) is further amended by adding at the end the following new subsection:

"(m) Subject to subsection (k)(1), the Secretary may issue any regulations that are necessary to carry out this section.".

(i) Conforming Amendments.—

(1) Section 14(d) of the United States Housing Act of 1937 is amended in the matter preceding paragraph (1) by striking "subsection (e)(4)" and inserting "subsection (f)(4)".

(2) Section 14(i)(1) of the United States Housing Act of 1937 is amended in the matter preceding subparagraph (A) by inserting "(f)," after "(e),".

(3) Section 14(f) of the United States Housing Act of 1937 (as so redesignated by this section) is amended by striking "annual".

(4) Section 14(g) of the United States Housing Act of 1937 is amended by inserting "or (e)" after "subsection (d)(4)".

(5) Section 14(h)(2) of the United States Housing Act of 1937 is amended by inserting "or (e)" after "subsection (d)(4)".

(6) Section 14(i) of the United States Housing Act of 1937 is amended by striking "subsections (c), (d), (e), (g), and (h)" and inserting "subsections (c) through (h)".

SEC. 120. COMPREHENSIVE IMPROVEMENT ASSISTANCE SPECIAL PURPOSE NEEDS.

Section 14(i)(1)(D) of the United States Housing Act of 1937 is amended—

(1) by inserting "(i)" after "(D)";

(2) by redesignating clauses (i) and (ii) and clauses (I) and (II), respectively;

(3) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new clause:

"(ii) physical improvement needs eligible under this subparagraph shall include replacing or repairing major equipment systems or structural elements, upgrading security, increasing accessibility for elderly families and handicapped families (as such terms are defined in section 3(b)(3)), reducing the number of vacant substandard units, and increasing the energy efficiency of the units, except that the Secretary may make financial assistance available under this clause only if the Secretary determines that the physical improvements are necessary and sufficient to extend substantially the useful life of the project.".

SEC. 121. PUBLIC HOUSING DEMOLITION AND DISPOSITION.

(a) Determination of Infeasibility of Modifications.—Section 18(a)(1) of the United States Housing Act of 1937 is amended by striking "or" after "purposes," and inserting "and".

(b) Development and Approval of Replacement Housing Plan.—Section 18(b) of the United States Housing Act of 1937 is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end of the following new paragraph:

"(3) the public housing agency has developed a plan for the provision of an additional decent, safe, sanitary, and affordable dwelling unit for each public housing dwelling unit to be demolished or disposed under such application, which plan—

"(A) provides for the provision of such additional dwelling units through—

"(i) the acquisition or development of additional public housing dwelling units;

"(ii) the use of 15-year project-based assistance under section 8;

"(iii) the use of not less than 15-year project-based assistance under other Federal programs;

"(iv) the acquisition or development of dwelling units assisted under a State or local government program that provides for project-based assistance comparable in terms of eligibility, contribution to rent, and length of assistance contract (not less than 15 years) to assistance under section 8(b)(1);

"(v) the use of 15-year tenant-based assistance under section 8 (excluding vouchers under section 8(o)); or

"(vi) any combination of such methods;

"(B) if it provides for the use of tenant-based assistance under section 8, may be approved—

"(i) only after a finding by the Secretary that replacement with project-based assistance is not feasible, and the supply of private rental housing actually available to those who would receive such assistance under the plan is sufficient for the total number of certificates and vouchers available in the community after implementation of the plan and that such supply is likely to remain available for the full 15-year term of the assistance; and

"(ii) only if such finding is based on objective information, which shall include rates of participation by landlords in the section 8 program, size, conditions and rent levels of available rental housing as compared to section 8 standards, the supply of vacant existing housing meeting the section 8 quality standards with rents at or below the fair market rent or the likelihood of adjusting the fair market rent, the number of eligible families waiting for public housing or housing assistance under section 8, and the extent of discrimination against the types of individuals or families to be served by the assistance;

"(C) is approved by the unit of general local government in which the project is located;

"(D) includes a schedule for completing the plan within a period consistent with the size of the proposed demolition or disposition, except that the schedule shall in no event exceed 6 years;

"(E) includes a method of ensuring that the same number of individuals and families will be provided housing;

"(F) provides for the payment of the relocation expenses of each tenant to be displaced and ensures that the rent paid by the tenant following relocation will not exceed the amount permitted under this Act; and

"(G) prevents the taking of any action to demolish or dispose of any unit until the tenant of the unit is relocated to decent, safe, sanitary, and affordable housing that is, to the extent practicable, of the tenant's choice.".

(c) Funding of Replacement Housing Plan.—Section 18(c) of the United States Housing Act of 1937 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraphs:

"(2) The Secretary shall, upon approving a plan under subsection (b)(3), agree to commit (subject to the availability of future appropriations) the funds necessary to carry out the plan over the approved schedule of the plan.

"(3) The Secretary shall, in allocating assistance for the acquisition or development of public housing or for moderate rehabilitation under section 8(e)(2), give consideration to housing that replaces demolished public housing units in accordance with a plan under subsection (b)(3).".

(d) Applicability.—Section 18 of the United States Housing Act of 1937 is amended by striking subsection (d) and inserting the following new subsection:

"(d) A public housing agency shall not take any action to demolish or dispose of a public housing project or a portion of a public housing project without obtaining the approval of the Secretary and satisfying the conditions specified in subsections (a) and (b).".

SEC. 122. PUBLIC HOUSING RESIDENT MANAGEMENT.

The United States Housing Act of 1937 is amended by adding at the end the following new section:

"PUBLIC HOUSING RESIDENT MANAGEMENT

"Sec. 20. (a) Purpose.—The purpose of this section is to encourage increased resident management of public housing projects, as a means of improving existing living conditions in public housing projects, by providing increased flexibility for public housing projects that are managed by residents by—

"(1) permitting the retention, and use for certain purposes, of any revenues exceeding operating and project costs; and

"(2) providing funding, from amounts otherwise available, for technical assistance to promote formation and development of resident management entities.

For purposes of this section, the term 'public housing project' includes one or more contiguous buildings or an area of contiguous row houses the elected resident councils of which approve the establishment of a resident management corporation and otherwise meet the requirements of this section.

"(b) Program Requirements.—

"(1) Resident council.—As a condition of entering into a resident management program, the elected resident council of a public housing project shall approve the establishment of a resident management corporation. When such approval is made by the elected resident council of a building or row house area, the resident management program shall not interfere with the rights of other families residing in the project or harm the efficient operation of the project. The resident management corporation and the resident council may be the same organization, if the organization complies with the requirements applicable to both the corporation and council. The corporation shall be a nonprofit corporation organized under the laws of the State in which the project is located, and the tenants of the project shall be the sole voting members of the corporation. If there is no elected resident council, a majority of the households of the public housing project shall approve the establishment of a resident council to determine the feasibility of establishing a resident management corporation to manage the project.

"(2) Public housing management specialist.—The resident council of a public housing project, in cooperation with the public housing agency, shall select a qualified public housing management specialist to assist in determining the feasibility of, and to help establish, a resident management corporation and to provide training and other duties agreed to in the daily operations of the project.

"(3) Bonding and insurance.—Before assuming any management responsibility for a public housing project, the resident management corporation shall provide fidelity bonding and insurance, or equivalent protection, in accordance with regulations and requirements of the Secretary and the public housing agency. Such bonding and insurance, or its equivalent, shall be adequate to protect the Secretary and the public housing agency against loss, theft, embezzlement, or fraudulent acts on the part of the resident management corporation or its employees.

"(4) Management responsibilities.—A resident management corporation that qualifies under this section, and that supplies insurance and bonding or equivalent protection sufficient to the Secretary and the public housing agency, shall enter into a contract with the public housing agency establishing the respective management rights and responsibilities of the corporation and the public housing agency. Such contract shall be consistent with the requirements of this Act applicable to public housing projects and may include specific terms governing management personnel and compensation, access to public housing project records, submission of and adherence to budgets, rent collection procedures, tenant income verification, tenant eligibility determinations, tenant eviction, the acquisition of supplies and materials, and such other matters as may be appropriate. The contract shall be treated as a contracting out of services and shall be subject to any provision of a collective bargaining agreement regarding contracting out to which the public housing agency is subject.

"(5) Annual audit.—The books and records of a resident management corporation operating a public housing project shall be audited annually by a certified public accountant. A written report of each audit shall be forwarded to the public housing agency and the Secretary.

"(c) Comprehensive Improvement Assistance.—Public housing projects managed by resident management corporations may be provided with comprehensive improvement assistance under section 14 for purposes of renovating such projects in accordance with such section. If such renovation activities (including the planning and architectural design of the rehabilitation) are administered by a resident management corporation, the public housing agency involved may not retain, for any administrative or other reason, any portion of the assistance provided pursuant to this subsection unless otherwise provided by contract.

"(d) Waiver of Federal Requirements.—

"(1) Waiver of regulatory requirements.—Upon the request of any resident management corporation and public housing agency, and after notice and an opportunity to comment is afforded to the affected tenants, the Secretary may waive (for both the resident management corporation and the public housing agency) any requirement established by the Secretary (and not specified in any statute) that the Secretary determines to unnecessarily increase the costs or restrict the income of a public housing project.

"(2) Waiver to permit employment.—Upon the request of any resident management corporation, the Secretary may, subject to applicable collective bargaining agreements, permit residents of such project to volunteer a portion of their labor.

"(3) Report on additional waivers.—Not later than 6 months after the date of the enactment of the Housing and Community Development Act of 1987, the Secretary shall submit to the Congress a report setting forth any additional waivers of Federal law that the Secretary determines are necessary or appropriate to carry out the provisions of this section. In preparing the report, the Secretary shall consult with resident management corporations and public housing agencies.

"(4) Exceptions.—The Secretary may not waive under this subsection any requirement with respect to income eligibility for purposes of section 16, rental payments under section 3(a), tenant or applicant protections, employee organizing rights, or rights of employees under collective bargaining agreements.

"(e) Operating Subsidy and Project Income.—

"(1) Calculation of operating subsidy.—Notwithstanding any provision of section 9 or any regulation under such section, and subject to the exception provided in paragraph (3), the portion of the operating subsidy received by a public housing agency under section 9 that is allocated to a public housing project managed by a resident management corporation shall not be less than the public housing agency per unit monthly amount provided in the previous year as determined on an individual project basis.

"(2) Contract requirements.—Any contract for management of a public housing project entered into by a public housing agency and a resident management corporation shall specify the amount of income expected to be derived from the project itself (from sources such as rents and charges) and the amount of income funds to be provided to the project from the other sources of income of the public housing agency (such as operating subsidy under section 9, interest income, administrative fees, and rents).

"(3) Calculation of total income.—

"(A) Subject to subparagraph (B), the amount of funds provided by a public housing agency to a public housing project managed by a resident management corporation may not be reduced during the 3-year period beginning on the date of enactment of the Housing and Community Development Act of 1987 or on any later date on which a resident management corporation is first established for the project.

"(B) If the total income of a public housing agency (including the operating subsidy provided to the public housing agency under section 9) is reduced or increased, the income provided by the public housing agency to a public housing project managed by a resident management corporation shall be reduced or increased in proportion to the reduction or increase in the total income of the public housing agency, except that any reduction in operating subsidy that occurs as a result of fraud, waste, or mismanagement by the public housing agency shall not affect the funds provided to the resident management corporation.

"(4) Retention of excess revenues.—

"(A) Any income generated by a resident management corporation of a public housing project that exceeds the income estimated for purposes of this subsection shall be excluded in subsequent years in calculating (i) the operating subsidies provided to the public housing agency under section 9; and (ii) the funds provided by the public housing agency to the resident management corporation.

"(B) Any revenues retained by a resident management corporation under subparagraph (A) shall be used for purposes of improving the maintenance and operation of the public housing project, for establishing business enterprises that employ residents of public housing, or for acquiring additional dwelling units for lower income families.

"(f) Resident Management Technical Assistance and Training.—

"(1) Financial assistance.—To the extent budget authority is available for section 14, the Secretary shall provide financial assistance to resident management corporations or resident councils that obtain, by contract or otherwise, technical assistance for the development of resident management entities, including the formation of such entities, the development of the management capability of newly formed or existing entities, the identification of the social support needs of residents of public housing projects, and the securing of such support.

"(2) Limitation on assistance.—The financial assistance provided under this subsection with respect to any public housing project may not exceed $100,000.

"(3) Funding.—Of the amounts available for financial assistance under section 14, the Secretary may use to carry out this subsection not more than $2,500,000 for fiscal year 1988 and not more than $2,500,000 for fiscal year 1989.

"(f) Assessment and Report by the Secretary.—Not later than 3 years after the date of the enactment of the Housing and Community Development Act of 1987, the Secretary shall—

"(1) conduct an evaluation and assessment of resident management, and particularly of the effect of resident management on living conditions in public housing; and

"(2) submit to the Congress a report setting forth the findings of the Secretary as a result of the evaluation and assessment and including any recommendations the Secretary determines to be appropriate.".

SEC. 123. PUBLIC HOUSING HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES.

The United States Housing Act of 1937 (as amended by section 122 of this Act) is further amended by adding at the end the following new section:

"PUBLIC HOUSING HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES

"Sec. 21. (a) Homeownership Opportunities in General.—Lower income families residing in a public housing project shall be provided with the opportunity to purchase the dwelling units in the project through a qualifying resident management corporation as follows:

"(1) Formation of resident management corporation.—As a condition for public housing homeownership—

"(A) the adult residents of a public housing project shall have formed a resident management corporation in accordance with regulations and requirements of the Secretary prescribed under this section and section 20;

"(B) the resident management corporation shall have entered into a contract with the public housing agency establishing the respective management rights and responsibilities of the resident management corporation and the public housing agency; and

"(C) the resident management corporation shall have demonstrated its ability to manage public housing effectively and efficiently for a period of not less than 3 years.

"(2) Homeownership assistance.—

"(A) The Secretary may provide comprehensive improvement assistance under section 14 to a public housing project in which homeownership activities under this section are conducted.

"(B) The Secretary, and the public housing agency owning and operating a public housing project, shall provide such training, technical assistance, and educational assistance as the Secretary determines to be necessary to prepare the families residing in the project, and any resident management corporation established under paragraph (1), for homeownership.

"(C) This paragraph shall not have effect after September 30, 1990.

"(3) Conditions of purchase by a resident management corporation.—

"(A) A resident management corporation may purchase from a public housing agency one or more multifamily buildings in a public housing project following a determination by the Secretary that—

"(i) the resident management corporation has met the conditions of paragraph (1);

"(ii) the resident management corporation has applied for and is prepared to undertake the ownership, management, and maintenance of the building or buildings with continued assistance from the Secretary;

"(iii) the public housing agency has held one or more public hearings to obtain the views of citizens regarding the proposed purchase and, in consultation with the Secretary, has certified that the purchase will not interfere with the rights of other families residing in public housing, will not harm the efficient operation of other public housing, and is in the interest of the community;

"(iv) the public housing agency has certified that it has and will implement a plan to replace public housing units sold under this section within 30 months of the sale, which plan shall provide for replacement of 100 percent of the units sold under this section by—

"(I) production, acquisition, or rehabilitation of vacant public housing units by the public housing agency; and

"(II) acquisition by the resident management corporation of nonpublicly owned, decent, and affordable housing units, which the resident management corporation shall operate as rental housing subject to tenant income and rent limitations comparable to the limitations applicable to public housing; and

"(v) the building or buildings meet the minimum safety and livability standards applicable under section 14, and the physical condition, management, and operation of the building or buildings are sufficient to permit affordable homeownership by the families residing in the project.

"(B) The price of a building purchased under the preceding sentence shall be approved by the Secretary, in consultation with the public housing agency and resident management corporation, taking into account the fair market value of the property, the ability of resident families to afford and maintain the property, and such other factors as the Secretary determines to be consistent with increasing the supply of dwelling units affordable to very low income families.

"(C) This paragraph shall not have effect after September 30, 1990.

"(4) Conditions of resale.—

"(A)(i) A resident management corporation may sell a dwelling unit or ownership rights in a dwelling unit only to a lower income family residing in, or eligible to reside in, public housing and only if the Secretary determines that the purchase will not interfere with the rights of other families residing in the housing project or harm the efficient operation of the project, and the family will be able to purchase and maintain the property.

"(ii) The sale of dwelling units or ownership rights in dwelling units under clause (i) shall be made to families in the following order of priority:

"(I) a lower income family residing in the public housing project in which the dwelling unit is located;

"(II) a lower income family residing in any public housing project within the jurisdiction of the public housing agency having jurisdiction with respect to the project in which the dwelling unit is located;

"(III) a lower income family receiving Federal housing assistance and residing in the jurisdiction of such public housing agency; and

"(IV) a lower income family on the waiting list of such public housing agency for public housing or assistance under section 8, with priority given in the order in which the family appears on the waiting list.

"(iii) Each resident management corporation shall provide each family described in clause (ii) with a notice of the eligibility of the family to purchase a dwelling unit under this paragraph.

"(B) A purchase under subparagraph (A) may be made under any of the following arrangements:

"(i) Limited dividend cooperative ownership.

"(ii) Condominium ownership.

"(iii) Fee simple ownership.

"(iv) Shared appreciation with a public housing agency providing financing under paragraph (6).

"(v) Any other arrangement determined by the Secretary to be appropriate.

"(C) Property purchased under this section shall be resold only to the resident management corporation, a lower income family residing in or eligible to reside in public housing or housing assisted under section 8, or to the public housing agency.

"(D) In no case may the owner receive consideration for his or her interest in the property that exceeds the total of—

"(i) the contribution to equity paid by the owner;

"(ii) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the owner during the owner's tenure as owner; and

"(iii) the appreciated value determined by an inflation allowance at a rate which may be based on a cost of living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the resident management corporation or the public housing agency, whichever is appropriate, at the time of initial sale, and applied against the contribution to equity; the resident management corporation or the public housing agency may, at the time of initial sale, enter into an agreement with the owner to set a maximum amount which this appreciation may not exceed.

"(E) Upon sale, the resident management corporation or the public housing agency, whichever is appropriate, shall ensure that subsequent owners are bound by the same limitations on resale and further restrictions on equity appreciation.

"(5) Use of proceeds.—Notwithstanding any other provision of this Act or other law to the contrary, proceeds from the sale of a building or buildings under paragraph (3) and amounts recaptured under paragraph (4) shall be paid to the public housing agency and shall be retained and used by the public housing agency only to increase the number of public housing units available for occupancy. The resident management corporation shall keep and make available to the public housing agency and the Secretary all records necessary to calculate accurately payments due the local housing agency under this section. The Secretary shall not reduce or delay payments under other provisions of law as a result of amounts made available to the local housing agency under this section.

"(6) Financing.—When financing for the purchase of the property is not otherwise available for purposes of assisting any purchase by a family or resident management corporation under this section, the public housing agency involved may make a loan on the security of the property involved to the family or resident management corporation at a rate of interest that shall not be lower than 70 percent of the market interest rate for conventional mortgages on the date on which the loan is made.

"(7) Annual contributions.—Notwithstanding the purchase of a building in a public housing project under this section, the Secretary shall continue to pay annual contributions with respect to the project. Such contributions may not exceed the maximum contributions authorized in section 5(a).

"(8) Operating subsidies.—Operating subsidies shall not be available with respect to a building after the date of its sale by the public housing agency.

"(b) Protection of Nonpurchasing Families.—

"(1) Eviction prohibition.—No family residing in a dwelling unit in a public housing project may be evicted by reason of the sale of the project to a resident management corporation under this section.

"(2) Tenants rights.—Families renting a dwelling unit purchased by a resident management corporation shall have all rights provided to tenants of public housing under this Act.

"(3) Rental assistance.—If any family resides in a dwelling unit in a building purchased by a resident management corporation, and the family decides not to purchase the dwelling unit, the Secretary shall offer to provide to the family (at the option of the family) a certificate under section 8(b)(1) or a housing voucher under section 8(o) for as long as the family continues to reside in the building. The Secretary may adjust the fair market rent for such certificate to take into account conditions under which the building was purchased.

"(4) Rental and relocation assistance.—If any family resides in a dwelling unit in a public housing project in which other dwelling units are purchased under this section, and the family decides not to purchase the dwelling unit, the Secretary shall offer (to be selected by the family, at its option)—

"(A) to assist the family in relocating to a comparable appropriate sized dwelling unit in another public housing project, and to reimburse the family for their cost of relocation; and

"(B) to provide to the family the financial assistance necessary to permit the family to stay in the dwelling unit or to move to another comparable dwelling unit and to pay no more for rent than required under subparagraph (A), (B), or (C) of section 3(a)(1).

"(c) Financial Assistance for Public Housing Agencies.—The Secretary shall provide to public housing agencies such financial assistance as is necessary to permit such agencies to carry out the provisions of this section.

"(d) Additional Homeownership and Management Opportunities.—This section shall not apply to the turnkey III, the mutual help, or any other homeownership program established under section 5(h) or section 6(c)(4)(D) and in existence before the date of the enactment of the Housing and Community Development Act of 1987.

"(e) Regulations.—The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section. Such regulations may establish any additional terms and conditions for homeownership or resident management under this section that are determined by the Secretary to be appropriate.

"(f) Annual Report.—The Secretary shall annually submit to the Congress a report setting forth—

"(1) the number, type, and cost of units sold;

"(2) the income, race, gender, children, and other characteristics of families purchasing or moving and not purchasing;

"(3) the amount and type of financial assistance provided;

"(4) the need for subsidy to ensure continued affordability and meet future maintenance and repair costs;

"(5) any need for the development of additional public housing dwelling units as a result of the sale of public housing dwelling units under this section;

"(6) recommendations of the Secretary for additional budget authority to carry out such development;

"(7) recommendations of the Secretary to ensure decent homes and decent neighborhoods for lower income families; and

"(8) the recommendations of the Secretary for statutory and regulatory improvements to the program.

"(g) Limitation.—Any authority of the Secretary under this section to provide financial assistance, or to enter into contracts to provide financial assistance, shall be effective only to such extent or in such amounts as are or have been provided in advance in an appropriation Act.".

SEC. 124. TREATMENT OF CERTAIN PUBLIC HOUSING DEVELOPMENT FUNDS.

(a) Forgiveness of Certain Interest.—Notwithstanding any other provision of law or other requirement, any interest accruing on any excess funds advanced to the Housing Authority of the City of Pittsburgh, in the State of Pennsylvania, for development of the public housing project numbered PA-1-22 shall be forgiven, and any such interest paid to the Secretary of Housing and Urban Development before the date of the enactment of this Act shall be returned to such City.

(b) Forgiveness of Certain Payments.—Notwithstanding any other provision of law or other requirement, the Secretary of Housing and Urban Development may not require the Bay City Housing Commission in the State of Michigan to pay any amount relating to ineligible costs incurred with respect to the public housing development grant numbered Michigan 24-7, awarded in 1974, under the United States Housing Act of 1937.

(c) Subject to Appropriations.—This section shall be effective only to the extent approved in appropriation Acts.

SEC. 125. ENERGY EFFICIENT PUBLIC HOUSING DEMONSTRATION.

(a) Establishment.—The Secretary of Housing and Urban Development shall establish a demonstration program through the assistance of an appropriate technology transfer organization that specializes in producing detailed energy-efficient designs and in conducting local and statewide, public participation tests for energy efficient, needs-oriented housing. The appropriate technology organization shall carry out the demonstration working through and with public housing agencies to build and test a variety of energy-efficient housing designs in 100 separate housing units in 4 different States that meet local lower income housing needs (including single parent, disabled, and elderly concerns) through a composite ranging from single to 12-plex units in the cluster approach on vacant lots and open areas.

(b) Report.—As soon as practicable following September 30, 1988, the Secretary of Housing and Urban Development shall submit to the Congress a report setting forth the findings and recommendations of the Secretary as a result of the demonstration under this section.

(c) Funding.—Of the budget authority authorized to be provided for the development of public housing, there is authorized to be appropriated to carry out this section $4,700,000 for fiscal year 1988.

SEC. 126. PUBLIC HOUSING COMPREHENSIVE TRANSITION DEMONSTRATION.

(a) Establishment of Demonstration Program.—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") shall carry out a program to demonstrate the effectiveness of providing a comprehensive program of services to participating public housing residents in order to ensure the successful transition of such residents to private housing. In carrying out the demonstration program, the Secretary shall consult with the heads of other appropriate Federal agencies to design and implement procedures to carry out the transition from public housing.

(b) Scope of Demonstration Program.—The Secretary shall carry out the demonstration program with respect to public housing administered by the Housing Authority of the City of Charlotte, in the State of North Carolina. The Secretary may also carry out the demonstration program with respect to public housing administered by not more than 10 additional public housing agencies.

(c) Requirements of Demonstration Program.—The demonstration program shall consist of the following requirements:

(1) Contract of participation.—Each participating public housing agency may enter into a voluntary contract with any family that is to commence residence in a public housing project administered by the public housing agency. The contract shall be made part of the lease, shall set forth the provisions of the demonstration program, and shall specify the resources to made available to the participating family and the responsibilities of the participating family.

(2) Remediation phase.—

(A) During not to exceed the first 2 years of residence of a participating family in public housing, the public housing agency shall ensure the provision of remediation services to the family in accordance with the terms and conditions of the contract of participation, which may include—

(i) remedial education;

(ii) completion of high school;

(iii) job training and preparation;

(iv) substance abuse treatment and counseling;

(v) training in homemaking skills and parenting; and

(vi) training in money management.

(B) During the remediation phase, the amount of rent charged the family may not be increased on the basis of any increase in earned income of the family.

(3) Transition phase.—

(A) During not to exceed a 5-year period following completion of the remediation stage—

(i) the head of the family shall be required to have full-time employment; and

(ii) the public housing agency shall ensure the provision of counseling for the family with respect to homeownership, money management, and problem solving.

(B) During the transition phase, the amount of rent charged the family—

(i) may be increased on the basis of any increase in family income; and

(ii) may not be decreased on the basis of any decrease in earned income due to voluntary termination of employment.

(4) Encouragement of savings.—The public housing agency shall take appropriate actions (including the establishment of an escrow savings account) to encourage each participating family to save funds during the remediation and transition phases.

(5) Effect of increases in family income.—

(A) Any increase in the earned income of a family during participation in the demonstration program under this section may not be considered as income or a resource for the purpose of denying the eligibility of, or reducing the amount of benefits payable to, the family under any other Federal law, unless the income of the family increases at any time to not less than 50 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families).

(B) If at any time during the participation of a family in the demonstration program the income of the family increases to not less than 80 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families), the participation of the family in the demonstration program shall terminate.

(6) Completion of transition.—Each family participating in the demonstration program shall be required to complete the transition out of public housing during a period of not more than 7 years. The public housing agency shall extend the period for any family that requests an extension for good cause.

(d) Reports to Congress.—

(1) Interim report.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to the Congress an interim report evaluating the effectiveness of the demonstration program under this section.

(2) Final report.—Not later than 60 days after the termination of the demonstration program under subsection (f), the Secretary shall submit to the Congress a final report evaluating the effectiveness of the demonstration program under this section.

(e) Regulations.—The Secretary shall issue such regulations as may be necessary to carry out this section.

(f) Termination of Demonstration Program.—The demonstration program under this section shall terminate upon the expiration of the 7-year period beginning on the date of the enactment of this Act.

PART 3—SECTION 8 ASSISTANCE AND OTHER PROGRAMS

SEC. 141. SECTION 8 CONTRACTS FOR EXISTING DWELLING UNITS.

Section 8(b)(1) of the United States Housing Act of 1937 is amended by inserting after the first sentence the following new sentence: "The Secretary shall enter into a separate annual contributions contract with each public housing agency to obligate the authority approved each year, beginning with the authority approved in appropriations Acts for fiscal year 1988 (other than amendment authority to increase assistance payments being made using authority approved prior to the appropriations Acts for fiscal year 1988), and such annual contributions contract (other than for annual contributions under subsection (o)) shall bind the Secretary to make such authority, and any amendments increasing such authority, available to the public housing agency for a specified period.".

SEC. 142. SECTION 8 FAIR MARKET RENTALS AND CONTRACT RENTS.

(a) Annual Adjustment.—Section 8(c)(1) of the United States Housing Act of 1937 is amended by inserting before the last sentence the following new sentence: "Each fair market rental in effect under this subsection shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply, of rents for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in the market area suitable for occupancy by persons assisted under this section.".

(b) Calculation for Certain County.—Section 8(c)(1) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence: "The Secretary shall establish separate fair market rentals under this paragraph for Westchester County in the State of New York.".

(c) Comparability.—

(1) Section 8(c)(1) of the United States Housing Act of 1937 (as amended by subsection (b) of this section) is further amended by adding at the end the following new sentence: "If units assisted under this section are exempt from local rent control while they are so assisted or otherwise, the maximum monthly rent for such units shall be reasonable in comparison with other units in the market area that are exempt from local rent control.".

(2) Section 8(c)(2)(C) of the United States Housing Act of 1937 is amended—

(A) by striking "assisted and comparable unassisted units" and inserting the following: "assisted units and unassisted units of similar quality and age in the same market area"; and

(B) by adding at the end the following new sentence: "If the Secretary or appropriate State agency does not complete and submit to the project owner a comparability study not later than 60 days before the anniversary date of the assistance contract under this section, the automatic annual adjustment factor shall be applied.".

(d) Prohibition on Reduction of Certain Contract Rents.—Section 8(c)(2)(C) of the United States Housing Act of 1937 (as amended by subsection (c) of this section) is further amended by adding at the end the following new sentence: "The Secretary may not reduce the contract rents in effect on or after April 15, 1987, for newly constructed, substantially rehabilitated, or moderately rehabilitated projects assisted under this section (including projects assisted under this section as in effect prior to November 30, 1983), unless the project has been refinanced in a manner that reduces the periodic payments of the owner.".

(e) Repeal of Limit on Contract Rent Increases.—Section 8(c)(2) of the United States Housing Act of 1937 is amended by striking subparagraph (D).

SEC. 143. HOUSING VOUCHER PROGRAM.

(a) Operation.—Section 8(o) of the United States Housing Act of 1937 is amended—

(1) in the first sentence of paragraph (1), by striking "In" and all that follows through "demonstration program" and inserting "The Secretary may provide assistance";

(2) by striking paragraph (4); and

(3) by redesignating paragraphs (5) through (8) as paragraphs (4) through (7), respectively.

(b) Flexibility To Adjust Assistance Payments.—Section 8(o)(6) of the United States Housing Act of 1937 (as so redesignated by subsection (a) of this section) is amended—

(1) in subparagraph (A), by striking "as frequently as twice during any five-year period" and inserting "annually"; and

(2) by striking subparagraph (D).

(c) Use of Vouchers in Connection With Cooperative and Mutual Housing.—Section 8(o)(7) of the United States Housing Act of 1937 (as so redesignated by subsection (a) of this section) is amended by striking "not to exceed 5 per centum of the amount of".

(d) Adjustment Pools.—Section 8(o) of the United States Housing Act of 1937 (as amended by subsection (a) of this section) is further amended by adding at the end the following new paragraph:

"(8) The Secretary may set aside up to 5 percent of the budget authority available under this subsection as an adjustment pool. The Secretary shall use amounts in the adjustment pool for adjustments pursuant to paragraph (6)(A) to ensure continued affordability where the Secretary determines additional assistance for this purpose is necessary, based on documentation submitted by a public housing agency.".

SEC. 144. ADMINISTRATIVE FEES FOR SECTION 8 CERTIFICATE AND HOUSING VOUCHER PROGRAMS.

Section 8 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(q)(1) The Secretary shall establish a fee for the costs incurred in administering the certificate and housing voucher programs under subsections (b) and (o). The amount of the fee for each month for which a dwelling unit is covered by an assistance contract shall be 8.2 percent of the fair market rental established under subsection (c)(1) for a 2-bedroom existing rental dwelling unit in the market area of the public housing agency. The Secretary may increase the fee if necessary to reflect the higher costs of administering small programs and programs operating over large geographic areas.

"(2)(A) The Secretary shall also establish reasonable fees (as determined by the Secretary) for—

"(i) the costs of preliminary expenses (not to exceed $275) that the public housing agency documents it has incurred in connection with new allocations of assistance under the certificate and housing voucher programs under subsections (b) and (o);

"(ii) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the programs; and

"(iii) extraordinary costs approved by the Secretary.

"(B) The method used to calculate fees under subparagraph (A) shall be the same for the certificate and housing voucher programs under subsections (b) and (o) and shall take into account local cost differences.

"(3) The Secretary may establish or increase a fee in accordance with this subsection only to such extent or in such amounts as are provided in appropriation Acts.".

SEC. 145. PORTABILITY OF SECTION 8 CERTIFICATES AND VOUCHERS.

Section 8 of the United States Housing Act of 1937 (as amended by section 144 of this Act) is further amended by adding at the end the following new subsection:

"(r)(1) Any family assisted under subsection (b) or (o) may receive such assistance to rent an eligible dwelling unit if the dwelling unit to which the family moves is within the same, or a contiguous, metropolitan statistical area as the metropolitan statistical area within which is located the area of jurisdiction of the public housing agency approving such assistance.

"(2) The public housing agency having authority with respect to the dwelling unit to which a family moves under this subsection shall have the responsibility of carrying out the provisions of this subsection with respect to the family. If no public housing agency has authority with respect to the dwelling unit to which a family moves under this subsection, the public housing agency approving the assistance shall have such responsibility.

"(3) In providing assistance under subsection (b) or (o) for any fiscal year, the Secretary shall give consideration to any reduction in the number of resident families incurred by a public housing agency in the preceding fiscal year as a result of the provisions of this subsection.

"(4) The provisions of this subsection may not be construed to restrict any authority of the Secretary under any other provision of law to provide for the portability of assistance under this section.".

SEC. 146. PROHIBITION OF DENIAL OF SECTION 8 CERTIFICATES AND VOUCHERS TO RESIDENTS OF PUBLIC HOUSING.

Section 8 of the United States Housing Act of 1937 (as amended by section 145 of this Act) is further amended by adding at the end the following new subsection:

"(s) In selecting families for the provision of assistance under this section (including subsection (o)), a public housing agency may not exclude or penalize a family solely because the family resides in a public housing project.".

SEC. 147. NONDISCRIMINATION AGAINST SECTION 8 CERTIFICATE HOLDERS AND VOUCHER HOLDERS.

Section 8 of the United States Housing Act of 1937 (as amended by section 146 of this Act) is further amended by adding at the end the following new subsection:

"(t)(1) No owner who has entered into a contract for housing assistance payments under this section on behalf of any tenant in a multifamily housing project shall refuse—

"(A) to lease any available dwelling unit in any multifamily housing project of such owner that rents for an amount not greater than the fair market rent for a comparable unit, as determined by the Secretary under this section, to a holder of a certificate of eligibility under this section a proximate cause of which is the status of such prospective tenant as a holder of such certificate, and to enter into a housing assistance payments contract respecting such unit; or

"(B) to lease any available dwelling unit in any multifamily housing project of such owner to a holder of a voucher under subsection (o), and to enter into a voucher contract respecting such unit, a proximate cause of which is the status of such prospective tenant as holder of such voucher.

"(2) For purposes of this subsection, the term 'multifamily housing project' means a residential building containing more than 4 dwelling units.".

SEC. 148. PROJECT-BASED SECTION 8 ASSISTANCE.

Section 8(d)(2) of the United States Housing Act of 1937 is amended by inserting before the period at the end of the last sentence the following: ", except that the Secretary shall permit the public housing agency to approve such attachment with respect to not more than 15 percent of the assistance provided by the public housing agency if the requirements of clause (B) are met".

SEC. 149. SECTION 8 ASSISTANCE FOR RESIDENTS OF RENTAL REHABILITATION PROJECTS.

Section 8 of the United States Housing Act of 1937 (as amended by section 147 of this Act) is further amended by adding at the end the following new subsection:

"(u) In the case of lower income families living in rental projects rehabilitated under section 17 of this Act or section 533 of the Housing Act of 1949 before rehabilitation—

"(1) certificates or vouchers under this section shall be made for families who are required to move out of their units because of the physical rehabilitation activities or because of overcrowding; and

"(2) at the discretion of each public housing agency or other agency administering the allocation of assistance, certificates or vouchers under this section may be made for families who would have to pay more than 30 percent of their adjusted income for rent after rehabilitation whether they choose to remain in, or to move from, the project.".

SEC. 150. RENTAL REHABILITATION GRANTS.

(a) Authorization of Appropriations.—Section 17(a)(3) of the United States Housing Act of 1937 is amended to read as follows:

"(3) Authorization.—There are authorized to appropriated for rental rehabilitation under this section $125,000,000 for each of the fiscal years 1988 and 1989, of which $1,500,000 shall be available each fiscal year for technical assistance, including the collection, processing, and dissemination of program information useful for local and national program management.".

(b) Eligible Property.—Section 17(a)(1)(A) of the United States Housing Act of 1937 is amended by inserting after "property" the following: ", or of real property that will be privately owned upon the completion of rehabilitation,".

(c) Maximum Grant Amount.—Section 17(c)(2)(E) of the United States Housing Act of 1937 is amended by striking "$5,000 per unit" and inserting the following: "$5,000 per unit for a unit with no bedrooms, $6,500 per unit for a unit with 1 bedroom, $7,500 per unit for a unit with 2 bedrooms, and $8,500 per unit for a unit with 3 or more bedrooms,".

(d) Use of Funds.—Section 17(c) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(4) Use of Funds To Comply With Seismic Standards.—If a unit of general local government has a local ordinance that requires rehabilitation to meet seismic standards, the unit of local government may use all rehabilitation assistance received under this section to rehabilitate units with no bedroom or 1 bedroom, if the occupants of the units will have incomes that do not exceed 50 percent of the median income of the area.".

(e) Administrative Expenses.—Section 17(h) of the United States Housing Act of 1937 is amended by inserting before the period at the end the following: ", except that not more than 10 percent of any rehabilitation grant received under subsection (c) may be retained to cover administrative expenses incurred by any State administering resources made available under subsection (b) (which State shall share such amount with units of general local government administering the program with the State) and by any city or urban county receiving resources under subsection (b)".

(f) Eligibility.—Section 17(k)(4) of the United States Housing Act of 1937 is amended—

(1) by inserting "privately owned" before "real property";

(2) by inserting "(A)" after "includes"; and

(3) by inserting before the semicolon at the end the following: ", and (B) housing that is owned by a State or locally chartered, neighborhood based, nonprofit organization the primary purpose of which is the provision and improvement of housing".

SEC. 151. RENTAL DEVELOPMENT GRANTS.

(a) Authorization of Appropriations.—Section 17(a)(3) of the United States Housing Act of 1937 (as amended by section 150 of this Act) is further amended by adding at the end the following new sentence: "There are authorized to be appropriated for development grants under this section $75,000,000 for fiscal year 1988 and $75,000,000 for fiscal year 1989.".

(b) Area Eligibility.—Section 17(d)(2) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence: "Notwithstanding any other provision of law, the eligibility requirements for development grants under this section shall be the requirements in effect under this subsection on October 17, 1986.".

(c) Grant Amount.—Section 17(d)(4)(B) of the United States Housing Act of 1937 is amended by striking "refinancing costs and".

(d) Program Requirements.—Section 17(d)(4) of the United States Housing Act of 1937 is amended—

(1) by inserting before the semicolon at the end of subparagraph (G) the following: ", except that the Secretary may extend such period by not more than 6 months if the commencement of such activities is delayed due to judicial or administrative proceedings";

(2) by striking "and" at the end of subparagraph (G);

(3) by striking the period at the end of subparagraph (H) and inserting "; and"; and

(4) by adding at the end the following new subparagraph:

"(I) the owner of each assisted structure agrees to comply with the provisions of paragraph (8) until the 20-year period specified in paragraph (7) has ended.".

(e) Development Cost.—Section 17(d) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(10) Development Cost.—

"(A) The Secretary shall include in the development cost of a project assisted under this subsection any developer's fee if such fee—

"(i) is included in a mortgage secured by the project; and

"(ii) the lender is a State housing finance agency or the project is financed by bonds issued by a State housing finance agency or similar local entity.

"(B) The amount of any developer's fee shall not be counted in calculating the maximum grant amount pursuant to paragraph (4)(B).

"(C) This paragraph shall only be applicable to projects with respect to which a notice of project selection is received before the date of the enactment of the Housing and Community Development Act of 1987.".

SEC. 152. TERMINATION OF RENTAL DEVELOPMENT GRANT PROGRAM.

(a) In General.—Effective on October 1, 1989, the rental development grant program under section 17(d) of the United States Housing Act of 1937 shall terminate.

(b) Savings Provision.—The provisions of subsection (a) shall not apply with respect to any housing development grant under section 17(d) of the United States Housing Act of 1937 made pursuant to a reservation of funds made by the Secretary of Housing and Urban Development before October 1, 1989.

Subtitle B—Other Housing Assistance Programs

SEC. 161. HOUSING FOR THE ELDERLY AND HANDICAPPED.

(a) Borrowing Authority.—The first sentence of section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended—

(1) by striking "and" the first place it appears; and

(2) by inserting after "1984," the following: "and to such sums as may be approved in appropriation Acts for fiscal years 1988 and 1989,".

(b) Loan Authority.—Section 202(a)(4)(C) of the Housing Act of 1959 is amended by adding at the end the following new sentence: "For fiscal years 1988 and 1989, not more than $621,701,000 and $630,000,000, respectively, may be approved in appropriation Acts for such loans.".

(c) Interest Rate on Loans.—

(1) Calculation of rate.—Section 202(a)(3) of the Housing Act of 1959 is amended—

(A) by inserting "(A)" after the paragraph designation;

(B) by striking all that follows "Secretary" the second place it appears through "loan is made" and inserting the following: "taking into consideration the average yield, during the 3-month period immediately preceding the fiscal year in which the loan is made, on the most recently issued 30-year marketable obligations of the United States"; and

(C) by adding at the end the following new subparagraph:

"(B) At the option of the borrower, a loan under this section may be made and may be processed for a conditional or firm commitment either (i) at an interest rate not to exceed a rate and allowance determined by the Secretary in accordance with subparagraph (A) using the 1-month period immediately prior to the month in which the request for a commitment is submitted; or (ii) at an interest rate not to exceed a rate and allowance determined by the Secretary in accordance with subparagraph (A) using the 3-month period immediately preceding the fiscal year in which the request for a commitment is submitted.".

(2) Maximum rate.—Section 223(a) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking paragraph (2).

(d) Interest Rate on Notes.—The second sentence of section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended to read as follows: "Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the average yield, during the 3-month period immediately preceding the fiscal year in which the loan is made, on the most recently issued 30-year marketable obligations of the United States.".

(e) Appeal of Cancellation of Loan Authority.—Section 202 of the Housing Act of 1959 is amended by adding at the end the following new subsection:

"(n) The Secretary shall notify the project sponsor not less than 30 days prior to canceling any loan authority provided under this section. During the 30-day period following the receipt of a notice under paragraph (1), a sponsor may appeal the proposed cancellation of loan authority. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.".

(f) Priority.—Section 202(a) of the Housing Act of 1959 is amended by adding at the end the following new paragraph:

"(8) In reviewing applications for loans under this section, the Secretary shall give a priority to any project that will provide housing designed to replace a structure that is owned by a public housing agency, contains not less than 100 dwelling units, is used for housing only elderly families, and is to be demolished. The requirements of this paragraph shall not apply after September 30, 1988.".

SEC. 162. HOUSING FOR THE HANDICAPPED.

(a) Findings and Purpose.—

(1) The Congress finds that—

(A) housing for nonelderly handicapped families is assisted under section 202 of the Housing Act of 1959 and section 8 of the United States Housing Act of 1937;

(B) the housing programs under such sections are designed and implemented primarily to assist rental housing for elderly and nonelderly families and are often inappropriate for dealing with the specialized needs of the physically impaired, the developmentally disabled, and the chronically mentally ill;

(C) the development of housing for nonelderly handicapped families under such programs is often more expensive than necessary, thereby reducing the number of such families that can be assisted with available funds;

(D) the program under section 202 of the Housing Act of 1959 can continue to provide direct loans to finance group residences and independent apartments for nonelderly handicapped families, but can be made more efficient and less costly by the adoption of standards and procedures applicable only to housing for such families;

(E) the cost containment policies currently being implemented in the development of small group homes (i) do not adequately reflect the necessity for building designs to meet the needs of the designated residents; and (ii) do not recognize necessary State and local standards for the operation of such homes;

(F) the use of the program under section 8 of the United States Housing Act of 1937 to assist rentals for housing for nonelderly handicapped families is time consuming and unnecessarily costly and, in some areas of the Nation, prevents the development of such housing;

(G) the use of the program under section 8 of the United States Housing Act of 1937 to assist rentals for housing for nonelderly handicapped families should be replaced by a more appropriate subsidy mechanism;

(H) both elderly and handicapped housing projects assisted under section 202 of the Housing Act of 1959 will benefit from an increased emphasis on supportive services and a greater use of State and local funds; and

(I) an improved program for nonelderly handicapped families will assist in providing shelter and supportive services for mentally ill persons who might otherwise be homeless.

(2) The purpose of this section is to improve the direct loan program under section 202 of the Housing Act of 1959 to ensure that such program meets the special housing and related needs of nonelderly handicapped families.

(b) Housing for Handicapped Families.—

(1) Section 202(h) of the Housing Act of 1959 is amended to read as follows:

"(h)(1) Of the amounts made available in appropriation Acts for loans under subsection (a)(4)(C) for any fiscal year commencing after September 30, 1987, not less than 15 percent shall be available for loans for the development costs of housing for handicapped families. If the amount required for any such fiscal year for approvable applications for loan under this subsection is less than the amount available under this paragraph, the balance shall be made available for loans under other provisions of this section.

"(2) The Secretary shall take such actions as may be necessary to ensure that—

"(A) funds made available under this subsection will be used to support a variety of methods of meeting the needs primarily of nonelderly handicapped families by providing a variety of housing options, ranging from small group homes to independent living complexes; and

"(B) housing for handicapped families assisted under this subsection will provide families occupying units in such housing with an assured range of services specified in subsection (f), will provide such families with opportunities for optimal independent living and participation in normal daily activities, and will facilitate access by such families to the community at large and to suitable employment opportunities within such community.

"(3)(A) In allocating funds under this subsection, and in processing applications for loans under this section and assistance payments under paragraph (4), the Secretary shall adopt such distinct standards and procedures as the Secretary determines appropriate due to differences between housing for handicapped families and other housing assisted under this section. In adopting such standards, the Secretary shall ensure adequate participation by representatives of the disability community through the provisions available under the Federal Advisory Committee Act.

"(B) The Secretary may, on a demonstration basis, determine the feasibility and desirability of reducing processing time and costs for housing for handicapped families by limiting project design to a small number of prototype designs. Any such demonstration shall be limited to the 3-year period following the date of the enactment of the Housing and Community Development Act of 1987, may only involve projects whose sponsors consent to participation in such demonstration, and shall be described in a report submitted by the Secretary to the Congress following completion of such demonstration.

"(4)(A) The Secretary shall, to the extent approved in appropriation Acts, enter into contracts with owners of housing for handicapped families receiving loans under, or meeting the requirements of, this section to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by lower income families that is not met from project income. The annual contract amount for any project shall not exceed the sum of the initial annual project rentals for all units and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The term of a contract entered into under this subparagraph shall be 240 months. The annual contract amount may be adjusted by the Secretary if the sum of the project income and the amount of assistance payments available under this subparagraph are inadequate to provide for reasonable project costs. In the case of an intermediate care facility in which there reside families assisted under title XIX of the Social Security Act, project income under this subparagraph shall include the same amount as if such families were being assisted under title XVI of the Social Security Act.

"(B) The Secretary shall approve initial project rentals for any project assisted under this subsection based on the determination of the Secretary of the total actual necessary and reasonable costs of developing and operating the project, excluding the costs of the assured range of services under subsection (f), taking into consideration the need to contain costs to the extent practicable and consistent with the purposes of the project and this section.

"(C) The Secretary shall require that, during the term of each contract entered into under subparagraph (A), all units in a project assisted under this subsection shall be made available for occupancy by lower income families, as such term is defined in section 3(b)(2) of the United States Housing Act of 1937. The rent payment required of a lower income family shall be determined in accordance with section 3(a) of such Act, except that the gross income of a family occupying an intermediate care facility assisted under title XIX of the Social Security Act shall be the same amount as if the family were being assisted under title XVI of the Social Security Act.

"(D) The Secretary shall coordinate the processing of an application for a loan for housing for handicapped families under this section and the processing of an application for assistance payments under this paragraph for such housing.".

(2) Section 202(d) of the Housing Act of 1959 is amended by adding at the end the following new paragraphs:

"(9) The term 'housing for handicapped families' means housing and related facilities to be occupied by handicapped families who are primarily nonelderly handicapped families.

"(10) The term 'nonelderly handicapped families' means elderly or handicapped families, the head of which (and spouse, if any) is less than 62 years of age at the time of initial occupancy of a project assisted under this section.".

(3) Section 202(c)(3) of the Housing Act of 1959 is amended by inserting after "section" the following: "and designed for dwelling use by 12 or more elderly or handicapped families".

(c) SUPPORTIVE SERVICES FOR ELDERLY AND HANDICAPPED FAMILIES.—Section 202(f) of the Housing Act of 1959 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraph:

"(2) Each applicant for a loan under this section for housing and related facilities shall submit with the application a supportive services plan describing—

"(A) the category or categories of families such housing and facilities are intended to serve;

"(B) the range of necessary services to be provided to the families occupying such housing;

"(C) the manner in which such services will be provided to such families; and

"(D) the extent of State and local funds available to assist in the provision of such services.".

(d) TERMINATION OF SECTION 8 ASSISTANCE.—On and after the first date that amounts approved in an appropriation Act for any fiscal year become available for contracts under section 202(h)(4)(A) of the Housing Act of 1959, as amended by subsection (b) of this section, no project for handicapped (primarily nonelderly) families approved for such fiscal year pursuant to section 202 of such Act shall be provided assistance payments under section 8 of the United States Housing Act of 1937, except pursuant to a reservation for a contract to make such assistance payments that was made before the first date that amounts for contracts under such section 202(h)(4)(A) became available.

(e) IMPLEMENTATION.—Not later than the expiration of the 120-day period following the date of the enactment of this Act, the Secretary of Housing and Urban Development shall, to the extent amounts are approved in an appropriation Act for use under section 202(h)(4)(A) of the Housing Act of 1959 for fiscal year 1988, publish in the Federal Register a notice of fund availability to implement the provisions of, and amendments made by, this section. The Secretary shall issue such rules as may be necessary to carry out such provisions and amendments for fiscal year 1989 and thereafter.

(f) EFFECTIVE DATE AND APPLICABILITY.—

(1) Except as otherwise provided in this section, the provisions of, and amendments made by, this section shall not apply with respect to projects with loans or loan reservations made under section 202 of the Housing Act of 1959 before the implementation date under subsection (e).

(2) Notwithstanding paragraph (1), the Secretary shall apply the provisions of, and amendments made by, this section to any project if needed to facilitate the development of such project in a timely manner.

SEC. 163. CONGREGATE SERVICES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 411(a) of the Congregate Housing Services Act of 1978 is amended to read as follows:

"(a) There are authorized to be appropriated to carry out this title $10,000,000 for each of the fiscal years 1988 and 1989.".

(b) DELETION OF REFERENCE TO PROGRAM AS NONPERMANENT.—Section 408 of the Congregate Housing Services Act of 1978 is amended by striking subsection (c).

(c) REPORT.—Section 408 of the Congregate Housing Services Act of 1978 (as amended by subsection (b) of this section) is further amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall contract with a university or qualified research institution to produce a report—

"(A) documenting the number of elderly living in federally assisted housing at risk of institutionalization;

"(B) studying and comparing alternative delivery systems in the States, including the congregate housing services program, to provide services to older persons in assisted congregate housing;

"(C) assessing existing and potential financial resources at the Federal, State, and local levels for the support of congregate housing services; and

"(D) making legislative recommendations as to the feasibility of permitting State housing agencies and other appropriate State agencies to participate and operate the program on a matching grant basis.

"(2) The Secretary shall submit the report to the Congress not later than September 30, 1988.".

SEC. 164. MODIFICATION OF RESTRICTION ON USE OF ASSISTED HOUSING BY ALIENS.

(a) ALIENS ADMITTED FOR LAWFUL RESIDENCE.—Section 214(a) of the Housing and Community Development Act of 1980 is amended—

(1) by striking "or" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(6) an alien lawfully admitted for temporary or permanent residence under section 245A of the Immigration and Nationality Act.".

(b) PRESERVATION OF FAMILIES.—Section 214 of the Housing and Community Development Act of 1980 is amended by inserting after subsection (b) the following new subsection:

"(c)(1) If, following completion of the applicable hearing process, financial assistance for any individual receiving such assistance on the date of the enactment of the Housing and Community Development Act of 1987 is to be terminated, the public housing agency or other local governmental entity involved (in the case of public housing or assistance under section 8 of the United States Housing Act of 1937) or the Secretary of Housing and Urban Development (in the case of any other financial assistance) may, in its discretion, take one of the following actions:

"(A) Permit the continued provision of financial assistance, if necessary to avoid the division of a family in which the head of household or spouse is a citizen of the United States, a national of the United States, or an alien resident of the United States described in any of paragraphs (1) through (6) of subsection (a). For purposes of this paragraph, the term 'family' means a head of household, any spouse, any parents of the head of household, any parents of the spouse, and any children of the head of household or spouse.

"(B) Defer the termination of financial assistance, if necessary to permit the orderly transition of the individual and any family members involved to other affordable housing. Any deferral under this subparagraph shall be for a 6-month period and may be renewed by the public housing agency or other entity involved for an aggregate period of 3 years. At the beginning of each deferral period, the public housing agency or other entity involved shall inform the individual and family members of their ineligibility for financial assistance and offer them other assistance in finding other affordable housing.

"(2) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may not make financial assistance available for the benefit of—

"(A) any alien who—

"(i) has a residence in a foreign country that such alien has no intention of abandoning;

"(ii) is a bona fide student qualified to pursue a full course of study; and

"(iii) is admitted to the United States temporarily and solely for purposes of pursuing such a course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by such alien and approved by the Attorney General after consultation with the Department of Education of the United States, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student (and if any such institution of learning or place of study fails to make such reports promptly the approval shall be withdrawn); and

"(B) the alien spouse and minor children of any alien described in subparagraph (A), if accompanying such alien or following to join such alien.".

(c) VERIFICATION PROCEDURES.—Section 214(d) of the Housing and Community Development Act of 1980 (as added by section 121(a)(2) of the Immigration Reform and Control Act of 1986 (Public Law 99-603)) is amended—

(1) in paragraph (2), by inserting after "States" the following: ", is not 62 years of age or older, and is receiving financial assistance on the date of the enactment of the Housing and Community Development Act of 1987";

(2) in paragraph (4), in the matter before subparagraph (A)—

(A) by inserting after "States" the following: ", is not 62 years of age or older, and is receiving financial assistance on the date of the enactment of the Housing and Community Development Act of 1987"; and

(B) by inserting "or recertification" after "application";

(3) in paragraph (4)(A)(i), by inserting after the comma the following: "or to appeal to the Immigration and Naturalization Service the verification determination of the Immigration and Naturalization Service under paragraph (3),";

(4) in paragraph (4)(B), by striking the matter before clause (i) and inserting the following:

"(B) if any documents or additional information are submitted as evidence under subparagraph (A), or if appeal is made to the Immigration and Naturalization Service with respect to the verification determination of the Service under paragraph (3)—";

(5) in paragraph (4)(B)(i), by inserting "or additional information" after "documents";

(6) in paragraph (4)(B)(ii), by inserting "or appeal" after "verification";

(7) by inserting after paragraph (5) the following new paragraph:

"(6) For purposes of paragraph (5)(B), the applicable fair hearing process made available with respect to any individual shall include not less than the following procedural protections:

"(A) The Secretary shall provide the individual with written notice of the determination described in paragraph (5) and of the opportunity for a hearing with respect to the determination.

"(B) Upon timely request by the individual, the Secretary shall provide a hearing before an impartial hearing officer designated by the Secretary, at which hearing the individual may produce evidence of a satisfactory immigration status.

"(C) The Secretary shall notify the individual in writing of the decision of the hearing officer on the appeal of the determination in a timely manner.

"(D) Financial assistance may not be denied or terminated until the completion of the hearing process."; and

(8) by striking the last sentence and inserting the following: "For purposes of this subsection, the term 'Secretary' means the Secretary of Housing and Urban Development, a public housing agency, or another entity that determines the eligibility of an individual for financial assistance.".

(d) ENFORCEMENT PROCEDURES.—Section 214(e) of the Housing and Community Development Act of 1980 (as added by section 121(a)(2) of the Immigration Reform and Control Act of 1986 (Public Law 99-603)) is amended—

(1) in the matter before paragraph (1), by inserting "of Housing and Urban Development" after "Secretary";

(2) in paragraph (2), by inserting after "(d)(4)(A)(ii)" the following: "(or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603))";

(3) in paragraph (3), by inserting after "(d)(4)(B)(ii)" the following: "(or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603))"; and

(4) in paragraph (4), by inserting after "(d)(5)(B)" the following: "(or provided for under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603))".

(e) VERIFICATION SYSTEM.—Section 214 of the Housing and Community Development Act of 1980 (as amended by section 121(a)(2) of the Immigration Reform and Control Act of 1986 (Public Law 99-603)) is amended by adding at the end the following new subsection:

"(f)(1) Notwithstanding any other provision of law, no agency or official of a State or local government shall have any liability for the design or implementation of the Federal verification system described in subsection (d) if the implementation by the State or local agency or official is in accordance with Federal rules and regulations.

"(2) The verification system of the Department of Housing and Urban Development shall not supersede or affect any consent agreement entered into or court decree or court order entered prior to the date of the enactment of the Housing and Community Development Act of 1987.".

(f) REIMBURSEMENT FOR COSTS OF IMPLEMENTATION.—

(1) Section 214 of the Housing and Community Development Act of 1980 (as amended by subsection (e) of this section) is further amended by adding at the end the following new subsection:

"(g) The Secretary of Housing and Urban Development is authorized to pay to each public housing agency or other entity an amount equal to 100 percent of the costs incurred by the public housing agency or other entity in implementing and operating an immigration status verification system under subsection (d) (or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603)).".

(2) The United States Housing Act of 1937 (as amended by section 121(b)(6) of the Immigration Reform and Control Act of 1986 (Public Law 99-603)) is amended by striking section 20.

(g) TRANSITIONAL CERTIFICATION AND DOCUMENTATION PROVISIONS.—In carrying out section 214 of the Housing and Community Development Act of 1980 during fiscal year 1988, the Secretary of Housing and Urban Development shall require, as a condition of providing financial assistance for the benefit of any individual, that such individual—

(1) declare in writing, under penalty of perjury, whether or not such individual is a citizen or national of the United States; and

(2) if not a citizen or national—

(A) declare in writing, under penalty of perjury, the immigration status of such individual, if such individual is not less than 62 years of age "and is receiving financial assistance on the date of the enactment of the Housing and Community Development Act of 1987"; or

(B) provide such documentation regarding the immigration status of such individual as the Secretary may require by regulation.

(h) EFFECTIVE DATES.—

(1) The provisions of, and amendments made by, subsections (a), (b), (e), (f), and (g) shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsections (c) and (d) shall take effect on October 1, 1988.

SEC. 165. PREVENTING FRAUD AND ABUSE IN DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PROGRAMS.

(a) DISCLOSURE OF SOCIAL SECURITY ACCOUNT NUMBER.—As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving loans, grants, interest or rental assistance of any kind, or mortgage or loan insurance, and to ensure that the level of benefits provided under such programs is proper, the Secretary of Housing and Urban Development may require that an applicant or participant (including members of the household of an applicant or participant) disclose his or her social security account number or employer identification number to the Secretary.

(b) DEFINITIONS.—For purposes of this section, the terms "applicant" and "participant" shall have such meanings as the Secretary of Housing and Urban Development by regulation shall prescribe. Such terms shall not include persons whose involvement is only in their official capacity, such as State or local government officials or officers of lending institutions.

SEC. 166. ANNUAL REPORT ON CHARACTERISTICS OF FAMILIES IN ASSISTED HOUSING.

(a) In General.—The Secretary of Housing and Urban Development shall include in the annual report under section 8 of the Housing and Urban Development Act descriptions of the characteristics of families assisted under each of the following programs of assistance: public housing, section 8 of the United States Housing Act of 1937 (other than subsection (o) of such section), section 8(o) of the United States Housing Act of 1937, and section 202 of the Housing Act of 1959.

(b) Specific Requirements.—The descriptions required in subsection (a) shall include information with respect to—

(1) family size, including the number of children;

(2) amount and sources of family income;

(3) the age, race, and sex of family members; and

(4) whether the head of the family (or the spouse of such person) is a member of the armed forces.

SEC. 167. SECTION 236 RENTAL HOUSING PROGRAM.

(a) State-Aided Projects.—

(1) Section 236(f)(4) of the National Housing Act is amended by striking "90 per centum" and inserting "100 percent".

(2) Section 101(g) of the Housing and Urban Development Act of 1965 is amended by striking "90 per centum" and inserting "100 percent".

(b) Insuring Authority.—Section 236(n) of the National Housing Act is amended by adding at the end the following new sentence: "A mortgage may be insured under this section after the date in the preceding sentence in order to refinance a mortgage insured under this section or to finance pursuant to subsection (j)(3) the purchase, by a cooperative or nonprofit corporation or association, of a project assisted under this section.".

SEC. 168. TENANT ELIGIBILITY DETERMINATIONS IN RENT SUPPLEMENT PROJECTS.

Section 101 of the Housing and Urban Development Act of 1965 is amended—

(1) by striking the second sentence of subsection (e)(1); and

(2) by striking subsection (k) and inserting the following:

"(k) In selecting individuals or families to be assisted under this section in accordance with the eligibility criteria and procedures established under subsection (e)(1), the project owner shall give preference to individuals or families who are occupying substandard housing, are paying more than 50 percent of family income for rent, or are involuntarily displaced at the time they are seeking housing assistance under this section.".

SEC. 169. COUNSELING TO TENANTS AND HOMEOWNERS.

(a) Counseling Services.—Section 106(a)(3) of the Housing and Urban Development Act of 1968 is amended in the first sentence by striking all that follows the semicolon and inserting the following: "except that for each of the fiscal years 1988 and 1989 there are authorized to be appropriated $3,500,000 for such purposes.".

(b) Emergency Homeownership Counseling.—Section 106 of the Housing and Urban Development Act of 1968 is amended by inserting at the end the following new subsection:

"(c) Grants for Homeownership Counseling Organizations.—

"(1) In general.—The Secretary of Housing and Urban Development may make grants—

"(A) to nonprofit organizations experienced in the provision of homeownership counseling to enable the organizations to provide homeownership counseling to eligible homeowners; and

"(B) to assist in the establishment of nonprofit homeownership counseling organizations.

"(2) Program requirements.—

"(A) Applications for grants under this subsection shall be submitted in the form, and in accordance with the procedures, that the Secretary requires.

"(B) The homeownership counseling organizations receiving assistance under this subsection shall use the assistance only to provide homeownership counseling to eligible homeowners.

"(C) The homeownership counseling provided by homeownership counseling organizations receiving assistance under this subsection shall include counseling with respect to—

"(i) financial management;

"(ii) available community resources, including public assistance programs, mortgage assistance programs, home repair assistance programs, utility assistance programs, food programs, and social services; and

"(iii) employment training and placement.

"(3) Availability of homeownership counseling.—The Secretary shall take any action that is necessary—

"(A) to ensure the availability throughout the United States of homeownership counseling from homeownership counseling organizations receiving assistance under this subsection, with priority to areas that—

"(i) are experiencing high rates of home foreclosure and any other indicators of homeowner distress determined by the Secretary to be appropriate; and

"(ii) are not already adequately served by homeownership counseling organizations; and

"(B) to inform the public of the availability of the homeownership counseling.

"(4) Eligibility for counseling.—A homeowner shall be eligible for homeownership counseling under this subsection if—

"(A) the home loan is secured by property that is the principal residence (as defined by the Secretary) of the homeowner;

"(B) the home loan is not assisted under title V of the Housing Act of 1949; and

"(C) the homeowner is, or is expected to be, unable to make payments, correct a home loan delinquency within a reasonable time, or resume full home loan payments due to a reduction in the income of the homeowner because of—

"(i) an involuntary loss of, or reduction in, the employment of the homeowner, the self-employment of the homeowner, or income from the pursuit of the occupation of the homeowner; or

"(ii) any similar loss or reduction experienced by any person who contributes to the income of the homeowner.

"(5) Notification of availability of homeownership counseling requirement.—The creditor of a delinquent home loan shall notify an eligible homeowner of the availability of any homeownership counseling offered by the creditor. As a supplement to the counseling provided by the creditor, the creditor shall notify the homeowner of the availability of 1 of the following:

"(A) Homeownership counseling provided by nonprofit organizations approved by the Secretary and experienced in the provision of homeownership counseling.

"(B) A list of the nonprofit organizations, approved by the Secretary and experienced in the provision of homeownership counseling, that can be obtained by calling a toll-free telephone number at the Department of Housing and Urban Development.

"(C) Homeownership counseling provided by the Administrator of Veterans' Affairs for loans insured or guaranteed under chapter 37 of title 38, United States Code.

"(6) Definitions.—For purposes of this subsection:

"(A) The term 'creditor' means a person or entity that is servicing a home loan on behalf of itself or another person or entity.

"(B) The term 'eligible homeowner' means a homeowner eligible for counseling under paragraph (4).

"(C) The term 'home loan' means a loan secured by a mortgage or lien on residential property.

"(D) The term 'homeowner' means a person who is obligated under a home loan.

"(E) The term 'residential property' means a 1-family residence, including a 1-family unit in a condominium project, a membership interest and occupancy agreement in a cooperative housing project, and a manufactured home and the lot on which the home is situated.

"(7) Regulations.—The Secretary shall issue any regulations that are necessary to carry out this subsection.

"(8) Authorization of Appropriations.—There are authorized to be appropriated to carry out this subsection $3,500,000 for each of the fiscal years 1988 and 1989. Any amount appropriated under this subsection shall remain available until expended.

"(9) Termination.—The provisions of this subsection shall not be effective after September 30, 1989.".

SEC. 170. HOUSING ASSISTANCE TECHNICAL AMENDMENTS.

(a) Section 235 Homeownership Assistance.—Section 235(i)(3)(C) of the National Housing Act is amended by inserting an opening parenthesis before "including".

(b) Rental Housing for Lower Income Families.—The last sentence of section 236(i)(1) of the National Housing Act is amended by striking "(h)" and inserting "(f)(4)".

(c) Definition of Disability.—Section 3(b)(3)(A) of the United States Housing Act of 1937 is amended—

(1) by striking "or" the first place it appears and inserting a comma; and

(2) by striking "or in section 102 of the Developmental Disabilities Services and Facilities Construction Amendments of 1970" and inserting the following: ", has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7))".

(d) Lower Income Housing.—

(1) The first sentence of section 6(a) of the United States Housing Act of 1937 is amended by inserting "The" before "Secretary".

(2) Section 6(c)(4)(A) of the United States Housing Act of 1937 is amended—

(A) by striking "or are paying more than 50 per centum of family income for rent"; and

(B) by inserting ", are paying more than 50 percent of family income for rent," after "substandard housing".

(3) Paragraphs (4) and (5) of section 6(k) of the United States Housing Act of 1937 are amended by striking "his" each place it appears and inserting "their".

(e) Housing Development Grants.—Section 17(d)(7)(A) of the United States Housing Act of 1937 is amended by striking "title" and inserting "subsection".

(f) Public Housing Demolition and Disposition.—Section 18(b) of the United States Housing Act of 1937 is amended in the matter preceding paragraph (1) by inserting "or" after "section".

(g) Housing for the Elderly and Handicapped.—

(1) The third sentence of section 202(d)(4) of the Housing Act of 1959 is amended by striking "is a developmentally disabled individual as defined in section 102(5) of the Developmental Disabilities Services and Facilities Construction Amendments of 1950" and inserting the following: "has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7))".

(2) Section 202(f) of the Housing Act of 1959 is amended by striking "section 134" and inserting "section 133".

(3) Section 202(l) of the Housing Act of 1959 is amended by striking "difference" and inserting "different".

(h) Rent Supplements.—Section 101(j)(1)(D) of the Housing and Urban Development Act of 1965 is amended by striking "divided" and inserting "dividend".

Subtitle C—Multifamily Housing Management and Preservation

SEC. 181. MANAGEMENT AND PRESERVATION OF HUD-OWNED MULTIFAMILY HOUSING PROJECTS.

(a) Goals.—Section 203(a) of the Housing and Community Development Amendments of 1978 is amended by striking "(a)" and all that follows through the semicolon at the end of paragraph (1) and inserting the following:

"(a) The Secretary of Housing and Urban Development (in this section referred to as the 'Secretary') shall manage or dispose of multifamily housing projects that are owned by the Secretary, or that are subject to a mortgage held by the Secretary that is either delinquent, under a workout agreement, or being foreclosed upon by the Secretary, in a manner that is consistent with the National Housing Act and this section and that will, in the least costly fashion among the reasonable alternatives available, further the goals of—

"(1) preserving so that they are available to and affordable by low- and moderate-income persons—

"(A) all units in multifamily housing projects that are subsidized projects or formerly subsidized projects;

"(B) in other multifamily housing projects owned by the Secretary, at least the units that are occupied by low- and moderate-income persons or vacant; and

"(C) in all other multifamily housing projects, at least the units that are, on the date of assignment, occupied by low- and moderate-income persons;".

(b) Management Services.—Section 203(b)(2) of the Housing and Community Development Amendments of 1978 is amended—

(1) by inserting "(A)" after the paragraph designation;

(2) by redesignating clauses (A) through (D) as clauses (i) through (iv), respectively;

(3) by striking ", owned by the Secretary" and inserting the following: "subject to subsection (a) that is owned by the Secretary (or for which the Secretary is mortgagee in possession)";

(4) by striking the period at the end and inserting "; and"; and

(5) by adding at the end the following new subparagraph:

"(B) to require the owner of a multifamily housing project subject to subsection (a) that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), to contract for management services for the project in the manner described in subparagraph (A).".

(c) Maintaining of Projects.—Section 203(c) of the Housing and Community Development Amendments of 1978 is amended to read as follows:

"(c)(1) In the case of multifamily housing projects subject to subsection (a) that are owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall—

"(A) to the greatest extent possible, maintain all such occupied projects in a decent, safe, and sanitary condition;

"(B) to the greatest extent possible, maintain full occupancy in all such projects; and

"(C) maintain all such projects for purposes of providing rental or cooperative housing for the longest feasible period.

"(2) In the case of any multifamily housing project subject to subsection (a) that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), the Secretary shall require the owner of the project to carry out the requirements of paragraph (1).".

(d) Financial Assistance.—Section 203 of the Housing and Community Development Amendments of 1978 is amended—

(1) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d) In carrying out the goals specified in subsection (a)(1) the Secretary shall take not less than one of the following actions:

"(1) Enter into contracts under section 8 of the United States Housing Act of 1937, to the extent budget authority is available for such section 8, with owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary. Such contracts shall provide assistance to the project involved for a period of not less than 15 years. Such contracts shall be sufficient to assist all units in subsidized or formerly subsidized projects, and all units in other projects that are occupied by lower income families eligible for assistance under such section 8 at the time of foreclosure or sale, as the case may be, and all units that are vacant at such time (which units shall be made available for such families as soon as possible). In order to make available to families any units in subsidized or formerly subsidized projects that are occupied by persons not eligible for assistance under such section 8, but that subsequently become vacant, the contract shall also provide that when any such vacancy occurs the owner involved shall lease the available unit to a family eligible for assistance under such section 8. The Secretary shall provide such contracts at contract rents that, consistent with subsection (a), provide for the rehabilitation of such project and do not exceed the most recently adjusted fair market rents for substantially rehabilitated units published by the Secretary in the Federal Register.

"(2) In accordance with the authority provided under the National Housing Act, provide purchase-money mortgages, reduce the selling price, or provide other financial assistance to the owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms that will ensure that, for a period of not less than 15 years (A) the project will remain available to and affordable by low- and moderate-income persons; and (B) such persons shall pay not more than the amount payable as rent under section 3(a) of the United States Housing Act of 1937.".

(e) Right of First Refusal.—Section 203 of the Housing and Community Development Amendments of 1978 is amended—

(1) by redesignating subsections (e) through (h) (as so redesignated by this section) as subsections (f) through (i); and

(2) by inserting before such subsection (f) the following new subsection:

"(e) Upon receipt of a bona fide offer to purchase a project subject to subsection (a), the Secretary shall notify the local government and the State housing finance agency (or other agency or agencies designated by the Governor) of the proposed terms and conditions of the offer, including the assistance that the Secretary plans to make available to the prospective purchaser. The local government and the designated State agency shall have 90 days to match the offer and purchase the project. In administering the right of first refusal provided in this subsection, the Secretary shall offer assistance to the local government or designated State agency on terms and conditions at least as favorable as made available to the prospective purchaser. Notwithstanding any other provision of law to the contrary, a local government (including a public housing agency) or designated State agency may purchase a subsidized project or formerly subsidized project in accordance with this subsection.".

(f) Displacement Protection.—Section 203(f)(1) of the Housing and Community Development Amendments of 1978 (as so redesignated by this section) is amended—

(1) by striking "owned by the Secretary" and inserting the following: "subject to subsection (a) that is owned by the Secretary (or for which the Secretary is mortgagee in possession)"; and

(2) by adding at the end the following new sentence: "In the case of a multifamily housing project subject to subsection (a) that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), the Secretary shall require the owner of the project to carry out the requirements of this paragraph.".

(g) Limitations on Certain Project, Loan, and Mortgage Sales.—Section 203 of the Housing and Community Development Amendments of 1978 is amended—

(1) by redesignating subsections (h) and (i) (as so redesignated by this section) as subsections (i) and (j); and

(2) by inserting before such subsection (i) the following new subsection:

"(h)(1) The Secretary may not approve the sale of any loan or mortgage held by the Secretary (including any loan or mortgage owned by the Government National Mortgage Association) on any subsidized project or formerly subsidized project unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such loan or mortgage in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

"(2) The Secretary may not approve the sale of any subsidized project (A) that is subject to a mortgage held by the Secretary; or (B) if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of the loan or mortgage in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed sale of the project.

"(3) Notwithstanding any provision of law that may require competitive sales or bidding, the Secretary may carry out negotiated sales of subsidized or formerly subsidized mortgages held by the Secretary, without the competitive selection of purchasers or intermediaries, to agencies of State or local government, or groups of investors that include at least 1 such agency of State or local government, if the negotiations are conducted with such agencies, except that—

"(A) the terms of any such sale shall include the agreement of the purchasing agency or agencies of State or local government to act as mortgagee or owner of a beneficial interest in such mortgages in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such agency of State or local government to enforce the provisions of any regulatory agreement or other program requirements applicable to the related projects; and

"(B) the sales prices for such mortgages shall be, in the determination of the Secretary, the best price that may be obtained for such mortgages from an agency of State or local government, consistent with the expectation and intention that the projects financed will be retained for use under the applicable mortgage insurance program for the life of the initial mortgage insurance contract.".

(h) DEFINITIONS.—Section 203(i) of the Housing and Community Development Amendments of 1978 (as so redesignated by this section) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraphs:

"(2) For the purpose of this section, the term 'subsidized project' means a multifamily housing project receiving any of the following assistance immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary:

"(A) below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act;

"(B) interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act;

"(C) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;

"(D) direct loans at below market interest rates, made under section 202 of the Housing Act of 1959 or to a multifamily housing project under section 312 of the Housing Act of 1964; or

"(E) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975) or section 8 of the United States Housing Act of 1937 (other than subsection (b)(1) of such section), without regard to whether such payments are made to all or a portion of the units in the project.

"(3) For the purpose of this section, the term 'formerly subsidized project' means a multifamily housing project owned by the Secretary that was a subsidized project immediately prior to its acquisition by the Secretary.".

SEC. 182. ACQUISITION OF INSURED MULTIFAMILY HOUSING PROJECTS.

Section 207(k) of the National Housing Act is amended by inserting after the second sentence the following new sentence: "In determining the amount to be bid, the Secretary shall act consistently with the goal established in section 203(a)(1) of the Housing and Community Development Amendments of 1978.".

SEC. 183. TENANT PARTICIPATION IN MULTIFAMILY HOUSING PROJECTS.

(a) APPLICABILITY.—Section 202(a) of the Housing and Community Development Amendments of 1978 is amended by inserting before the period at the end the following: "or section 202 of the Housing Act of 1959".

(b) NOTICE AND COMMENT.—Section 202(b)(1) of the Housing and Community Development Amendments of 1978 is amended by striking "and the Secretary deems it appropriate" and inserting the following: "or where the Secretary proposes to sell a mortgage secured by a multifamily housing project".

(c) NONDISCRIMINATION AGAINST SECTION 8 CERTIFICATE HOLDERS AND VOUCHER HOLDERS.—No owner of a subsidized project (as defined in section 203(i)(2) of the Housing and Community Development Amendments of 1978, as amended by section 181(h) of this Act) shall refuse—

(1) to lease any available dwelling unit in any such project of such owner that rents for an amount not greater than the fair market rent for a comparable unit, as determined by the Secretary under section 8 of the United States Housing Act of 1937, to a holder of a certificate of eligibility under such section, a proximate cause of which is the status of such prospective tenant as a holder of such certificate, and to enter into a housing assistance payments contract respecting such unit; or

(2) to lease any available dwelling unit in any such project of such owner to a holder of a voucher under section 8(o) of such Act, and to enter into a voucher contract respecting such unit, a proximate cause of which is the status of such prospective tenant as holder of such voucher.

SEC. 184. MULTIFAMILY HOUSING DISPOSITION PARTNERSHIP.

(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM.—The Secretary of Housing and Urban Development (referred to in this section as the "Secretary") shall carry out a program to demonstrate the effectiveness of disposing of distressed multifamily housing projects owned by the Department of Housing and Urban Development through a partnership with State housing finance agencies. The demonstration program may be carried out with not more than 4 State housing finance agencies and shall be designed to determine the feasibility of entering into similar relationships with other State housing finance agencies.

(b) REQUIREMENTS OF DEMONSTRATION PROGRAM.—

(1) OPPORTUNITY TO PARTICIPATE IN SALE.—Not less than 30 days before offering to sell any multifamily housing project that is located in a State participating in the demonstration program and that is subject to section 204 of the Housing and Community Development Amendments of 1978, the Secretary shall—

(A) notify the State housing finance agency of the plan of the Secretary to sell the project; and

(B) provide the State housing finance agency with the option to provide the long-term financing for the sale of the project through the co-insurance program of the Secretary, if the project complies with the State laws applicable to the State housing finance agency.

(2) TERMS OF PARTICIPATION.—If the State housing finance agency agrees to participate in the sale of a project under this section, the terms of the sale shall be as follows:

(A) The State housing finance agency shall provide a loan to the purchaser of the property.

(B) The mortgage securing the loan shall be insured by the Secretary and the State housing finance agency under paragraph (3) or (4) of section 221(d) of the National Housing Act.

(C) The terms and conditions of the loan shall be consistent with the terms and conditions of the sale.

(3) COOPERATIVE AGREEMENT.—Not later than the expiration of the 3-month period beginning on the date of the enactment of this Act, the Secretary shall enter into cooperative agreements with State housing finance agencies to carry out the demonstration program under this section.

(c) TERMINATION OF DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—Except as provided in paragraph (2), the demonstration program under this section shall terminate upon the expiration of the 3-year period beginning on the date of the enactment of this Act.

(2) CONTINUATION OF PROGRAM.—

(A) The Secretary may continue the demonstration program under this section after the termination date established in paragraph (1) for such additional period as the Secretary determines to be appropriate.

(B) The Secretary shall continue the demonstration program under this section with respect to any project for which the Secretary notifies the State housing finance agency under subsection (b)(1)(A) before the termination date established in paragraph (1) or under subparagraph (A).

(d) REPORT TO CONGRESS.—Not later than 6 months after the termination date established in subsection (c)(1), the Secretary shall submit to the Congress a report evaluating the effectiveness of the demonstration program under this section as a national model for the disposition of distressed multifamily housing projects owned by the Department of Housing and Urban Development.

SEC. 185. MULTIFAMILY HOUSING CAPITAL IMPROVEMENTS ASSISTANCE.

(a) PURPOSE.—Section 201(a) of the Housing and Community Development Amendments of 1978 is amended by inserting after "management," the following: "to permit capital improvements to be made to maintain certain projects as decent, safe, and sanitary housing,".

(b) ELIGIBLITY.—Section 201(c)(1)(B) of the Housing and Community Development Amendments of 1978 is amended by inserting after "is assisted under" the following: "section 23 of the United States Housing Act of 1937, as in effect immediately before January 1, 1975,".

(c) BORROWER REQUIREMENTS.—Section 201(d) of the Housing and Community Development Amendments of 1978 is amended—

(1) in paragraph (1), by inserting "or physical" after "maintain the financial"; and

(2) in paragraph (6), by striking the final period, and inserting the following: "; except that the Secretary may excuse an owner from compliance with the plan requirement set forth in this paragraph in any case in which such owner seeks only assistance for capital improvements under this section.".

(d) AMOUNT AND CONDITIONS OF ASSISTANCE.—Section 201(f) of the Housing and Community Development Amendments of 1978 is amended—

(1) in paragraph (1), by inserting after "to any project" in the matter preceding subparagraph (A) the following: "(except a project assisted only for capital improvements)"; and

(2) in paragraph (4), by inserting after "for any year" the following: "for a project (other than a project receiving assistance only for capital improvements)".

(e) REGULATIONS.—Section 201(g) of the Housing and Community Development Amendments of 1978 is amended by inserting before the period at the end the following: ", to the extent applicable.".

(f) FLEXIBLE SUBSIDY FUND.—Section 201(j) of the Housing and Community Development Amendments of 1978 is amended to read as follows:

"(j)(1) For purposes of carrying out the provisions of this section, there is hereby established in the Treasury of the United States a revolving fund, to be known as the Flexible Subsidy Fund. The Fund shall, to the extent approved in appropriation Acts, be available to the Secretary to provide assistance under this section (including assistance for capital improvements).

"(2) The Fund shall consist of (A) any amount appropriated to carry out the purposes of this section; (B) any amount repaid on any assistance provided under this section; (C) any amounts credited to the reserve fund described in section 236(g) of the National Housing Act; and (D) any other amount received by the Secretary under this section (including any amount realized under paragraph (3)).

"(3) Any amounts in the Fund determined by the Secretary to be in excess of the amounts currently required to carry out the provisions of this section shall be invested by the Secretary in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

"(4) The Secretary may use not more than $50,000,000 from the Fund in any fiscal year for purposes of providing assistance for capital improvements in accordance with this section.".

(g) ASSISTANCE FOR CAPITAL IMPROVEMENTS.—Section 201 of the Housing and Community Development Amendments of 1978 is amended by adding at the end the following new subsections:

"(k)(1) Assistance for capital improvements under this section shall include assistance for any major repair or replacement of a capital item in a multifamily housing project, including any such repair or replacement required as a result of deferred or inadequate maintenance. Capital improvements do not include maintenance of any such item. Assistance for capital improvements under this section shall be in the form of a loan.

"(2) The owner of a project receiving assistance for capital improvements shall agree to contribute assistance to such project in such amounts, from such sources, and in such manner as the Secretary determines to be appropriate, except that—

"(A) such contribution shall not be less than 20 percent of the total estimated cost of the capital improvements involved, unless the Secretary, upon application of the owner, determines that such contribution is financially infeasible and waives or reduces such contribution to the extent necessary;

"(B) the Secretary may not require an amount to be contributed, from the reserve funds established by the owner of such projects for the purpose of making capital improvements, in excess of 50 percent of the amount of such reserve funds on the date of such loan; and

"(C) The Secretary shall waive the requirements of this paragraph if such owner is a private nonprofit corporation or an association.

"(3) The Secretary may provide assistance for capital improvements under this section if the Secretary finds that the reserve funds established by the owner of a project for the purpose of making capital improvements are insufficient to finance both the capital improvements for which such assistance is to be used and other capital improvements that are reasonably expected to be required in the near future, and such insufficiency is not the result of the failure of such owner to comply with any standard established by the Secretary for management of such reserve funds.

"(4) In providing, and contracting to provide, assistance for capital improvements under this section, the Secretary shall—

"(A) give priority to projects that are eligible for incentives under section 224(b) of the Emergency Low Income Housing Preservation Act of 1987; and

"(B) with respect to any amounts not required for projects under subparagraph (A), give priority among other projects based on the extent to which—

"(i) the capital improvements for which such assistance is requested are immediately required;

"(ii) the projects serve as the residences of lower income families, and the extent which other suitable housing is unavailable for such families in the areas in which such projects are located;

"(iii) the capital improvements for which such assistance is requested involve the life, safety, or health of the residents of the project or involve major capital improvements in the projects; and

"(iv) the projects demonstrate the greatest financial distress, while continuing to meet the requirements of subsection (d)(1).

"(l)(1) The principal amount of any assistance for capital improvements under this section that is provided to the owner of a project shall not exceed the difference between the contribution made by the owner in accordance with subsection (k)(2) and the sum of—

"(A) the amount determined by the Secretary to be necessary for such owner to make capital improvements with respect to capital items that have failed, or are likely to deteriorate seriously or fail in the near future, in such projects;

"(B) the amount determined by the Secretary to be necessary to carry out a plan to upgrade the capital items being improved, and any other capital items determined by the Secretary to be associated with such capital items being improved and to require upgrading, to meet cost-effective energy efficiency standards prescribed by the Secretary; and

"(C) the amount determined by the Secretary to be necessary to comply with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(2)(A) The term of any assistance for capital improvements in the form of a loan under this section shall not exceed the remaining term of the mortgage of the project with respect to which such loan is provided.

"(B) Each loan for capital improvements provided under this section shall bear interest at a rate determined by the Secretary to be appropriate, except that—

"(i) such rate shall not be more than 3 percentage points below a rate determined by the Secretary of the Treasury taking into consideration the average interest rate on all interest bearing obligations of the United States then forming a part of the public debt, computed at the end of the fiscal year next preceding date on which the loan is made, adjusted to the nearest 1/8 of 1 percent, plus an allowance adequate in the judgment of the Secretary of Housing and Urban Development to cover administrative costs and probable losses under the program; and

"(ii) such interest rate plus such allowance shall not exceed 6 percent per annum nor be less than 3 percent per annum.

"(C) Each loan for capital improvements provided under this section shall be considered to be a liability of the project involved, and shall not be dischargeable in any bankruptcy proceeding under section 727, 1141, or 1328(b) of title 11, United States Code.

"(D) The Secretary may establish such additional conditions on loans provided under this section as the Secretary determines to be appropriate.

"(E) The Secretary may provide more than one loan or assistance in any other form to any project under this section, if each loan or other assistance complies with the provisions of this section.

"(m)(1) Increases in rental payments that may occur as a result of the debt service and other expenses of a loan for capital improvements provided under this section for a project subject to a plan of action approved under subtitle B of the Emergency Low Income Housing Preservation Act of 1987 shall be governed by the rent agreements entered into under such subtitle.

"(2) In order to minimize any increases in rental payments that may occur as a result of the debt service and other expenses of a loan for capital improvements provided under this section for a project not subject to paragraph (1) and that would be incurred by lower income residents of the project involved whose rental payments are, or would as a result of such expenses be, in excess of the amount allowable if section 3(a) of the United States Housing Act of 1937 were applicable to such residents, the Secretary may take any or all of the following actions:

"(A) Provide assistance with respect to such project under section 8(b)(1) of the United States Housing Act of 1937, to the extent amounts are available for such assistance and without regard to section 16 of such Act.

"(B) Reduce the rate of interest charged on such loan to a rate of not less than 1 percent.

"(C) Increase the term of such loan to a term that does not exceed the remaining term of the mortgage on such project.

"(D) Increase the amount of assistance to be provided by the owner of such project under subsection (k)(2), if applicable, to an amount not to exceed 30 percent of the total estimated cost of the capital improvements involved.".

(h) CONFORMING AMENDMENT.—The section heading for section 201 of the Housing and Community Development Amendments of 1978 is amended by striking "OPERATING".

SEC. 186. FLEXIBLE SUBSIDY PROGRAM.

(a) USE OF SECTION 236 EXCESS RENTAL CHARGES.—Section 236(f)(3) of the National Housing Act is amended by striking "September 30, 1985" and inserting "September 30, 1989".

(b) ASSISTANCE FOR CERTAIN HOUSING PROJECTS FOR ELDERLY OR HANDICAPPED FAMILIES.

(1) Section 201(a) of the Housing and Community Development Amendments of 1978 is amended by inserting "the Housing Act of 1959," after "1937,".

(2) Section 201(c)(1)(A) of the Housing and Community Development Amendments of 1978 is amended by inserting before the semicolon at the end the following: ", or received a loan under section 202 of the Housing Act of 1959 more than 15 years before the date on which assistance is made available under this section".

TITLE II—PRESERVATION OF LOW INCOME HOUSING

Subtitle A—General Provisions

SEC. 201. SHORT TITLE.

This title may be cited as the "Emergency Low Income Housing Preservation Act of 1987".

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) in the next 15 years, more than 330,000 low income housing units insured or assisted under sections 221(d)(3) and 236 of the National Housing Act could be lost as a result of the termination of low income affordability restrictions;

(2) in the next decade, more than 465,000 low income housing units produced with assistance under section 8 of the United States Housing Act of 1937 could be lost as a result of the expiration of the rental assistance contracts;

(3) some 150,000 units of rural low income housing financed under section 515 of the Housing Act of 1949 are threatened with loss as a result of the prepayment of mortgages by owners;

(4) the loss of this privately owned and federally assisted housing, which would occur in a period of sharply rising rents on unassisted housing and extremely low production of additional low rent housing, would inflict unacceptable harm on current tenants and would precipitate a grave national crisis in the supply of low income housing that was neither anticipated nor intended when contracts for these units were entered into;

(5) the loss of this affordable housing, to encourage the production of which the public has provided substantial benefits over past years, would irreparably damage hard-won progress toward such important and long-established national objectives as—

(A) providing a more adequate supply of decent, safe, and sanitary housing that is affordable to low income Americans;

(B) increasing the supply of housing affordable to low income Americans that is accessible to employment opportunities; and

(C) expanding housing opportunities for all Americans, particularly members of disadvantaged minorities;

(6) the provision of an adequate supply of low income housing has depended and will continue to depend upon a strong, long-term partnership between the public and private sectors that accommodates a fair return on investment;

(7) recent reductions in Federal housing assistance and tax benefits related to low income housing have increased the incentives for private industry to withdraw from the production and management of low income housing;

(8) efforts to retain this housing must take account of specific financial and market conditions that differ markedly from project to project;

(9) a major review of alternative responses to this threatened loss of affordable housing is now being undertaken by numerous private sector task forces as well as State and local organizations; and

(10) until the Congress can act on recommendations that will emerge from this review, interim measures are needed to avoid the irreplaceable loss of low income housing and irrevocable displacement of current tenants.

(b) PURPOSE.—It is the purpose of this title—

(1) to preserve and retain to the maximum extent practicable as housing affordable to low income families or persons those privately owned dwelling units that were produced for such purpose with Federal assistance;

(2) to minimize the involuntary displacement of tenants currently residing in such housing; and

(3) to continue the partnership between all levels of government and the private sector in the production and operation of housing that is affordable to low income Americans.

SEC. 203. TERMINATION OF CERTAIN PROVISIONS.

(a) IN GENERAL.—Effective upon the expiration of the 2-year period beginning on the date of the enactment of this Act—

(1) subtitles B and D are repealed; and

(2) each provision of law amended by subtitle B or D is amended to read as it would without such amendment.

(b) SAVINGS PROVISION.—The repeal or amendment of any provision under subsection (a) shall have no effect on any action taken or authorized under the provision prior to such repeal or amendment.

Subtitle B—Prepayment of Mortgages Insured Under National Housing Act

SEC. 221. GENERAL PREPAYMENT LIMITATION.

(a) PRIOR APPROVAL OF PLAN OF ACTION.—An owner of eligible low income housing may prepay, and a mortgagee may accept prepayment of, a mortgage on such housing only in accordance with a plan of action approved by the Secretary of Housing and Urban Development under this subtitle.

(b) ALTERNATIVE PREPAYMENT MORATORIUM.—In the event any court of the United States or any State invalidates the requirements established in this subtitle, an owner of eligible low income housing located in the geographic area subject to the jurisdiction of such court may not prepay, and a mortgagee may not accept prepayment of, a mortgage on such housing during the 2-year period following the date of such invalidation.

SEC. 222. NOTICE OF INTENT.

An owner of eligible low income housing seeking to initiate prepayment or other changes in the status or terms of the mortgage or regulatory agreement shall file with the Secretary a notice of the intent of the owner in such form and manner as the Secretary shall prescribe. The owner shall simultaneously file the notice or intent with any appropriate State or local government agency for the jurisdiction within which the housing is located.

SEC. 223. PLAN OF ACTION.

(a) PREPARATION AND SUBMISSION.—Upon receipt of a notice of intent, the Secretary shall provide the owner with such information as the owner needs to prepare a plan of action, which information shall include a description of the Federal incentives authorized under this title. The owner shall submit the plan of action to the Secretary in such form and manner as the Secretary shall prescribe. The owner may simultaneously submit the plan of action to any appropriate State or local government agency for the jurisdiction within which the housing is located, which agency shall, in reviewing the plan, consult with representatives of the tenants of the housing.

(b) CONTENTS.—The plan of action shall include—

(1) a description of any proposed changes in the status or terms of the mortgage or regulatory agreement, which may include a request for incentives to extend the low income use of the housing;

(2) a description of any assistance that could be provided by State or local government agencies, as determined by prior consultation between the owner and any appropriate State or local agencies;

(3) a description of any proposed changes in the low income affordability restrictions;

(4) a description of any change in ownership that is related to prepayment;

(5) an assessment of the effect of the proposed changes on existing tenants;

(6) a statement of the effect of the proposed changes on the supply of housing affordable to lower and very low income families or persons in the community within which the housing is located and in the area that the housing could reasonably be expected to serve; and

(7) any other information that the Secretary determines is necessary to achieve the purposes of this title.

(c) REVISIONS.—The owner may from time to time revise and amend the plan of action as may be necessary to obtain approval of the plan under this subtitle.

SEC. 224. INCENTIVES TO EXTEND LOW INCOME USE.

(a) AGREEMENTS BY SECRETARY.—After receiving a plan of action from an owner of eligible low income housing, the Secretary may enter into such agreements as are necessary to satisfy the criteria for approval under section 225.

(b) PERMISSIBLE INCENTIVES.—Such agreements may include one or more of the following incentives that the Secretary, after taking into account local market conditions, determines to be necessary to achieve the purposes of this title:

(1) An increase in the allowable distribution or other measures to increase the rate of return on investment.

(2) Revisions to the method of calculating equity.

(3) Increased access to residual receipts accounts or excess replacement reserves.

(4) Provision of insurance for a second mortgage under section 241(f) of the National Housing Act.

(5) An increase in the rents permitted under an existing contract under section 8 of the United States Housing Act of 1937, or (subject to the availability of amounts provided in appropriation Acts) additional assistance under such section 8 or an exten-

sion of any project-based assistance attached to the housing.

(6) Financing of capital improvements under section 201 of the Housing and Community Development Amendments of 1978.

(7) Other actions, authorized in other provisions of law, to facilitate a transfer or sale of the project to a qualified nonprofit organization, limited equity tenant cooperative, public agency, or other entity acceptable to the Secretary.

(8) Other incentives authorized in law.

SEC. 225. CRITERIA FOR APPROVAL OF PLAN OF ACTION.

(a) Plan of Action Involving Termination of Low Income Affordability Restrictions.—The Secretary may approve a plan of action that involves termination of the low income affordability restrictions only upon a written finding that—

(1) implementation of the plan of action will not materially increase economic hardship for current tenants or involuntarily displace current tenants (except for good cause) where comparable and affordable housing is not readily available; and

(2)(A) the supply of vacant, comparable housing is sufficient to ensure that such prepayment will not materially affect—

(i) the availability of decent, safe, and sanitary housing affordable to lower income and very low-income families or persons in the area that the housing could reasonably be expected to serve;

(ii) the ability of lower income and very low-income families or persons to find affordable, decent, safe, and sanitary housing near employment opportunities; or

(iii) the housing opportunities of minorities in the community within which the housing is located; or

(B) the plan has been approved by the appropriate State agency and any appropriate local government agency for the jurisdiction within which the housing is located as being in accordance with a State strategy approved by the Secretary under section 226.

(b) Plan of Action Including Incentives.—The Secretary may approve a plan of action that includes incentives only upon finding that—

(1) the package of incentives is necessary to provide a fair return on the investment of the owner;

(2) due diligence has been given to ensuring that the package of incentives is, for the Federal Government, the least costly alternative that is consistent with the full achievement of the purposes of this title; and

(3) binding commitments have been made to ensure that—

(A) the housing will be retained as housing affordable for very low-income families or persons, lower income families or persons, and moderate income families or persons for the remaining term of the mortgage;

(B) throughout such period, adequate expenditures will be made for maintenance and operation of the housing;

(C) current tenants shall not be involuntarily displaced (except for good cause);

(D) any increase in rent contributions for current tenants shall be to a level that does not exceed 30 percent of the adjusted income of the tenant or the fair market rent for comparable housing under section 8(b) of the United States Housing Act of 1937, whichever is lower;

(E)(i) any resulting increase in rents for current tenants (except for increases made necessary by increased operating costs)—

(I) shall be phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and

(II) shall be limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent; and

(ii) assistance under section 8 of the United States Housing Act of 1937 shall be provided if necessary to mitigate any adverse affect on current income eligible tenants; and

(F)(i) rents for units becoming available to new tenants shall be at levels approved by the Secretary that will ensure, to the extent practicable, that the units will be available and affordable to the same proportions of very low-income families or persons, lower income families or persons, and moderate income families or persons (including families or persons whose incomes are 95 percent or more of area median income) as resided in the housing as of January 1, 1987; and

(ii) in approving rents under this paragraph, the Secretary shall take into account any additional incentives provided under this subtitle and shall make provision for such annual rent adjustments as may be made necessary by future reasonable increases in operating costs.

SEC. 226. ALTERNATIVE STATE STRATEGY.

(a) Criteria for Approval.—The Secretary may approve a State strategy for purposes of section 225(a) only upon finding that it is a practicable statewide strategy that ensures at a minimum that—

(1) current tenants will not be involuntarily displaced (except for good cause);

(2) housing opportunities for minorities will not be adversely affected in the communities within which the housing is located;

(3) any increase in rent for current tenants shall be to a level that does not exceed 30 percent of the adjusted income of the tenants or the fair market rent for comparable housing under section 8(b) of the United States Housing Act of 1937, whichever is lower, except that any increase not necessitated by increased operating costs shall be phased in equally over not less than 3 years if such increase exceeds 10 percent;

(4) housing approved under the State strategy will remain affordable to very low-income, lower income or moderate income families and persons for not less than the remaining term of the original mortgage, if the housing is to be made available for rental, or for not less than 40 years, if the housing is to be made available for homeownership;

(5)(A) not less than 80 of all units in eligible low-income housing approved under the State strategy shall be retained as affordable to families or persons meeting the income eligibility standards for initial occupancy that applies to the housing on January 1, 1987; and

(B) not less than 60 percent of the units in any one project shall remain available and affordable to such families or persons, within which not less than 20 percent of the units shall remain available and affordable to very low income families or persons as determined by the Secretary with adjustments for smaller and larger families;

(6) expenditures for rehabilitation, maintenance and operation shall be at a level necessary to maintain the housing as decent, safe, and sanitary for the period specified in paragraph (4);

(7) not less than 25 percent of new assistance required to maintain low-income affordability in accordance with this section shall be provided through State and local actions, such as tax exempt financing, low-income tax credits, State or local tax concessions, and other incentives provided by the State or local governments; and

(8) for each unit of eligible low income housing approved under the State strategy that is not retained as affordable to families or persons meeting the income eligibility standards for initial occupancy on January 1, 1987, the State will provide with State funds 1 additional unit of comparable housing in the same market area that is available and affordable to such families or persons, and such units or funds shall be made available before the Secretary approves the State strategy.

(b) Additional Requirements.—

(1) The Secretary may not approve a State strategy until the State has entered into all of the agreements necessary to carry out the strategy.

(2) Each State strategy shall include any other provision that the Secretary determines to be necessary to implement an approved State strategy.

(c) Implementation Agreements.—The Secretary may enter into such agreements as are necessary to implement an approved State strategy, which agreements may include incentives that are authorized in other provisions of this subtitle.

SEC. 227. TIMETABLE FOR APPROVAL OF PLAN OF ACTION.

(a) Notification of Deficiencies.—Not later than 60 days after receipt of a plan of action, the Secretary shall notify the owner in writing of any deficiencies that prevent the plan of action from being approved. If deficiencies are found, such notice shall describe alternative ways in which the plan could be revised to meet the criteria for approval.

(b) Notification of Approval.—

(1) In general.—Not later than 180 days after receipt of a plan of action, or such longer period as the owner requests, the Secretary shall notify the owner in writing whether the plan of action, including any revisions, is approved. If approval is withheld, the notice shall describe—

(A) the reasons for withholding approval; and

(B) the actions that could be taken to meet the criteria for approval.

(2) Opportunity to revise.—The Secretary shall subsequently give the owner a reasonable opportunity to revise the plan of action and seek approval.

SEC. 228. MODIFICATION OF EXISTING REGULATORY AGREEMENTS.

(a) In General.—If a plan of action cannot be approved within 300 days after a plan of action is submitted, the Secretary may, upon the request of the owner, modify existing regulatory agreements to—

(1) prevent involuntary displacement of current tenants (except for good cause);

(2) ensure that adequate expenditures will be made for maintenance and operation of the housing;

(3) extend any expiring project-based assistance on the housing for the term of the agreement;

(4) permit an increase in the allowable distribution that could be accommodated by a rise in rents on occupied units to rise to a level no higher than 30 percent of the adjusted income of the current tenants, as determined by the Secretary, except that rents shall not exceed the fair market rent for comparable housing under section 8(b) of the United States Housing Act of 1937 and any resulting increase in rents for cur-

rent tenants shall be phased in equally over a period of no less than 3 years unless such increase is less than 10 percent; and

(5) ensure that units becoming vacant during the term of the agreement are made available in accordance with section 225(b)(6).

(b) Expiration.—Agreements entered into under this section shall expire upon the expiration of the 4-year period beginning on the date of the enactment of this Act. Upon the expiration of the agreements, the housing covered by the agreements shall be subject to any law then affecting low income affordability restrictions.

SEC. 229. CONSULTATIONS WITH OTHER INTERESTED PARTIES.

The Secretary shall confer with any appropriate State or local government agency to confirm any State or local assistance that is available to achieve the purposes of this title and shall give consideration to the views of any such agency when making determinations under section 225. The Secretary shall also confer with appropriate interested parties that the Secretary believes could assist in the development of a plan of action that best achieves the purposes of this title.

SEC. 230. RIGHT OF CONVERSION TO ALTERNATIVE PREPAYMENT SYSTEM.

Any agreement to extend low income affordability restrictions under section 225(b) shall, for 4 years from the date of the enactment of this Act, provide the owner the right to convert to any system of incentives and restrictions provided in law during such period, with such adjustments as the Secretary determines are appropriate to compensate for the value of any benefits the owner had received under this title.

SEC. 231. INSURANCE FOR SECOND MORTGAGE FINANCING.

Section 241 of the National Housing Act is amended by adding at the end the following new subsection:

"(f)(1) Notwithstanding any other provision of this section, the Secretary may, upon such terms and conditions as the Secretary may prescribe, make a commitment to insure and insure equity loans made by financial institutions approved by the Secretary. For purposes of this section, the term 'equity loan' means a loan or advance of credit to the owner of eligible low income housing (as defined in section 233 of the Emergency Low Income Housing Preservation Act of 1987) that is made for the purpose of implementing a plan of action approved under such Act.

"(2) To be eligible for insurance under this subsection, an equity loan shall—

"(A) be limited to an amount equal to 90 percent of the value of the equity in the project, as determined by the Secretary, and the Secretary, in making the determination, shall take into account that rental income for the project may rise within limits established by section 225(b) of the Emergency Low Income Housing Preservation Act of 1987;

"(B) have a maturity and provisions for amortization satisfactory to the Secretary, bear interest at such rate as may be agreed upon by the mortgagor and mortgagee, and be secured in such manner as the Secretary may require; and

"(C) contain such other terms, conditions, and restrictions as the Secretary may prescribe, including phased advances of equity loan proceeds to reflect project rent levels.

"(3) A qualified nonprofit organization or limited equity tenant cooperative corporation, when purchasing an otherwise eligible project, may constitute an owner of eligible low income housing for purposes of receiving a loan insured under this subsection.

"(4) The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 shall be applicable to loans insured under this section, except that—

"(A) all references to the term 'mortgage' shall be construed to refer to the term 'loan' as used in this subsection;

"(B) loans involving projects covered by a mortgage insured under section 236 shall be insured under and shall be the obligation of the Special Risk Insurance Fund; and

"(C) with respect to any sale under foreclosure of a mortgage on the project that is senior to the equity loan insured under this subsection and when the equity loan is secured by a mortgage, the Secretary may—

"(i) issue regulations providing that, in order to receive insurance benefits, the insured mortgagee shall either assign the equity loan to the Secretary or bid the amount necessary to acquire the project and convey title to the project to the Secretary, in which case the insurance benefits paid by the Secretary shall include the amount bid by the mortgagee to satisfy the senior mortgage at the foreclosure sale; and

"(ii) if the equity loan has been assigned to the Secretary, bid, in addition to amounts authorized under section 207(k), any sum not in excess of the total unpaid indebtedness secured by such senior mortgage and the equity loan, plus taxes, insurance, foreclosure costs, fees, and other expenses.

"(5) A mortgagee approved by the Secretary may not withhold consent to an equity loan on a property on which that mortgagee holds a mortgage.".

SEC. 232. REPORT TO CONGRESS.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to the Congress a report setting forth the activities carried out under this subtitle. The report shall include a description of the plans of action approved under subsections (a) and (b) of section 225 and an analysis of the extent to which the plans retain housing affordable for very low-income families or persons, lower income families or persons, and moderate income families or persons.

SEC. 233. DEFINITIONS.

For purposes of this subtitle:

(1) The term "eligible low income housing" means any housing financed by a loan or mortgage—

(A) that is—

(i) insured or held by the Secretary under section 221(d)(3) of the National Housing Act and assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937;

(ii) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 221(d)(5) of the National Housing Act;

(iii) insured, assisted, or held by the Secretary under section 236 of the National Housing Act; or

(iv) held by the Secretary and formerly insured under a program referred to in clause (i), (ii), or (iii); and

(B) that, under regulation or contract in effect before the date of the enactment of this Act, is or will within 1 year become eligible for prepayment without prior approval of the Secretary.

(2) The term "low income affordability restrictions" means limits imposed by regulation or regulatory agreement on tenant rents, rent contributions, or income eligibility in eligible low income housing.

(3) The terms "lower income families or persons" and "very low-income families or persons" mean families or persons whose incomes do not exceed the respective levels established for lower income families and very low-income families under section 3(b)(2) of the United States Housing Act of 1937.

(4) The term "moderate income families or persons" means families or persons whose incomes are between 80 percent and 95 percent of median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

(5) The term "owner" means the current or subsequent owner or owners of eligible low income housing.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "termination of low income affordability restrictions" means any elimination or relaxation of low income affordability restrictions (other than those permitted under an approved plan of action under section 225(b)).

SEC. 234. REGULATIONS.

The Secretary shall issue final regulations to carry out this subtitle not later than 60 days after the date of the enactment of this Act. The Secretary shall provide for the regulations to take effect not later than 45 days after the date on which the regulations are issued.

SEC. 235. EFFFECTIVE DATE.

The requirements of this subtitle shall apply to any project that is eligible low income housing on or after November 1, 1987.

Subtitle C—Rural Rental Housing Displacement Prevention

SEC. 241. PREPAYMENT AND REFINANCING PROCEDURES.

Section 502(c) of the Housing Act of 1949 is amended by adding at the end the following new paragraphs:

"(3) Notice of offer to prepay.—Not less than 30 days after receiving an offer to prepay any loan made or insured under section 514 or 515, the Secretary shall provide written notice of the offer or request to the tenants of the housing and related facilities involved, to interested nonprofit organizations, and to any appropriate State and local agencies.

"(4)(A) Agreement by borrower to extend low income use.—Before accepting any offer to prepay, or requesting refinancing in accordance with subsection (b)(3) of, any loan made or insured under section 514 or 515 pursuant to a contract entered into before December 21, 1979, the Secretary shall make reasonable efforts to enter into an agreement with the borrower under which the borrower will make a binding commitment to extend the low income use of the assisted housing and related facilities involved for not less than the 20-year period beginning on the date on which the agreement is executed.

"(B) Assistance available to borrower to extend low income use.—To the extent of amounts provided in appropriation Acts, the agreement under subparagraph (A) may provide for 1 or more of the following forms of assistance that the Secretary, after taking into account local market conditions, determines to be necessary to extend the low income use of the housing and related facilities involved:

"(i) Increase in the rate of return on investment.

"(ii) Reduction of the interest rate on the loan through the provision of interest credits under section 521(a)(1)(B).

"(iii) Additional rental assistance, or an increase in assistance provided under existing contracts, under section 521(a)(2) or under section 8 of the United States Housing Act of 1937.

"(iv) An equity loan to the borrower under paragraphs (7) and (8) of section 515(b).

"(v) Incremental rental assistance in connection with loans under clauses (ii) and (iv) to the extent necessary to avoid increases in the rental payments of current tenants not receiving rental assistance under section 521(a)(2) or under section 8 of the United States Housing Act of 1937.

"(C) Approval of assistance.—The Secretary may approve assistance under subparagraph (B) only if the Secretary determines that the combination of assistance provided—

"(i) is necessary to provide a fair return on the investment of the borrower; and

"(ii) is the least costly alternative for the Federal Government that is consistent with carrying out the purposes of this subsection.

"(5)(A) Offer to sell to nonprofit organizations and public agencies.—

"(i) In general.—If the Secretary determines after a reasonable period that an agreement will not be entered into with a borrower under paragraph (4), the Secretary shall require the borrower (except as provided in subparagraph (G)) to offer to sell the assisted housing and related facilities involved to any qualified nonprofit organization or public agency at a fair market value determined by 2 independent appraisers, one of whom shall be selected by the Secretary and one of whom shall be selected by the borrower. If the 2 appraisers fail to agree on the fair market value, the Secretary and the borrower shall jointly select a third appraiser, whose appraisal shall be binding on the Secretary and the borrower.

"(ii) Period for which requirement applicable.—If, upon the expiration of 180 days after an offer is made to sell housing and related facilities under clause (i), no qualified nonprofit organization or public agency has made a bona fide offer to purchase, the Secretary may accept the offer to prepay, or may request refinancing in accordance with subsection (b)(3) of, the loan. This clause shall apply only when funds are available for purposes of carrying out a transfer under this paragraph.

"(B) Qualified nonprofit organizations and public agencies.—

"(i) Local nonprofit organization or public agency.—A local nonprofit organization or public agency may purchase housing and related facilities under this paragraph only if—

"(I) the organization or agency is determined by the Secretary to be capable of managing the housing and related facilities (either directly or through a contract) for the remaining useful life of the housing and related facilities; and

"(II) the organization or agency has entered into an agreement that obligates it (and successors in interest thereof) to maintain the housing and related facilities as affordable for very low-income families or persons and low income families or persons for the remaining useful life of the housing and related facilities.

"(ii) National or regional nonprofit organization.—If the Secretary determines that there is no local nonprofit organization or public agency qualified to purchase the housing and related facilities involved, the Secretary shall require the borrower to offer to sell the assisted housing and related facilities to an existing qualified national or regional nonprofit organization.

"(C) Financing of sale.—To facilitate the sale described in subparagraph (A), the Secretary shall—

"(i) to the extent provided in appropriation Acts, make an advance to the nonprofit organization or public agency whose offer to purchase is accepted under this paragraph to cover any direct costs (other than the purchase price) incurred by the organization or agency in purchasing and assuming responsibility for the housing and related facilities involved;

"(ii) approve the assumption, by the nonprofit organization or public agency involved, of the loan made or insured under section 514 or 515;

"(iii) to the extent provided in appropriation Acts, transfer any rental assistance payments that are received under section 521(a)(2)(A), or under section 8 of the United States Housing Act of 1937, with respect to the housing and related facilities involved; and

"(iv) to the extent provided in appropriation Acts, provide a loan under section 515(c)(3) to the nonprofit organization or public agency whose offer to purchase is accepted under this paragraph to enable the organization or agency to purchase the housing and related facilities involved.

"(D) Rent limitation and assistance.—The Secretary shall, to the extent provided in appropriation Acts, provide to each nonprofit organization or public agency purchasing housing and related facilities under this paragraph financial assistance (in the form of monthly payments or forgiveness of debt) in an amount necessary to ensure that the monthly rent payment made by each low income family or person residing in the housing does not exceed the maximum rent permitted under section 521(a)(2)(A).

"(E) Restriction on subsequent transfers.—Except as provided in subparagraph (B)(ii), the Secretary may not approve the transfer of any housing and related facilities purchased under this paragraph during the remaining useful life of the housing and related facilities, unless the Secretary determines that—

"(i) the transfer will further the provision of housing and related facilities for low income families or persons; or

"(ii) there is no longer a need for such housing and related facilities by low income families or persons.

"(F) General restriction on prepayments and refinancings.—Following the transfer of the maximum number of dwelling units set forth in subparagraph (H)(i) in any fiscal year or the maximum number of dwelling units for which budget authority is available in any fiscal year, the Secretary may not accept in such fiscal year any offer to prepay, or request refinancing in accordance with subsection (b)(3) of, any loan made or insured under section 514 or 515 pursuant to a contract entered into before December 21, 1979, except in accordance with subparagraph (G). The limitation established in this subparagraph shall not apply to an offer to prepay, or request to refinance, if, following the date on which such offer or request is made (or following the date of the enactment of the Housing and Community Development Act of 1987, whichever occurs later) a 15-month period expires during which no budget authority is available to carry out this paragraph. For purposes of this subparagraph, the Secretary shall allocate budget authority under this paragraph in the order in which offers to prepay, or request to refinance, are made.

"(G) Exception.—This paragraph shall not apply to any offer to prepay, or any request to refinance in accordance with subsection (b)(3), any loan made or insured under section 514 or 515 pursuant to a contract entered into before December 21, 1979, if—

"(i) the borrower enters into an agreement with the Secretary that obligates the borrower (and successors in interest thereof)—

"(I) to utilize the assisted housing and related facilities for the purposes specified in section 514 or 515, as the case may be, for a period determined by the Secretary (but not less than the period described in paragraph (1)(B) calculated from the date on which the loan is made or insured); and

"(II) upon termination of the period described in paragraph (1)(B), to offer to sell the assisted housing and related facilities to a qualified nonprofit organization or public agency in accordance with this paragraph; or

"(ii) the Secretary determines that housing opportunities of minorities will not be materially affected as a result of the prepayment or refinancing, and that—

"(I) the borrower (and any successor in interest thereof) are obligated to ensure that tenants of the housing and related facilities financed with the loan will not be displaced due to a change in the use of the housing, or to an increase in rental or other charges, as a result of the prepayment or refinancing; or

"(II) there is an adequate supply of safe, decent, and affordable rental housing within the market area of the housing and related facilities and sufficient actions have been taken to ensure that the rental housing will be made available to each tenant upon displacement.

"(H) Funding.—

"(i) Budget limitation.—Not more than 5,000 dwelling units may be transferred under this paragraph in any fiscal year, and the budget authority that may be provided under this paragraph for any fiscal year may not exceed the amounts required to carry out this paragraph with respect to such number.

"(ii) Reimbursement of rural housing insurance fund.—There are authorized to be appropriated to the Rural Housing Insurance Fund such sums as may be necessary to reimburse the Fund for financial assistance provided under this paragraph, paragraph (4), and section 517(j)(7).

"(I) Definition.—For purposes of this paragraph, the term 'nonprofit organization' means any private organization—

"(i) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual; and

"(ii) that is approved by the Secretary as to financial responsibility.

"(J) Regulations.—Notwithstanding section 534, the Secretary shall issue final regulations to carry out this paragraph not later than 60 days after the date of the enactment of the Housing and Community Development Act of 1987. The Secretary shall provide for the regulations to take effect not later than 45 days after the date on which the regulations are issued.".

SEC. 242. EQUITY RECAPTURE LOANS AND LOANS TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.

Section 515 of the Housing Act of 1949 is amended—

(1) by redesignating subsections (c) through (p) as subsections (d) through (q), respectively; and

(2) by inserting after subsection (b) the following:

"(c) With respect to a loan made or insured under subsection (a) or (b), the Secretary is authorized to—

"(1) make or insure an equity loan in the form of a supplemental loan for the purpose of equity takeout to the owner of housing financed with a loan made or insured under this section pursuant to a contract entered into before December 21, 1979, for the purpose of extending the affordability of the housing for low income families or persons and very-low income families or persons for not less than 20 years, except that such loan may not exceed 90 percent of the value of the equity in the project as determined by the Secretary;

"(2) transfer and reamortize an existing loan in connection with assistance provided under paragraph (1); and

"(3) make or insure a loan to enable a nonprofit organization or public agency to make a purchase described in section 502(c)(5).".

SEC. 243. USE OF RURAL HOUSING INSURANCE FUND.

Section 517(j) of the Housing Act of 1949 is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(7) to provide advances and assistance required to carry out paragraphs (4) and (5) of section 502(c).".

Subtitle D—Other Measures to Preserve Low Income Housing

SEC. 261. EARLY PREPAYMENT.

Section 250(a)(1) of the National Housing Act is amended by striking "or" and all that follows through "needs" the last place it appears.

SEC. 262. SECTION 8 ASSISTANCE.

(a) REQUIRED NOTICE.—Section 8(c) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(9) Not less than 1 year prior to terminating any contract under which assistance payments are received under this section (but not less than 90 days in the case of housing certificates or vouchers under subsection (b) or (o)), an owner shall provide written notice to the Secretary and the tenants involved of the proposed termination, specifying the reasons for the termination with sufficient detail to enable the Secretary to evaluate whether the termination is lawful and whether there are additional actions that can be taken by the Secretary to avoid the termination. The Secretary shall review the owner's notice, shall consider whether there are additional actions that can be taken by the Secretary to avoid the termination, and shall ensure a proper adjustment of the contract rents for the project in conformity with the requirements of paragraph (2). The Secretary shall issue a written finding of the legality of the termination and the reasons for the termination, including the actions considered or taken to avoid the termination. For purposes of this paragraph, the term 'termination' means the expiration of the assistance contract or an owner's refusal to renew the assistance contract.".

(b) ADJUSTMENT OF ALLOWABLE RENT.—Section 8(c) of the United States Housing Act of 1937 (as amended by subsection (a) of this section) is further amended by adding at the end the following new paragraph:

"(10) If an owner provides notice of proposed termination under paragraph (9) and the contract rent is lower than the maximum monthly rent for units assisted under subsection (b)(1), the Secretary shall adjust the contract rent based on the maximum monthly rent for units assisted under subsection (b)(1) and the value of the lower income housing after rehabilitation.".

(c) LOAN MANAGEMENT AND PROPERTY DISPOSITION PROGRAMS.—Section 8 of the United States Housing Act of 1937 (as amended by section 149 of this Act) is further amended by adding at the end the following new subsection:

"(v)(1) Each contract entered into by the Secretary under this section for loan management assistance shall be for a term of 180 months.

"(2) The Secretary shall extend any expiring contract entered into under this section for loan management assistance or execute a new contract, if the owner agrees to continue providing housing for lower income families during the term of the contract.".

SEC. 263. SECTION 515 OPERATING RESERVE AND EQUITY CONTRIBUTION REQUIREMENTS.

Section 515 of the Housing Act of 1949 (as amended by section 242) is further amended by adding at the end the following new subsection:

"(r) The Secretary—

"(1) may require that the initial operating reserve under this section may be in the form of an irrevocable letter of credit; and

"(2) may not require more than a 3 percent contribution to equity.".

TITLE III—RURAL HOUSING

SEC. 301. PROGRAM AUTHORIZATIONS.

(a) INSURANCE AND GUARANTEE AUTHORITY.—Section 513(a)(1) of the Housing Act of 1949 is amended to read as follows:

"(a)(1) The Secretary may, to the extent approved in appropriation Acts, insure and guarantee loans under this title during fiscal years 1988 and 1989 in aggregate amounts not to exceed $1,775,395,000 and $1,794,925,000, respectively, as follows:

"(A) For insured or guaranteed loans under section 502 on behalf of borrowers receiving assistance under section 521(a)(1) or receiving guaranteed loans pursuant to section 304 of the Housing and Community Development Act of 1987, $1,104,000,000 for fiscal year 1988 and $1,116,144,000 for fiscal year 1989.

"(B) For loans under section 504, $11,335,000 for fiscal year 1988 and $11,460,000 for fiscal year 1989.

"(C) For insured loans under section 514, $11,485,000 for fiscal year 1988 and $11,612,000 for fiscal year 1989.

"(D) For insured loans under section 515, $647,000,000 for fiscal year 1988 and $654,117,000 for fiscal year 1989.

"(E) For loans under section 523(b)(1)(B), $1,000,000 for fiscal year 1988 and $1,011,000 for fiscal year 1989.

"(F) For site loans under section 524, $575,000 for fiscal year 1988 and $581,000 for fiscal year 1989.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 513(b) of the Housing Act of 1949 is amended to read as follows:

"(b) There are authorized to be appropriated for fiscal years 1988 and 1989, and to remain available until expended, the following amounts:

"(1) For grants under section 504, $13,113,000 for fiscal year 1988 and $13,362,000 for fiscal year 1989.

"(2) For purposes of section 509(c), $713,000 for fiscal year 1988 and $727,000 for fiscal year 1989.

"(3) Such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 511 equal to—

"(A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 503; and

"(B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary.

"(4) For financial assistance under section 516, $9,979,000 for fiscal year 1988 and $10,169,000 for fiscal year 1989.

"(5) For grants under section 523(f), $8,392,000 for fiscal year 1988 and $8,551,000 for fiscal year 1989.

"(6) For grants under section 533, $20,078,000 for fiscal year 1988 and $20,460,000 for fiscal year 1989.".

(c) RENTAL ASSISTANCE PAYMENT CONTRACTS.—Section 513(c) of the Housing Act of 1949 is amended to read as follows:

"(c)(1) The Secretary, to the extent approved in appropriation Acts for fiscal years 1988 and 1989, may enter into rental assistance payment contracts under section 521(a)(2)(A) aggregating $275,310,000 for fiscal year 1988 and $280,000,000 for fiscal year 1989.

"(2) Any authority approved in appropriation Acts for fiscal year 1988 or any succeeding fiscal year for rental assistance payment contracts under section 521(a)(2)(A) shall be used by the Secretary—

"(A) to renew rental assistance payment contracts that expire during such fiscal year;

"(B) to provide amounts required to continue rental assistance payments for the remaining period of an existing contract, in any case in which the original amount of rental assistance is used prior to the end of the term of the contract; and

"(C) to make additional rental assistance payment contracts for existing or newly constructed dwelling units.".

(d) SUPPLEMENTAL RENTAL ASSISTANCE CONTRACTS.—Section 513 of the Housing Act of 1949 is amended by adding at the end the following new subsection:

"(d) The Secretary, to the extent approved in appropriation Acts for fiscal years 1988 and 1989, may enter into 5-year supplemental rental assistance contracts under section 502(c)(5)(D) aggregating $26,000,000 for fiscal year 1988 and $27,534,000 for fiscal year 1989.".

(e) RENTAL HOUSING LOAN AUTHORITY.—Section 515(b)(4) of the Housing Act of 1949 is amended by striking "March 15, 1988" and inserting "September 30, 1989".

(f) MUTUAL AND SELF-HELP HOUSING GRANT AND LOAN AUTHORITY.—Section 523(f) of the Housing Act of 1949 is amended by striking "March 15, 1988" and inserting "September 30, 1989".

(g) RURAL HOUSING VOUCHER DEMONSTRATION.—Section 513 of the Housing Act of 1949 (as amended by subsection (d) of this section) is further amended by adding at the end the following:

"(e)(1) To such extent or in such amounts as are approved in appropriation Acts, the Secretary shall carry out a demonstration rural housing voucher program during fiscal years 1988 and 1989. For such purpose, the Secretary shall enter into contracts using a payment standard in accordance with section 8(o) of the United States Housing Act of 1937 covering up to 7,500 dwelling units located in rural areas in not more than 5 States during each such fiscal year.

"(2) The Secretary may use the authority conferred by paragraph (1) in a State only if the State Farmers Home Administration Administrator certifies that—

"(A) such Administrator has completed an inventory of the State's housing supply, including housing suitable for rehabilitation, using currently available data; and

"(B) there is an adequate supply of decent, safe, and sanitary housing available for occupancy by voucher holders in that State.

"(3) In carrying out the voucher demonstration program under this subsection, the Secretary shall coordinate activities under this subsection with activities assisted under sections 515 and 533 of this title and under section 17 of the United States Housing Act of 1937.

"(4) Funding for the voucher demonstration program under this subsection shall be from amounts in the Rural Housing Insurance Fund authorized for loans under section 502 and section 515 in proportion to the amounts authorized for such loans. Any reduction in the amounts available for such loans shall be made from the total amounts available for such loans in all States.".

SEC. 302. ELIGIBILITY REQUIREMENTS.

(a) Resident Aliens.—Section 501 of the Housing Act of 1949 is amended by adding at the end the following new subsection:

"(h)(1) The Secretary may not restrict the availability of assistance under this title for any alien for whom assistance may not be restricted by the Secretary of Housing and Urban Development under section 214 of the Housing and Community Development Act of 1980.

"(2) In carrying out any restriction established by the Secretary on the availability of assistance under this title for any alien, the Secretary shall follow procedures comparable to the procedures established in section 214 of the Housing and Community Development Act of 1980.".

(b) Income Levels.—

(1) Section 501(b)(4) of the Housing Act of 1949 is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the maximum income levels established for purposes of this title for such families and persons in the Virgin Islands shall not be less than the highest such levels established for purposes of this title for such families and persons in American Samoa, Guam, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

(2) The amendment made by paragraph (1) shall be applicable to any determination of eligibility for assistance under title V of the Housing Act of 1949 made on or after the date of the enactment of this Act.

SEC. 303. ESCROWING TAXES AND INSURANCE.

Section 501(e) of the Housing Act of 1949 is amended to read as follows:

"(e) The Secretary shall establish procedures under which borrowers under this title are required to make periodic payments for the purpose of taxes, insurance, and other necessary expenses as the Secretary may deem appropriate. Notwithstanding any other provision of law, such payments shall not be considered public funds. The Secretary shall direct the disbursement of the funds at the appropriate time or times for the purposes for which the funds were escrowed. If the prepayments made by the borrower are not sufficient to pay the amount due, advances may be made by the Secretary to pay the costs in full, which advances shall be charged to the account of the borrower, bear interest, and be payable in a timely fashion as determined by the Secretary. The Secretary shall notify a borrower in writing when loan payments are delinquent.".

SEC. 304. RURAL HOUSING GUARANTEED LOAN DEMONSTRATION.

(a) Establishment of Demonstration.—The Secretary of Agriculture (referred to in this section as the "Secretary") shall carry out a rural housing guaranteed loan demonstration program under which the Secretary shall, to the extent of amounts provided in appropriation Acts, provide guaranteed loans in accordance with section 502, 517(d), and the last sentence of section 521(a)(1)(A), of the Housing Act of 1949.

(b) Amount Available for Demonstration.—

(1) There shall be available for guaranteed loans under this section for any fiscal year in each State an amount equal to whichever of the following is lower:

(A) 10 percent of the total loan authority allocated under section 502 of the Housing Act of 1949 to the State for the fiscal year.

(B) The average, during the preceding 3 fiscal years, of the funds allocated to the State under section 502 of the Housing Act of 1949 that have not been utilized.

(2) Any amount made available under this subsection that is not used before the last 60 days of a fiscal year shall become available for assistance for low income families or persons under section 502 of the Housing Act of 1949.

(c) Eligiblity for Loans.—Loans guaranteed pursuant to this section shall be made only to borrowers with moderate incomes that do not exceed the median income of the area, as determined by the Secretary, with adjustments for smaller and larger families.

(d) Reports to Congress.—The Secretary shall submit to the Congress—

(1) as soon as practicable after September 30, 1989, an interim report setting forth the findings and recommendations of the Secretary as a result of the demonstration; and

(2) as soon as practicable after September 30, 1991, a final report setting forth the findings and recommendations of the Secretary as a result of the demonstration.

(e) Termination.—The Secretary may not provide any guaranteed loan under this section after September 30, 1991, except pursuant to a commitment entered into on or before such date.

SEC. 305. DEFINITION OF DOMESTIC FARM LABOR.

(a) Insured Loan Program.—Section 514(f)(3) of the Housing Act of 1949 is amended to read as follows:

"(3) the term 'domestic farm labor' means any person (and the family of such person) who receives a substantial portion of his or her income from primary production of agricultural or aquacultural commodities or the handling of such commodities in the unprocessed stage, without respect to the source of employment, except that—

"(A) such person shall be a citizen of the United States or a person legally admitted for permanent residence;

"(B) such term includes any person (and the family of such person) who is retired or disabled, but who was domestic farm labor at the time of retirement or becoming disabled; and

"(C) in applying this paragraph with respect to vacant units in farm labor housing, the Secretary shall make units available for occupancy in the following order of priority:

"(i) to active farm laborers (and their families);

"(ii) to retired or disabled farm laborers (and their families) who were active in the local farm labor market at the time of retiring or becoming disabled; and

"(iii) to other retired or disabled farm laborers (and their families).".

(b) Grant Program.—Section 516(g) of the Housing Act of 1949 is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the term 'domestic farm labor' has the meaning given such term in section 514(f)(3).".

SEC. 306. CONFORMANCE WITH LOW-INCOME HOUSING TAX CREDIT ELIGIBILITY REQUIREMENTS.

Section 515(p) of the Housing Act of 1949 (as so redesignated by section 242 of this Act) is amended by adding at the end the following:

"(4) In projects financed under this section, units that have been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of the Internal Revenue Code of 1986 shall not be available for occupancy by persons or families other than persons or families with incomes not in excess of the qualifying income applicable to such units pursuant to subparagraph (A) or (B) of section 42(g)(1) of such Code, except when the Secretary determines that the continued vacancy of units that have been unoccupied for at least 6 months threatens the financial viability of the project.".

SEC. 307. LIMITATION OF FEES ON RURAL RENTAL HOUSING LOANS.

Section 515 of the Housing Act of 1949 (as amended by section 263 of this Act) is further amended by adding at the end the following new subsection:

"(s) No fee other than a late fee may be imposed by or for the Secretary or any other Federal agency on or with respect to a loan made or insured under this section.".

SEC. 308. RURAL AREA CLASSIFICATION.

(a) Hold Harmless.—Section 520 of the Housing Act of 1949 is amended by striking "March 15, 1988" in the last sentence and inserting "September 30, 1989".

(b) Eligibility of Rural Area Proximate to Urban Area.—Section 520 of the Housing Act of 1949 is amended in the first sentence by inserting before "part of or associated with" the following: "(except in the case of Pajaro, in the State of California)".

SEC. 309. PROCEDURES FOR REDUCTION OF INTEREST CREDITS.

Section 521(a)(1)(B) of the Housing Act of 1949 is amended by adding at the end the following new sentence: "In the case of assistance provided under this subparagraph with respect to a loan under section 502, the Secretary may not reduce, cancel, or refuse to renew the assistance due to an increase in the adjusted income of the borrower if the reduction, cancellation, or nonrenewal will cause the borrower to be unable to reasonably afford the resulting payments required under the loan.".

SEC. 310. RURAL HOUSING PRESERVATION GRANT PROGRAM.

Section 533(h) of the Housing Act of 1949 is amended—

SEC. 406. LIMITATION ON USE OF SINGLE FAMILY MORTGAGE INSURANCE BY INVESTORS.

(a) In General.—Section 203 of the National Housing Act is amended by inserting the following new subsection before subsection (h):

"(g)(1) The Secretary may insure a mortgage under this title that is secured by a 1- to 4-family dwelling, or approve a substitute mortgagor with respect to any such mortgage, only if the mortgagor is to occupy the dwelling as his or her principal residence or as a secondary residence, as determined by the Secretary.

"(2) The occupancy requirement established in paragraph (1) shall apply only if the mortgage involves a principal obligation that exceeds, as appropriate, 75 percent of—

"(A) the appraised value of the dwelling;

"(B) the estimate of the Secretary of the replacement cost of the property;

"(C) the sum of the estimates of the Secretary of the cost of repair and rehabilitation and the value of the property before repair and rehabilitation; or

"(D) the sum of the estimates of the Secretary of the cost of repair and rehabilitation and the amount (as determined by the Secretary) required to refinance existing indebtedness secured by the property, and, in the case of a property refinanced under section 220(d)(3)(A), any existing indebtedness incurred in connection with improving, repairing, or rehabilitating the property.

"(3) The occupancy requirement established in paragraph (1) shall not apply to any mortgagor (or co-mortgagor, as appropriate) that is—

"(A) a public entity, as provided in section 214 or 247;

"(B) a private nonprofit or public entity, as provided in section 221(h) or 235(j);

"(C) an Indian tribe, as provided in section 248;

"(D) a serviceperson who is unable to meet such requirement because of his or her duty assignment, as provided in section 216 or subsection (b)(4) or (f) of section 222; or

"(E) a mortgagor or co-mortgagor under subsection (k).

"(4) For purposes of this subsection, the term 'substitute mortgagor' means a person who, upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assumes such liability and agrees to pay the mortgage debt.".

(b) Conforming Amendments.—

(1) Section 203(b)(2) of the National Housing Act is amended—

(A) in the first sentence, by striking "(whether" and all that follows through "purposes)"; and

(B) in the second sentence, by striking the following: "to be occupied as a principal residence of the owner".

(2) Section 203(b) of the National Housing Act is amended by striking paragraph (8).

(3) Section 203(h) of the National Housing Act is amended by striking "is the owner and occupant and".

(4) Section 203(i) of the National Housing Act is amended—

(A) by striking the first proviso; and

(B) by striking "further" the first place it appears.

(5) The first sentence of section 203(o)(2) of the National Housing Act is amended by striking "occupant".

(6) The first sentence of section 203(p)(2) of the National Housing Act is amended by striking "owner-occupant" and inserting "owner".

(7) The fourth sentence of section 214 of the National Housing Act is amended by striking the following: "shall be the owner and occupant of the property or".

(8) Section 216 of the National Housing Act is amended—

(A) by striking "that the mortgagor be the occupant" and inserting "with respect to the occupancy of the mortgagor"; and

(B) by striking "occupy the property" each place it appears and inserting "meet such requirement".

(9) Section 220(d)(3)(A) of the National Housing Act is amended—

(A) by inserting "and" at the end of clause (i);

(B) by striking clauses (ii) and (iii);

(C) in clause (iv), by striking the following: "(except as provided in clause (iii))"; and

(D) by redesignating clause (iv) as clause (ii).

(10) Section 221(d)(2) of the National Housing Act is amended—

(A) by striking the colon at the end of subparagraph (A)(iv) and all that follows through "*Provided further,* That" the first place it appears, and inserting ", except that";

(B) by striking "*Provided,* That (i)" and all that follows through "(1) in" and inserting the following: "*Provided,* That (i)(1) in";

(C) by striking the penultimate proviso; and

(D) in the last proviso, by striking the following: ", if the mortgagor is the owner and an occupant of the property such" and inserting "the".

(11) Section 221(d)(6)(ii) of the National Housing Act is amended by striking the following: "is an owner-occupant of the property and".

(12) The first sentence of section 221(h)(6) of the National Housing Act is amended by striking "and occupied".

(13) Section 221(h)(8) of the National Housing Act is amended by striking the following: "if one of the units is to be occupied by the owner".

(14) Subsections (b)(4) and (f) of section 222 of the National Housing Act are amended by inserting "as a principal residence" after "occupies the property" each place it appears.

(15) Section 223(a) of the National Housing Act is amended by inserting after "this Act," the first place it appears the following: "other than the limitation in section 203(g),".

(16) The first sentence of section 223(e) of the National Housing Act is amended by inserting after "title XI," the following: "other than the limitation in section 203(g),".

(17) Section 234(c) of the National Housing Act is amended by striking the fourth sentence.

(18) Section 235(i)(3)(A) of the National Housing Act is amended by striking the following: "one of the units of which is to be occupied by the owner and".

(19) Section 235(j)(6) of the National Housing Act is amended by striking the following: "if one of the units is to be occupied by the owner".

(c) Repeal of Vacation and Seasonal Home Insurance Program.—Section 203 of the National Housing Act is amended by striking subsection (m).

(d) Applicability.—The amendments made by this section shall apply only with respect to—

(1) mortgages insured—

(A) pursuant to a conditional commitment issued on or after the date of the enactment of this Act; or

(B) in accordance with the direct endorsement program (24 CFR 200.163), if the approved underwriter of the mortgagee signs the appraisal report for the property on or after the date of the enactment of this Act; and

(2) the approval of substitute mortgagors, referred to in the amendment made by subsection (a), if the original mortgagor was subject to such amendment.

(e) Transition Provisions.—Any mortgage insurance provided under title II of the National Housing Act, as it existed immediately before the date of the enactment of this Act, shall continue to be governed (to the extent applicable) by the provisions specified in subsections (a) through (c), as such provisions existed immediately before such date.

SEC. 407. ACTIONS TO REDUCE LOSSES UNDER SINGLE FAMILY MORTGAGE INSURANCE PROGRAM.

(a) In General.—

(1) Amendment to section 203.—Section 203 of the National Housing Act is amended by adding at the end the following new subsection:

"(r) The Secretary shall take appropriate actions to reduce losses under the mortgage insurance program carried out under this section. Such actions shall include—

"(1) an annual review by the Secretary of the rate of early serious defaults and claims, in accordance with section 533;

"(2) requiring reviews of the credit standing of each person seeking to assume a mortgage insured under this section (A) during the 12-month period following the date on which the mortgage is endorsed for insurance, or (B) during the 24-month period following the date on which the mortgage is endorsed for insurance in the case of an investor originated mortgage; and

"(3) in any case where a mortgage is assumed after the period specified in paragraph (2), requiring that the original mortgagor be advised of the procedures by which he or she may be released from liability.

In any case where the homeowner does not request a release from liability, the purchaser and the homeowner shall have joint and several liability for any default for a period of 5 years following the date of the assumption. After the close of such 5-year period, only the purchaser shall be liable for any default on the mortgage unless the mortgage is in default at the time of the expiration of the 5-year period.".

(2) Effective date.—The amendment made by paragraph (1) shall apply to mortgages endorsed for issuance on or after December 1, 1986.

(b) Reports by Mortgagees.—Title V of the National Housing Act is amended by adding at the end thereof the following new section:

"DIRECTION TO THE SECRETARY TO REQUIRE MORTGAGEES WITH ABOVE NORMAL RATES OF EARLY, SERIOUS DEFAULTS AND CLAIMS TO SUBMIT REPORTS AND TAKE CORRECTIVE ACTION

"Sec. 533. (a) To reduce losses in connection with mortgage insurance programs under this Act, the Secretary shall review, at least once a year, the rate of early serious defaults and claims involving mortgagees approved under this Act. On the basis of this review, the Secretary shall notify each mortgagee which, as determined by the Secretary, had a rate of early serious defaults and claims during the preceding year which was higher than the normal rate for the geographic area or areas in which that mortgagee does business. In the notification, the Secretary shall require each mortgagee to submit a report, within a time determined by the Secretary, containing the mortgagee's (1) explanation for the above normal rate of early serious defaults and claims; (2) plan for corrective action, if applicable, both with regard to (A) mortgages in default; and (B) its mortgage-processing system in general; and (3) a timeframe within which this corrective action will be begun and completed. If the Secretary does not agree with this timeframe or plan, a mutually agreeable timeframe and plan will be determined.

"(b) Failure of the mortgagee to submit a report required under subsection (a) within the time determined by the Secretary or to commence or complete the plan for corrective action within the timeframe agreed upon by the Secretary may be cause for suspension of the mortgagee from participation in programs under this Act.".

SEC. 408. INSURANCE OF GRADUATED PAYMENT MORTGAGES.

(a) Authority to Insure Refinancing.—Section 223(a)(7) of the National Housing Act is amended in the first proviso by inserting after "except that" the following: "(A) the principal amount of any such refinancing mortgage may equal the outstanding balance of an existing mortgage insured pursuant to section 245, if the amount of the monthly payment due under the refinancing mortgage is less than that due under the existing mortgage for the month in which the refinancing mortgage is executed; and (B)".

(b) Termination of Authority to Insure.—Section 245(b) of the National Housing Act is amended by adding at the end the following new sentence: "No loan or mortgage may be insured under this subsection after the date of the enactment of the Housing and Community Development Act of 1987, except pursuant to a commitment to insure entered into on or before such date.".

SEC. 409. REFINANCING MORTGAGE INSURANCE FOR HOSPITALS, NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES.

(a) State Certification Requirement.—Section 223(f)(4)(D) of the National Housing Act is amended to read as follows:

"(D) the applicable requirements for certificates, studies, and statements of section 232 (for the existing nursing home, intermediate care facility, board and care home, or any combination thereof, proposed to be refinanced) or of section 242 (for the existing hospital proposed to be refinanced) have been met.".

(b) Refinancing Insurance for Nursing Homes, Intermediate Care Facilities, and Board and Care Homes.—Section 223(f) of the National Housing Act is amended—

(1) in paragraph (1), by inserting after "existing hospital" the following: "(or existing nursing home, existing intermediate care facility, existing board and care home, or any combination thereof)"; and

(2) in paragraph (4) (other than in subparagraph (D)), by inserting after "existing hospital" each place it appears the following: "(or existing nursing home, existing intermediate care facility, existing board and care home, or any combination thereof)".

(c) Regulations.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendment made by this section by not later than the expiration of the 90-day period following the date of the enactment of this Act.

SEC. 410. MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES.

(a) Insurance for Public Nursing Homes.—Section 232(b)(1) of the National Housing Act is amended by inserting "public facility," before "proprietary".

(b) Requirement of State Approval.—Section 232(d)(4)(A) of the National Housing Act is amended by inserting at the end the following new sentences: "If no such State agency exists, or if the State agency exists but is not empowered to provide a certification that there is a need for the home or facility or combined home and facility as required in clause (i) of the first sentence, the Secretary shall not insure any mortgage under this section unless (i) the State in which the home or facility or combined home and facility is located has conducted or commissioned and paid for the preparation of an independent study of market need and feasibility that (I) is prepared in accordance with the principles established by the American Institute of Certified Public Accountants; (II) assesses, on a marketwide basis, the impact of the proposed home or facility or combined home and facility on, and its relationship to, other health care facilities and services, the percentage of excess beds, demographic projections, alternative health care delivery systems, and the reimbursement structure of the home, facility, or combined home and facility; (III) is addressed to and is acceptable to the Secretary in form and substance; and (IV) in the event the State does not prepare the study, is prepared by a financial consultant who is selected by the State or the applicant for mortgage insurance and is approved by the Secretary; and (ii) the State complies with the other provisions of this subparagraph that would otherwise be required to be met by a State agency designated in accordance with section 604(a)(1) or section 1521 of the Public Health Service Act. The proposed mortgagor may reimburse the State for the cost of the independent feasibility study required in the preceding sentence. In the case of a small intermediate care facility for the mentally retarded or developmentally disabled, or a board and care home housing less than 10 individuals, the State program agency or agencies responsible for licensing, certifying, financing, or monitoring the facility or home may, in lieu of the requirements of clause (i) of the third sentence, provide the Secretary with written support identifying the need for the facility or home.".

(c) Regulations.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendments made by this section by not later than the expiration of the 90-day period following the date of the enactment of this Act.

SEC. 411. REQUIREMENT OF STATE APPROVAL FOR MORTGAGE INSURANCE FOR HOSPITALS.

(a) In General.—Section 242(d)(4) of the National Housing Act is amended by inserting at the end the following new sentences: "If no such State agency exists, or if the State agency exists but is not empowered to provide a certification that there is a need for the hospital as set forth in clause (A) of the first sentence, the Secretary shall not insure any mortgage under this section unless (A) the State in which the hospital is located has conducted or commissioned and paid for the preparation of an independent study of market need and feasibility that (i) is prepared in accordance with the principles established by the American Institute of Certified Public Accountants; (ii) assesses, on a marketwide basis, the impact of the proposed hospital on, and its relationship to, other health care facilities and services, the percentage of excess beds, demographic projections, alternative health care delivery systems, and the reimbursement structure of the hospital; (iii) is addressed to and is acceptable to the Secretary in form and substance; and (iv) in the event the State does not prepare the study, is prepared by a financial consultant selected by the State and approved by the Secretary; and (B) the State complies with the other provisions of this paragraph that would otherwise be required to be met by a State agency designated in accordance with section 604(a)(1) or section 1521 of the Public Health Service Act. The proposed mortgagor may reimburse the State for the cost of the independent feasibility study required in the preceding sentence.".

(b) Regulations.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendment made by this section by not later than the expiration of the 90-day period following the date of the enactment of this Act.

SEC. 412. MORTGAGE INSURANCE FOR PUBLIC HOSPITALS.

(a) Elimination of Additional Collateral Requirements for Public Hospitals.—Section 242(a) of the National Housing Act is amended by adding at the end the following: "Such assistance shall be provided regardless of the amount of public financial or other support a hospital may receive, and the Secretary shall neither require additional security or collateral to guarantee such support, nor impose more stringent eligibility or other requirements on publicly owned or supported hospitals.".

(b) Credit for Existing Equipment and Improvements.—Section 242(d)(2) of the National Housing Act is amended by striking the matter preceding subparagraph (A) and inserting the following:

"(2) The mortgage shall involve a principal obligation in the amount requested by the mortgagor if such amount does not exceed 90 percent of the estimated replacement cost of the property or project including—".

(c) Continued Use of Letters of Credit.—Section 242(d) of the National Housing Act is amended by adding at the end the following new paragraph:

"(6) To the extent that a private nonprofit or public facility mortgagor is required by the Secretary to provide cash equity in excess of the amount of the mortgage to complete the project, the mortgagor shall be entitled, at the option of the mortgagee, to fund the excess with a letter of credit. In such event, mortgage proceeds may be advanced to the mortgagor prior to any demand being made on the letter of credit.".

(d) Immediate Processing of Applications for Public Hospitals.—Section 242(f) of the National Housing Act is amended by adding at the end the following: "The Secretary shall begin immediately to process applications of public facilities for mortgage insurance under this section in accordance with regulations, guidelines, and procedures applicable to facilities of private nonprofit corporations and associations.".

(e) Report on Insurance Under Section 242.—The Comptroller General of the United States shall conduct a study of the long-term financial exposure of the Federal Government under the mortgage insurance program pursuant to section 242 of the National Housing Act. Not later than October 1, 1988, the Comptroller General of the United States shall transmit to the Congress a report setting forth the results of such study, including documentation of the long-term financial exposure determined in the course of such study and recommendations for such legislation as the Comptroller General deems appropriate.

SEC. 413. MORTGAGE INSURANCE ON HAWAIIAN HOME LANDS AND INDIAN RESERVATIONS.

(a) Applicability of Mortgage Insurance on Hawaiian Home Lands.—Section 247(c)(1) of the National Housing Act is amended by inserting before the period at the end the following: "(or, in the case of an individual who succeeds a spouse or parent in an interest in a lease of Hawaiian home lands, such lower percentage as may be established for such succession under section 209 of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 5))".

(b) Mortgage Insurance on Hawaiian Home Lands as Obligations of General Insurance Fund.—Section 247 of the National Housing Act is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding any other provision of this Act, the insurance of a mortgage using the authority contained in this section shall be the obligation of the General Insurance Fund established in section 519. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 204 with respect to mortgages insured pursuant to this section, except that (1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund; and (2) all references in section 204 to section 203 shall be construed to refer to the section under which the mortgage is insured.".

(c) Mortgage Insurance on Indian Reservations as Obligations of General Insurance Fund.—Section 248 of the National Housing Act is amended—

(1) in paragraphs (3) and (5) of subsection (f), by striking "insurance fund" each place it appears and inserting "General Insurance Fund";

(2) by redesignating subsections (f), (g), and (h) as subsections (g), (h), and (i), respectively; and

(3) by inserting after subsection (e) the following new subsection:

"(f) Notwithstanding any other provision of this Act, the insurance of a mortgage using the authority contained in this section shall be the obligation of the General Insurance Fund established in section 519. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 204 with respect to mortgages insured pursuant to this section, except that (1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund; and (2) all references in section 204 to section 203 shall be construed to refer to the section under which the mortgage is insured.".

SEC. 414. CO-INSURANCE PROGRAM.

(a) Repealer.—Section 244 of the National Housing Act is amended by striking subsection (c).

(b) Co-insurance Amendments.—Section 244 of the National Housing Act is amended—

(1) in subsection (h), by striking "coinsurance" each place it appears and inserting "co-insurance"; and

(2) by adding at the end the following new subsection:

"(i) Any mortgagee which enters into a contract of co-insurance under this section shall have the authority to assign its interest in any note or mortgage subject to a contract of co-insurance to a warehouse bank or other financial institution which provides interim funding for a loan co-insured under this section, and to retain the co-insurance risk of such note or mortgage, upon such terms and conditions as the Secretary shall prescribe.".

SEC. 415. INCREASE IN AUTHORITY TO INSURE ADJUSTABLE RATE SINGLE FAMILY MORTGAGES.

(a) In General.—Section 251(c) of the National Housing Act is amended to read as follows:

"(c) The aggregate number of mortgages and loans insured under this section in any fiscal year may not exceed 30 percent of the aggregate number of mortgages and loans insured by the Secretary under this title during the preceding fiscal year.".

(b) Conforming Amendments.—

(1) Section 245(c) of the National Housing Act is amended in the last sentence by striking ", section 251,".

(2) Section 252(g) of the National Housing Act is amended—

(A) by striking the first comma and inserting "and"; and

(B) by striking ", and section 251".

SEC. 416. PENALTIES FOR EQUITY SKIMMING.

(a) Purchase of Dwelling Subject to Loan in Default.—Section 912 of the Housing and Urban Development Act of 1970 is amended—

(1) in paragraph (1), by inserting "(including condominiums and cooperatives)" after "dwellings";

(2) in paragraph (2), by inserting after "due" the following: ", regardless of whether the purchaser is obligated on the loan"; and

(3) in the matter following paragraph (3)—

(A) by striking "$5,000" and inserting "$250,000"; and

(B) by striking "three" and inserting "5".

(b) Use of Funds Derived From Property Subject to Loan in Default.—Title II of the National Housing Act is amended by adding at the end the following new section:

"EQUITY SKIMMING PENALTY

"Sec. 254. Whoever, as an owner, agent, or manager, or who is otherwise in custody, control, or possession of property that is security for a mortgage note that is insured, acquired, or held by the Secretary pursuant to section 203, 207, 213, 220, 221(d)(3), 221(d)(4), 223(f), 231, 232, 234, 236, 238(c), 241, 242, 244, 608, or 810, or title XI, or is made pursuant to section 202 of the Housing Act of 1959, willfully uses or authorizes the use of any part of the rents, assets, proceeds, income or other funds derived from property covered by such mortgage note during a period when the mortgage note is in default or the project is in a nonsurplus cash position as defined by the regulatory agreement covering such property, for any purpose other than to meet actual or necessary expenses that include expenses approved by the Secretary if such approval is required under the terms of the regulatory agreement, shall be fined not more than $250,000 or imprisoned not more than 5 years, or both.".

(c) Conforming Amendments.—Section 239 of the National Housing Act is amended—

(1) by striking "INSURED" in the section heading;

(2) by striking "(a)" after "Sec. 239."; and

(3) by striking subsection (b).

SEC. 417. HOME EQUITY CONVERSION MORTGAGE INSURANCE DEMONSTRATION.

(a) In General.—Title II of the National Housing Act (as amended by section 416 of this Act) is further amended by adding at the end the following new section:

"DEMONSTRATION PROGRAM OF INSURANCE OF HOME EQUITY CONVERSION MORTGAGES FOR ELDERLY HOMEOWNERS

"Sec. 255. (a) Purpose.—The purpose of this section is to authorize the Secretary to carry out a demonstration program of mortgage insurance designed—

"(1) to meet the special needs of elderly homeowners by reducing the effect of the economic hardship caused by the increasing costs of meeting health, housing, and subsistence needs at a time of reduced income, through the insurance of home equity conversion mortgages to permit the conversion of a portion of accumulated home equity into liquid assets;

"(2) to encourage and increase the involvement of mortgagees and participants in the mortgage markets in the making and servicing of home equity conversion mortgages for elderly homeowners; and

"(3) to require the evaluation of data to determine—

"(A) the extent of the need and demand among elderly homeowners for insured and uninsured home equity conversion mortgages;

"(B) the types of home equity conversion mortgages that best serve the needs and interests of elderly homeowners, the Federal Government, and lenders; and

"(C) the appropriate scope and nature of participation by the Secretary in connection with home equity conversion mortgages for elderly homeowners.

"(b) Definitions.—For purposes of this section:

"(1) The terms 'elderly homeowner' and 'homeowner' mean any homeowner who is, or whose spouse is, at least 62 years of age or such higher age as the Secretary may prescribe.

"(2) The terms 'mortgage', 'mortgagee', 'mortgagor', and 'State' have the meanings given such terms in section 201.

"(3) The term 'home equity conversion mortgage' means a first mortgage which provides for future payments to the homeowner based on accumulated equity and which a housing creditor (as defined in section 803(2) of the Garn-St Germain Depository Institutions Act of 1982) is authorized to make (A) under any law of the United States (other than section 804 of such Act) or applicable agency regulations thereunder; (B) in accordance with section 804 of such Act, notwithstanding any State constitution, law, or regulation; or (C) under any State constitution, law, or regulation.

"(c) Insurance Authority.—The Secretary may, upon application by a mortgagee, insure any home equity conversion mortgage eligible for insurance under this section and, upon such terms and conditions as the Secretary may prescribe, make commitments for the insurance of such mortgages prior to the date of their execution or disbursement to the extent that the Secretary determines such mortgages—

"(1) have promise for improving the financial situation or otherwise meeting the special needs of elderly homeowners;

"(2) will include appropriate safeguards for mortgagors to offset the special risks of such mortgages; and

"(3) have a potential for acceptance in the mortgage market.

"(d) ELIGIBILITY REQUIREMENTS.—To be eligible for insurance under this section, a mortgage shall—

"(1) have been made to a mortgagee approved by the Secretary as responsible and able to service the mortgage properly;

"(2) have been executed by a mortgagor who—

"(A) qualifies as an elderly homeowner;

"(B) has received adequate counseling by a third party (other than the lender) as provided in subsection (f); and

"(C) meets any additional requirements prescribed by the Secretary;

"(3) be secured by a dwelling that is designed principally for a 1-family residence and is occupied by the mortgagor and that has a value not to exceed the maximum dollar amount established by the Secretary under section 203(b)(2) for a 1-family residence;

"(4) provide that prepayment, in whole or in part, may be made without penalty at any time during the period of the mortgage;

"(5) provide for a fixed or variable interest rate or future sharing between the mortgagor and the mortgagee of the appreciation in the value of the property, as agreed upon by the mortgagor and the mortgagee;

"(6) contain provisions for satisfaction of the obligation satisfactory to the Secretary;

"(7) provide that the homeowner shall not be liable for any difference between the net amount of the remaining indebtedness of the homeowner under the mortgage and the amount recovered by the mortgagee from—

"(A) the foreclosure sale; or

"(B) the insurance benefits paid pursuant to subsection (i)(1)(C); and

"(8) contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes, default reserve, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may prescribe.

"(e) DISCLOSURES BY MORTGAGEE.—The Secretary shall require each mortgagee of a mortgage insured under this section to make available to the homeowner—

"(1) at the time of the loan application, a written list of the names and addresses of third-party information sources who are approved by the Secretary as responsible and able to provide the information required by subsection (f);

"(2) at least 10 days prior to loan closing, a statement explaining the homeowner's rights, obligations, and remedies with respect to temporary absences from the home, late payments, and payment default by the lender, all conditions requiring satisfaction of the loan obligation, and any other information that the Secretary may require; and

"(3) on an annual basis (but not later than January 31 of each year), a statement summarizing the total principal amount paid to the homeowner under the loan secured by the mortgage, the total amount of deferred interest added to the principal, and the outstanding loan balance at the end of the preceding year.

"(f) INFORMATION SERVICES FOR MORTGAGORS.—The Secretary shall provide or cause to be provided by entities other than the lender the information required in subsection (d)(2)(B). Such information shall be discussed with the mortgagor and shall include—

"(1) options other than a home equity conversion mortgage that are available to the homeowner, including other housing, social service, health, and financial options;

"(2) other home equity conversion options that are or may become available to the homeowner, such as sale-leaseback financing, deferred payment loans, and property tax deferral;

"(3) the financial implications of entering into a home equity conversion mortgage;

"(4) a disclosure that a home equity conversion mortgage may have tax consequences, affect eligibility for assistance under Federal and State programs, and have an impact on the estate and heirs of the homeowner; and

"(5) any other information that the Secretary may require.

"(g) LIMITATION ON INSURANCE AUTHORITY.—No mortgage may be insured under this section after September 30, 1991, except pursuant to a commitment to insure issued on or before such date. The total number of mortgages insured under this section may not exceed 2,500. In no case may the benefits of insurance under this section exceed the maximum dollar amount established under section 203(b)(2) for a 1-family residence.

"(h) ADMINISTRATIVE AUTHORITY.—The Secretary may—

"(1) enter into such contracts and agreements with Federal, State, and local agencies, public and private entities, and such other persons as the Secretary determines to be necessary or desirable to carry out the purposes of this section; and

"(2) make such investigations and studies of data, and publish and distribute such reports, as the Secretary determines to be appropriate.

"(i) PROTECTION OF HOMEOWNER AND LENDER.—

"(1) Notwithstanding any other provision of law, and in order to further the purposes of the demonstration program authorized in this section, the Secretary shall take any action necessary—

"(A) to provide any mortgagor under this section with funds to which the mortgagor is entitled under the insured mortgage or ancillary contracts but that the mortgagor has not received because of the default of the party responsible for payment;

"(B) to obtain repayment of disbursements provided under subparagraph (A) from any source; and

"(C) to provide any mortgagee under this section with funds not to exceed the limitations in subsection (g) to which the mortgagee is entitled under the terms of the insured mortgage or ancillary contracts authorized in this section.

"(2) Actions under paragraph (1) may include—

"(A) disbursing funds to the mortgagor or mortgagee from the General Insurance Fund;

"(B) accepting an assignment of the insured mortgage notwithstanding that the mortgagor is not in default under its terms, and calculating the amount and making the payment of the insurance claim on such assigned mortgage;

"(C) requiring a subordinate mortgage from the mortgagor at any time in order to secure repayments of any funds advanced or to be advanced to the mortgagor;

"(D) requiring a subrogation to the Secretary of the rights of any parties to the transaction against any defaulting parties; and

"(E) imposing premium charges.

"(j) SAFEGUARD TO PREVENT DISPLACEMENT OF HOMEOWNER.—The Secretary may not insure a home equity conversion mortgage under this section unless such mortgage provides that the homeowner's obligation to satisfy the loan obligation is deferred until the homeowner's death, the sale of the home, or the occurrence of other events specified in regulations of the Secretary. For purposes of this subsection, the term 'homeowner' includes the spouse of a homeowner.

"(k) REPORTS TO CONGRESS.—

"(1) The Secretary shall, not later than September 30, 1989, submit an interim report to Congress describing—

"(A) design and implementation of the demonstration;

"(B) number and types of reverse mortgages written to date;

"(C) profile of participant homeowner-borrowers, including incomes, home equity, and regional distribution; and

"(D) problems encountered in implementation, including impediments associated with State or Federal laws or regulations governing taxes, insurance, securities, public benefits, banking, and any other problems in implementation that the Secretary encounters.

"(2) Not later than March 30, 1992, the Secretary shall submit to Congress a preliminary evaluation of the program authorized in this section. Such evaluation shall include an updated report on the matters referred to in paragraph (1) and shall in addition—

"(A) describe the types of mortgages appropriate for inclusion in such program;

"(B) describe any changes in the insurance programs under this title, or in other Federal regulatory provisions, determined to be appropriate;

"(C) describe any risk created under such mortgages to mortgagors and mortgagees or the insurance programs under this title, and whether the risk is adequately covered by the premiums under the insurance programs;

"(D) evaluate whether such program has improved the financial situation or otherwise met the special needs of participating elderly homeowners;

"(E) evaluate whether such program has included appropriate safeguards for mortgagors to offset the special risks of such mortgages; and

"(F) evaluate whether home equity conversion mortgages have a potential for acceptance in the mortgage markets.

"(3) The preliminary evaluation shall incorporate comments and recommendations solicited by the Secretary from the Board of Governors of the Federal Reserve System, the Secretary of Health and Human Services, the Federal Council on Aging, Federal Home Loan Bank Board, the Comptroller of the Currency, and the National Credit Union Administration Board regarding any of the matters referred to in paragraph (1) or (2).

"(4) Following submission of the preliminary evaluation, the Secretary shall, on a biennial basis, submit to the Congress an updated report and evaluation covering the period since the most recent report under this subsection and shall include analysis of the repayment of the home equity conversion mortgages under this demonstration during such period.".

(b) REGULATIONS.—The Secretary of Housing and Urban Development shall—

(1) not later than 6 months after the date of enactment of this Act, consult with lenders, insurers, and organizations and individuals with expertise in home equity conversion in developing proposed regulations implementing section 254 of the National Housing Act; and

(2) not later than 9 months after the date of the enactment of this Act, issue proposed regulations implementing section 254 of the National Housing Act.

SEC. 418. ASSURANCE OF ADEQUATE PROCESSING OF APPLICATIONS FOR LOAN AND MORTGAGE INSURANCE.

Title V of the National Housing Act (as amended by section 407 of this Act) is amended by adding at the end the following new section:

"ASSURANCE OF ADEQUATE PROCESSING OF APPLICATIONS FOR LOAN AND MORTGAGE INSURANCE

"SEC. 534. In order to ensure the adequate processing of applications for insurance of loans and mortgages under this Act, the Secretary shall maintain not less than one office in each State to carry out the provisions of this Act.".

SEC. 419. PROHIBITION OF LENDER REQUIREMENTS DISCOURAGING LOANS WITH LOWER PRINCIPAL AMOUNTS.

(a) LOAN AMOUNT OF ORIGINAL LOANS.—Title V of the National Housing Act (as amended by sections 407 and 418 of this Act) is further amended by adding at the end the following new section:

"PROHIBITION OF REQUIREMENT OF MINIMUM PRINCIPAL LOAN AMOUNT

"SEC. 535. A mortgagee or lender may not require, as a condition of providing a loan insured under this Act or secured by a mortgage insured under this Act, that the principal amount of the loan exceed a minimum amount established by the mortgagee or lender.".

(b) LOAN AMOUNT OF REFINANCINGS.—Section 223(a)(7) of the National Housing Act (as amended by section 408 of this Act) is further amended by striking "; and (B)" and inserting the following: "; (B) a mortgagee may not require a minimum principal amount to be outstanding on the loan secured by the existing mortgage; and (C)".

(c) STUDY OF OTHER LENDING PRACTICES.—During the 6-month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall conduct a study of the interest rates and discount points charged for mortgages and loans insured under the National Housing Act. The study shall be designed to identify any pattern or practice of charging higher interest rates or discount points for mortgages or loans with lower principal amounts than for mortgages or loans with the maximum principal amounts permitted for insurance under the National Housing Act. Not later than 3 months after the expiration of the 6-month period, the Secretary shall submit to the Congress a report setting forth the findings and recommendations of the Secretary.

SEC. 420. REPEAL OF REQUIREMENT TO PUBLISH PROTOTYPE HOUSING COSTS FOR 1- TO 4-FAMILY DWELLING UNITS.

The Housing and Community Development Act of 1977 is amended by striking section 904.

SEC. 421. DOUBLE DAMAGES REMEDY FOR UNAUTHORIZED USE OF MULTIFAMILY HOUSING PROJECT ASSETS AND INCOME.

(a) ACTION TO RECOVER ASSETS OR INCOME.—

(1) The Secretary of Housing and Urban Development (referred to in this section as the "Secretary") may request the Attorney General to bring an action in a United States district court to recover any assets or income used by any person in violation of (A) a regulatory agreement that applies to a multifamily project whose mortgage is insured or held by the Secretary under title II of the National Housing Act; or (B) any applicable regulation. For purposes of this section, a use of assets or income in violation of the regulatory agreement or any applicable regulation shall include any use for which the documentation in the books and accounts does not establish that the use was made for a reasonable operating expense or necessary repair of the project and has not been maintained in accordance with the requirements of the Secretary and in reasonable condition for proper audit.

(2) For purposes of a mortgage insured or held by the Secretary under title II of the National Housing Act, the term "any person" shall mean any person or entity which owns a project, as identified in the regulatory agreement, including but not limited to any stockholder holding 25 percent or more interest of a corporation that owns the project; any beneficial owner under any business or trust; any officer, director, or partner of an entity owning the project; and any heir, assignee, successor in interest, or agent of any owner.

(b) INITIATION OF PROCEEDINGS AND TEMPORARY RELIEF.—The Attorney General, upon request of the Secretary, shall have the exclusive authority to authorize the initiation of proceedings under this section. Pending final resolution of any action under this section, the court may grant appropriate temporary or preliminary relief, including restraining orders, injunctions, and acceptance of satisfactory performance bonds, to protect the interests of the Secretary and to prevent use of assets or income in violation of the regulatory agreement and any applicable regulation and to prevent loss of value of the realty and personalty involved.

(c) AMOUNT RECOVERABLE.—In any judgment favorable to the United States entered under this section, the Attorney General may recover double the value of the assets and income of the project that the court determines to have been used in violation of the regulatory agreement or any applicable regulation, plus all costs relating to the action, including but not limited to reasonable attorney and auditing fees. Notwithstanding any other provision of law, the Secretary may apply the recovery, or any portion of the recovery, to the project or to the applicable insurance fund under the National Housing Act.

(d) TIME LIMITATION.—Notwithstanding any other statute of limitations, the Secretary may request the Attorney General to bring an action under this section at any time up to and including 6 years after the latest date that the Secretary discovers any use of project assets and income in violation of the regulatory agreement or any applicable regulation.

(e) CONTINUED AVAILABILITY OF OTHER REMEDIES.—The remedy provided by this section is in addition to any other remedies available to the Secretary or the United States.

SEC. 422. MISCELLANEOUS MORTGAGE INSURANCE PROVISIONS.

(a) MORTGAGE INSURANCE FOR CONDOMINIUMS.—Section 234(e)(3) of the National Housing Act is amended by inserting after "design;" the following: "except that each of the foregoing dollar amounts is increased to the amount established for a comparable unit in section 221(d)(3)(ii);".

(b) MORTGAGE INSURANCE FOR CERTAIN PROPERTIES WITHIN AN INDIAN RESERVATION.—Section 203(q)(1) of the National Housing Act is amended by striking "Secretary may" and inserting "Secretary shall".

SEC. 423. CALCULATION OF MAXIMUM MORTGAGE AMOUNT UNDER SINGLE FAMILY INSURANCE PROGRAM.

Section 203(b)(2) of the National Housing Act is amended by inserting after the first sentence the following: "For purposes of the preceding sentence, the term 'area' means a county, or a metropolitan statistical area as established by the Office of Management and Budget, whichever results in the higher dollar amount.".

SEC. 424. APPROVAL OF INDIVIDUAL RESIDENTIAL WATER PURIFICATION OR TREATMENT UNITS.

(a) IN GENERAL.—When the existing water supply does not meet the minimum property standards established by the Department of Housing and Urban Development and a permanent alternative acceptable water supply is not available, a continuous supply of water may be provided through the use of approved residential water treatment equipment or a water purification unit that provides bacterially and chemically safe drinking water.

(b) APPROVAL PROCESS.—A performance-based approval of the equipment or unit and the maintenance, monitoring, and replacement plan for such equipment or unit shall be certified by field offices of the Department of Housing and Urban Development based upon general standards recognized by the Department as modified for local or regional conditions. As a part of such approved plan, a separate monthly escrow account may be required to be established through the lender to cover the cost of the approved yearly maintenance and monitoring schedule and projected replacement of the equipment or unit.

SEC. 425. REGULATION OF RENTS IN INSURED PROJECTS.

After December 1, 1987, the Secretary of Housing and Urban Development shall control rents and charges as they were controlled prior to April 19, 1983, for any multifamily housing project insured under the National Housing Act if—

(1) during the period of April 19, 1983, through December 1, 1987, the project owner and the Secretary have not executed, and the project owner has not filed a written request with the Secretary to enter into, an amendment to the regulatory agreement pursuant to regulations published by the Secretary on April 19, 1983, or June 4, 1986, electing to deregulate rents or utilize an alternative formula for determining the maximum allowable rents pursuant to regulations published by the Secretary on April 19, 1983, or June 4, 1986; and

(2)(A) the project was, as of December 1, 1987, receiving a housing assistance payment under a contract pursuant to section 8 of the United States Housing Act of 1937 (other than under the existing housing certificate program of section 8(b)(1) of such Act); or

(B) not less than 50 percent of the units in the project are occupied by lower income families (as defined in section 3(a)(2) of the United States Housing Act of 1937).

SEC. 426. MORTGAGE LIMITS FOR MULTIFAMILY PROJECTS.

(a) Section 207 Limits.—Section 207(c)(3) of the National Housing Act is amended—

(1) by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" and inserting in lieu thereof "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800", respectively; and

(2) by striking out "$22,500", "$25,200", "$30,900", "$38,700", and "$43,758" and inserting in lieu thereof "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885", respectively.

(b) Section 213 Limits.—Section 213(b)(2) of the National Housing Act is amended—

(1) by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" and inserting in lieu thereof "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800", respectively; and

(2) by striking out "$22,500", "$25,200", "$30,900", "$38,700", and "$43,758" and inserting in lieu thereof "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885", respectively.

(c) Section 220 Limits.—Section 220(d)(3)(B)(iii) of the National Housing Act is amended—

(1) by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" and inserting in lieu thereof "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800", respectively; and

(2) by striking out "$22,500", "$25,200", "$30,900", "$38,700", and "$43,758" and inserting in lieu thereof "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885", respectively.

(d) Section 221(d)(3) Limits.—Section 221(d)(3)(ii) of the National Housing Act is amended by striking out "$21,563"; "$24,862"; "$29,984"; "$38,379"; "$42,756"; "$22,692"; "$26,012"; "$31,631"; "$40,919"; and "$44,917" and inserting in lieu thereof "$28,032"; "$32,321"; "$38,979"; "$49,893"; "$55,583"; "$29,500"; "$33,816"; "$41,120"; "$53,195"; and "$58,392", respectively.

(e) Section 221(d)(4) Limits.—Section 221(d)(4)(ii) of the National Housing Act of 1934 is amended by striking out "$19,406"; "$22,028"; "$26,625"; "$33,420"; "$37,870"; "$20,962"; "$24,030"; "$29,220"; "$37,800"; and "$41,494" and inserting in lieu thereof "$25,228"; "$28,636"; "$34,613"; "$43,446"; "$49,231"; "$27,251"; "$31,239"; "$37,986"; "$49,140"; and "$53,942", respectively.

(f) Section 231 Limits.—Section 231(c)(2) of the National Housing Act is amended—

(1) by striking out "$18,450", "$20,625", "$24,630", "$29,640", and "$34,846" and inserting in lieu thereof "$23,985", "$26,813", "$32,019", "$38,532", and "$45,300", respectively; and

(2) by striking out "$20,962", "$24,030", "$29,220", "$37,800", and "$41,494" and inserting in lieu thereof "$27,251", "$31,239", "$37,986", "$49,140", and "$53,942", respectively.

(g) Section 234 Limits.—Section 234(e)(3) of the National Housing Act is amended—

(1) by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" and inserting in lieu thereof "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800", respectively; and

(2) by striking out "$22,500", "$25,200", "$30,900", "$38,700", and "$43,758" and inserting in lieu thereof "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885", respectively.

(h) Limits for Multifamily Projects in High-Cost Areas.—Section 207(c)(3), the second proviso of section 213(b)(2), the first proviso of section 220(d)(3)(B)(iii), section 221(d)(3)(ii), section 221(d)(4)(ii), section 231(c)(2), and section 234(e)(3) of the National Housing Act are each amended by striking "not to exceed 75 per centum" and all that follows through "involved) in such an area" and inserting the following: "not to exceed 110 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 140 percent where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 305 of this Act (as such section existed immediately before November 30, 1983) is involved".

SEC. 427. OPERATING LOSS LOAN INSURANCE.

Section 223(d) of the National Housing Act is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by striking the first and second sentences and inserting the following:

"Notwithstanding any other provision of this Act, the Secretary is authorized to insure loans made to cover the operating losses of certain projects that have existing project mortgages insured by the Secretary. Insurance under this subsection shall be in the Secretary's discretion and upon such terms and conditions as the Secretary may prescribe, and shall be provided in accordance with the provisions of this subsection. For purposes of this subsection, the term 'operating loss' means the amount by which the sum of the taxes, interest on the mortgage debt, mortgage insurance premiums, hazard insurance premiums, and the expense of maintenance and operation of the project covered by the mortgage, exceeds the income of the project.

"(2) To be eligible for insurance pursuant to this paragraph—

"(A) the existing project mortgage (i) shall have been insured by the Secretary at any time before or after the date of enactment of the Housing and Community Development Act of 1987; and (ii) shall cover any property, other than a property upon which there is located a 1- to 4-family dwelling;

"(B) the operating loss shall have occurred during the first 24 months after the date of completion of the project, as determined by the Secretary; and

"(C) the loan shall be in an amount not exceeding the operating loss.

"(3) To be eligible for insurance pursuant to this paragraph—

"(A) the existing project mortgage (i) shall have been insured by the Secretary at any time before or after the date of enactment of the Housing and Community Development Act of 1987; (ii) shall cover any property, other than a property upon which there is located a 1- to 4-family dwelling; and (iii) shall not cover a subsidized project, as defined by the Secretary;

"(B) the loan shall be in an amount not exceeding 80 percent of the unreimbursed cash contributions made on or after March 18, 1987, by the project owner for the use of the project, during any period of consecutive months (not exceeding 24 months) in the first 10 years after the date of completion of the project, as determined by the Secretary, except that in no event may the amount of the loan exceed the operating loss during such period;

"(C) the loan shall be made within 10 years after the end of the period of consecutive months referred to in the preceding subparagraph; and

"(D) the project shall meet all applicable underwriting and other requirements of the Secretary at the time the loan is to be made.

"(4) Any loan insured pursuant to this subsection shall (A) bear interest at such rate as may be agreed upon by the mortgagor and mortgagee; (B) be secured in such manner as the Secretary shall require; (C) be limited to a term not exceeding the unexpired term of the original mortgage; and (D) be insured under the same section as the original mortgage. The Secretary may provide insurance pursuant to paragraph (2) or (3), or pursuant to both such paragraphs, in connection with an existing project mortgage, except that the Secretary may not provide insurance pursuant to both such paragraphs in connection with the same period of months referred to in paragraphs (2)(B) and (3)(B)." ; and

(3) by inserting "(5)" before "A loan" at the beginning of the undesignated paragraph at the end.

SEC. 428. INTEREST CHARGES ON TEMPORARY MORTGAGE ASSISTANCE PAYMENTS AND ASSIGNMENT OR OTHER ASSISTANCE.

Section 230(a)(5) of the National Housing Act is amended by striking the third sentence and inserting the following: "The interest rate on payments made under this subsection shall be the rate established under section 1803(c) of title 38, United States Code. The interest rate to be charged shall be determined when the Secretary approves assistance under this subsection.".

SEC. 429. MORTGAGE INSURANCE TECHNICAL AMENDMENTS.

(a) Administrative Provisions.—The second sentence of section 1 of the National Housing Act is amended by striking the last comma.

(b) Applicablity.—Section 9 of the National Housing Act is amended by inserting the following section heading:

"APPLICABILITY".

(c) Loan Insurance Programs.—Sections 203(k)(3)(B) and 241(b)(3) of the National Housing Act are amended—

(1) by striking "mortgagor" each place it appears and inserting "borrower"; and

(2) by striking "mortgagee" each place it appears and inserting "financial institution".

(d) Miscellaneous Housing Insurance.—

(1) Section 223(a)(7) of the National Housing Act is amended—

(A) in the first proviso, by striking "a rate not in excess of the maximum rate prescribed under the applicable section or title of this Act" and inserting the following: "such rate as may be agreed upon by the mortgagor and the mortgagee";

(B) in the second proviso, by striking "maturity, a principal obligation, and an interest rate" and inserting the following: "maturity and a principal obligation"; and

(C) by inserting before the semicolon at the end the following: ", and shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee".

(2) Section 223(d)(1) of the National Housing Act is amended by striking "bear interest (exclusive of premium charges for insurance) at not to exceed the per centum per annum currently permitted for mortgages insured under the section under which it is

to be insured" and inserting the following: "bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee".

(e) Insurance for Nursing Homes, Intermediate Care Facilities, and Board and Care Homes.—

(1) Section 232(b) of the National Housing Act is amended—

(A) by indenting as a separate paragraph (in the same manner as paragraph (1)) "(3) a nursing" and all that follows through "day; and";

(B) in such new paragraph (3)—

(i) by inserting "the term" after the paragraph designation; and

(ii) by striking "and" at the end;

(C) by redesignating the second paragraph (3) as paragraph (4); and

(D) by redesignating paragraph (4) as paragraph (5).

(2) Section 232(i)(2)(B) of the National Housing Act is amended to read as follows:

"(B) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee;".

(f) Multifamily Assistance.—Section 236 of such Act is amended by striking out "(h)" in the last sentence of subsection (i)(1) and inserting in lieu thereof "(f)(4)".

(g) Co-insurance.—

(1) Section 244(g) of the National Housing Act is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively.

(2) Section 244(h) of the National Housing Act is amended by striking "coinsurance" each place it appears and inserting "co-insurance".

(h) Insurance on Hawaiian Home Lands.—Section 247(a)(2) of the National Housing Act is amended by striking "Mortgagor" and inserting "mortgagor".

(i) Insurance on Indian Reservations.—Section 248 of the National Housing Act is amended—

(1) in subsection (a)(1), by striking "lands" and inserting "land";

(2) in subsection (a)(2), by striking "lands"; and

(3) in subsection (d), by striking "tribal or trust land" and inserting "trust or otherwise restricted land".

(j) Shared Appreciation Mortgages.—Section 253 of the National Housing Act is amended—

(1) in subsection (b), by striking the fourth sentence and inserting the following: "For purposes of this section, the term 'net appreciated value' means the amount by which the sales price of the property (less the mortgagor's selling costs) exceeds the actual project cost after completion, as approved by the Secretary.";

(2) in the first sentence of subsection (c), by striking "204" and inserting "207"; and

(3) in subsection (c), by striking the last sentence and inserting the following: "The term 'original principal face amount of the mortgage' as used in section 207 shall not include the mortgagee's share of net appreciated value.".

(k) Defense Housing for Impacted Areas.—The first sentence of section 810(h) of the National Housing Act is amended—

(1) by striking "(exclusive of premium charges for insurance) at not to exceed the rate applicable to mortgages insured under section 207" and inserting the following: "at such rate as may be agreed upon by the mortgagor and the mortgagee"; and

(2) by striking "not to exceed the rate applicable to mortgages insured under section 203" and inserting the following: "such rate as may be agreed upon by the mortgagor and the mortgagee".

SEC. 430. RELEASE OF POOL FUNDS.

(a) Section 236.—Section 236 of the National Housing Act is amended by adding at the end thereof the following:

"(r) The Secretary shall, not later than 45 days after receipt of an application by the mortgagee, provide interest reduction and rental assistance payments for the benefit of projects assisted under this section whose mortgages were made by State or local housing finance agencies or State or local government agencies for a term equal to the remaining mortgage term to maturity on projects assisted under this section to the extent of—

"(1) unexpended balances of amounts of authority as set forth in certain letter agreements between the Department of Housing and Urban Development and such State or local housing finance agencies or State or local government agencies, and

"(2) existing allocation under section 236 contracts on projects whose mortgages were made by State or local housing finance agencies or State or local government agencies which are not being funded, to the extent of such excess allocation, for any purposes permitted under the provisions of this section, including without limitation rent supplement and rental assistance payment unit increases and mortgage increases for any eligible purpose under this section, including without limitation operating deficit loans.

An application shall be eligible for assistance under the previous sentence only if the mortgagee submits the application within 548 days after the effective date of this subsection, along with a certification of the mortgagee that amounts hereunder are to be utilized only for the purpose of either (A) reducing rents or rent increases to tenants, or (B) making repairs or otherwise increasing the economic viability of a related project. Unexpended balances referred to in the first sentence of this subsection which remain after disposition of all such applications is favorably concluded shall be rescinded. The calculation of the amount of assistance to be provided under an interest reduction contract pursuant to this subsection shall be made on the basis of an assumed mortgage term equal to the lesser of a 40-year amortization period or the term of that part of the mortgage which relates to the additional assistance provided under this subsection, even though the additional assistance may be provided for a shorter period. The authority conferred by this subsection to provide interest reduction and rental assistance payments shall be available only to the extent approved in appropriation Acts.".

(b) Rent Supplement Program.—Section 101 of the Housing and Urban Development Act of 1965 is amended by adding at the end thereof the following:

"(m) The Secretary shall, not later than 45 days after receipt of an application by the mortgagee, provide interest reduction and rental assistance payments for the benefit of projects assisted under this section whose mortgages were made by State or local housing finance agencies or State or local government agencies for a term equal to the remaining mortgage term to maturity on projects assisted under this section to the extent of—

"(1) unexpended balances of amounts of authority as set forth in certain letter agreements between the Department of Housing and Urban Development and such State or local housing finance agencies or State or local government agencies, and

"(2) existing allocation under section 236 contracts on projects whose mortgages were made by State or local housing finance agencies or State or local government agencies which are not being funded, to the extent of such excess allocation, for any purposes permitted under the provisions of this section.

An application shall be eligible for assistance under the previous sentence only if the mortgagee submits the application within 548 days after the effective date of this subsection, along with a certification of the mortgagee that amounts are to be utilized hereunder for the purpose of either (A) reducing rents or rent increases to tenants, or (B) making repairs or otherwise increasing the economic viability of a related project. Unexpended balances referred to in the first sentence of this subsection which remain after disposition of all such applications is favorably concluded shall be rescinded. The authority conferred by this subsection to provide interest reduction and rental assistance payments shall be available only to the extent approved in appropriation Acts.".

Subtitle B—Secondary Mortgage Market Programs

SEC. 441. LIMITATIONS ON CERTAIN SECONDARY MORTGAGE MARKET FEES.

(a) Federal National Mortgage Association.—Section 304 of the Federal National Mortgage Association Charter Act is amended by adding at the end the following new subsection:

"(f) Except for fees paid pursuant to section 309(g), no fee or charge may be assessed or collected by the United States (including any executive department, agency, or independent establishment of the United States) on or with regard to the purchase, acquisition, sale, pledge, issuance, guarantee, or redemption of any mortgage, asset, obligation, trust certificate of beneficial interest, or other security by the corporation. No provision of this subsection shall affect the purchase of any obligation by the Secretary of the Treasury pursuant to subsection (c).".

(b) Federal Home Loan Mortgage Corporation.—Section 306 of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end the following new subsection:

"(i) Except for fees paid pursuant to section 303(c) or 306(c), no fee or charge may be assessed or collected by the United States (including any executive department, agency, or independent establishment of the United States) on or with regard to the purchase, acquisition, sale, pledge, issuance, guarantee, or redemption of any mortgage, asset, obligation, or other security by the Corporation. No provision of this subsection shall affect the purchase of any obligation by any Federal home loan bank pursuant to section 303(a).".

SEC. 442. FNMA CUMULATIVE VOTING.

Section 303(a) of the Federal National Mortgage Association Charter Act is amended by inserting after the first sentence the following new sentence: "The corporation may eliminate such rights of cumulative voting by a resolution adopted by its board of directors and approved by the holders of a majority of the shares of common stock voting in person or by proxy at the annual meeting, or other special meeting, at which such resolution is considered.".

SEC. 443. PERMANENT AUTHORITY TO PURCHASE SECOND MORTGAGES ON SINGLE-FAMILY PROPERTIES.

(a) FEDERAL NATIONAL MORTGAGE ASSOCIATION.—Section 302(b)(5)(A)(i) of the Federal National Mortgage Association Charter Act is amended by striking "through March 15, 1988,".

(b) FEDERAL HOME LOAN MORTGAGE CORPORATION.—Section 305(a)(4)(A)(i) of the Federal Home Loan Mortgage Corporation Act is amended by striking "through March 15, 1988,".

SEC. 444. PERIOD FOR APPROVAL OF ACTIONS OF FNMA.

Section 309(i) of the Federal National Mortgage Association Charter Act is amended in the second sentence by inserting before the period at the end the following: ", but such 45-day period may not be extended for any other reason or for any period in addition to or other than such 15-day period".

SEC. 445. PROHIBITION OF LIMITATION ON FHLMC MORTGAGE OPERATIONS.

Section 305 of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end the following new subsection:

"(c) The Board of Directors may not impose any annual limitation on the maximum aggregate principal amount of mortgages purchased by the Corporation.".

SEC. 446. LIMITATION ON GNMA GUARANTEES OF MORTGAGE-BACKED SECURITIES.

Section 306(g)(2) of the Federal National Mortgage Association Charter Act is amended to read as follows:

"(2) Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to any funding limitation approved in appropriation Acts, the Association shall enter into commitments to issue guarantees under this subsection in an aggregate amount of $150,000,000,000 for fiscal year 1988, and $156,000,000,000 for fiscal year 1989.".

TITLE V—COMMUNITY DEVELOPMENT AND MISCELLANEOUS PROGRAMS

Subtitle A—Community and Neighborhood Development and Preservation

SEC. 501. COMMUNITY DEVELOPMENT AUTHORIZATIONS.

(a) COMMUNITY DEVELOPMENT BLOCK GRANTS.—The second sentence of section 103 of the Housing and Community Development Act of 1974 is amended to read as follows: "There are authorized to be appropriated for purposes of assistance under sections 106 and 107 $3,000,000,000 for fiscal year 1988, and $3,000,000,000 for fiscal year 1989.".

(b) DISCRETIONARY FUND.—

(1) The first sentence of section 107(a) of the Housing and Community Development Act of 1974 is amended to read as follows: "Of the total amount provided in appropriation Acts under section 103 for fiscal years 1988 and 1989, $60,000,000 may be set aside in each year in a special discretionary fund for grants under subsection (b).".

(2) Section 107 of the Housing and Community Development Act of 1974 is amended—

(A) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(B) by inserting after subsection (b) the following new subsection:

"(c) Of the amount set aside for use under subsection (b) in any fiscal year, the Secretary shall, to the extent approved in appropriation Acts, make available not less than $3,000,000 in the form of grants to institutions of higher education, either directly or through areawide planning organizations or States, for the purpose of providing assistance to economically disadvantaged and minority students who participate in community development work study programs and are enrolled in full-time graduate or undergraduate programs in community and economic development, community planning, or community management.".

(c) URBAN DEVELOPMENT ACTION GRANTS.—Section 119(a) of the Housing and Community Development Act of 1974 is amended by striking the second and last sentences and inserting the following new sentences: "There are authorized to be appropriated to carry out this section $225,000,000 for fiscal year 1988, and $225,000,000 for fiscal year 1989. Any amount appropriated under this subsection shall remain available until expended.".

SEC. 502. TARGETING OF BENEFITS TO PERSONS OF LOW AND MODERATE INCOME.

(a) PRIMARY OBJECTIVE.—Section 101(c) of the Housing and Community Development Act of 1974 is amended in the second sentence by striking "51 percent" and inserting "60 percent".

(b) SPECIFIC OBJECTIVES.—Section 101(c)(6) of the Housing and Community Development Act of 1974 is amended by striking "to attract persons of higher income".

(c) CERTIFICATION.—Section 104(b)(3) of the Housing and Community Development Act of 1974 is amended by striking "51 percent" and inserting "60 percent".

SEC. 503. CITY AND COUNTY CLASSIFICATIONS.

(a) METROPOLITAN CITY.—Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended—

(1) in the second sentence, by striking "March 15, 1988" and inserting "September 30, 1989";

(2) by striking out the third sentence and inserting in lieu thereof the following: "Any unit of general local government that becomes eligible to be classified as a metropolitan city, and was not classified as a metropolitan city in the immediately preceding fiscal year, may, upon submission of written notification to the Secretary, defer its classification as a metropolitan city for all purposes under this title, if it elects to have its population included in an urban county under subsection (d). Notwithstanding the second sentence of this paragraph, a city may elect not to retain its classification as a metropolitan city for fiscal year 1988 or 1989."; and

(3) by adding at the end thereof the following new sentence: "Any city classified as a metropolitan city pursuant to the first or second sentence of this paragraph, and that no longer qualifies as a metropolitan city under such first or second sentence in a fiscal year beginning after fiscal year 1989, shall retain its classification as a metropolitan city for such fiscal year and the succeeding fiscal year, except that in such succeeding fiscal year (A) the amount of the grant to such city shall be 50 percent of the amount calculated under section 106(b); and (B) the remaining 50 percent shall be added to the amount allocated under section 106(d) to the State in which the city is located and the city shall be eligible in such succeeding fiscal year to receive a distribution from the State allocation under section 106(d) as increased by this sentence.".

(b) URBAN COUNTY.—Section 102(a)(6) of the Housing and Community Development Act of 1974 is amended to read as follows:

"(6)(A) The term 'urban county' means any county within a metropolitan area which—

"(i) is authorized under State law to undertake essential community development and housing assistance activities in its unincorporated areas, if any, which are not units of general local government, and

"(ii) either—

"(I) has a population of 200,000 or more (excluding the population of metropolitan cities therein) and has a combined population of 100,000 or more (excluding the population of metropolitan cities therein) in such unincorporated areas and in its included units of general local government (and in the case of counties having a combined population of less than 200,000, the areas and units of general local government must include the areas and units of general local government which in the aggregate have the preponderance of the persons of low and moderate income who reside in the county) (a) in which it has authority to undertake essential community development and housing assistance activities and which do not elect to have their population excluded, or (b) with which it has entered into cooperation agreements to undertake or to assist in the undertaking of essential community development and housing assistance activities, or

"(II) has a population in excess of 100,000, a population density of at least 5,000 persons per square mile, and contains within its boundaries no incorporated places as defined by the United States Bureau of the Census.

"(B) In order to permit an orderly transition of each county losing its classification as an urban county by reason of a decrease in population, any county classified as or deemed to be an urban county under this paragraph for purposes of receiving assistance under any section of this title for fiscal year 1983 or subsequent years shall retain such qualification for purposes of receiving such assistance through September 30, 1989, or for such longer period covered by a cooperation agreement entered into during fiscal year 1984, except that the provisions of this subparagraph shall not apply with respect to any county losing its classification as an urban county by reason of the election of any unit of general local government included in such county to have its population excluded under clause (ii)(I)(a) of subparagraph (A) or to not renew a cooperation agreement under clause (ii)(I)(b) of such subparagraph.

"(C) Notwithstanding the combined population amount set forth in clause (ii) of subparagraph (A), a county shall also qualify as an urban county for purposes of assistance under section 106 if such county—

"(i) complies with all other requirements set forth in the first sentence;

"(ii) has, according to the most recent available decennial census data, a combined population between 190,000 and 199,999, inclusive (excluding the population of metropolitan cities therein) in all its unincorporated areas that are not units of general local government and in all units of general local government located within such county;

"(iii) had a population growth rate of not less than 15 percent during the most recent 10-year period measured by applicable censuses; and

"(iv) has submitted data satisfactory to the Secretary that it has a combined population of not less than 200,000 (excluding the population of metropolitan cities therein) in all its unincorporated areas that are not units of general local government and in all units of general local government located within such county.

"(D) Such term also includes a county that—

"(i) has a combined population in excess of 175,000, has more than 50 percent of the housing units of the area unsewered, and has an aquifer that was designated before March 1, 1987, a sole source aquifer by the Environmental Protection Agency;

"(ii) has taken steps, which include at least one public referendum, to consolidate substantial public services with an adjoining metropolitan city, and in the opinion of the Secretary, has consolidated these services with the city in an effort that is expected to result in the unification of the two governments within 6 years of the date of enactment of the Housing and Community Development Act of 1987; or

"(iii) had a population between 180,000 and 200,000 on October 1, 1987, was eligible for assistance under section 119 of the Housing and Community Development Act of 1974 in fiscal year 1986, and does not contain any metropolitan cities.

"(E) Any county classified as an urban county pursuant to subparagraph (A), (B), or (C) of this paragraph, and that no longer qualifies as an urban county under such subparagraph in a fiscal year beginning after fiscal year 1989, shall retain its classification as an urban county for such fiscal year and the succeeding fiscal year, except that in such succeeding fiscal year (i) the amount of the grant to such an urban county shall be 50 percent of the amount calculated under section 106(b); and (ii) the remaining 50 percent shall be added to the amount allocated under section 106(d) to the State in which the urban county is located and the urban county shall be eligible in such succeeding fiscal year to receive a distribution from the State allocation under section 106(d) as increased by this sentence.".

(c) INCLUSION OF UNITS OF GENERAL LOCAL GOVERNMENT IN URBAN COUNTIES.—Section 102(d) of the Housing and Community Development Act of 1974 is amended by striking the last sentence.

SEC. 504. ELIGIBLE ACTIVITIES.

(a) ELIGIBLE ACTIVITIES.—Section 105(a)(15) of the Housing and Community Development Act of 1974 is amended by striking out "grants" both places it appears and inserting in lieu thereof "assistance".

(b) ENERGY USE STRATEGIES.—Section 105(a)(16) of such Act is amended to read as follows:

"(16) activities necessary to the development of energy use strategies related to a recipient's development goals, to assure that those goals are achieved with maximum energy efficiency, including items such as—

"(A) an analysis of the manner in, and the extent to, which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements budgeting, waste management, district heating and cooling, land use planning and zoning, and traffic control, parking, and public transportation functions; and

"(B) a statement of the actions the recipient will take to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy conservation or use of renewable energy resources, financial and other assistance to be provided (principally for the benefit of low- and moderate-income persons) to make energy conserving improvements to residential structures, and any other proposed energy conservation activities;".

SEC. 505. STATEMENT OF ACTIVITIES AND REVIEW.

Section 104(a)(1) of the Housing and Community Development Act of 1974 is amended by striking out the last sentence.

SEC. 506. ALLEVIATION OF LAKEFRONT FLOODING AND EROSION.

Section 104(b)(3) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting "(A)" after "except that"; and

(2) by inserting before the semicolon at the end the following: "; and (B) a grantee that borders on the Great Lakes and that experiences significant adverse financial and physical effects due to lakefront erosion or flooding may include in the projected use of funds activities that are clearly designed to alleviate the threat posed, and rectify the damage caused, by such erosion or flooding if such activities will principally benefit persons of low and moderate income and the grantee certifies that such activities are necessary to meet other needs having a particular urgency".

SEC. 507. HOUSING ASSISTANCE PLANS.

(a) HOUSING PRESERVATION.—Section 104(c)(1) of the Housing and Community Development Act of 1974 is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) specifies activities that will be undertaken annually to minimize displacement and preserve or expand the availability of housing for persons of low and moderate income, such as the preservation of single room occupancy housing and the development by public and private nonprofit organizations of vacant properties that become available under in rem proceedings, and specifies separately the activities that will be undertaken for persons of low income and the activities that will be undertaken for persons of moderate income.".

(b) TECHNICAL AMENDMENTS.—Section 104(c)(1) of the Housing and Community Development Act of 1974 is amended—

(1) by striking "lower income persons" each place it appears and inserting "persons of low and moderate income"; and

(2) in subparagraph (C)(ii), by striking "low-income persons" and inserting "persons of low and moderate income".

SEC. 508. CITIZEN PARTICIPATION PLAN.

Section 104(a) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following:

"(3) A grant under section 106 may be made only if the grantee certifies that it is following a detailed citizen participation plan which—

"(A) provides for and encourages citizen participation, with particular emphasis on participation by persons of low and moderate income who are residents of slum and blight areas and of areas in which section 106 funds are proposed to be used, and in the case of a grantee described in section 106(a), provides for participation of residents in low and moderate income neighborhoods as defined by the local jurisdiction;

"(B) provides citizens with reasonable and timely access to local meetings, information, and records relating to the grantee's proposed use of funds, as required by regulations of the Secretary, and relating to the actual use of funds under this title;

"(C) provides for technical assistance to groups representative of persons of low and moderate income that request such assistance in developing proposals with the level and type of assistance to be determined by the grantee;

"(D) provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including at least the development of needs, the review of proposed activities, and review of program performance, which hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for the handicapped;

"(E) provides for a timely written answer to written complaints and grievances, within 15 working days where practicable; and

"(F) identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.

This paragraph may not be construed to restrict the responsibility or authority of the grantee for the development and execution of its community development program.".

SEC. 509. CONSERVING NEIGHBORHOODS AND HOUSING BY PROHIBITING DISPLACEMENT.

(a) IN GENERAL.—Section 104 of the Housing and Community Development Act of 1974 is amended—

(1) by redesignating subsections (d) through (j) as subsections (e) through (k), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) A grant under section 106 or 119 may be made only if the grantee certifies that it is following a residential antidisplacement and relocation assistance plan. A grantee receiving a grant under section 106(a) or section 119 shall so certify to the Secretary. A grantee receiving a grant under section 106(d) shall so certify to the State.

"(2) The residential antidisplacement and relocation assistance plan shall in connection with a development project assisted under section 106 or 119—

"(A) in the event of such displacement, provide that—

"(i) governmental agencies or private developers shall provide within the same community comparable replacement dwellings for the same number of occupants as could have been housed in the occupied and vacant occupiable low and moderate income dwelling units demolished or converted to a use other than for housing for low and moderate income persons, and provide that such replacement housing may include existing housing assisted with project based assistance provided under section 8 of the United States Housing Act of 1937;

"(ii) such comparable replacement dwellings shall be designed to remain affordable to persons of low and moderate income for 10 years from the time of initial occupancy;

"(iii) relocation benefits shall be provided for all low or moderate income persons who occupied housing demolished or converted to a use other than for low or moderate income housing, including reimbursement for actual and reasonable moving expenses, security deposits, credit checks, and other moving-related expenses, including any interim living costs; and in the case of displaced persons of low and moderate income, provide either—

"(I) compensation sufficient to ensure that, for a 5-year period, the displaced families shall not bear, after relocation, a ratio of shelter costs to income that exceeds 30 percent; or

"(II) if elected by a family, a lump-sum payment equal to the capitalized value of the benefits available under subclause (I) to permit the household to secure participation in a housing cooperative or mutual housing association;

"(iv) persons displaced shall be relocated into comparable replacement housing that is—

"(I) decent, safe, and sanitary;

"(II) adequate in size to accommodate the occupants;

"(III) functionally equivalent; and

"(IV) in an area not subject to unreasonably adverse environmental conditions;

"(B) provide that persons displaced shall have the right to elect, as an alternative to the benefits under this subsection, to receive benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) if such persons determine that it is in their best interest to do so; and

"(C) provide that where a claim for assistance under subparagraph (A)(iv) is denied by a grantee, the claimant may appeal to the Secretary in the case of a grant under section 106 or 119 or to the appropriate State official in the case of a grant under section 106(d), and that the decision of the Secretary or the State official shall be final unless a court determines the decision was arbitrary and capricious.

"(3) Paragraphs (2)(A)(i) and (2)(A)(ii) shall not apply in any case in which the Secretary finds, on the basis of objective data, that there is available in the area an adequate supply of habitable affordable housing for low and moderate income persons. A determination under this paragraph is final and nonreviewable.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1988.

SEC. 510. LIMITED NEW CONSTRUCTION OF HOUSING UNDER COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.

Section 105(a) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (17);

(2) by striking out the period at the end of paragraph (18) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(19) provision of assistance to facilitate substantial reconstruction of housing owned and occupied by low and moderate income persons (A) where the need for the reconstruction was not determinable until after rehabilitation under this section had already commenced, or (B) where the reconstruction is part of a neighborhood rehabilitation effort and the grantee (i) determines the housing is not suitable for rehabilitation, and (ii) demonstrates to the satisfaction of the Secretary that the cost of substantial reconstruction is significantly less than the cost of new construction and less than the fair market value of the property after substantial reconstruction.".

SEC. 511. AVAILABILITY OF COMMUNITY DEVELOPMENT BLOCK GRANTS FOR UNIFORM EMERGENCY TELEPHONE NUMBER SYSTEMS.

Section 105(c)(2) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting "(A)" after the paragraph designation;

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(3) by adding at the end thereof the following new subparagraph:

"(B) The requirements of subparagraph (A) do not prevent the use of assistance under this title for the development, establishment, and operation for not to exceed 2 years after its establishment of a uniform emergency telephone number system if the Secretary determines that—

"(i) such system will contribute substantially to the safety of the residents of the area served by such system;

"(ii) not less than 51 percent of the use of the system will be by persons of low and moderate income; and

"(iii) other Federal funds received by the grantee are not available for the development, establishment, and operation of such system due to the insufficiency of the amount of such funds, the restrictions on the use of such funds, or the prior commitment of such funds for other purposes by the grantee.

The percentage of the cost of the development, establishment, and operation of such a system that may be paid from assistance under this title and that is considered to benefit low and moderate income persons is the percentage of the population to be served that is made up of persons of low and moderate income.".

SEC. 512. STATE CERTIFICATIONS FOR RECEIVING COMMUNITY DEVELOPMENT BLOCK GRANTS FOR NONENTITLEMENT AREAS.

Section 106(d)(2) of the Housing and Community Development Act of 1974 is amended—

(1) in subparagraph (C), by striking "the Governor must certify that the State" and inserting "the State must certify that it"; and

(2) in subparagraph (D), by striking "the Governor of each State" and inserting "the State".

SEC. 513. ADMINISTRATIVE EXPENSES OF STATES DISTRIBUTING FUNDS TO NONENTITLEMENT AREAS.

Section 106(d)(3)(A) of the Housing and Community Development Act of 1974 is amended by striking "$102,000" and inserting "$100,000".

SEC. 514. COMMUNITY DEVELOPMENT BLOCK GRANT LOAN GUARANTEES.

(a) LIMITATION ON COMMITMENTS.—The last sentence of section 108(a) of the Housing and Community Development Act of 1974 is amended—

(1) by striking "during fiscal year 1984"; and

(2) by striking "$225,000,000" and inserting "$150,000,000 during fiscal year 1988, and $153,000,000 during fiscal year 1989".

(b) PROHIBITION ON FEES.—Section 108 of the Housing and Community Development Act of 1974 is amended by adding at the end the following new subsection:

"(m) No fee or charge may be imposed by the Secretary or any other Federal agency on or with respect to a guarantee made by the Secretary under this section after the date of the enactment of the Housing and Community Development Act of 1987.".

(c) ELIGIBLE USES OF LOAN GUARANTEES.—Section 108(a) of the Housing and Community Development Act of 1974 is amended in the first sentence—

(1) by inserting "(1)" after "purposes of financing"; and

(2) by inserting before the period at the end the following: "; (2) housing rehabilitation; or (3) economic development activities permitted under paragraphs (14), (15), and (17) of section 105(a)".

SEC. 515. URBAN DEVELOPMENT ACTION GRANT SELECTION CRITERIA.

(a) PROJECT QUALITY CRITERIA.—Section 119(d)(1) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting a dash before "(A)";

(2) by indenting subparagraphs (A) and (B) in the same manner as subparagraphs (C) and (D), as inserted by this subsection;

(3) in subparagraph (A), by striking out "as the primary criterion,";

(4) by striking out "and" at the end of subparagraph (B); and

(5) by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraphs:

"(C) the following other criteria:

"(i) the extent to which the grant will stimulate economic recovery by leveraging private investment;

"(ii) the number of permanent jobs to be created and their relation to the amount of grant funds requested;

"(iii) the proportion of permanent jobs accessible to lower income persons and minorities, including persons who are unemployed;

"(iv) the extent to which the project will retain jobs that will be lost without the provision of a grant under this section;

"(v) the extent to which the project will relieve the most pressing employment or residential needs of the applicant by—

"(I) reemploying workers in a skill that has recently suffered a sharp increase in unemployment locally;

"(II) retraining recently unemployed residents in new skills;

"(III) providing training to increase the local pool of skilled labor; or

"(IV) producing decent housing for low- and moderate-income persons in cases where such housing is in severe shortage in the area of the applicant, except that an application shall be considered to produce housing for low- and moderate-income persons under this clause only if such application proposes that (a) not less than 51 percent of all funds available for the project shall be used for dwelling units and related facilities; and (b) not less than 30 percent of all funds used for dwelling units and related facilities shall be used for dwelling units to be occupied by persons of low and moderate income, or not less than 20 percent of all dwelling units made available to occupancy using such funds shall be occupied by persons of low and moderate income, whichever results in the occupancy of more dwelling units by persons of low and moderate income;

"(vi) the impact of the proposed activities on the fiscal base of the city or urban county and its relation to the amount of grant funds requested;

"(vii) the extent to which State or local Government funding or special economic incentives have been committed; and

"(viii) the extent to which the project will have a substantial impact on physical and economic development of the city or urban county, the proposed activities are likely to be accomplished in a timely fashion with the grant amount available, and the city or urban county has demonstrated performance in housing and community development programs; and

"(D) additional consideration for projects with the following characteristics:

"(i) projects to be located within a city or urban county which did not receive a preliminary grant approval under this section during the 12-month period preceding the date on which applications are required to be submitted for the grant competition involved; and

"(ii) twice the amount of the additional consideration provided under clause (i) for projects to be located in cities or urban counties which did not receive a preliminary grant approval during the 24-month period preceding the date on which applications under this section are required to be submitted for the grant competition involved.

If a city or urban county has submitted and has pending more than one application, the additional consideration provided by subparagraph (D) of the preceding sentence shall be available only to the project in such city or urban county which received the highest number of points under subparagraph (C) of such sentence.".

(b) Selection Limitations and Criteria Weight.—Section 119(d) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following new paragraphs:

"(3) The Secretary shall award points to each application as follows:

"(A) not more than 35 points on the basis of the criteria referred to in paragraph (1)(A);

"(B) not more than 35 points on the basis of the criteria referred to in paragraph (1)(B);

"(C) not more than 33 points on the basis of the criteria referred to in paragraph (1)(C); and

"(D)(i) 1 additional point on the basis of the criterion referred to in paragraph (1)(D)(i); or

"(ii) 2 additional points on the basis of the criterion referred to in paragraph (1)(D)(ii).

"(4) The Secretary shall distribute grant funds under this section so that to the extent practicable during each funding cycle—

"(A) 65 percent of the funds is first made available utilizing all of the criteria set forth in paragraph (1); and

"(B) 35 percent of the funds is then made available solely on the basis of the factors referred to in subparagraphs (C) and (D) of paragraph (1).

"(5)(A) Within 30 days of the start of each fiscal year, the Secretary shall announce the number of competitions for grants to be held in that fiscal year. The number of competitions shall be not less than two nor more than three.".

"(B) Each competition for grants described in any clause of subparagraph (A) shall be for an amount equal to the sum of—

"(i) approximately the amount of the funds available for such grants for the fiscal year divided by the number of competitions for those funds;

"(ii) any funds available for such grants in any previous competition that are not awarded; and

"(iii) any funds available for such grants in any previous competition that are recaptured.

"(6) In an application under this subsection, an urban county may use data relating to the criteria under paragraph (1) that reflect distress conditions of census tracts within a radius of 15 miles of the proposed project and within that urban county and in metropolitan cities within that urban county, except that if any data reflecting conditions in a metropolitan city with a population of 100,000 or more are included, then data reflecting conditions in any metropolitan city with a population of 75,000 or more may be used only with the consent of that metropolitan city.".

(c) Use of Repaid Grant Funds.—Section 119(f) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following: "In any case in which the project proposes the repayment to the applicant of the grant funds, such funds shall be made available by the applicant for economic development activities that are eligible activities under this section or section 104. The applicant shall annually provide the Secretary with a statement of the projected receipt and use of repaid grant funds during the next year together with a report acceptable to the Secretary on the use of such funds during the most recent preceding full fiscal year of the applicant.".

(d) Nondiscrimination.—Section 119(r) of the Housing and Community Development Act of 1974 is amended to read as follows:

"(r) In utilizing the discretion of the Secretary when providing assistance and applying selection criteria under this section, the Secretary may not discriminate against applications on the basis of (1) the type of activity involved, whether such activity is primarily housing, industrial, or commercial; or (2) the type of applicant, whether such applicant is a city or urban county.".

(e) Reports of Comptroller General.—

(1)(A) Not later than the expiration of the 1-year period following the date of enactment of this Act and every 3 years thereafter, the Comptroller General of the United States shall prepare and submit to the Congress a comprehensive report evaluating the eligibility standards and selection criteria applicable under section 119 of the Housing and Community Development Act of 1974.

(B) Such report shall evaluate in detail the standards and criteria specified in such section that measure the level or comparative degree of economic distress of cities and urban counties and the effect of the grants awarded on the basis of such standards and criteria on stimulating the maximum economic development activity.

(C) Such report shall also evaluate in detail the extent to which the economic and social data utilized by the Secretary in awarding grants under such section is current and accurate, and shall compare the data used by the Secretary with other available data. The Comptroller General shall make recommendations to the Congress on whether or not other data should be collected by the Federal Government in order to fairly and accurately distribute grants under such section based on the level or comparative degree of economic distress. The Comptroller General shall also make recommendations on whether or not existing data should be collected more frequently in order to ensure that timely data is used to evaluate grant applications under such section.

(2) Not later than the expiration of the 3-month period following the date of the final competition for grants for fiscal year 1988 under section 119 of the Housing and Community Development Act of 1974, the Comptroller General of the United States shall prepare and submit to the Congress a comprehensive report describing the effect of the amendments made by this section on—

(A) the targeting of grant funds to cities and urban counties having the highest level or degree of economic distress;

(B) the distribution of grants funds among regions of the United States;

(C) the number and types of projects receiving grants;

(D) the per capita funding levels for each city, urban county, or identifiable community described in subsection (p) of such section 119, receiving assistance under such section 119; and

(E) the stimulation of the maximum economic development activity.

(f) Regulations.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendments made by this section. Such regulations shall be published for comment in the Federal Register not later than 60 days after the date of enactment of this Act. The provisions of section 119(d)(1)(D), section 119(d)(3), and section 119(d)(4) of the Housing and Community Development Act of 1974, shall take effect on the date of enactment of this Act.

(g) Applicability.—

(1) In general.—The amendments made by this section shall be applicable to the making of urban development action grants that have not received the preliminary approval of the Secretary of Housing and Urban Development before the date on which final regulations issued by the Secretary under subsection (f) become effective. For the fiscal year in which the amendments made by this section become applicable, such amendments shall only apply with respect to the aggregate amount awarded for such grants on or after such effective date.

(2) Sunset of urban county competition rule.—Effective October 1, 1989, section 119(d)(6) of the Housing and Community Development Act of 1974 is repealed.

(h) Limitation on Grant Amounts.—Section 119 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following:

"(s) For fiscal years 1988 and 1989, the maximum grant amount for any project under this section is $10,000,000.".

(i) Consideration of Certain Counties as Cities Under Urban Development Action Grant Program.—Section 119(n)(1) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following new sentence: "Such term also includes the counties of Kauai, Maui, and Hawaii in the State of Hawaii.".

SEC. 516. PROHIBITION ON USE OF URBAN DEVELOPMENT ACTION GRANTS FOR BUSINESS RELOCATIONS.

(a) In General.—Section 119(h) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting after the subsection designation the following: "(1) Speculative projects.—";

(2) by adding at the end of paragraph (1) (as so redesignated by paragraph (1) of this subsection) the following new sentence: "The provisions of this paragraph shall apply only to projects that do not have identified intended occupants."; and

(3) by adding at the end the following new paragraphs:

"(2) Projects with identified intended occupants.—No assistance may be provided or utilized under this section for any project with identified intended occupants that is likely to facilitate—

"(A) a relocation of any operation of an industrial or commercial plant or facility or other business establishment—

"(i) from any city, urban county, or identifiable community described in subsection (p), that is eligible for assistance under this section; and

"(ii) to the city, urban county, or identifiable community described in subsection (p), in which the project is located; or

"(B) an expansion of any such operation that results in a reduction of any such operation in any city, county, or community described in subparagraph (A)(i).

"(3) SIGNIFICANT AND ADVERSE EFFECT.—The restrictions established in paragraph (2) shall not apply if the Secretary determines that the relocation or expansion does not significantly and adversely affect the employment or economic base of the city, county, or community from which the relocation or expansion occurs.

"(4) APPEAL OF ADVERSE DETERMINATION.—Following notice of intent to withhold, deny, or cancel assistance under paragraph (1) or (2), the Secretary shall provide a period of not less than 90 days in which the applicant can appeal to the Secretary the withholding, denial, or cancellation of assistance. Notwithstanding any other provision of this section, nothing in this section or in any legislative history related to the enactment of this section may be construed to permit an inference or conclusion that the policy of the Congress in the urban development action grant program is to facilitate the relocation of businesses from one area to another.

"(5) ASSISTANCE FOR INDIVIDUALS ADVERSELY AFFECTED BY PROHIBITED RELOCATIONS.—

"(A) Any amount withdrawn by, recaptured by, or paid to the Secretary due to a violation (or a settlement of an alleged violation) of this subsection (or of any regulation issued or contractual provision entered into to carry out this subsection) by a project with identified intended occupants shall be made available by the Secretary as a grant to the city, county, or community described in subsection (p), from which the operation of an industrial or commercial plant or facility or other business establishment relocated or in which the operation was reduced.

"(B)(i) Any amount made available under this paragraph shall be used by the grantee to assist individuals who were employed by the operation involved prior to the relocation or reduction and whose employment or terms of employment were adversely affected by the relocation or reduction. The assistance shall include job training, job retraining, and job placement.

"(ii) If any amount made available to a grantee under this paragraph is more than is required to provide assistance under clause (i), the grantee shall use the excess amount to carry out community development activities eligible under section 105(a).

"(C)(i) The provisions of this paragraph shall be applicable to any amount withdrawn by, recaptured by, or paid to the Secretary under this section, including any amount withdrawn, recaptured, or paid before the effective date of this paragraph.

"(ii) Grants may be made under this paragraph only to the extent of amounts provided in appropriation Acts.

"(6) DEFINITION.—For purposes of this subsection, the term 'operation' includes any plant, equipment, facility, position, employment opportunity, production capacity, or product line.

"(7) REGULATIONS.—Not later than 60 days after the date of the enactment of the Housing and Community Development Act of 1987, the Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection. Such regulations shall include specific criteria to be used by the Secretary in determining whether there is a significant and adverse effect under paragraph (3).".

(b) APPLICABILITY.—Except as otherwise provided in section 119(h)(5) of the Housing and Community Development Act of 1974 (as added by subsection (a)), the amendments made by this section shall be applicable to urban development action grants that have not received the preliminary approval of the Secretary of Housing and Urban Development before the date of the enactment of this Act.

SEC. 517. URBAN HOMESTEADING.

(a) EXTENSIONS.—

(1) Section 810(h)(1) of the Housing and Community Development Act of 1974 is amended by striking out "1984 and 1985" and inserting in lieu thereof "1988 and 1989".

(2) Section 810(i)(1) of such Act is amended by striking out "1984 and 1985" and inserting in lieu thereof "1988 and 1989".

(3) Section 810(j) of such Act is amended by striking out "December 31, 1985" and inserting in lieu thereof "December 1, 1987".

(b) STATE ADMINISTRATIVE EXPENSES.—

(1) The second sentence of section 106(d)(3)(A) of the Housing and Community Development Act of 1974 is amended—

(A) by inserting immediately after "such expenses" the first time it appears the following: "and its administrative expenses under section 810 of this Act"; and

(B) by inserting immediately after "such expenses" the second time it appears the following: "under this title".

(2) Section 107(b)(4) of such Act is amended by inserting before the first semicolon the following: "and section 810 of this Act".

(c) SELECTION PROCEDURE.—

(1) Section 810(b)(2) of the Housing and Community Development Act of 1974 is amended to read as follows:

"(2) an equitable procedure for selecting recipients of homestead properties who have the capacity to make or cause to be made the repairs and improvements required under paragraph (3) of this subsection, which procedure shall—

"(A) give special priority to applicants who are 'lower income families' as defined in section 3(b)(2) of the United States Housing Act of 1937;

"(B) exclude applicants who are currently homeowners;

"(C) take into account the applicant's capacity to contribute a substantial amount of labor to the rehabilitation process, or to obtain assistance from private sources, community organizations, or other sources; and

"(D) include other reasonable selection criteria.".

(2) Section 810(b)(5) of such Act is amended by adding "and" after the semicolon.

(3) Section 810(b)(6) of such Act is amended by striking out "; and" and inserting in lieu thereof a period.

(4) Section 810(b)(7) of such Act is repealed.

(d) TRANSFER OF PROPERTY TO QUALIFIED COMMUNITY ORGANIZATIONS.—Section 810 of the Housing and Community Development Act of 1974 is amended—

(1) in subsection (a), by inserting "qualified community organization or" before "public agency designated";

(2) in subsection (b), by inserting "qualified community organization or" before "public agency designated";

(3) in subsection (b)(1), by inserting before the semicolon the following: "or in accordance with subsection (l) to qualified community organizations";

(4) in subsection (b)(3)(D), by inserting "qualified community organization or" before "public agency designated";

(5) in subsection (b)(5), by inserting "qualified community organization or" before "public agency designated";

(6) by redesignating subsection (k) as subsection (l); and

(7) by inserting after subsection (j) the following new subsection:

"(k) A unit of general local government or a State, or a public agency designated by a unit of general local government or a State, may transfer any real property that it receives under subsection (a) or purchases under subsection (i) to a qualified community organization. Qualified community organizations shall be limited to organizations that—

"(1) are incorporated and controlled by a board of directors whose members receive no compensation of any kind for the performance of their duties;

"(2) are organized exclusively for charitable, educational, scientific purposes, or the promotion of social welfare, and qualify as exempt organizations under paragraph (3) or (4) of section 501(c) of the Internal Revenue Code of 1986; and

"(3) agree to assist the applicable State or unit of general local government with the selection of homesteaders, the selection, inspection, and rehabilitation of the properties, and to perform such other functions as may be agreed between the State or unit of general local government and the qualified nonprofit organization, including the acceptance of title to property from the relevant Federal agency and the direct conveyance of the property to the homesteaders subject to the terms and conditions specified in this section.".

(e) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 810(l) of the Housing and Community Development Act of 1974 (as so redesignated by subsection (d) of this section) is amended to read as follows: "To reimburse the housing loan funds for properties transferred pursuant to this section, and to carry out subsections (c), (g), (h), and (i), there are authorized to be appropriated $12,000,000 for fiscal year 1988, and $13,000,000 for fiscal year 1989.".

SEC. 518. REHABILITATION LOANS.

(a) EXTENSION OF LOAN AUTHORITY.—Section 312(h) of the Housing Act of 1964 is amended by striking "March 15, 1988" and inserting "September 30, 1989".

(b) PROHIBITION OF CERTAIN FEES.—Section 312(g) of the Housing Act of 1964 is amended by adding at the end the following new sentence: "No risk premium or loan fee may be imposed by or for the Secretary or any other Federal agency on or with respect to a loan made under this section after the date of the enactment of the Housing and Community Development Act of 1987.".

(c) PROHIBITION OF LOAN SALES.—Section 312 of the Housing Act of 1964 is amended by adding at the end the following new subsection:

"(l) The Secretary may not sell any loan made under this section.".

SEC. 519. LOAN CANCELLATION.

The Secretary of Housing and Urban Development shall cancel the indebtedness represented by loan number 070024914 under section 312 of the Housing Act of 1964. The obligor on such loan is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection therewith. This section shall be effective only to such extent or in such amounts as may be approved in appropriation Acts.

SEC. 520. NEIGHBORHOOD REINVESTMENT CORPORATION.

(a) COMPOSITION OF BOARD.—Section 604 of the Neighborhood Reinvestment Corporation Act is amended—

(1) by inserting before the semicolon in subsection (a)(1) the following: "or a member of the Federal Home Loan Bank Board to be designated by the Chairman";

(2) by striking out subsection (a)(3) and inserting in lieu thereof the following: "(3) the Chairman of the Board of Governors of the Federal Reserve System, or a member of the Board of Governors of the Federal Reserve System to be designated by the Chairman;";

(3) by inserting before the semicolon in subsection (a)(4) the following: "or the appointive member of the Board of Directors of the Federal Deposit Insurance Corporation if so designated by the Chairman"; and

(4) by striking out "Administrator" in subsection (a)(6) and inserting in lieu thereof the word "Chairman"; and by inserting after "Administration" the following: "or a member of the Board of the National Credit Union Administration to be designated by the Chairman.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 608(a) of the Neighborhood Reinvestment Corporation Act is amended to read as follows:

"(a) There are authorized to be appropriated to the corporation to carry out this title $19,000,000 for fiscal year 1988, and $19,000,000 for fiscal year 1989.".

SEC. 521. NEIGHBORHOOD DEVELOPMENT DEMONSTRATION PROGRAM.

Section 123(g) of the Housing and Urban-Rural Recovery Act of 1983 is amended to read as follows:

"(g) There are authorized to be appropriated to carry out this section $2,000,000 for fiscal year 1988, and $2,000,000 for fiscal year 1989.".

SEC. 522. PARK CENTRAL NEW COMMUNITY PROJECT.

(a) HOUSING ASSISTANCE.—Section 213 of the Housing and Community Development Act of 1974 is amended by adding at the end the following new subsection:

"(e) From budget authority made available in appropriation Acts for fiscal year 1988, the Secretary shall enter into an annual contributions contract for a term of 180 months to obligate sufficient funds to provide assistance payments pursuant to section 8(b)(1) of the United States Housing Act of 1937 on behalf of 500 lower income families from budget authority made available for fiscal year 1988, so long as such families occupy properties in the Park Central New Community Project or in adjacent areas that are recognized by the unit of general local government in which such Project is located as being included within the Park Central New Town In Town Project. If a lower income family receiving assistance payments pursuant to this subsection ceases to qualify for assistance payments pursuant to the provisions of section 8 of such Act or of this subsection during the 180-month term of the annual contributions contract, assistance payments shall be made on behalf of another lower income family who occupies a unit identified in the previous sentence.".

(b) COMMUNITY DEVELOPMENT ASSISTANCE.—Section 107(a) of the Housing and Community Development Act of 1974 is amended by adding at the end the following new sentence: "Of the amount set aside for grants under subsection (b) for fiscal year 1988, $5,000,000 shall be made available by the Secretary for purposes of grants under subsection (b)(1) for the Park Central New Community Project.".

SEC. 523. COMMUNITY DEVELOPMENT PROJECTS LABOR STANDARDS.

Section 110 of the Housing and Community Development Act of 1974 is amended by striking "is designed for residential use of eight or more families" and insert "contains not less than 8 units".

SEC. 524. URBAN PLANNING.

Section 702 of the Housing Act of 1954 is amended—

(1) by striking subsections (c) and (h); and

(2) by striking subsection (g) and inserting the following:

"(g) Effective upon the date of the enactment of the Housing and Community Development Act of 1987, and in accordance with such accounting and other procedures as the Secretary may prescribe, each advance made by the Secretary under this section that has any principal amount outstanding shall be forgiven. The terms and conditions of any contract, or any amendment to a contract, for such advance with respect to any promise to repay the advance shall be canceled.".

SEC. 525. COMMUNITY DEVELOPMENT TECHNICAL AMENDMENTS.

Section 123(e)(3) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking "Act" and inserting "section".

Subtitle B—Flood and Crime Insurance Programs

SEC. 541. EXTENSION OF FLOOD INSURANCE PROGRAM.

(a) GENERAL AUTHORITY.—Section 1319 of the National Flood Insurance Act of 1968 is amended by striking "March 15, 1988" and inserting "September 30, 1989".

(b) EMERGENCY IMPLEMENTATION.—Section 1336(a) of the National Flood Insurance Act of 1968 is amended by striking "March 15, 1988" and inserting "September 30, 1989".

(c) ESTABLISHMENT OF FLOOD-RISK ZONES.—Section 1360(a)(2) of the National Flood Insurance Act of 1968 is amended by striking "March 15, 1988" and inserting "September 30, 1989".

(d) LIMITATION ON PREMIUMS.—The premium rates charged for flood insurance under any program established pursuant to the National Flood Insurance Act of 1968 may not be increased during the period beginning on the date of the enactment of this Act and ending on September 30, 1989, by more than a prorated annual rate of 10 percent.

SEC. 542. EXTENSION OF CRIME INSURANCE PROGRAM.

(a) GENERAL AUTHORITY.—Section 1201(b)(1) of the National Housing Act is amended by striking "March 15, 1988" in the matter preceding subparagraph (A) and inserting "September 30, 1989".

(b) CONTINUATION OF EXISTING CONTRACTS.—Section 1201(b)(1)(A) of the National Housing Act is amended by striking "September 30, 1986" and inserting "September 30, 1990".

(c) LIMITATION ON PREMIUMS.—The premium rates charged for crime insurance under any program established pursuant to part C of title XII of the National Housing Act may not be increased during the period beginning on the date of the enactment of this Act and ending on September 30, 1989, by more than a prorated annual rate of 5 percent.

SEC. 543. STUDIES UNDER NATIONAL FLOOD INSURANCE PROGRAM.

Section 1376(c) of the National Flood Insurance Act of 1968 is amended to read as follows:

"(c) There are authorized to be appropriated for studies under this title $37,000,000 for fiscal year 1988, and $37,000,000 for fiscal year 1989. Any amount appropriated under this subsection shall remain available until expended.".

SEC. 544. SCHEDULE FOR PAYMENT OF FLOOD INSURANCE FOR STRUCTURES ON LAND SUBJECT TO IMMINENT COLLAPSE OR SUBSIDENCE.

(a) IN GENERAL.—Section 1306 of the National Flood Insurance Act of 1968 is amended by adding at the end the following new subsection:

"(c)(1) If any structure covered by a contract for flood insurance under this title and located on land that is along the shore of a lake or other body of water is certified by an appropriate State or local land use authority to be subject to imminent collapse or subsidence as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels, the Director shall (following final determination by the Director that the claim is in compliance with regulations developed pursuant to paragraph (6)(A)) pay amounts under such flood insurance contract for proper demolition or relocation as follows:

"(A) For proper demolition—

"(i) Following final determination by the Director, 40 percent of the value of the structure; and

"(ii) Following demolition of the structure (including any septic containment system) prior to collapse, the remaining 60 percent of the value of the structure and 10 percent of the value of the structure, or the actual cost of demolition, whichever amount is less.

"(B) For proper relocation (including removal of any septic containment system) if the owner chooses to relocate the structure—

"(i) following final determination by the Director, prior to collapse, up to 40 percent of the value of the structure;

"(ii) the total payment under this subparagraph shall not exceed the actual cost of relocation.

"(2) If any structure subject to a final determination under paragraph (1) collapses or subsides before the owner demolishes or relocates the structure and the Director determines that the owner has failed to take reasonable and prudent action to demolish or relocate the structure, the Director shall not pay more than the amount provided in subparagraph (A)(i) with respect to the structure.

"(3) For purposes of paying flood insurance pursuant to this subsection, the value of a structure shall be whichever of the following is lowest:

"(A) The fair market value of a comparable structure that is not subject to imminent collapse or subsidence.

"(B) The price paid for the structure and any improvement to the structure, as adjusted for inflation in accordance with an index determined by the Director to be appropriate.

"(C) The value of the structure under the flood insurance contract issued pursuant to this title.

"(4)(A) The provisions of this subsection shall apply to contracts for flood insurance under this title that are in effect on, or entered into after, the date of the enactment of the Housing and Community Development Act of 1987.

"(B) The provisions of this subsection shall not apply to any structure not subject to a contract for flood insurance under this title on the date of a certification under paragraph (1).

"(C) The provisions of this subsection shall not apply to any structure unless the structure is covered by a contract for flood insurance under this title—

"(i) on or before June 1, 1988;

"(ii) for a period of 2 years prior to certification under paragraph (1); or

"(iii) for the term of ownership if less than 2 years.

"(D) The provisions of this subsection shall not apply to any structure located in the area west of the groin field on the barrier island from Moriches Inlet to Shinnecock Inlet on the southern shore of Long Island of Suffolk County, New York.

"(5) For any parcel of land on which a structure is subject to a final determination under paragraph (1), no subsequent flood insurance coverage under this title or assistance under the Disaster Relief Act of 1974 (except emergency assistance essential to save lives and protect property, public health and safety) shall be available for—

"(A) any structure consisting of one to four dwelling units which is constructed or relocated at a point seaward of the 30-year erosion setback; or

"(B) any other structure which is constructed or relocated at a point seaward of the 60-year erosion setback.

"(6)(A) The Director shall promulgate regulations and guidelines to implement the provisions of this subsection.

"(B) Prior to issuance of regulations regarding the State and local certifications pursuant to paragraph (1), all provisions of this subsection shall apply to any structure which is determined by the Director—

"(i) to otherwise meet the requirements of this subsection; and

"(ii) to have been condemned by a State or local authority and to be subject to imminent collapse or subsidence as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels.

"(7) No payments under this subsection may be made after September 30, 1989, except pursuant to a commitment made on or before such date.".

(b) Effective Date.—The amendment made by this section shall become effective on the date of the enactment of this Act.

SEC. 545. FLOOD AND CRIME INSURANCE TECHNICAL AMENDMENTS.

(a) Crime Insurance Program Authority.—Section 1201(b) of the National Housing Act is amended—

(1) by striking paragraphs (2) and (3);

(2) by striking "(b)(1)" and inserting "(b)"; and

(3) by redesignating subparagraphs (A) through (C) as paragraphs (1) through (3), respectively.

(b) Reinsurance Agreements.—Section 1222(c) of the National Housing Act is amended by striking "section 3679(a) of the Revised Statutes of the United States (31 U.S.C. 665(a))," and inserting "section 1341(a) of title 31, United States Code,".

(c) National Insurance Development Fund.—Section 1243(d) of the National Housing Act is amended by striking "by law (sections 102, 103, and 104 of the Government Corporation Control Act (31 U.S.C. 847–849))" and inserting "by sections 9103 and 9104 of title 31, United States Code,".

(d) National Flood Insurance Fund.—Section 1310(e) of the National Flood Insurance Act of 1968 is amended by inserting a comma after "Code".

(e) Flood Insurance in Colorado River Floodway.—The National Flood Insurance Act of 1968 is amended by inserting the following section heading for section 1322: "COLORADO RIVER FLOODWAY".

(f) FEMA Treasury Borrowings.—The third sentence of section 15(e) of the Federal Flood Insurance Act of 1956 is amended by inserting a comma after "Code".

Subtitle C—Miscellaneous Programs

SEC. 561. FAIR HOUSING INITIATIVES PROGRAM.

(a) In General.—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") may make grants to, or (to the extent of amounts provided in appropriation Acts) enter into contracts or cooperative agreements with, State or local governments or their agencies, public or private nonprofit organizations or institutions, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, to develop, implement, carry out, or coordinate—

(1) programs or activities designed to obtain enforcement of the rights granted by title VIII of the Act of April 11, 1968 (commonly referred to as the Civil Rights Act of 1968), or by State or local laws that provide rights and remedies for alleged discriminatory housing practices that are substantially equivalent to the rights and remedies provided in such title VIII, through such appropriate judicial or administrative proceedings (including informal methods of conference, conciliation, and persuasion) as are available therefor; and

(2) education and outreach programs designed to inform the public concerning rights and obligations under the laws referred to in paragraph (1).

(b) Program Administration.—

(1) Not less than 30 days before providing a grant or entering into any contract or cooperative agreement to carry out activities authorized by this section, the Secretary shall submit notification of such proposed grant, contract, or cooperative agreement (including a description of the geographical distribution of such contracts) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(2) The Secretary shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a quarterly report that summarizes the activities funded under this section and describes the geographical distribution of grants, contracts, or cooperative agreements funded under this section.

(c) Regulations.—

(1) The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section.

(2) The Secretary shall, for use during the demonstration authorized in this section, establish guidelines for testing activities funded under the private enforcement initiative of the fair housing initiatives program. The purpose of such guidelines shall be to ensure that investigations in support of fair housing enforcement efforts described in subsection (a)(1) shall develop credible and objective evidence of discriminatory housing practices. Such guidelines shall apply only to activities funded under this section, shall not be construed to limit or otherwise restrict the use of facts secured through testing not funded under this section in any legal proceeding under Federal fair housing laws, and shall not be used to restrict individuals or entities, including those participating in the fair housing initiatives program, from pursuing any right or remedy guaranteed by Federal law. Not later than 6 months after the end of the demonstration period authorized in this section, the Secretary shall submit to Congress the evaluation of the Secretary of the effectiveness of such guidelines in achieving the purposes of this section.

(3) Such regulations shall include provisions governing applications for assistance under this section, and shall require each such application to contain—

(A) a description of the assisted activities proposed to be undertaken by the applicant, together with the estimated costs and schedule for completion of such activities;

(B) a description of the experience of the applicant in formulating or carrying out programs to prevent or eliminate discriminatory housing practices;

(C) available information, including studies made by or available to the applicant, indicating the nature and extent of discriminatory housing practices occurring in the general location where the applicant proposes to conduct its assisted activities, and the relationship of such activities to such practices;

(D) an estimate of such other public or private resources as may be available to assist the proposed activities;

(E) a description of proposed procedures to be used by the applicant for monitoring conduct and evaluating results of the proposed activities; and

(F) any additional information required by the Secretary.

(4) Regulations issued under this subsection shall not become effective prior to the expiration of 90 days after the Secretary transmits such regulations, in the form such regulations are intended to be published, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(5) The Secretary shall not obligate or expend any amount under this section before the effective date of the regulations required under this subsection.

(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out the provisions of this section, including any program evaluations, $5,000,000 for fiscal year 1988, and $5,000,000 for fiscal year 1989, of which not more than $3,000,000 in each year shall be for the private enforcement initiative demonstration. Any amount appropriated under this section shall remain available until expended.

(e) Sunset.—The demonstration period authorized in this section shall end on September 30, 1989.

SEC. 562. COLLECTION OF CERTAIN DATA.

(a) In General.—To assess the extent of compliance with Federal fair housing requirements (including the requirements established under title VI of Public Law 88-352 and title VIII of Public Law 90-284), the Secretary of Housing and Urban Development and the Secretary of Agriculture shall each collect, not less than annually, data on the racial and ethnic characteristics of persons eligible for, assisted, or otherwise benefiting under each community development, housing assistance, and mortgage and loan insurance and guarantee program administered by such Secretary. Such data shall be collected on a building by building basis if the Secretary involved determines such collection to be appropriate.

(b) Reports to Congress.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall each include in the annual report of such Secretary to the Congress a summary and evaluation of the data collected by such Secretary under subsection (a) during the preceding year.

SEC. 563. REGULATORY AUTHORITY.

(a) Department of Housing and Urban Development.—Section 7(o) of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following new paragraph:

"(7) The Secretary shall include with each rule or regulation required to be transmitted to the Committees under this subsection a detailed summary of all changes required by the Office of Management and Budget that prohibit, modify, postpone, or disapprove such rule or regulation in whole or part.".

(b) Farmers Home Administration.—Section 534 of the Housing Act of 1949 is amended by adding at the end thereof the following new subsection:

"(d) The Secretary shall include with each rule or regulation required to be transmitted to the Committees under this section a detailed summary of all changes required by the Office of Management and Budget that prohibit, modify, postpone, or disapprove such rule or regulation in whole or part.".

SEC. 564. RESEARCH AND DEVELOPMENT.

Section 501 of the Housing and Urban Development Act of 1970 is amended by striking the second and third sentences and inserting the following: "There are authorized to be appropriated to carry out this title $17,000,000 for fiscal year 1988, and $18,000,000 for fiscal year 1989.".

SEC. 565. HOME MORTGAGE DISCLOSURE.

(a) Applicability to Mortgage Banking Affiliates.—

(1) Section 303(2) of the Home Mortgage Disclosure Act of 1975 is amended—

(A) by striking "or" the first place it appears; and

(B) by inserting before the semicolon at the end the following: ", mortgage banking subsidiary of a bank holding company or savings and loan holding company, or savings and loan service corporation that originates or purchases mortgage loans".

(2) Section 304 of the Home Mortgage Disclosure Act of 1975 is amended by adding at the end the following new subsection:

"(g) The requirements of subsections (a) and (b) shall not apply with respect to mortgage loans that are—

"(1) made by any mortgage banking subsidiary of a bank holding company or savings and loan holding company or by any savings and loan service corporation that originates or purchases mortgage loans; and

"(2) approved by the Secretary for insurance under title I or II of the National Housing Act.".

(3) The first sentence of section 311 of the Home Mortgage Disclosure Act of 1975 is amended by inserting after "306(b)" the following: "(and for each mortgagee making mortgage loans exempted under section 304(g))".

(4) The amendments made by this subsection shall be applicable to calendar years beginning after December 31, 1986.

(b) Permanent Extension of General Authority.—The Home Mortgage Disclosure Act of 1975 is amended by striking section 312.

SEC. 566. LEAD-BASED PAINT POISONING PREVENTION.

(a) Detection and Abatement Procedures.—Section 302 of the Lead-Based Paint Poisoning Prevention Act is amended—

(1) by inserting after the section designation the following: "(a) General Requirements.—";

(2) in the second sentence, by striking "housing constructed prior to 1950" and inserting the following: "housing constructed or substantially rehabilitated prior to 1978";

(3) in clause (1) of the second sentence, by striking "paint which may contain lead and to which children may be exposed" and inserting the following: "accessible intact, intact, and nonintact interior and exterior painted surfaces that may contain lead in any such housing in which any child who is less than 7 years of age resides or is expected to reside";

(4) in clause (2) of the second sentence, by inserting after "notification" the following: "(using a brochure developed after consultation with the National Institute of Building Sciences)";

(5) by striking the third sentence; and

(6) by adding at the end the following new subsections:

"(b) Measurement Criteria.—The procedures established by the Secretary under this section for the detection and abatement of lead-based paint poisoning hazards in any housing, including housing assisted under section 8 of the United States Housing Act of 1937—

"(1) shall be based upon criteria that measure the condition of the housing; and

"(2) shall not be based upon criteria that measure the health of the residents of the housing.

"(c) Inspection Requirements.—The Secretary shall require the inspection of all intact and nonintact interior and exterior painted surfaces of housing subject to this section for lead-based paint using an approved x-ray fluorescence analyzer or comparable approved sampling or testing technique. A qualified inspector shall certify in writing the precise results of the inspection. If the results equal or exceed a level of 1.0 milligrams per centimeter squared, the results shall be provided to any potential purchaser or tenant of the housing. The Secretary shall periodically review and reduce the level below 1.0 milligram per centimeter squared to the extent that reliable technology makes feasible the detection of a lower level and medical evidence supports the imposition of a lower level. The requirements of this subsection shall apply as provided in subsection (d).

"(d) Abatement Required.—

"(1) Public housing.—In the case of public housing assisted under section 9 of the United States Housing Act of 1937, the Secretary shall require the inspection described in subsection (c) for—

"(A) each vacant dwelling prior to rerenting;

"(B) a random sample of all occupied dwellings; and

"(C) each dwelling in any housing in which there is a dwelling determined under subparagraph (A) or (B) to have lead-based paint hazards.

The Secretary shall require the inspection of all housing subject to this paragraph prior to the expiration of 5 years from the date of the publication of final regulations pursuant to this subsection. The Secretary shall prioritize, within such 5-year period, inspections on the basis of vacancy, age of housing, or projected modernization or rehabilitation. The Secretary shall require abatement to eliminate the lead-based paint poisoning hazards in housing in which the test results equal or exceed the standard established by or under subsection (c). Final inspection and certification after abatement shall be made by a qualified inspector.

"(2) HUD-owned properties.—

"(A) Abatement demonstration program.—In carrying out the requirements of this subsection with respect to single-family and multifamily properties owned by the Department of Housing and Urban Development, the Secretary shall utilize a sufficient variety of abatement methods in a sufficient number of areas and circumstances to demonstrate their relative cost-effectiveness and their applicability to various types of housing.

"(B) Report.—Not later than 18 months after the effective date of the regulations issued to carry out this subsection, the Secretary shall transmit to the Congress the findings and recommendations of the Secretary as a result of the demonstration program, including any recommendations of the Secretary for legislation to revise the requirements of this subsection. In preparing such report, the Secretary shall examine—

"(i) the most reliable technology available for detecting lead-based paint;

"(ii) the most efficient and cost-effective methods for abatement;

"(iii) safety considerations in testing;

"(iv) the overall accuracy and reliability of laboratory testing of physical samples, x-ray fluorescence machines, and other available testing procedures;

"(v) availability of qualified samplers and testers; and

"(vi) an estimate of the amount, characteristics, and regional distribution of housing in the United States that contains lead-based paint hazards at differing levels of contamination.

"(3) Report required.—Not later than 9 months after completion of the demonstration required by paragraph (2), the Secretary shall, based on the demonstration, prepare and transmit to the Congress, a comprehensive and workable plan, including any recommendations for changes in legislation, for the prompt and cost effective inspection and abatement of privately owned single family and multifamily housing, including housing assisted under section 8 of the United States Housing Act of 1937. After the expiration of the 9-month period referred to in the preceding sentence, the Secretary may not obligate or expend any funds or otherwise carry out activities related to any other policy development and research project until the report is transmitted.

"(e) Exceptions.—The provisions of this section shall not apply to—

"(1) housing for the elderly or handicapped, except for any dwelling in such housing in which any child who is less than 7 years of age resides or is expected to reside;

"(2) any project for which an application for insurance is submitted under section 231, 232, 241, or 242 of the National Housing Act; or

"(3) any 0-bedroom dwelling.

"(f) Funding.—The Secretary shall carry out the provisions of this section utilizing available Federal funding sources. The Secretary shall use funds available for comprehensive improvement assistance under section 14 of the United States Housing Act of 1937 to carry out this section in public housing.".

(b) Regulations.—

(1) Proposed regulations.—Not later than the expiration of the 60-day period following the date of the enactment of this Act, the Secretary of Housing and Urban Development shall publish proposed regulations to carry out the amendments made by this section.

(2) Final regulations.—The Secretary shall publish final regulations to carry out the amendments made by this section, which shall become effective not later than the expiration of the 120-day period following the date of the enactment of this Act.

(3) Required consultations.—Before issuing proposed regulations under this subsection, the Secretary shall consult with—

(A) the National Institute of Building Sciences and the National Bureau of Standards with respect to the most cost-effective methods of detecting and abating lead-based paint poisoning hazards; and

(B) public housing agencies to develop a cost-efficient plan for detecting and abating lead-based paint poisoning hazards in dwelling assisted under section 8 of the United States Housing Act of 1937 and dwellings in public housing assisted under such Act.

SEC. 567. MEDIAN AREA INCOME.

For purposes of calculating the median income for any area that is not within a metropolitan statistical area (as established by the Office of Management and Budget) for programs under title I of the Housing and Community Development Act of 1974, the United States Housing Act of 1937, the National Housing Act, or title V of the Housing Act of 1949, the Secretary of Housing and Urban Development or the Secretary of Agriculture (as appropriate) shall use whichever of the following is higher:

(1) the median income of the county in which the area is located; or

(2) the median income of the entire nonmetropolitan area of the State.

SEC. 568. MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS.

Section 604 of the National Manufactured Housing Construction and Safety Standards Act of 1974 is amended by adding at the end the following new subsection:

"(i)(1) The Federal manufactured home construction and safety standards established by the Secretary under this section shall include preemptive energy conservation standards in accordance with this subsection.

"(2) The energy conservation standards established under this subsection shall be cost-effective energy conservation performance standards designed to ensure the lowest total of construction and operating costs.

"(3) The energy conservation standards established under this subsection shall take into consideration the design and factory construction techniques of manufactured homes and shall provide for alternative practices that result in net estimated energy consumption equal to or less than the specified standards.".

SEC. 569. NULLIFICATION OF RIGHT OF REDEMPTION OF SINGLE-FAMILY MORTGAGORS.

Section 204 of the National Housing Act is amended by adding at the end the following new subsection:

"(l)(1) Whenever the Secretary or a contract mortgagee (pursuant to its contract with the Secretary) forecloses on a Secretary-held single family mortgage in any Federal or State court or pursuant to a power of sale in a mortgage, the purchaser at the foreclosure sale shall be entitled to receive a conveyance of title to, and possession of, the property, subject to the interests senior to the interests of the Secretary or the contract mortgagee, as the case may be. Notwithstanding any State law to the contrary, there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale in connection with a Secretary-held single family mortgage. The appropriate State official or the trustee, as the case may be, shall execute and deliver a deed or other appropriate instrument conveying title to the purchaser at the foreclosure sale, consistent with applicable procedures in the jurisdiction and without regard to any such right of redemption.

"(2) The following actions shall be taken in order to verify title in the purchaser at the foreclosure sale:

"(A) In the case of a judicial foreclosure in any Federal or State court, there shall be included in the petition and in the judgment of foreclosure a statement that the foreclosure is in accordance with this subsection and that there is no right of redemption in the mortgagor or any other person.

"(B) In the case of a foreclosure pursuant to a power of sale provision in the mortgage, the statement required in subparagraph (A) shall be included in the advertisement of the sale and either in the recitals of the deed or other appropriate instrument conveying title to the purchaser at the foreclosure sale or in an affidavit or addendum to the deed.

"(3) For purposes of this subsection:

"(A) The term 'contract mortgagee' means a person or entity under a contract with the Secretary that provides for the assignment of a single-family mortgage from the Secretary to the person or entity for the purpose of pursuing foreclosure.

"(B) the term 'mortgage' means a deed of trust, mortgage, deed to secure debt, security agreement, or any other form of instrument under which any interest in property, real, personal, or mixed, or any interest in property, including leaseholds, life estates, reversionary interests, and any other estates under applicable State law, is conveyed in trust, mortgaged, encumbered, pledged, or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of an obligation.

"(C) The term 'Secretary-held single family mortgage' means a single-family mortgage held by the Secretary or by a contract mortgagee at the time of initiation of foreclosure that—

"(i) was formerly insured by the Secretary under any section of this title; or

"(ii) was taken by the Secretary as a purchase money mortgage in connection with the sale or other transfer of Secretary-owned property under any section of this title.

"(D) The term 'single-family mortgage' means a mortgage that covers property on which is located a 1-to-4 family residence.".

SEC. 570. MISCELLANEOUS PROGRAMS TECHNICAL AMENDMENTS.

(a) HUD Administrative Provisions.—

(1) Section 502(a) of the Housing Act of 1948 is amended by striking the fourth sentence.

(2) Section 502(b) of the Housing Act of 1948 is amended—

(A) by striking "United States Housing Authority" each place it appears and inserting "Secretary of Housing and Urban Development"; and

(B) by striking "the Authority" each place it appears and inserting "the Secretary of Housing and Urban Development".

(3) Section 502(c)(2) of the Housing Act of 1948 is amended by adding "and" at the end.

(b) Annual Report of Secretary.—Section 802 of the Housing Act of 1954 is amended by inserting the following section heading:

"ANNUAL REPORT OF SECRETARY".

(c) Energy Conservation in New Buildings.—Section 303(11) of the Energy Conservation Standards for New Buildings Act of 1976 is amended by striking "Secretary of Housing and Urban Development" and inserting "Secretary of Energy".

(d) Weatherization Assistance.—Section 412(9)(G) of the Energy Conservation in Existing Buildings Act of 1976 is amended by striking the first comma after "determine".

(e) Solar Energy and Energy Conservation Bank.—Sections 506(f)(1), 509(b)(2)(E), 509(c), 515(b)(1)(A)(iii), 515(b)(1)(B), 515(b)(1)(C)(ii), 515(b)(1)(D), and 515(b)(2) of the Solar Energy and Energy Conservation Bank Act are amended—

(1) by striking "section 38" each place it appears and inserting "section 23";

(2) by striking "section 44C" each place it appears and inserting "section 38"; and

(3) by striking "Internal Revenue Code of 1954" each place it appears and inserting "Internal Revenue Code of 1986".

(f) National Institute of Building Sciences.—

(1) Section 809(g)(4) of the Housing and Community Development Act of 1974 is amended by striking "and its" and inserting "of its".

(2) Section 809(h) of the Housing and Community Development Act of 1974 is amended by striking "preceeding" in the last sentence and inserting "preceding".

(g) Real Estate Settlement Procedures.—Section 8(c)(5) of the Real Estate Settlement Procedures Act of 1974 is amended by striking "clause 4(B)" and inserting "clause (4)(B)".

(h) Home Mortgage Disclosure.—Section 304(a)(1) of the Home Mortgage Disclosure Act of 1975 is amended by striking "at at" and inserting "at".

(i) Stewart B. McKinney Homeless Assistance Act.—

(1) Section 422(1) of the Stewart B. McKinney Homeless Assistance Act is amended by inserting "governmental entity," after "urban county,".

(2) Section 431(1) of such Act is amended by inserting "governmental entity," after "urban county,".

SEC. 571. USE OF AMERICAN MATERIALS AND PRODUCTS.

In the administration of housing assistance programs, the Secretary of Housing and Urban Development shall encourage the use of materials and products mined and produced in the United States.

SEC. 572. STUDY OF VOLUNTARY STANDARDS FOR MODULAR HOMES.

(a) In General.—In order to facilitate the construction and delivery of housing, the National Institute of Building Sciences shall prepare and submit to the Congress not later than 6 months after the date of the enactment of this Act a report describing feasible alternative systems for implementing one or more voluntary preemptive national codes for modular housing, including the method for inspecting the structures to ensure compliance with the selected code or set of codes. Such codes may be national model codes and shall provide for periodic upgrading through recognized model code development procedures and the development of modular housing standards for construction, design, and performance that ensure quality, durability, and safety and are in accordance with life-cycle cost-effective energy conservation standards established by the Secretary of Housing and Urban Development and designed to ensure the lowest total construction and operating costs over the estimated life of such housing.

(b) Definition.—For purposes of this section, the term "modular housing" means factory-built single-family and multifamily housing (including closed wall panelized housing) not subject to the requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974.

(c) Grant.—From amounts appropriated pursuant to section 501 of the Housing and Urban Development Act of 1970, the Secretary of Housing and Urban Development shall make a grant to the National Institute of Building Sciences in an amount not to exceed $50,000 to cover the cost of the report under this section.

TITLE VI—NEHEMIAH HOUSING OPPORTUNITY GRANTS

SEC. 601. STATEMENT OF PURPOSE.

It is the purpose of this title—

(1) to encourage homeownership by families in the United States who are not otherwise able to afford homeownership;

(2) to undertake a concentrated effort to rebuild the depressed areas of the cities of the United States and to create sound and attractive neighborhoods; and

(3) to increase the employment of neighborhood residents.

SEC. 602. DEFINITIONS.

For purposes of this title:

(1) The term "Fund" means the Nehemiah Housing Opportunity Fund established in section 609(a).

(2) The term "home" means any 1- to 4-family dwelling. Such term includes any dwelling unit in a condominium project or cooperative project consisting of not more than 4 dwelling units, any town house, and any manufactured home.

(3) The term "lower income families" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(4) The term "metropolitan statistical area" means a metropolitan statistical area as established by the Office of Management and Budget.

(5) The term "nonprofit organization" means a private nonprofit corporation, or other private nonprofit legal entity, that is approved by the Secretary as to financial responsibility.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(8) The term "substantial rehabilitation" means—

(A) rehabilitation involving costs in excess of 60 percent of the maximum sale price of a home assisted under this title in the market area in which it is located; or

(B) the rehabilitation of a vacant, uninhabitable structure.

(9) The term "unit of general local government" means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

SEC. 603. ASSISTANCE TO NONPROFIT ORGANIZATIONS.

(a) In General.—The Secretary may provide assistance to nonprofit organizations to carry out Nehemiah housing opportunity programs in accordance with the provisions of this title. Such assistance shall be made in the form of grants.

(b) Applications.—Applications for assistance under this title shall be made in such form, and in accordance with such procedures, as the Secretary may prescribe.

SEC. 604. USE OF ASSISTANCE.

(a) In General.—Any nonprofit organization receiving assistance under this title shall use such assistance to provide loans to families purchasing homes constructed or substantially rehabilitated in accordance with a Nehemiah housing opportunity program approved under this title.

(b) Specific Requirements.—Each loan made to a family under this section shall—

(1) be secured by a second mortgage held by the Secretary on the property involved;

(2) be in an amount not exceeding $15,000;

(3) bear no interest; and

(4) be repayable to the Secretary upon the sale, lease, or other transfer of such property.

SEC. 605. PROGRAM REQUIREMENTS.

(a) In General.—Assistance provided under this title may be used only in connection with a Nehemiah housing opportunity program of construction or substantial rehabilitation of homes.

(b) Family Need.—Each family purchasing a home under this title shall—

(1) have a family income on the date of such purchase that is not more than whichever of the following is higher:

(A) the median income for a family of 4 persons in the metropolitan statistical area involved, except that if and to the extent that the unit of general local government demonstrates to the Secretary that such action is necessary to achieve or maintain neighborhood stability, not to exceed 15 percent of the families in a project at any time during development or occupancy may have incomes up to 115 percent of such median income; or

(B) the national median income for a family of 4 persons; and

(2) not have owned a home during the 3-year period preceding such purchase.

(c) Downpayment.—

(1) Each family purchasing a home under this title shall make a downpayment of not less than 10 percent of the sale price of such home unless—

(A) the nonprofit organization determines a higher downpayment to be appropriate; or

(B) the first mortgage on the home is held by a State or unit of general local government under a home loan program of the State or unit of general local government, and the program provides for a lower downpayment.

(2) Any downpayment made under this subsection shall accrue interest from the date on which such downpayment is made through the date of settlement, at a rate not less than the passbook rate. Such interest shall be paid by the nonprofit organization involved to the family purchasing the home for which such downpayment was made.

(d) Leasing Prohibition.—No family purchasing a home under this title may lease such home.

SEC. 606. TERMS AND CONDITIONS OF ASSISTANCE.

(a) Local Consultation.—No proposed Nehemiah housing opportunity program may be approved by the Secretary under this title unless the nonprofit organization involved demonstrates to the satisfaction of the Secretary that—

(1) it has consulted with and received the support of residents of the neighborhood in which such program is to be located; and

(2) it has the approval of each unit of general local government in which such program is to be located.

(b) Program Schedule.—Each nonprofit organization applying for assistance under this title shall submit to the Secretary an estimated schedule for completion of its proposed Nehemiah housing opportunity program, which schedule shall have been agreed to by each unit of general local government in which such program is to be located.

(c) Minimum Participation.—No nonprofit organization receiving assistance under this title may commence any construction or substantial rehabilitation (except with respect to homes to be constructed or substantially rehabilitated for the purpose of display) until not less than 25 percent of the homes to be constructed or substantially rehabilitated are contracted for sale to purchasers who intend to live in such homes and the required downpayments are made.

(d) Financial Feasibility.—The Secretary may not provide any assistance under this title to any nonprofit organization unless such nonprofit organization demonstrates the financial feasibility of its proposed Nehemiah housing opportunity program, including the availability of non-Federal public and private funds.

(e) Home Quality and Location.—A Nehemiah housing opportunity program may be approved under this title only if it provides that—

(1) the number of homes to be constructed or substantially rehabilitated under such program will not be less than whichever of the following is less:

(A) the greater of (i) 50 homes; or (ii) 0.25 percent of the number of existing dwelling units in the unit of general local government that provides the most assistance to such program; or

(B) 250 homes;

except that the Secretary may waive the requirements of this paragraph for any unit of general local government if the Governor of the State or the unit of general local government requests such waiver and certifies with supporting documentation that such requirements will prevent the State or the unit of general local government from being able to use such program effectively;

(2) each home constructed or substantially rehabilitated under such program will comply with—

(A)(i) applicable local building code standards;

(ii) in any case in which there is not an applicable local building code, a nationally recognized model building code mutually agreed upon by the sponsoring nonprofit organization and the Secretary; or

(iii) in the case of a manufactured home, the standards prescribed pursuant to title VI of the Housing and Community Development Act of 1974 and the installation, structural, and site requirements that would apply under title II of the National Housing Act; and

(B) the energy performance requirements established under section 526 of the National Housing Act or, in the case of manufactured housing, the energy conservation requirements prescribed in accordance with section 203(b) of the National Housing Act;

(3) all homes constructed or substantially rehabilitated under such program will be located in census tracts, or identifiable neighborhoods within census tracts, in which the median family income is not more than 80 percent of the median family income of the area in which such program is to be located, as such median family income and area are determined for purposes of assistance under section 8 of the United States Housing Act of 1937;

(4) all homes constructed or substantially rehabilitated under such program will be concentrated in a single neighborhood and located on contiguous parcels of land, except that homes may be constructed or substantially rehabilitated in up to 4 identifiable neighborhoods that each consist of contiguous parcels of land if—

(A) the unit of general local government in which the project is located certifies that land cannot be made available in a single neighborhood for a program of the size required by paragraph (1);

(B) the nonprofit organization submits evidence satisfactory to the Secretary that construction or substantial rehabilitation in more than 1 identifiable neighborhood will result in cost reductions through economies of scale comparable to the cost reductions achieved by other programs eligible for assistance under this title; and

(C) the nonprofit organization submits evidence satisfactory to the Secretary that the program, by itself or together with improvement efforts that are or will be undertaken in the identifiable neighborhoods by the unit of general local government or private entities, will result in a substantial improvement in the overall quality and long-term viability of the neighborhoods; and

(5) sales contracts entered into under such program will contain provisions requiring repayment of any loan made under this title upon the sale or other transfer of the home involved, unless the Secretary approves a transfer of such home without repayment (in which case the second mortgage held by the Secretary on such home shall remain in force until such loan is fully repaid).

SEC. 607. PROGRAM SELECTION CRITERIA.

(a) In General.—In selecting Nehemiah housing opportunity programs for assistance under this title from among eligible programs, the Secretary shall make such selection on the basis of the extent to which—

(1) non-Federal public or private entities will contribute land necessary to make each program feasible;

(2) non-Federal public and private financial or other contributions (including tax abatements, waivers of fees related to development, waivers of construction, development, or zoning requirements, and direct financial contributions) will reduce the cost of homes constructed or substantially rehabilitated under each program;

(3) each program will produce the greatest number of units for the least amount of assistance provided under this title, taking into consideration the cost differences among different market areas;

(4) each program is located in a neighborhood of severe physical and economic blight (and, in determining the degree of physical blight, the Secretary shall consider the condition of the housing, other buildings, and infrastructure, in the neighborhood of the proposed program);

(5) each program uses construction methods that will reduce the cost per square foot below the average construction cost in the market area involved; and

(6) each program provides for the involvement of local residents in the planning, and construction or substantial rehabilitation, of homes.

(b) Exception.—To the extent that non-Federal public entities are prohibited by the law of any State from making any form of contribution described in paragraph (1) or (2) of subsection (a), the Secretary shall not consider such form of contribution in evaluating such program.

SEC. 608. DISTRIBUTION OF ASSISTANCE TO NONPROFIT ORGANIZATIONS.

(a) Reservation of Amounts.—Following the selection of any Nehemiah housing opportunity program for assistance under this title, the Secretary shall reserve sufficient amounts in the Nehemiah Housing Opportunity Fund for such assistance.

(b) Distribution of Assistance.—Following the sale of any home constructed or substantially rehabilitated under a Nehemiah housing opportunity program selected for assistance under this title, the Secretary shall provide to the sponsoring nonprofit organization an amount equal to the amount of the loan made to the family purchasing such home. Such amount shall be provided not more than 30 days after the sale of such home.

(c) Maximum Assistance.—The assistance provided to any nonprofit organization under this title may not exceed $15,000 per home.

SEC. 609. NEHEMIAH HOUSING OPPORTUNITY FUND.

(a) Establishment.—There is established in the Treasury of the United States a revolving fund, to be known as the Nehemiah Housing Opportunity Fund. The Fund shall be available to the Secretary, to the extent approved in appropriation Acts, for purposes of providing assistance under section 603.

(b) Assets.—The Fund shall consist of—

(1) any amount appropriated under section 612;

(2) any amount received by the Secretary under section 604(b)(4); and

(3) any amount received by the Secretary under subsection (c).

(c) Administration.—Any amount in the Fund determined by the Secretary to be in excess of the amount currently required to carry out the provisions of this title shall be invested by the Secretary in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

SEC. 610. REPORT.

Not later than March 1, 1990, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the activities carried out under this title. Such report shall include—

(1) an analysis of the characteristics of the families assisted under this title, including family size, number of children, family income, sources of family income, race, age, and sex;

(2) an analysis of the market value of homes purchased under this title;

(3) an analysis of the non-Federal public and private financial or other contributions made to reduce the cost of homes constructed or substantially rehabilitated under each program;

(4) an analysis of the sales prices of homes under this title;

(5) an analysis of the amounts of the grants made to programs under this title; and

(6) any recommendations of the Secretary for modifications in the program established by this title in order to ensure the effective implementation of such program.

SEC. 611. REGULATIONS.

Not later than July 1, 1988, the Secretary shall issue final regulations to carry out the provisions of this title. Any such regulations shall be issued in accordance with section 553 of title 5, United States Code, notwithstanding the provisions of subsection (a)(2) of such section.

SEC. 612. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $25,000,000 for fiscal year 1988 and $100,000,000 for fiscal year 1989. Any amount appropriated under this section shall be deposited in the Nehemiah Housing Opportunity Fund, and shall remain available until expended.

SEC. 613. SUNSET.

No assistance may be provided under this title after September 30, 1989, except pursuant to a commitment made on or before such date.

TITLE VII—ENTERPRISE ZONE DEVELOPMENT

SEC. 701. DESIGNATION OF ENTERPRISE ZONES.

(a) Designation of Zones.—

(1) Definition.—For purposes of this section, the term "enterprise zone" means any area that—

(A) is nominated by one or more local governments and the State or States in which it is located for designation as an enterprise zone (in this section referred to as a "nominated area"); and

(B) the Secretary of Housing and Urban Development designates as an enterprise zone, after consultation with—

(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury, the Director of the Office of Management and Budget, and the Administrator of the Small Business Administration; and

(ii) in the case of an area on an Indian reservation, the Secretary of the Interior.

(2) Number of designations.—

(A) In general.—The Secretary of Housing and Urban Development may designate not more than 100 nominated areas as enterprise zones.

(B) Minimum designation in rural areas.—Of the areas designated under clause (i), not less than ⅓ shall be areas that—

(i) are within a local government jurisdiction or jurisdictions with a population of less than 50,000 (as determined under the most recent census data available);

(ii) are outside of a metropolitan statistical area (as designated by the Director of the Office of Management and Budget); or

(iii) that are determined by the Secretary, after consultation with the Secretary of Commerce, to be rural areas.

(3) Areas designated based solely on degree of poverty.—

(A) In general.—Except as provided in subparagraph (B), the Secretary shall designate the nominated areas with the highest average ranking with respect to the criteria set forth in subparagraphs (C), (D), and (E) of subsection (c)(3). For purposes of the preceding sentence, an area shall be ranked within each such criterion on the basis of the amount by which the area exceeds such criterion, with the area that exceeds such criterion by the greatest amount given the highest ranking.

(B) Exception where inadequate course of action, etc.—An area shall not be designated under subparagraph (A) if the Secretary determines that the course of action with respect to such area is inadequate.

(C) Separate application to rural and other areas.—Subparagraph (A) shall be applied separately with respect to areas described in paragraph (2)(B) and to other areas.

(4) Limitation on designations.—

(A) Publication of regulations.—Before designating any area as an enterprise zone, the Secretary shall prescribe by regulation not later than 4 months following the date of the enactment of this Act, after consultation with the officials described in paragraph (1)(B)—

(i) the procedures for nominating an area under paragraph (1)(A);

(ii) the parameters relating to the size and population characteristics of an enterprise zone; and

(iii) the manner in which nominated areas will be evaluated based on the criteria specified in subsection (d).

(B) Time limitations.—The Secretary shall designate nominated areas as enterprise zones only during the 24-month period beginning on the 1st day of the 1st month following the month in which the effective date of the regulations described in subparagraph (A) occurs.

(C) Procedural rules.—The Secretary shall not make any designation under paragraph (1) unless—

(i) the local governments and the State in which the nominated area is located have the authority—

(I) to nominate such area for designation as an enterprise zone;

(II) to make the State and local commitments under subsection (d); and

(III) to provide assurances satisfactory to the Secretary that such commitments will be fulfilled;

(ii) a nomination therefor is submitted in such a manner and in such form, and contains such information, as the Secretary shall by regulation prescribe;

(iii) the Secretary determines that any information furnished is reasonably accurate; and

(iv) the State and local governments certify that no portion of the area nominated is already included in an enterprise zone or in an area otherwise nominated to be an enterprise zone.

(5) Nomination process for Indian reservations.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

(b) Period for Which Designation Is in Effect.—

(1) In general.—Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

(A) December 31 of the 24th calendar year following the calendar year in which such date occurs;

(B) the termination date designated by the State and local governments as provided for in their nomination pursuant to subsection (a)(4)(C)(ii); or

(C) the date the Secretary revokes such designation under paragraph (2).

(2) Revocation of designation.—The Secretary, after consultation with the officials described in subsection (a)(1)(B) and a hearing on the record involving officials of the State or local government involved, may revoke the designation of an area if the Secretary determines that the local government or the State in which it is located is not complying substantially with the State and local commitments pursuant to subsection (d).

(c) Area and Eligibility Requirements.—

(1) In general.—The Secretary may make a designation of any nominated area under subsection (a)(1) only if it meets the requirements of paragraphs (2) and (3).

(2) Area requirements.—A nominated area meets the requirements of this paragraph if—

(A) the area is within the jurisdiction of the local government;

(B) the boundary of the area is continuous; and

(C) the area—

(i) has a population, as determined by the most recent census data available, of not less than—

(I) 4,000 if any portion of such area (other than a rural area described in subsection (a)(2)(B)(i)) is located within a metropolitan statistical area (as designated by the Director of the Office of Management and Budget) with a population of 50,000 or more; or

(II) 1,000 in any other case; or

(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

(3) Eligibility requirements.—For purposes of paragraph (1), a nominated area meets the requirements of this paragraph if the State and local governments in which it is located certify and the Secretary, after such review of supporting data as he deems appropriate, accepts such certification, that—

(A) the area is one of pervasive poverty, unemployment, and general distress;

(B) the area is located wholly within the jurisdiction of a local government that is eligible for Federal assistance under section 119 of the Housing and Community Development Act of 1974, as in effect on the date of the enactment of this Act;

(C) the unemployment rate, as determined by the appropriate available data, was not less than 1.5 times the national unemployment rate for that period;

(D) the poverty rate (as determined by the most recent census data available) for each populous census tract (or where not tracted, the equivalent county division as defined by the Bureau of the Census for the purpose of defining poverty areas) within the area was not less than 20 percent for the period to which such data relate; and

(E) the area meets at least one of the following criteria:

(i) Not less than 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974).

(ii) The population of the area decreased by 20 percent or more between 1970 and 1980 (as determined from the most recent census available).

(4) Eligibility requirements for rural areas.—For purposes of paragraph (1), a nominated area that is a rural area described in subsection (a)(2)(B) meets the requirements of paragraph (3) if the State and local governments in which it is located certify and the Secretary, after such review of supporting data as he deems appropriate, accepts such certification, that the area meets—

(A) the criteria set forth in subparagraphs (A) and (B) of paragraph (3); and

(B) not less than one of the criteria set forth in the other subparagraphs of paragraph (3).

(d) Required State and Local Commitments.—

(1) In general.—No nominated area shall be designated as an enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is an enterprise zone, such governments will follow a specified course of action designated to reduce the various burdens borne by employers or employees in such area. A course of action shall not be treated as meeting the requirements of this paragraph unless the course of action include provisions described in not less than 4 of the subparagraphs of paragraph (2).

(2) Course of action.—The course of action under paragraph (1) may be implemented by both such governments and private nongovernmental entities, may be funded from proceeds of any program administered by the Secretary of Housing and Urban Development or of any program administered by the Secretary of Agriculture under title V of the Housing Act of 1949, and may include, but is not limited to—

(A) a reduction of tax rates or fees applying within the enterprise zone;

(B) an increase in the level of public services, or in the efficiency of the delivery of public services, within the enterprise zone;

(C) actions to reduce, remove, simplify, or streamline paperwork requirements within the enterprise zone;

(D) involvement in the program by public authorities or private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a written commitment to provide jobs and job training for, and technical, financial, or other assistance to, employers, employees, and residents of the nominated area;

(E) the giving of special preference to contractors owned and operated by members of any minority; and

(F) the gift (or sale at below fair market value) of surplus land in the enterprise zone to neighborhood organizations agreeing to operate a business on the land.

(3) Recognition of past efforts.—In evaluating courses of action agreed to by any State or local government, the Secretary shall take into account the past efforts of such State or local government in reducing the various burdens borne by employers and employees in the area involved.

(4) Prohibition of assistance for business relocations.—

(A) In general.—The course of action implemented under paragraph (1) may not include any action to assist—

(i) any establishment relocating from one area to another area; or

(ii) any subcontractor whose purpose is to divest, or whose economic success is dependent upon divesting, any other contractor or subcontractor of any contract customarily performed by such other contractor or subcontractor.

(B) Exception.—The limitations established in subparagraph (A) shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary if the Secretary—

(i) finds that the establishment of the new branch, affiliate, or subsidiary will not result in an increase in unemployment in the area of original location or in any other area where the existing business entity conducts business operations; and

(ii) has no reason to believe that the new branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where the existing business entity conducts business operations.

(e) Definitions.—For purposes of this section:

(1) Government.—If more than one government seeks to nominate an area as an enterprise zone, any reference to, or requirement of, this section shall apply to all such governments.

(2) Local government.—The term "local government" means—

(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State;

(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary; and

(C) the District of Columbia.

(3) Secretary.—The term "Secretary" means the Secretary of Housing and Urban Development.

(4) State.—The term "State" includes Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other possession of the United States.

SEC. 702. EVALUATION AND REPORTING REQUIREMENTS.

Not later than the close of the 4th calendar year after the year in which the Secretary of Housing and Urban Development first designates areas as enterprise zones, and at the close of each 4th calendar year thereafter, the Secretary shall prepare and submit to the Congress a report on the effects of such designation in accomplishing the purposes of this title.

SEC. 703. INTERACTION WITH OTHER FEDERAL PROGRAMS.

(a) Coordination With Relocation Assistance.—The designation of an enterprise zone under section 701 shall not—

(1) constitute approval of a Federal or federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.)); or

(2) entitle any person displaced from real property located in such zone to any rights or any benefits under such Act.

(b) Enterprise Zones Treated as Labor Surplus Areas.—Any area that is designated as an enterprise zone under section 701 shall be treated for all purposes under Federal law as a labor surplus area.

SEC. 704. WAIVER OR MODIFICATION OF HOUSING AND COMMUNITY DEVELOPMENT RULES IN ENTERPRISE ZONES.

(a) In General.—Upon the written request of the governments that designated and approved an area that has been designated as an enterprise zone under section 701, the Secretary of Housing and Urban Development (or, with respect to any rule issued under title V of the Housing Act of 1949, the Secretary of Agriculture) may, in order to further the job creation, community development, or economic revitalization objectives of the zone, waive or modify all or part of any rule that the Secretary has authority to promulgate, as such rule pertains to the carrying out of projects, activities, or undertakings within the zone.

(b) Limitation.—No provision of this section may be construed to authorize the Secretary to waive or modify any rule adopted to carry out a statute or Executive order that prohibits, or the purpose of which is to protect persons against discrimination on the basis of race, color, religion, sex, marital status, national origin, age, or handicap.

(c) Submission of Requests.—A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the enterprise zone. If a request is made to the Secretary of Agriculture, the requesting governments shall send a copy of the request to the Secretary of Housing and Urban Development at the time the request is made.

(d) Consideration of Requests.—In considering a request, the Secretary shall weigh the extent to which the proposed change is likely to further job creation, community development, or economic revitalization within the enterprise zone against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area that would be affected by the change. The Secretary shall approve the request whenever the Secretary finds, in the discretion of the Secretary, that the public interest that the proposed change would serve in furthering such job creation, community development or economic revitalization outweighs the public interest that continuation of the rule unchanged would serve in furthering such underlying purposes. The Secretary shall not approve any request to waive or modify a rule if that waiver or modification would—

(1) directly violate a statutory requirement; or

(2) be likely to present a significant risk to the public health, including environmental health or safety.

(e) Notice of Disapproval.—If a request is disapproved, the Secretary shall inform the requesting governments in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

(f) Period for Determination.—The Secretary shall discharge the responsibilities of the Secretary under this section in an expeditious manner, and shall make a determination on requests not later than 90 days after their receipt.

(g) Applicable Procedures.—A waiver or modification of a rule under subsection (a) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of title 5, United States Code. To facilitate reaching a decision on any requested waiver or modification, the Secretary may seek the views of interested parties and, if the views are to be sought, determine how they should be obtained and to what extent, if any, they should be taken into account in considering the request. The Secretary shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section.

(h) Effect of Subsequent Amendment of Rules.—In the event that the Secretary proposes to amend a rule for which a waiver or modification under this section is in effect, the Secretary shall not change the waiver or modification to impose additional requirements unless the Secretary determines, consistent with standards contained in subsection (d), that such action is necessary.

(i) Expiration of Waivers and Modifications.—No waiver or modification of a rule under this section shall remain in effect for a longer period than the period for which the enterprise zone designation remains in effect for the area in which the waiver or modification applies.

(j) Definitions.—For purposes of this section:

(1) Rule.—The term "rule" means—

(A) any rule as defined in section 551(4) of title 5, United States Code; or

(B) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of such title 5.

(2) Secretary.—The term "Secretary" means the Secretary of Housing and Urban Development or, with respect to any rule issued under title V of the Housing Act of 1949, the Secretary of Agriculture.

SEC. 705. COORDINATION OF HOUSING AND URBAN DEVELOPMENT PROGRAMS IN ENTERPRISE ZONES.

Section 3 of the Department of Housing and Urban Development Act is amended by adding at the end the following new subsection:

"(d) The Secretary shall—

"(1) promote the coordination of all programs under the jurisdiction of the Secretary that are carried on within an enterprise zone designated pursuant to section 701 of the Housing and Community Development Act of 1987;

"(2) expedite, to the greatest extent possible, the consideration of applications for programs referred to in paragraph (1) through the consolidation of forms or otherwise; and

"(3) provide, whenever possible, for the consolidation of periodic reports required under programs referred to in paragraph (1) into one summary report submitted at such intervals as may be designated by the Secretary.".

SEC. 706. COORDINATION WITH CDBG AND UDAG PROGRAMS.

It is the policy of the Congress that amounts provided under the community development block grant and urban development action grant programs under title I of the Housing and Community Development Act of 1974 shall not be reduced in any fiscal year in which the provisions of this title are in effect.

Amend the amendment of the House to the title so as to read:

"An Act to amend and extend certain laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes.".

The SPEAKER. The gentleman from Rhode Island [Mr. St Germain] will be recognized for 30 minutes and the gentleman from Ohio [Mr. Wylie] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Rhode Island [Mr. St Germain].

Mr. ST GERMAIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on November 9, the House, by a vote of 391 to 1, approved the conference report to accompany S.

825, the Housing and Community Development Authorization Act of 1987. When this conference report was considered in the Senate on November 13, points of order were raised on the conference report for being in violation of section 311 of the Budget Act under the Senate rules. The Senate was unable to get the necessary 60 votes to override the Budget Act violations, so the conference report failed.

Since November 13, diligent efforts have been pursued by Members of the Senate and the House, including both Democrat and Republican members of our conference committee on S. 825, to see if an agreement could be reached to get the necessary bipartisan support in the Senate, and possibly agreement from the administration, on a housing package close to that which was so overwhelmingly passed in the House.

Mr. Speaker, I am pleased to present an agreement tonight that represents most of the provisions that the House has already approved when adopting the conference report on November 9. Certain programs were considered to be too controversial and the administration demanded that some 11 programs be terminated and some of our new initiatives, such as the Nehemiah Housing Opportunity Grant Program and the antidisplacement provision relating to UDAG and CDBG, be eliminated. In addition, several programmatic changes embodied in the conference agreement that related to housing assistance programs and CDBG were challenged as being unacceptable. These are all addressed in this agreement.

Let me say to my colleagues that in accepting the Senate amendment we are rejecting the 11th-hour demands that the conference report be rewritten and a vote of 391 to 1 by this body be ignored. However, there are changes from the conference agreement.

First, the provisions subject to a point of order for Budget Act violations have been removed. Certain provisions that affect districts of a number of Members were involved with these deleted provisions pertaining to the provision dealing with the disposition of urban renewal land proceeds. I will state here that the Banking Committee, early in the next session, will report out a separate bill containing these provisions that affect a number of our colleagues on both sides of the aisle.

Second, the demands made that we repeal immediately the HODAG Program and the section 235 Homeownership Assistance Program were rejected. Both programs are authorized for 2 additional fiscal years. My Committee on Banking, Finance and Urban Affairs will review these two programs at the end of 2 years to decide on the continued authorization of the HODAG and the section 235 program.

Third, the effort to curtail the Nehemiah Program was rejected and the program is authorized for fiscal years 1988 and 1989 with a provision to provide up to 15 percent of the units for families whose incomes do not exceed 115 percent of area median income.

Fourth, the provision dealing with our efforts to continue the public housing eligibility of certain illegal aliens whose family's head of household was a citizen or a documented alien was modified to state that future eligibility be limited to citizens or persons who are documented aliens. In addition, the agreement would not result in those people who are already residing in public housing from being evicted because of their citizenship status without a determination on a case-by-case basis where it is necessary to avoid the breakup of a family. The provision also provides for a deferral of the termination of assistance where it is necessary to permit the orderly transition of tenants to other alternative, affordable housing. Such deferrals would be for 6-month periods, renewable for no more than 3 years.

Fifth, the conference agreement relating to the CDBG/UDAG displacement provision was revised to eliminate the indirect assistance part of the provision, but would retain the requirements that families displaced due to the activities of UDAG and CDBG must be provided adequate housing on a 1-to-1 basis.

Sixth, the agreement provides for a 2-year demonstration of the voucher program in rural areas in up to 5 States using 5,000 vouchers in fiscal year 1988 and 7,500 in fiscal year 1989.

Seventh, the agreement would provide that the period in which the ceiling rents in public housing would apply would be for 3 years instead of the 5 years included in the conference agreement.

Eighth, the lead-based paint removal provision was modified as it relates to section 8 and other HUD housing programs. However, the requirement for the mandatory abatement procedures in public housing contained in the conference agreement is retained in this agreement.

Ninth, the flood insurance provision relating to assistance to prevent imminent collapse of residential structures was retained but limited to a 2-year period.

Tenth, a GAO report is required on ways to minimize the long-term risk exposure of the Federal Government as it relates to public hospital insurance.

Mr. Speaker, the effort to get a housing authorization bill as a separate standing piece of legislation has been a long and difficult task. I am pleased that this agreement tonight concludes this effort, and I urge all of my colleagues to support the motion to agree to the Senate amendment.

For most programs contained in this legislation, we provide a 2-year authorization. However, for Nehemiah, section 235, and HODAG, the legislation specifically states that the program will "terminate" at the end of a 2-year period. I understand that the committee's intent is to review these programs prior to the end of the 2-year period. I also understand that there is no presumption that these programs will not be reauthorized. Indeed, it is my understanding that there is no functional difference between a 2-year authorization—in which the Congress would have to reauthorize a program—and a termination of a program at the end of a 2-year period. I further understand that any contract authority entered into during the 2-year period in which the program is operating will continue beyond the end of that 2-year period.

Mr. Speaker, with that, I want to say to the Members: Merry Christmas and a Happy New Year.

Mr. CRANE. Mr. Speaker, will the gentleman be gracious enough to yield, since I was the one dissenting vote?

Mr. ST GERMAIN. I am happy to yield to the one dissenting vote.

Mr. CRANE. My understanding is that originally the administration had asked for something like $10 billion, and we gave them about $15 billion. The Senate said that was about half a billion in excess, and as a result they cut back a half a billion. Now, I know this enjoys bipartisan support on the other side and from distinguished conservatives, too, but it is still, as I understand it, about $14.8 billion.

Mr. ST GERMAIN. It is $15 billion.

Mr. CRANE. Or close to $15 billion. All right.

Mr. ST GERMAIN. We did not change the numbers. It was $47 million that was deleted.

Mr. CRANE. Mr. Speaker, we just took a whack at budget reconciliation on defense to the tune of about $4.6 billion, and we are about $5 billion over in housing, over what the administration requested.

Mr. ST GERMAIN. No, no. Howard Baker of the administration has assured me that the President will sign this bill. That was from his own lips.

Mr. CRANE. Mr. Speaker, if the gentleman will yield further, I am not saying that the administration will veto the bill.

Mr. ST GERMAIN. The administration supports the bill.

Mr. CRANE. I am not saying, Mr. Speaker, that the administration will veto it. I do not think they will veto anything, but the fact of the matter is that I just wanted to get the figures correct.

Mr. Speaker, I thank the gentleman for yielding.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this, let me say to my friends, is a night to remember. This is a miracle at Christmastime for a lot of people who need housing. It demonstrates what can happen when people of good will work together for a proper cause.

There is, I would say, a lot of statesmanship involved here. So many people are involved who deserve credit that it would not be fair to the House to take the time to name them all. Of course, we would not be here without the blessings of the chairman of the committee, the gentleman from Rhode Island [Mr. St Germain]. He has been a man of his word.

The bill contains what I regard as the essential elements of the conference report which passed the House by a vote of 391 to 1. The compromise has been passed by the Senate, and the President has agreed to sign it.

Mr. Speaker, as my colleagues will recall, when the conference report was considered by the other body, a technical point of order for Budget Act violations was sustained in conformance to particular rules for that body. The impact of this action was rejection of the conference report.

Subsequently efforts have been successful in reconciling and resolving several issues in disagreement.

The modifications, which were made to the original conference report on S. 825 in the other body, I feel, actually improved the legislation. Spending in the bill before us today has been reduced by an additional $500 million through a reduction of fiscal year 1989 authorizations to a level of $15.3 billion and $14.9 billion in fiscal year 1988. In addition, other improvements were accomplished by reductions in spending and better targeting for the Nehemiah Housing Program, which was also turned into a demonstration program. Termination of the section 235 homeownership and the HoDAG programs in 2 years, limitations on the lead-base paint removal and community development antidisplacement amendments, and use of vouchers for rural low-income assisted housing and elimination of the new grant program for rural housing preservation. These issues have been modified in response to the administration's objections to the housing authorization conference report, and as a result this compromise bill is not acceptable to the administration in its present form.

This legislation is cost effective and the funding is consistent with deficit reduction because it represents a funding level which is actually $400 million less than that which was appropriated for these programs in 1987.

The legislation is also important and necessary because it provides permanent authority for the Federal Housing Administration [FHA]. This will avoid the unnecessary disruption and economic hardship imposed on hard working Americans who depend on the FHA to obtain homeownership.

The legislation now before us also permits the use of vouchers as a cost efficient alternative for housing assistance for the poor.

This compromise is strongly endorsed and supported by all of the major housing and community development industry groups such as the National Association of Home Builders, the National Association of Realtors, and the Mortgage Bankers Association.

Mr. Speaker, I urge approval of the motion by the House.

Mr. WYLIE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. Roukema].

Mrs. ROUKEMA. Mr. Speaker, as the ranking Republican on this subcommittee, I rise in strong support of the conference report. This is a good bill.

As the ranking minority member of the Housing Subcommittee, I want to say how gratified I am that we are finally, even at this late date, taking final action on the housing authorization bill.

I also want to compliment the gentleman from Ohio [Mr. Wylie], the ranking minority member of the Banking Committee; the gentleman from Rhode Island [Mr. St Germain], the chairman of the full committee; and the gentleman from Texas [Mr. Gonzalez], the chairman of the subcommittee, for their great efforts in bringing this matter to fruition.

Last month—November 9—this House passed the conference report on the housing bill 391-1. Unfortunately, the matter was derailed in the Senate because of some relatively minor technical matters even through it received a majority vote.

Since the Senate rejection of the conference report, we have engaged in many discussions and all of the interested parties have now come to agreement. Thus, we bring this new version to you this evening.

Our budget authorization for fiscal year 1988 is $14.9 billion—versus $15 billion in the conference report—and the 1989 authority has been reduced to conform with the 2-percent inflation adjustment assumed in the budget compromise.

This bill signals an end to the HoDAG and 235 programs, and it targets more specifically the Nehemiah Housing Program.

No Member is totally satisfied with all the details of this bill, but it is a reasonable compromise. It is a package which this House should adopt and which the President "has indicated he will sign."

In many ways this bill is a housekeeping bill. It makes no major changes and no dramatic new courses.

But I want to alert the membership to a few issues which are major and which the Housing Subcommittee needs to address over the coming 2 years.

We face an enormous problem with the possible prepayment of thousands of low-income housing contracts. This has the potential of greatly exacerbating our housing crisis, and the problem will be increasing significantly over the next 5 years. Finally, our subcommittee and this Congress are going to have to face up to the health hazard posed by lead-based paint, which we find in many Government-subsidized and Government-owned properties. This is a very serious health problem which this bill, to be frank, does not adequately address. Make no mistake about it, this is going to be a costly matter to correct. It would be much cheaper if we simply buried our heads in the sand, but it would also be unconscionable. We must face up to this responsibility, and I want to inform the House that this is an issue to which we will have to return.

I would like to request a brief clarification regarding the intent of the section 566 lead-based paint prevention provision. It is my understanding that the requirements which will apply to HUD section 8 assisted housing contained in section 566 shall not be any less than those which are provided in the applicable HUD regulations now in effect. Is this also the understanding of the distinguished chairman of the committee?

The debate on housing will be renewed early next year when our committee revisits the issues. However, let us be clear that past Federal policy in many areas has been marked by notable failures. Public housing and subsidies have been extremely costly—helping relatively few families. Many large public housing projects are dinosaurs. Newark and other major American cities have demolished such housing. They are too costly to maintain and are breeding grounds for the crime that destroys neighborhoods.

Some programs are successful and clearly enjoy broad support and should continue; that is, subsidized housing for senior citizens and the handicapped.

Clearly, we need a comprehensive evaluation of the myriad issues related to housing and development of fresh ideas to address the problems which are worsening.

For example, we must debate whether tax incentives are a good means to promote affordable housing. I believe they are. Another possible idea is to expand community development block grants for housing options. These grants would put greater control into the hands of local authorities who know best the needs of their jurisdiction.

In any event, I look forward to next year as one of promise for a housing bill. The crisis is growing more severe and the pressure for action is mounting from business and public groups alike.

For now, however, Mr. Speaker, I am delighted that we have a bill, the first such free-standing housing authorization in 7 years, and I urge its approval by the House.

Mr. WYLIE. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. Daub].

Mr. DAUB. Mr. Speaker, I rise in favor of the conference report and the compromise reached with the administration on a bill that is very timely, particularly with respect to rural housing matters and the permanent extension of FHA authority.

Mr. Speaker, when the Housing and Community Development Act of 1987, S. 825, returned from conference I voted and spoke in favor of it. Again, I speak out in favor of the compromise which was reached with the White House, and support this bill which has been sent from the Senate late tonight. It is my understanding that the provisions which I most strongly support, the rural housing provisions and the permanent extension of FHA authority, have been retained virtually in their entirety.

It is also my understanding that the bill will allow the elderly to utilize part of the equity in their homes as liquid assets for health care and housing. This provision, I hope, indicates the support that Congress will give to our elderly in the very near future to expand and provide for improved health care with private incentives to promote planning for your own future health care needs.

Finally, it is also my understanding that after reducing the expenditures in this bill by approximately one-half billion dollars, that the President will sign the bill. For 6 years beginning in 1981 there has been no separate housing bill that has reached the President because the two Chambers of congress could not agree on one. I am happy to see that after months of hard work and many deaths, this bill should finally be passed in the waning hours of this session of Congress.

Mr. WYLIE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. Green].

Mr. GREEN. Mr. Speaker, I thank the gentleman from Ohio for Yielding time to me.

I want to take this occasion to ask a question of the gentleman from Rhode Island [Mr. St Germain], the distinguished chairman of the committee on Banking, Finance, and Urban Affairs. It has been said to me by the Director of OMB that because the Banking Committee adopted a program and put a termination date on it, as you almost always do when you legislate, therefore, I should assume that was a temporary program. We are talking about the program for the Solar Energy and Energy Conservation Bank. He insisted that the existence of a termination date in the legislation provided that you intended that to be a temporary program.

My understanding, because I was on the Banking Committee and I served with the distinguished chairman, was that because he always put a limit on the programs, the limit was put on so that you would have control and you could look at such programs and thereafter decide whether to continue them or not. Am I correct in that?

Mr. ST GERMAIN. Mr. Speaker, if the gentleman will yield, the gentleman is absolutely correct.

Mr. GREEN. So the fact that there was a termination date for the Solar Energy and Energy Conservation Bank did not prove that you intended that to be a temporary program?

Mr. ST GERMAIN. The gentleman is correct.

Mr. WYLIE. Mr. Speaker, I yield back the balance of my time.

Mr. ST GERMAIN. Mr. Speaker, I yield 30 seconds to the gentlewoman from Ohio [Ms. Oakar], a member of the committee.

Ms. OAKAR. Mr. Speaker, I happen to think that this is as important as any issue we have voted upon. It is the first time we have had a housing bill in 6 years, and a lot of people are in need of safe and decent housing.

I want to commend my chairman, the minority leader, and my subcommittee chairman, because this is important and deserves the dignity of our concern for every issue that has come up today. We are talking about housing for our American people. I want to compliment the gentleman for saving the bill at the 11th hour.

Mr. MANTON. Mr. Speaker, I rise in strong support of this legislation to reauthorize federally assisted housing programs for fiscal year 1988 and 1989. I want to commend the chairman of the House Banking Committee, my good friend from Rhode Island, Mr. St Germain, and the chairman of the Housing and Community Development Subcommittee, my good friend from Texas, Mr. Gonzalez, for their outstanding work in bringing this vitally important bill to the floor of the House.

This legislation has traveled a long and difficult course. The Housing and Community Development Subcommittee held several weeks of exhaustive committee hearings and markup sessions on H.R. 4, the Housing Act of 1987. As a member of the Housing Subcommittee, I want to thank Chairman St Germain and Chairman Gonzalez for providing every Member an opportunity to offer amendments during markup. The House approved H.R. 4 in June. After a lengthy conference, and despite threats of a Presidential veto, the House approved the conference report by an overwhelming vote of 391 to 1. However, the measure faced further obstacles in the other body that required additional negotiations and compromises. At long last, Congress is about to approve a free standing housing bill that the President will sign into law.

Mr. Speaker, under this administration, federally assisted housing programs have been slashed by more than 60 percent. As a result, this Nation is suffering from a severe lack of decent, affordable low- and moderate-income housing. This tragic loss of low income housing has led to an explosive growth in the number of homeless Americans.

The legislation we are considering tonight is a modest, but long overdue response to America's housing crisis. Under this legislation, funding for assisted housing will be maintained at reasonable levels. In addition, this legislation will improve the operation of existing programs and provide authorization for innovative new programs. This measure will authorize funding for a new low-income home ownership program based on the highly successful Nehemiah Program in New York City.

Mr. Speaker, once again I would like to thank Chairman St Germain and Chairman Gonzalez for bringing this measure to the floor. Homeless Americans, families seeking affordable housing and the elderly could not get a better holiday gift. I urge my colleague to support this measure.

Mr. GONZALEZ. Mr. Speaker, this legislation maintains integrity of HUD and FmHA housing assistance programs that have serve the Nation will since their inception.

Reauthorizes assisted housing programs of HUD—Public Housing, section 8, section 202 elderly, public housing operating subsidies for fiscal year 1988 and fiscal year 1989.

Reauthorizes Farmers Home Rural Housing Programs for fiscal year 1988 and fiscal year 1989.

Makes permanent FHA insuring authorities.

Reauthorizes CDBG and UDAG for fiscal year 1988 and fiscal year 1989 and makes changes in UDAG to make program more available to cities in south and southwest.

Sets in place a program to prevent the displacement of tenants in HUD insured rental projects where those projects use restriction period is ending.

Sets in place a program to prevent displacement of tenants in Famers Home Administration rental housing where prepayment occurs.

Sets in place a new public housing demolition and disposition provision that provides no demolition of public housing projects unless there is a 1-for-1 replacement for the tenants.

New home ownership program—Nehemiah Housing Opportunity Grants—resulting from Housing Subcommittee field hearings.

The real meaning of this approved legislation is that more than 20,000 families will not be thrown out of their homes.

Mr. FRANK. Mr. Speaker, the provision involving the eligibility of illegal aliens in public housing was modified in this agreement on S. 825. As a member of both the Judiciary Committee and the Banking Committee, I would state that this provision is not intended to force elderly persons out of their units. Persons who are 62 years of age or older may continue to receive assistance whether they can provide documentation as to their status or not, and as long as they are complying with the verification provisions of this bill. We are providing the Public Housing Agencies or the Secretary with this discretion on the assumption that the PHA or Secretary may not act arbitrarily in exercising such discretion.

Mr. ST GERMAIN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Rhode Island [Mr. St Germain].

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CRANE. Mr. Speaker, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 391, noes 2, not voting 40, as follows:

[Roll No. 511]

AYES—391

Ackerman
Akaka
Anderson
Andrews
Anthony
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Coughlin
Courter
Coyne
Craig
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Mack
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Petri
Pickett
Pickle
Porter
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Stratton
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NOES—2

Crane
Perkins

NOT VOTING—40

Alexander
Annunzio
Applegate
Badham
Biaggi
Broomfield
Conyers
Crockett
Daniel
Dickinson
Dowdy
Dymally
Fish
Ford (TN)
Gephardt
Gradison
Hawkins
Howard
Jones (NC)
Kemp
Kolter
Leath (TX)
Lehman (FL)
Lipinski
Lungren
MacKay
Martinez
Matsui
Murphy
Nichols
Price (IL)
Roe
Roemer
Rose
Stark
Studds
Traxler
Waxman
Williams
Yates

☐ 0245

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 0300

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the motion just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2724

Mr. RIDGE. Mr. Speaker, I ask unanimous consent that my name be removed as cosponsor of the bill H.R. 2724.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PROVIDING FOR ADJOURNMENT SINE DIE OF THE CONGRESS ON TUESDAY, DECEMBER 22, 1987

Mr. FOLEY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 235) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 235

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress shall adjourn on Tuesday, December 22, 1987, and that when they adjourn on said day, they stand adjourned sine die.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF COMMITTEE OF TWO MEMBERS TO INFORM THE PRESIDENT THAT THE TWO HOUSES HAVE COMPLETED THEIR BUSINESS OF THE SESSION

Mr. FOLEY. Mr. Speaker, I offer a privileged resolution (H. Res. 345) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 345

Resolved, That a committee of two Members be appointed by the House to join a similar committee appointed by the Senate, to wait upon the President of the United States and inform him that the two Houses have completed their business of the session and are ready to adjourn, unless the President has some other communication to make to them.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to join a committee on the part of the Senate to notify the President that the two Houses have completed their business of the session, unless the President has some other communication to make to them, the gentleman from Washington [Mr. FOLEY] and the gentleman from Illinois [Mr. MICHEL].

PROVIDING FOR CONVENING OF THE SECOND REGULAR SESSION OF THE 100TH CONGRESS ON JANUARY 25, 1988

Mr. FOLEY. Mr. Speaker, I offer a joint resolution (H.J. Res. 436) providing for the convening of the second regular session of the 100th Congress, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the joint resolution.

The **SPEAKER.** Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 436

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That the second regular session of the One hundredth Congress shall begin at 12 o'clock meridian on Monday, January 25, 1988.

SEC. 2. That prior to the convening of the second regular session of the One hundredth Congress on January 25, 1988, as provided in section 1 of this resolution, Congress shall reassemble at 12 o'clock meridian on the second day after its Members are notified in accordance with section 3 of this resolution.

SEC. 3. The Speaker of the House and the majority leader of the Senate, acting jointly after consultation with the minority leader of the House and the minority leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING THE SPEAKER TO ACCEPT RESIGNATIONS, APPOINT COMMISSIONS, BOARDS, AND COMMITTEES NOTWITHSTANDING SINE DIE ADJOURNMENT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that notwithstanding the sine die adjournment of the 1st session of the 100th Congress, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The **SPEAKER.** Is there objection to the request of the gentleman from Washington?

There was no objection.

GRANTING MEMBERS OF THE HOUSE PRIVILEGE TO EXTEND AND REVISE REMARKS IN CONGRESSIONAL RECORD UNTIL LAST EDITION IS PUBLISHED

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members of the House shall have the privilege, until the last edition authorized by the Joint Committee on Printing is published, to extend and revise their own remarks in the CONGRESSIONAL RECORD on more than one subject, if they so desire, and may also include therein such short quotations as may be necessary to explain or complete such extensions of remarks. But this order shall not apply to any subject matter which may have occurred, or to any speech delivered subsequent to the adjournment of Congress.

The **SPEAKER.** Is there objection to the request of the gentleman from Washington?

There was no objection.

RESIGNATION AS MEMBER OF PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The **SPEAKER** laid before the House the following resignation as a member of the Permanent Select Committee on Intelligence:

HOUSE OF REPRESENTATIVES,
Washington, DC, December 18, 1987.

Hon. JAMES C. WRIGHT, Jr.,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I hereby resign my position on the Permanent Select Committee on Intelligence.

Sincerely,

DAVE MCCURDY,
Member of Congress.

The **SPEAKER.** Without objection, the resignation is accepted.

There was no objection.

AUTHORIZING CHAIRMAN AND RANKING MINORITY MEMBER OF EACH STANDING COMMITTEE AND SUBCOMMITTEE TO EXTEND REMARKS IN RECORD

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the chairman and ranking minority member of each standing committee and each subcommittee be permitted to extend their remarks in the RECORD, up to and including the RECORD's last publication, and to include a summary of the work of that committee or subcommittee.

The **SPEAKER.** Is there objection to the request of the gentleman from Washington?

There was no objection.

EXPRESSING APPRECIATION TO MEMBERS AND STAFF AND A WISH FOR HAPPY HOLIDAY SEASON

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The **SPEAKER.** Without objection, the gentleman from Washington [Mr. FOLEY] is recognized for 1 minute.

There was no objection.

Mr. FOLEY. Mr. Speaker, we are at the close of the 1st session of the 100th Congress, and on behalf of the majority I would like to extend to you, our Speaker, many thanks and appreciation for your service and patience, and to the minority the majority would like to extend their thanks and appreciation for what has often been some difficult sessions, but we believe this Congress, this 1st session of the 100th Congress, has achieved an important and enviable record.

We especially would like to thank the staff of the House of Representatives and of the Chamber in particular for their diligence and hard work, and we extend to all of our colleagues and staff the warmest and best wishes for this holiday season.

Mr. OBEY. Mr. Speaker, I rise to address the House concerning a problem the State of Wisconsin faces in the reconciliation bill.

WHAT ABOUT AFGHANISTAN?

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

Mr. DREIER of California. Mr. Speaker, there is certainly a great sense of euphoria which many of us have been celebrating this month. The INF Treaty was signed by the Soviet Union and the United States. We have just this evening by a one-vote margin passed a compromise on the continuing resolution. We are all looking forward to the celebration of the holidays and of course this is your birthday, Mr. Speaker.

Since we have focused on so many great things which have taken place, I think that we should take a very sobering moment to remember that this Sunday, a very important date will be marked. This Sunday, December 27, 1987, will be the eighth anniversary of the Soviet invasion of Afghanistan.

Earlier in the debate this evening we heard a great deal of concern voiced by both sides about the children of Central America. We heard a very moving statement from the gentleman from Washington [Mr. LOWRY], and we of course many times have talked about children who are the victims of war.

The thing that unfortunately must be realized, Mr. Speaker, is that over the past 8 years in Afghanistan the children have not just been the victims of war, they have been the targets of war.

That is a very sad commentary.

Mr. Speaker, just yesterday we had the opportunity to meet one of those young targets, a young man whom many in this House have gotten to know over the past couple of months, a young man named Hazrat Kahn, who very tragically was walking from his home 2 years ago and saw four Mi-24 HIND-D attack helicopters come down on his small village where there were no warriors, but only older people, women, and children.

This young boy had stepped out of his home leaving his mother behind, and he saw the house blow up; then he himself was shot on several occasions by these helicopters which had descended on him. He died on the way over, and was revived, came back, was told that he would never walk, found medical treatment in this country and I am happy to say that just a couple of weeks ago he gave up his crutches and, Mr. Speaker, on Sunday he visited us here on the House floor.

As we look toward this Sunday I think it is important that while we have this great sense of euphoria over many celebrations, we remember that there are still today 115,000 Soviet troops in Afghanistan creating what many of us, including Dan Rather on the CBS Evening News, has referred to as genocide. Let us not forget it, Mr. Speaker, as we prepare to adjourn here and celebrate for the holidays.

SINGING THE PRAISES OF EASTERN MICHIGAN UNIVERSITY

The **SPEAKER**. Under a previous order of the House, the gentleman from Michigan [Mr. Ford] is recognized for 5 minutes.

Mr. FORD of Michigan. Mr. Speaker, I would like just a few minutes to sing the praises of Eastern Michigan University, an excellent school in my district that earlier this month, against seemingly impossible odds, distinguished itself in the national football arena.

In the California Bowl, December 13, EMU upset heavily favored San Jose State, 30–27, in Fresno.

For me this was just one more example of how EMU captures the very essence of excellence. It is a school with a lot of heart that is constantly coming up with surprises.

It is indeed hard to believe that this same team in 1982 had the longest losing streak in the country—27 games.

And when this season started it did indeed seem like EMU had precious little chance of winning the Mid-America Conference and facing the winner of the Pacific Coast Athletic Association. For one thing, EMU had scheduled five conference road games, more than any other MAC team.

For years now I have been proud of EMU's academic achievements. Now I can add nationally recognized athletic prowess.

Needless to say, I am happy that EMU is in my congressional district.

GRAMM-RUDMAN AND THE DAIRY PROGRAM

The **SPEAKER**. Under a previous order of the House, the gentleman from Vermont [Mr. Jeffords] is recognized for 60 minutes.

Mr. JEFFORDS. Mr. Speaker, I have asked for this special order in order to more fully explain a provision in the CR, section 638 in the Agriculture provisions' dealing with the treatment of the dairy program under Gramm-Rudman.

This is, I hope, the last chapter in a long saga. During negotiations on the 1985 farm bill, conferees realized that a sequestration order would have an unintended and disastrous impact upon dairy farmers. Although negotiators agreed that a 50-cent assessment should be used to pay for the Dairy Termination Program, we reduced the assessment to 40 cents with the understanding that the upcoming sequestration order would add another 10-cent assessment in the spring of 1986.

This approach was agreed upon by all the parties at the conference, including the Secretary of Agriculture. Despite this agreement, the lawyers down at USDA told us that they had no choice but to impose a 55-cent cut in the support price.

It became necessary, therefore, to pass free-standing legislation to implement the agreement that conferees had reached during negotiations on the farm bill. I introduced legislation (H.R. 4188) to accomplish this objective on February 19, 1986. This legislation was reported from the Agriculture Committee on February 26. The Senate then rolled the provisions of H.R. 4188 into a related bill (H.R. 1614) and sent it to the House, where it was approved on March 5 and cleared for the President. President Reagan signed the bill on March 20, 1986.

In order to expedite consideration of the bill, sponsors of the legislation agreed to limit its provisions to the 1986 sequestration order only. It was expected that we would permanently correct this situation at a later date. The most logical opportunity to make this change was during consideration of the Gramm-Rudman fix. Unfortunately, through an oversight, the conferees on the Gramm-Rudman fix did not include this change in the final package. Chairman Gray wrote to me on October 1, 1987, and stated that "this omission was not a deliberate policy decision."

Mr. Speaker, I will now insert my floor remarks of March 6, 1986, that more fully explain the background and need for this legislation, both then and now:

From the Congressional Record, March 6, 1986

Mr. Jeffords. Mr. Chairman, I have spent a considerable length of time over the past week talking to this body and informing my colleagues about the importance of this bill. I am not going to take an inordinate amount of time today.

I would hope and believe, of course, that everyone has paid attention to what I have said; but on the possibility that this has not been the case, I will refresh everyone's memory.

We are not dealing here with dairy policy. We are not trying to exempt dairy farmers from Gramm-Rudman. We are dealing with how we should comply with Gramm-Rudman. We are dealing with what is the most efficient and effective way—with the least damage to those people that will be affected—to collect the money which is necessary to meet the impact of Gramm-Rudman. That is what this debate is all about and it is as simple as that—no more, no less.

What happened is very simply this. In the farm bill, it was decided that the best way to meet the Gramm-Rudman budgets would be through a 10-cent assessment upon all the dairy producers in the country.

Now, the ramifications of that are to raise the amount of money that is available, approximately $80 million for dairy's share.

Unfortunately, although the Gramm-Rudman provisions were only designed to take care of corn, wheat, and other crops, the legal experts said that these provisions, for some reason or other, affected dairy as well because they were specific and the provision to instead, allow an increase in the dairy assessment was a general provision. Therefore, the legal experts required that the Department utilize the provisions aimed at wheat and corn in making reductions to dairy.

The ramifications are radically different. Under one scenario you have an effect of 10 cents and all the producers will pay. On the other, the net effect is a 55-cent price cut.

The difference to dairy farmers is some $300 million in lost income, which does not go to the taxpayers, does not go to reduce the deficit, but goes, and all the facts will show later, goes to the processors, the middlemen and the retailers. It will not result in any decrease to the price to consumers.

Let us take a look at the chart here just a moment. What the chart shows graphically is that, with a 10-cent assessment, $80 million is collected from farmers and every penny of that money goes into the Federal Treasury to reduce fare deficit.

If you go with the other alternative, the farmers kick in somewhere between $50 million and $80 million to the Treasury and they lose somewhere around $350 million.

No one in their right mind would choose to unnecessarily reduce farm income without any benefit to the consumer or to the Treasury.

Now, if we will move on the the next chart very briefly, I will show you the farm provisions that were designed to meet the Gramm-Rudman targets in a responsible manner.

I would point out right here that the net effect of what the gentleman from Massachusetts would like to do is to have almost a dollar price cut—bang—right now, this spring. Never has he or the gentleman from Virginia ever suggested that what we ought to have is a dollar cut in the price support to the farmers of this country. No one would ever, in any kind of compassion or logic, suggest that.

Well, let us take a look at the chart again. The current farm law is the green line. You can see it dips down.

In the other column is farm income. It was at the break-even point before the farm bill. It is on its way down, and depending on which route you go, it is going to be a negative cash situation, or a negative income situation.

The blue line is what would happen if you put the assessment on. It will dip a litte bit more sharply, but it will still be a reasonable cut, even though the average farm will be in a negative situation, and the red line is what will happen if you pass the gentleman's amendment. We will have farmer's income dipping way down and tens of thousands of dairy farmers going out of business unneccessarily and prematurely.

Now, with the final chart I will try to answer as best I can the argument of the gentleman from Massachusetts that somehow we are going to affect the consumers. I would like to remind you that dairy farmers, more than any other business in this country, have been trying to help reduce prices.

They have taken a 12-percent cut over the past couple of years in what they get for their products, and look what has happened to consumer prices.

Now, the gentleman from Massachusetts would say that, by gosh, the consumers should have had that passed on to them.

All right, let us take a look. Let us look at the dairy price support, which has gone down 12 percent since 1981. You will see that during that period of time when the farmers have been getting less money, ice cream has gone up 22 percent, cheese has gone up 17 percent, butter has gone up 8 percent, and whole milk has gone up 6 percent.

That is the answer. It will not help the consumer.

Vote for a stable order here.

Without the inclusion of this important provision in the CR passed by the House today, the dairy industry could once again be faced with the same crisis that it was in February 1986. The conferees on the Agriculture Appropriations section have included the text of my bill (H.R. 3344) that will ensure that Gramm-Rudman sequestration does not unfairly impact dairy farmers.

Senator Bob Kasten, who was also instrumental in helping gain passage of Public Law 99-260 back in 1986, inserted the language of H.R. 3344 in the Senate version of the Agriculture Appropriations bill, S. 1900. I want to commend the House conferees on the Agriculture Appropriations measure—particularly Sil Conte, Matt McHugh, Bob Traxler, Vin Weber, and of course, Chairman Whitten—for ensuring that this provision was retained on the CR.

H.R. 3344 was approved unanimously by the Committee on Agriculture and ordered reported on October 15. It would provide that any outlay savings required by sequestration be achieved by an assessment rather than a support price cut. I have asked for a special order today to more fully explain the provisions of H.R. 3344 and to provide for the Members the text of the draft committee report to accompany the bill.

Passage of this provision now is critical for two reasons. First, just a few weeks ago there were some suggestions that the budget reconciliation bill might be in trouble. Some Members of both parties suggested that it might be better to have sequestration instead of small tax increases contained in reconciliation. The uncertainty surrounding reconciliation made it critical that we protect dairy farmers in the event that the bill did not pass, or in the event that it is vetoed.

While it now appears that Congress and President Reagan will approve the reconciliation bill, there is another critical reason to include the provisions of H.R. 3344 in the CR. H.R. 3344 will establish the correct method for achieving budget savings from the Dairy Program. With evey other program affected by Gramm-Rudman, the sequestration percentage is applied to estimated outlays for the fiscal year. The resulting figure is the amount of the sequestration for that program, and outlays are reduced accordingly.

The Dairy Program is different. Instead of looking at outlays, the lawyers down at OMB apply the sequestration percentage to the support price for agricultural commodities. By reducing the support price by the sequestration percentage, it is reasoned that the outlays for that commodity program will be reduced by the same percentage.

In the Dairy Program, farmers' income is derived from the market, not direct Government payments. The Government only steps in to buy surplus products in order to keep the market price at the support level. This year, it is estimated that the Government will buy only 6 billion pounds of the 144 billion pounds of milk produced. However, cutting the support price would reduce the price paid to farmers on the other 138 billion pounds of milk sold in the commercial market. Farmers would lose up to $1.3 billion to reduce the deficit by less than $100 million.

It is critical, therefore, that budget cutters use Dairy Program outlays, not support prices, when figuring how to achieve savings in the Dairy Program. Approval of this legislation will set an important precedent for calculating savings in the Dairy Program, whether through Gramm-Rudman or through future budget summits.

In addition, Mr. Speaker, I would like to include for the Record the contents the draft committee report to accompany H.R. 3344. Although this draft was never officially filed, I hope it will help clear up for the record the purpose and need for this legislation:

Draft Report of House Committee on Agriculture To Accompany H.R. 3344 Ordered To Be Reported on October 15, 1987

COMMITTEE CONSIDERATION

H.R. 3344 was introduced on September 25, 1987. As introduced, the bill was substantially the same as reported and described in this report. (The Committee-reported substitute makes only technical revisions to the introduced bill.)

On October 6, 1987, the members of the Subcommittee on Livestock, Dairy, and Poultry, to which the bill was referred, requested (by letter to Chairman de la Garza) that the Subcommittee be discharged from further consideration of the bill, noting the need for the Committee to act on the bill by October 15, 1987, for it to be considered by the House this session.

On October 15, 1987, the full Committee met to consider pending legislation. Mr. Stenholm moved that the Subcommittee on Livestock, Dairy, and Poultry be discharged from further consideration of H.R. 3344. Without objection, the Committee agreed to the motion and proceeded to consideration of the bill.

Messrs. Stenholm and Jeffords, the Chairman and ranking minority member of the Subcommittee on Livestock, Dairy, and Poultry, respectively, explained the provisions and effects of the bill.

The Committee by voice vote agreed to report the bill favorably and authorized the staff to make clerical and technical corrections to the bill, as ordered reported.

BRIEF EXPLANATION

H.R. 3344 will restructure the way budget cuts are made in the milk price support program under the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings) to avoid unnecessary adverse affects of sequestration on the milk price support program.

The bill will conform the sequestration process for the milk program in fiscal year 1988 and following fiscal years (if sequestration is triggered for any of those years) to the method approved by Congress for the 1986 sequestration order in the Food Security Improvements Act of 1986. Under that method and this bill, the Secretary of Agriculture would be required to achieve budget savings required under a sequestration order for the milk price support program in the following manner:

In lieu of making reductions in milk price support purchase payments nationwide, the Secretary would achieve the required budget savings for the fiscal year involved through a temporary, limited producer assessment (measured in cents per hundredweight) on all milk marketed in the contiguous 48 States.

The temporary assessment rate would be established at a level sufficient to achieve budget savings to the Government in operating the milk program for the fiscal year equal in dollar amount to the aggregate amount of reductions in payments for milk price support purchases for the fiscal year that the Commodity Credit Corporation otherwise would be required to make under the sequestration order for the fiscal year (as determined by the Secretary).

During 1986, it became apparent that the sequestration procedure for fiscal year 1986 under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings) would have unintended and disastrous effects on the Nation's dairy farmers without necessarily achieving the desired budget reductions for the milk price support program. As a result, sequestration procedures for the milk program were revised by section 10 of the Food Security Improvements Act of 1986 (P.L. 99-260).

The 1986 legislation (like H.R. 3344) provided that the sequestration budget savings required in the milk program would be met through a small temporary assessment paid by all dairy farmers rather than through a section 252 reduction in the Commodity Credit Corporation payments for price support purchases of dairy products.

This revised procedure prevented $535 million of unintended losses in farm income in fiscal year 1986, while providing $85 million in deficit reductions for the fiscal year. Under section 252 of Gramm-Rudman-Hollings without the revised provisions, only $36 million in fiscal year 1986 budgetary savings in the milk price support program would have been achieved. (See the table at the end of this section.)

Both sequestration under section 252 of Gramm-Rudman-Hollings and the revised procedure are designed to reduce the Federal budget deficit, but the two methods are vastly different in their effect on dairy farmers. The two methods, as they apply to the milk program, can be summarized as follows:

(1) Under section 252 of Gramm-Rudman—direct, percentage cuts in the Commodity Credit Corporation purchase prices for dairy products; and

(2) Under the 1986 legislation and H.R. 3344—a uniform assessment on all milk marketed by dairy farmers to raise the same amount of money in savings for the Federal Government.

Future implementation of sequestration in the milk program under section 252 of Gramm-Rudman-Hollings will be disastrous because—as in 1986—it would require that Commodity Credit Corporation purchase prices for dairy products be reduced in such a manner that milk prices received by farmers would be slashed by an inordinate amount—by as much as $1.00 per hundredweight of milk in fiscal year 1988 alone. That action in fiscal year 1988 would cost U.S. dairy farmers up to $1.6 billion in lost income. This is in stark contrast to the $85 million in 1988 budget savings to be achieved under section 252 sequestration.

Under the 1988 section 252 sequestration order (based on current economic assumptions), the Department of Agriculture would have to make an 8.4 percent reduction in Commodity Credit Corporation purchase prices for dairy products. Since net CCC purchases for fiscal year 1988 are estimated to be about $1 billion, the 8.4 percent reduction would save about $85 million.

CCC will purchase only about 3.5 percent of all milk marketed in fiscal year 1988. However, CCC purchase prices set the floor for market prices. Therefore, the entire industry will suffer a loss of up to $1.6 billion in market income from the 8.4 percent reduction in prices paid for the 3.5 percent of total United States milk output that the Department purchases.

Conversely, implementing a sequestration under the revised procedure provided by H.R. 3344 would result in an assessment of approximately 6 cents per hundredweight on all milk marketed during the year, raising the same $85 million to offset CCC program costs that section 252 sequestration saves. However, this method would reduce dairy farmer income by the $85 million of the assessment only, not by $1.6 billion.

As was experienced by action approved and taken in 1986 under the Food Security Improvements Act of 1986 (Public Law 99-260).

GRAMM-RUDMAN-HOLLINGS DAIRY PROGRAM SAVINGS

FISCAL YEAR 1986

[Cost Savings of Assessment Program Versus Drop in CCC Support Product Prices]

WITH $0.12/CWT ASSESSMENT AND NO CCC PRICE DROPS [1]

[In millions of dollars]

Month of 1986	Actual G–R assessments	Actual CCC purchase costs		
		Butter	Cheese	NFDM
April	14.77	70.94	80.19	12.52
May	15.51	54.52	76.57	80.66
June	14.47	28.67	85.31	87.71
July	14.10	8.17	64.94	65.04
August	13.78	(3.57)	25.32	37.64
September	12.99	0.00	23.60	33.11
Totals	85.62	158.72	355.93	316.69
Total product costs less assessments				745.72

[1] Actual assessment collections at $0.12/cwt and actual CCC purchase prices of $1.3975 for butter, $1.1975 for cheese, and $0.7875 for nonfat dry milk are used.

As called for under section 252 of Gramm-Rudman-Hollings without Public Law 99-260.

WITH NO ASSESSMENT BUT WITH APPROX. 4.3 PERCENT CCC PRICE DROPS [1]

[In millions of dollars]

Month of 1986	Expected G–R assessments	Expected CCC purchase costs		
		Butter	Cheese	NFDM
April	0.00	67.89	76.54	11.97
May	0.00	52.18	73.08	77.17
June	0.00	27.43	81.43	83.91
July	0.00	7.82	61.98	62.22
August	0.00	(3.42)	24.16	36.01
September	0.00	0.00	22.52	31.68
Totals	0.00	151.91	339.71	302.96
Total product costs less assessments				794.58
Net savings due to use of assessment instead of CCC product price cuts				48.87

[1] No assessments were used under this method of cutting dairy budget costs but CCC purchase prices were proposed as follows: $1.3375 for butter, $1.1525 for cheese, and $0.7725 for nonfat dry milk. The amount of product purchased under both scenarios was the actual amount of product delivered during the six-month period of the mandatory budget cuts under sequestration.

Source: ASCS, USDA.

BILL ANALYSIS

H.R. 3344, as reported by the Committee, consists of one section that will amend paragraph (2) of section 201(d) of the Agricultural Act of 1949.

Current law

Section 201()d): Section 201(d) (added by section 101) of the Food Security Act of 1985 (99 Stat. 1362-1368) and amended by section 10 of the Food Security Improvements Act of 1986 (100 Stat. 52)) established the milk price support and related programs for calendar years 1986 through 1990.

Paragraph (1) of section 201(d) establishes the milk price support programs for those years.

Paragraph (2) of section 201(d) provides for a reduction in the price received by producers for milk marketed in the 48 contiguous States in certain circumstances.

Paragraph (3) of section 201(d) authorizes milk diversion and milk production termination programs as necessary to avoid the creation of burdensome excess supplies of milk or milk products, and specifically provided for a mild production termination program effective for the period April 1, 1986, through September 30, 1987.

Paragraph (4) of section 201(d) requires each producer who markets milk and each person required to make payments to the Commodity Credit Corporation under paragraph (2) (as described below) to make information available to the Secretary of Agriculture as needed to carry out section 201(d). Paragraph (4) also authorizes the Secretary to conduct investigations necessary to administer section 201(d) or with respect to violations of section 201(d).

Paragraph (5) of section 201(d) authorizes the Secretary to impose marketing penalties and take other enforcement actions under section 201(d).

Paragraph (6) of section 201(d) defines the term "United States" as used in section 201(d) to mean the 48 contiguous States.

Paragraph (7) of section 201(d) provides that the Secretary is to carry out section 201(d) through the Commodity Credit Corporation.

Paragraph (2) of section 201(d): Paragraph (2), in subparagraph (A), requires the Secretary to provide for a reduction in the price received by producers for all milk produced in the contiguous 48 States and marketed by producers for commercial use. The requirement was in effect during the period April 1, 1986, through September 30, 1987. This requirement for a reduction in the price of milk was implemented in conjunction with (and to pay for) the milk production termination program implemented during the same time period under paragraph (3) of section 201(d).

Subparagraph (B) of paragraph (2) specifies (in cents per hundredweight of milk) the amount of the reductions that are to be made in the producer prices during the specified time period, except as otherwise provided in subparagraph (E).

Subparagraph (C) of paragraph (2) provides that funds represented by a reduction in the price received by producers for milk are to be collected and remitted to the Commodity Credit Corporation, at the time and in the manner prescribed by the Secretary, by each person making payment to a producer for milk purchased from the producer. However, producers that market their own milk directly to consumers would be required to directly remit the funds to the Corporation.

Subparagraph (D) of paragraph (2) provides that funds remitted to the Commodity Credit Corporation are to be considered as included in the payments to producers of milk for the purposes of the minimum price provisions of the Agricultural Adjustment Act.

Subparagraph (E) of paragraph (2) was added by section 10 of the Food Security Improvements Act of 1986, and increased the reduction in producer prices for the period March 1, 1986, through September 30, 1986, to achieve the reductions under the milk price support program otherwise required under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings). The provisions of subparagraph (E) are similar to those to be added to paragraph (2) by the bill, as described below.

Mr. Speaker, I'm sorry to have to take the Members' time. But this is an extremely important issue. We could have another sequestration order in the coming years, and it is critical that section 638 in the Agriculture provision of the continuing resolution is fully understood so that those carrying out its provisions are fully aware of congressional intent.

Mr. Speaker, the dairy program is very complex. It is designed not only to provide a stable market for farmers and consumers, but also to provide nutritional dairy products to a number of feeding programs.

In closing, I would like to share with the Members a copy of some remarks I recently shared with members of the conference committees on the CR and the reconciliation bill. I hope those examining the dairy program and its impact upon the budget find these remarks informative.

Dear Conference Committee Colleague:

I hope the attached statement is useful to you.

Dairy farmers have an outstanding record. Their hard work has made them heroes at cutting Federal costs, fighting inflation and improving productivity.

At a time when budget cutters are swinging their axes, emotions naturally run high. Everyone is concerned about their own priority programs. It is understandable, therefore, that budget cutters have overlooked reductions in dairy program costs over the last 2 years.

Understanding the complexities of farm programs is difficult at best. Many people do not realize that sequestration impacted dairy farmers differently than all other programs.

In fairness to the dairy industry, it is incredibly important that these facts be understood by those in Congress who are seeking to minimize the impact of the budget summit on their priority programs.

This is not an attempt to exempt the dairy industry from additional cuts under the budget agreement, although such a case can reasonably be made. The goal here is to outline the facts and let the budget leaders exercise their own judgement.

As a direct result of the 1985 farm bill, the taxpayer cost of the dairy program has been reduced by over $1 billion. That's a 50 percent reduction in program costs. At the same time, the market price of dairy products has dropped for the fifth straight year, and retail dairy prices have trailed all other food and all other consumer items for the seventh straight year. This is due primarily to the continuing productivity improvements in the dairy industry.

Unfortunately, the budget summit treats programs that have greatly reduced costs the same as those whose costs have been increasing. Dairy farmers are willing to do their fair share, so the question becomes: What is fair? I believe that if the facts are clear, the result will be fair.

Sequestration hits dairy farmers differently from all others. It cuts dairy farmers' market prices, not just Government costs.

One could only imagine the screams if the Gramm-Rudman sequestration, in order to reduce the deficit, imposed an immediate 8.5 percent gross income tax on all business and personal income. That is exactly the impact that sequestration will have on dairy farmers—and only dairy farmers.

The net result of sequestration would be a $1.6 billion reduction in income for dairy farmers, with only an accompanying reduction of $85 million in Government costs. This unfortunate unintended consequence is due to the unique nature of the dairy support program. Government payments do not go directly to dairy producers. Instead, the Government purchases surplus products in order to maintain the market price at the support level. Dairy farmers' income is derived from the market, not the Government. So while support price cuts reduce Government costs on the 5-6 billion pounds of product purchased by the Government, it also reduces the value of the other 140 billion pounds of milk sold in the market.

In 1986 we corrected this grievous injustice with additional legislation (Public Law 99-260). Unfortunately, that correction was overlooked in this year's Gramm-Rudman fix. Legislation that I introduced this year, House Resolution 3344, would correct this problem for the life of the "New" Gramm-Rudman. This bill passed the Agriculture Committee unanimously on October 15 and is at the Speaker's desk.

Fortunately, through the cooperation of the Secretary of Agriculture and dairy cooperatives, the full impact of sequestration has been avoided to date. But the full impact will be felt shortly unless we act. (See attachment No. 1 explaining the difference in gross income reduction using an assessment as compared to a price support cut.)

This anomoly occurs because the dairy price cut affects CCC purchases that set the market price, whereas in other programs this would result in a reduction in direct Federal payments to program participants. That unfairness is further extenuated by the fact that dairy farmers have already taken sustantial cuts in the mid 1980s and another 19 percent under the 1985 farm bill.

It is expected that sequestration will be superceded by the summit agreement. This discussion of the consequences of sequestration is most useful, therefore, to explain the unique nature of the dairy program and to describe the consequences of a failure to enact the budget summit agreement.

The actual taxpayer cost of dairy subsidies is approaching zero!

As we now translate the broad budget compromise into specific legislation, we must ask the following questions: What is the dairy program's true cost?; How much should that cost be reduced?; and How should those savings be obtained?

It is important to note that the dairy program is not designed to have a zero cost. A certain level of "surplus" is required to meet the needs of several nutrition programs, such as the school lunch program, and to provide a "balance wheel" to keep prices stable as discussed below.

In fiscal year 1988, USDA estimates indicate that existing traditional nutrition programs will require about 3.5 billion pounds of milk equivalent, or about $520 million worth of surplus product (the purchase cost of the milk plus storage and administrative costs). If these products are not available from "surplus" Government purchases, nutrition programs, such as School Lunch, Food for the Elderly, Indians, and Child Care, must be cut back or USDA must purchase products on the open market at higher prices.

It should also be noted that these nutrition programs are protected from cuts under both Gramm-Rudman and the summit agreement. And remaining year-end surplus stocks usually go to other domestic feeding programs, principally the Temporary Emergency Food Assistance Program (TEFAP) and the "PL-480" Program for Lesser Developed Countries. Without the required 5-6 billion pound surplus, these programs would suffer cutbacks. Already, USDA estimates indicate that the TEFAP Program will be phased out on March 1, 1988 due to a lack of surplus products.

Significantly, only 20 percent of the projected fiscal year 1988 cost of the dairy program is directly attributable to farmer subsidies—DTP payments and first quarter beef purchases. Even if TEFAP and Public Law 480 are included as dairy program costs, only about 50 percent of the total projected costs can be attributed to dairy program subsidies. (See attachment No. 2.)

Furthermore, we must remember why we have a purchase program to begin with. During the spring "flush period", when most cows freshen (have a calf), production per cow increases dramatically. The Government purchases this surplus, providing a "balance wheel" to absorb seasonal surpluses and sell them during the "dry period" in the fall and winter. This protects both consumers and farmers from fluctuations in supplies and prices. The fact that dairy product prices have consistently remained below the CPI for both food and consumer goods is a tribute to the success of the program.

The current program should be compared to the drastic retail price increases that occured in the mid-1970's when the Nixon administration, under the guise of fighting inflation, cut dairy price supports too severely. Milk shortages caused substantially higher wholesale and retail prices. Just as farmers where responding to the higher market prices caused by severe shortages by increasing production, the Government moved to let in huge imports of cheese and butter. These factors combined to drive producer prices down by over 20 percent. Retail prices, however, never returned to their previous level, dropping only 4 percent. Consumers and farmers therefore suffered needlessly from these price support cuts.

History, then, shows us that a national dairy program with purchases of 5 to 6 billion pounds of milk products is necessary to keep prices stable and provide for nutritional programs. We are now at this stage. What people need to understand is that the program is essentially at zero cost.

Dairy program purchases are now in balance. Notwithstanding this fact, the 1985 farm bill calls for a 4.5 percent reduction in dairy farm income.

The attached chart demonstrates that surplus stocks have been reduced dramatically. (See attachment No. 3.) Essentially the program is in balance. In fact, if it were not for increasing production west of the Sierra-Nevadas, no price reduction would be required under the 1985 farm bill. But a 4.5 percent price cut is coming on January 1. And this is in addition to 15 percent in support price cuts since 1983.

Recognizing that the price cut is coming, and that the program is essentially at zero cost, the House Agriculture Committee did not require savings from the dairy program on its version of the reconciliation bill. Even if you use the projected cost of the program for fiscal year 1988 (despite the fact that most goes for "protected" feeding programs), dairy's share should be about $20 million.

The budget summit devised a 2 percent scenario and agricultural program reductions. To implement this scenario in the form of an additional price cut or to calculate the required savings that would accrue from such a price cut is inappropriate and inconsistent with the intent of the 1985 farm bill and Gramm-Rudman.

When "fixing" Gramm-Rudman, the conferees inadvertently neglected to include the provisions of Public Law 99-260 in the conference agreement. Again, all parties agreed this was an error. H.R. 334 was reported out of the Agriculture Committee on October 15, without objection. In addition, identical language is included in the Senate version of the continuing resolution. And the Secretary of Agriculture has acknowledged that an assessment is the correct approach.

This was recognized in the 1985 farm bill when the assessment, which conferees agreed should be 50¢ per hundredweight, was reduced to 40¢ in anticipation of a Gramm-Rudman sequester. This was agreed to by the conferees and the administration. However, when the lawyers at USDA interpreted the agreement differently, Congress passed Public Law 99-260 to correct the inequity and an assessment was used (see attachment No. 1).

Using the price cut methodology to calculate dairy's share under Gramm-Rudman is inappropriate and unfair.

For the reasons described in great detail earlier, a percentage cut in dairy supports results in a much greater cut in farm income than is required to meet the reduction in outlays under Gramm-Rudman or the summit agreement.

There is no justification for using the 2 percent price cut scenario. Calculating the impact of a 2 percent decline in market prices, not Government costs, would require a loss in income for dairymen greater than those required from other agricultural producers and way beyond any other segment of the budget. Using this method to require up to $100 million from dairy is wrong. Further, experience has shown that in the short run farmers increase production after a price cut in order to make up for lost income. There is no historical justification for the $100 million figure.

The correct method to determine dairy's Gramm-Rudman share is very straightforward. A percentage reduction should be applied to total outlays under the program to determine dairy's contribution, and an assessment should then be set to achieve this savings. The 1985 farm bill already has the necessary built in price cuts to keep costs down and production under control.

Since 1980, dairy farmers have contributed $2.1 billion in assessments to reduce outlays and meet budget demands. This is in addition to a 19 percent (including the January 1, 1988 cut) reduction in the support price instituted to help bring production under control. The assessment method should now be used to meet dairy's savings under the budget agreement.

ATTACHMENT NO. 1

EXPLANATION OF SEQUESTRATION OR BUDGET RECONCILIATION REQUIRING REDUCTION IN SUPPORT PRICE

In the 1985 farm bill, it was intended that an assessment would be used to meet any Gramm-Rudman sequestration. This is because the dairy program operates quite differently from other farm programs. However, a legal interpretation said the Gramm-Rudman language covering farm commodities prevailed. Thus in 1986 PL 99-260 was passed to correct this problem. However, PL 99-260 has since been interpreted to apply only to the 1986 sequestration. Thus H.R. 3344 is required to address this same problem.

The following examples will demonstrate the tremendous inequity that will result if H.R. 3344 does not pass.

IMPACT OF 1986 SEQUESTRATION UNDER PUBLIC LAW 99-260

1986 (actual):

Dairy program costs—$2.3 billion;[1] Surplus purchases—10.6 billion lbs; assessment used—$.12 per cwt; required savings—$81 million; savings attained—$85.6 million; and cost to farmers—$85.6 million.

IMPACT OF FISCAL YEAR 1988 SEQUESTRATION (PRESENT INTERPRETATION)

1988 (projected):

Dairy program costs—$955 million;[1] surplus purchases—4.5 billion lbs.; effective cut in support level—$1.05 per cwt; required savings—$64 million; savings attained—$47.2 million; and cost to farmers—$1.5 billion.

IMPACT OF 1987 SEQUESTRATION UNDER H.R. 3344

Dairy program costs—$955 million; surplus purchases—4.5 billion lbs; assessment on producers—$.05 per cwt; required savings—$64 million; savings attained—$64 million; and cost to farmers—$64 million.

ATTACHMENT NO. 2

TRUE COST OF DAIRY (1988 ESTIMATE)[2]

$279 million true program costs—$61 million beef and $218 million DTP payments.

$918 million programs protected or traditional—$398 million TEFAP, Public Law 480, et cetera and $520 million child nutrition, elderly feeding, et cetera protected.

ATTACHMENT NO. 3

DAIRY PRODUCT SURPLUSES HELD BY CCC

[Millions of pounds]

Year end uncommitted inventory	Cheese	Butter	Nonfat dry milk
Fiscal year:			
1983	903	391	1,346
1984	968	255	1,204
1985	657	140	981
1986	559	194	697
1987	98	82	63

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: The enclosed letter has been received in the Clerk's Office regarding the resignation from the House, next March, of the Honorable Buddy Roemer of the Fourth Congressional District of Louisiana.

This letter is transmitted for your information. I will send any further details regarding this expected vacancy whenever they are received by my office.

With great respect, I am,

Sincerely yours,

DONALD K. ANDERSON,
Clerk, House of Representatives.

HOUSE OF REPRESENTATIVES,
Washington, DC, December 14, 1987.

Hon. EDWIN W. EDWARDS,
Governor, Baton Rouge, LA.

DEAR GOVERNOR EDWARDS: I hereby resign as United States Representative for the Fourth Congressional District for the State of Louisiana effective March 14, 1988, the day of my inauguration as Governor of the State of Louisiana. Please be advised that it is my intention to continue to serve as a member of the United States Congress until my inauguration on March 14.

Pursuant to Louisiana Revised Statutes 18:1279, I ask that you call a special election to fill my seat as United States Representative and that the primary for such election be set for March 8, 1988. It is my understanding that the state will hold a statewide presidential preference primary election on March 8 and, therefore, that also holding the special election for my congressional seat on that day will result in substantial savings to the state.

Please formally notify the Clerk of the United States House of Representatives of my resignation and its effective date.

Sincerely,

BUDDY ROEMER,
Member of Congress.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LUNGREN (at the request of Mr. MICHEL), for December 20 and 21, on account of personal reasons.

Mr. YOUNG of Florida (at the request of Mr. MICHEL), for December 20 and until 2 p.m. on December 21, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MILLER of Washington) to revise and extend their remarks and include extraneous material:)

Mr. JEFFORDS, for 60 minutes, today.

Mr. DREIER of California, for 5 minutes, today.

(The following Members (at the request of Mr. FOLEY) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. FORD of Michigan, for 5 minutes, today.

Mr. UDALL, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BARNARD, and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,964.

(The following Members (at the request of Mr. MILLER of Washington) and to include extraneous material:)

Mr. MOORHEAD.

Mr. SHUMWAY.

Mr. GILMAN in two instances.

Mr. HORTON.

Mr. FRENZEL in six instances.

(The following Members (at the request of Mr. FOLEY) and to include extraneous matter:)

Mr. OWENS of New York.

Mr. SOLARZ.

Mr. KANJORSKI.

Mr. COELHO in two instances.

Mr. LANTOS.

Mr. RAHALL.

Mr. MILLER of California in two instances.

Mr. BONKER.

Mr. FASCELL.

Mr. MORRISON of Connecticut.

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[1] It should be noted that although the cost of the dairy program will have been cut by more than one half from fiscal year 1986 to fiscal year 1988, dairy farmers would be required to suffer a loss of $1.5 billion in fiscal year 1988.

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[2] $1.1 billion C.C.C. net outlay basis.

(The following Members (at the request of Mr. DREIER of California) and to include extraneous matter:)

Mrs. SAIKI.
Mr. SMITH of New Hampshire.
Mr. GILMAN in three instances.
Mr. COURTER.
Mr. FISH in two instances.
Mr. MICHEL.
Mr. FRENZEL.
Mr. YOUNG of Alaska.
Mr. LOTT.
Mr. LEWIS of California.
Mr. LIGHTFOOT.
Mr. SCHAEFER.
Mr. RIDGE.
Mr. PARRIS.
Mr. GREEN.
Mr. LENT.
Mr. SMITH of New Jersey.
Mr. LEACH of Iowa.
Mr. BEREUTER in two instances.
Mr. DANNEMEYER.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. FASCELL.
Mr. LANTOS in two instances.
Mr. MORRISON of Connecticut.
Mr. KANJORSKI.
Mr. MARKEY.
Mr. HAMILTON in two instances.
Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. JONES of Tennessee in 10 instances.
Mr. DORGAN of North Dakota.
Mr. ECKART.
Mr. HOCKBREUCKNER.
Mr. VENTO.
Mr. FRANK in two instances.
Mr. STUDDS in three instances.
Mr. LAFALCE.
Mr. RAHALL.
Mr. BENNETT in two instances.
Mr. HUBBARD.
Mr. WEISS in two instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1994. An act to prevent fraud and abuse in housing and urban development programs; to the Committees on Banking, Finance and Urban Affairs and Ways and Means.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 403. An act to establish the El Malpais National Monument and the El Malpais National Conservation Area in the State of New Mexico, to authorize the Masau Trail, and for other purposes;

H.R. 2583. An act to authorize additional appropriations for the San Francisco Bay National Wildlife Refuge;

H.J. Res. 376. Joint resolution to designate the Clarks Hill Dam, Reservoir, and Highway transversing the Dam on the Savannah River, Georgia and South Carolina, as the J. Strom Thurmond Dam, Reservoir, and Highway; and

H.J. Res. 430. Joint resolution calling upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join spouses or fiances in the United States.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1642. An act to designate the U.S. Post Office at 600 Franklin Avenue in Garden City, NY, as the "John W. Wydler United States Post Office," and

S. 1684. An act to settle Seminole Indian land claims within the State of Florida, and for other purposes.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On December 20, 1987:

H.R. 390. An act to provide that a special gold medal be presented to Mary Lasker for humanitarian contributions in the areas of medical research and education, urban beautification and the fine arts, and for other purposes;

H.R. 519. An act to direct the Federal Energy Regulatory Commission to issue an order with respect to Docket No. EL-85-38-000;

H.R. 2310. An act to amend the Airport and Airway Improvement Act of 1982 for the purposes of extending the authorization of appropriations for airport and airway improvements, and for other purposes;

H.R. 2639. An act to repeal the Brown-Stevens Act concerning certain Indian tribes in the State of Nebraska;

H.R. 2974. An act to amend title 10, United States Code, to make technical corrections in provisions of law enacted by the Military Retirement Reform Act of 1986;

H.R. 3289. An act to amend the Export-Import Bank Act of 1945;

H.R. 3427. An act to allow the obsolete submarine U.S. ship *Blenny* to be transferred to the State of Maryland before the expiration of the otherwise applicable 60-day congressional review period;

H.R. 3492. An act to entitled the "Rural Crisis Recovery Program Act of 1987";

H.R. 3712. An act to designate the U.S. Livestock Insects Laboratory in Kerrville, TX, as the "Knipling-Bushland Research Laboratory";

H.R. 3734. An act to recognize the significance of the administration of the Federal-Aid Highway System and to express appreciation to Ray A. Barnhart for his dedicated efforts in improving the Federal-Aid Highway System;

H.J. Res. 426. Joint resolution authorizing the hand enrollment of the budget reconciliation bill and of the full-year continuing resolution for fiscal year 1986;

H.J. Res. 431. Joint resolution making further continuing appropriations for the fiscal year ending September 30, 1988, and for other purposes; and

H.J. Res. 255. Joint resolution designating the third week in May 1988 as "National Tourism Week."

□ 0315

RECESS

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the House stand in recess until 10:30 a.m.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

Accordingly (at 3 o'clock and 15 minutes a.m.) the House stood in recess until 10:30 a.m.)

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2601. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-120, "Utility Bill Payment Act of 1987", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2602. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-119, "Visual Alert System for the Deaf and Hearing-Impaired Amendment Act of 1987", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2603. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-118, "Nonprofit Raffle Licensing Amendment Temporary Act of 1987", pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2604. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-117, "Rate of Interest on Judgments and Decrees Act of 1987", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2605. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-122, "D.C. Board of Parole Amendment Act of 1987", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2606. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-116, "Juror Fees Act of 1987", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2607. A letter from the Auditor, District of Columbia, transmitting a report entitled, "Bi-Annual Audits of the Advisory Neighborhood Commissions—Ward 1, 3, 4 and 5 for the period October 1, 1985 through September 30, 1986", pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

2608. A communication from the President of the United States, transmitting certification that Pakistan does not possess a nuclear explosive device and that proposed assistance will reduce the risk that they will possess such device, pursuant to 22 U.S.C. 2375(e); to the Committee on Foreign Affairs.

2609. A letter from the Deputy Secretary, Department of Commerce, transmitting a report on compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2610. A letter from the Chairman, U.S. Merit Systems Protection Board, transmitting the Board's report of its compliance with the requirements of the internal accounting and administrative control system for fiscal year 1987, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2611. A letter from the Executive Secretary, Office of the Secretary of Defense, transmitting the report on Department of Defense Procurement from small and other business firms for fiscal year 1987, pursuant to 15 U.S.C. 639(d); to the Committee on Small Business.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DERRICK: Committee on Rules. House Resolution 341. Resolution waiving certain points of order against the conference report on (H.R. 3545) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1988, and against consideration of such conference report (Rept. 100-492). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 342. Resolution providing for the consideration of a resolution reported by the Committee on Rules providing for the consideration of the conference report on the joint resolution (H.J. Res. 395) making further continuing appropriations for fiscal year 1988, and for other purposes (Rept. 100-493). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 343. Resolution waiving certain points of order against the conference report on (H.J. Res. 395) making further continuing appropriations for the fiscal year 1988, and for other purposes, and against consideration of such conference report (Rept. 100-494). Referred to the House Calendar.

Mr. GRAY of Pennsylvania: Committee of conference on the conference report H.R. 3545 (Rept. 100-495). Ordered to be printed.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 3344, a bill to effect any reduction in new expenditures for milk price support activities required by the Balanced Budget and Emergency Deficit Control Act of 1985; with an amendment (Rept. 100-496). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 3494, a bill to amend the Food Security Act of 1985, and for other purposes; with an amendment (Rept. 100-497). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee of Conference. Conference report on House Joint Resolution 395. (Rept. 100-498). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BENNETT:

H.R. 3826. A bill to direct the Secretary of the Army to set aside an appropriate area within Arlington National Cemetery for the unmarked burial of cremated remains; to the Committee on Veterans' Affairs.

By Mr. DAVIS of Michigan (for himself, Mr. Biaggi, Mr. Young of Alaska, and Mr. Anderson):

H.R. 3827. A bill to authorize expenditures for boating safety programs, and for other purposes; jointly, to the Committees on Ways and Means and Merchant Marine and Fisheries.

By Mr. MATSUI (for himself, Mr. Akaka, Mr. Dymally, Mr. Edwards of California, Mr. Lowry of Washington, Mr. Mineta, Mr. Pashayan, Ms. Pelosi, Mrs. Saiki, and Mrs. Boxer):

H.R. 3828. A bill to amend title 13, United States Code, to require certain detailed tabulations relating to Asians and Pacific Islanders in the decennial censuses of population; to the Committee on Post Office and Civil Service.

By Mr. SHAW:

H.R. 3829. A bill to amend the Job Training Partnership Act to require accreditation or certification of providers of training and education under that act; to the Committee on Education and Labor.

By Mr. WELDON:

H.R. 3830. A bill to amend title 10, United States Code, by expanding the prohibitions on a person convicted of a felony related to a defense contract and by increasing from 1 year to 5 years the length of time that the prohibitions are in effect; to the Committee on Armed Services.

By Mr. WISE:

H.R. 3831. A bill to amend part C of the Federal Coal Mine Health and Safety Act of 1969 to provide for a rebuttable presumption of disability due to pneuoconiosis with respect to certain coal miners whose claims arose under such part; to the Committee on Education and Labor.

By Mr. WISE (for himself, Mr. Sharp, Mr. Moorhead, and Mr. Dannemeyer):

H.R. 3832. A bill to require that buses purchased with Federal funds be alcohol fueled, natural gas fueled, or LP-gas fueled, and for other purposes; jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

By Mr. CRANE:

H.J. Res. 433. Joint resolution to authorize the National Committee of American Airmen Rescued by General Mihailovich to erect a monument to General Draza Mihailovich in Washington, DC, or its environs, in recognition of the role he played in saving the lives of more than 500 United States airmen in Yugoslavia during World War II; to the Committee on House Administration.

By Mr. GONZALEZ:

H.J. Res. 434. Joint resolution designating May 25, 1987 as a "National Day of Remembrance" of the U.S. crew members killed and injured in the attack on the USS *Stark;* to the Committee on Post Office and Civil Service.

By Mr. JONES of North Carolina (for himself and Mr. Davis of Michigan):

H.J. Res. 435. Joint resolution commemorating the 100th anniversary of the Committee on Merchant Marine and Fisheries of the House of Representatives; to the Committee on Post Office and Civil Service.

By Mr. FRENZEL (for himself, Mr. Gibbons, Mr. Downey of New York, and Mr. Pease):

H. Con. Res. 234. Concurrent resolution expressing the sense of the Congress with respect to the 40th anniversary of the General Agreement on Tariffs and Trade; to the Committee on Ways and Means.

By Mr. JONES of North Carolina (for himself and Mr. Davis of Michigan):

H. Res. 344. Resolution providing for the printing of a history of the Committee on Merchant Marine and Fisheries in connection with the 100th anniversary of the committee; to the Committee on House Administration.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 236: Mr. Lott.

H.R. 813: Ms. Pelosi and Mr. Stark.

H.R. 1049: Mr. Mavroules.

H.R. 1291: Mr. Lagomarsino.

H.R. 1602: Mr. Wortley, Mr. Lagomarsino, Mr. Traficant, Mr. McGrath, Mr. Davis of Illinois, Mr. Daub, Mr. Smith of New Hampshire, and Mr. Herger.

H.R. 1729: Mr. Blaz.

H.R. 1786: Mr. Wyden, Mr. Perkins, and Mr. Grandy.

H.R. 2052: Mr. Slaughter of Virginia.

H.R. 2168: Mr. Darden.

H.R. 2474: Mr. Gilman, Mr. Lightfoot, and Mr. Gregg.

H.R. 2676: Mr. Fauntroy.

H.R. 2695: Mr. Penny, Mr. Rinaldo, Mr. Wolpe, Mr. Sundquist, and Mr. Chapman.

H.R. 2934: Mr. Kanjorski, Mr. Jones of North Carolina and Mr. Broomfield.

H.R. 3193: Mr. Schumer, Mr. Ackerman, Mr. Panetta, and Ms. Slaughter of New York.

H.R. 3221: Mr. Frank.

H.R. 3312: Mr. Wolf.

H.R. 3329: Mr. Vander Jagt, Mr. Inhofe, and Mr. McEwen.

H.R. 3340: Mrs. Bentley, Mr. Synar, and Mr. Moakley.

H.R. 3355: Mr. Kennedy, Mr. Morrison of Connecticut, and Mr. Leach of Iowa.

H.R. 3418: Mr. Murphy, Mr. Upton, Mr. Wolpe, Mr. Owens of New York, Mr. Edwards of California, Mr. Studds, Mrs. Patterson, Mr. Markey, Mr. Foglietta, Mr. Ford of Tennessee, Mr. Kolbe, and Mr. Walgren.

H.R. 3553: Mr. Horton.

H.R. 3562: Mrs. Saiki and Mr. Brown of California.

H.R. 3610: Mr. Solarz, Mr. Fauntroy, Mr. Spence, Mr. Horton, Mr. Yates, Mr. Clay, Mr. Fazio, Mr. Gray of Pennsylvania, Mr. Ford of Tennessee, Mr. Espy, Mr. Frost, Mr. Evans, Mr. Hayes of Illinois, Mr. Roe, Mr. Rangel, Mrs. Collins, Mr. de Lugo, Mrs. Bentley, Mr. Atkins, and Mr. Gray of Illinois.

H.R. 3633: Mr. Ackerman, Mr. Bates, Mr. Bonior of Michigan, Mr. Bonker, Mr. Boucher, Mr. Brown of California, Mr. Bustamante, Mr. Conyers, Mr. Crockett, Mr.

SENATE—*Monday, December 21, 1987*

(*Legislative day of Tuesday, December 15, 1987*)

The Senate met at 4 p.m., on the expiration of the recess, and was called to order by the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Hear, O Israel: The Lord our God is one Lord: And thou shalt love the Lord thy God with all thine heart, and with all thy soul, and with all thy might. And these words, which I command thee this day, shall be in thine heart: And thou shalt teach them diligently unto thy children, and shalt talk of them when thou sittest in thine house.—Deuteronomy 6:4-7.

Eternal Father in heaven, at this season of the year, we think of home and family. What beautiful words and what a blessed reality whether in memory or the present. We thank You for this glue of social order. We ask that Your special blessing may rest upon the home and family of each person who works in the Senate. Where there is alienation—bring reconciliation. Where there is illness—healing. Where there is sadness—joy. Where there is discouragement—hope. Where there is loneliness—love. Where there is financial difficulty—relief. Fill each home with grace and peace this week. Especially Heavenly Father do we pray for those who have worked such long and hard hours that they may be totally renewed and restored in the blessedness of Christmas. In the name of God's gift of love. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STENNIS).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 21, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. BURDICK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. BYRD. Mr. President, conferences have been going on now all through Saturday into the late, late evening hours, even to almost midnight, beginning on yesterday at 11 o'clock, going into the early evening, and continuing through this day. Most of the sticky items have been resolved in the spirit of compromise.

I anticipate that the House will be taking up one of the conference reports and getting it over to the Senate at a reasonably early hour. My conversations on yesterday led me to believe that we might receive the conference report on the reconciliation bill possibly by 5 o'clock today. My conversations with the Speaker today indicate that we are still on schedule, but whether or not we will get a conference report by 5, in my judgment, is somewhat questionable.

I simply say to my colleagues here on both sides of the aisle that we should be prepared to stay until the work is done. It may be midnight, it may be early tomorrow morning, and it may be earlier or later than either. The only thing I can say is let us just stay and be prepared to do our work, and when the conference reports come to the Senate, they will be called up and the Senate will work its will.

Whether or not the President will veto either of the two bills, the continuing resolution or the reconciliation bill, in the final analysis is not for me to say. He continues to threaten to do this. And I regret that. We all know that the President has the constitutional right, power, and duty to veto if in his judgment a bill should be vetoed. But we have heard all too many threats. It makes it difficult for any President to accommodate himself to developing circumstances that may not be foreseen at the time a veto threat is issued. We all know that the veto pen is there. It is always at the ready. The President can always exercise that right, that power, and that duty. And I regret that these veto threats continue to come because they make it hard for the President and the Congress to work out these thorny problems in the final analysis.

So having said that, I say that I do not know whether we will have to mount an effort to override a veto in the final analysis or not. I hope we will not. I think the people of this country are tired of the confrontation. They want to see us work together. And that is the spirit in which Democrats and Republicans on both sides of the Hill have been working over this weekend. It is very seldom that we have a Sunday session or Sunday committee meeting or Sunday conferences but they have been going on in the effort to complete our work so that the Government can continue to operate, and we can resolve these very, very difficult questions.

I say again to my colleagues I cannot say to you what the hour will be when we will be voting but I have confidence that we have good attendance. I hope that Senators will understand that we may not get out tonight. We may still be here. If the President vetos a bill, then that means we have to take another look at it.

RESERVATION OF THE REPUBLICAN LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the Republican leader's time may be reserved.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. ROCKEFELLER). Under the previous order there will now be a period for the transaction of morning business for not to exceed 30 minutes with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

WILL A SUPERPOWER AGREEMENT TORPEDO OUR TRIDENT DETERRENT?

Mr. PROXMIRE. Mr. President, what leg of our nuclear triad carries the largest share of this country's deterrent? Is it our land-based leg—that is, the Minuteman and MX missile? Is it the sea-based leg—the submarines? Or is it the air leg? These are the bombers. The American nuclear deter-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

rent today is overwhelmingly dominated in our submarines. In a story in the November 27 New York Times, Richard Halloran spells out exactly how dominant our Trident submarines have become in our nuclear defense. Our nuclear armed submarines carry 5,632 nuclear warheads. That compares with less then half as many: 2,130 warheads on U.S. land-based missiles. Our submarines also carry far more nuclear warheads than our bomber fleet.

The submarine leg of our triad has already become very costly. It will cost more in coming years. Halloran reports that the Congressional Research Service projects a 1992 Trident cost of $69.8 billion. This would make it our most costly weapons program ever and anywhere. Is it wise to spend so much of our military budget on only one of the three legs of the nuclear triad? Is it prudent to concentrate as much of our vital deterrent on submarines?

This Senator believes the answer is yes, emphatically yes. Here's why: Submarines are by far the most secure part of our deterrent. They are exceedingly hard to track. This is because they are moving and moving rapidly under the ocean. They are quiet. They are invisible. As the Navy phases the new Trident submarines into the fleet, the advantages offered by our submarine fleet will become even more conspicuous. The Navy keeps the Trident at sea for 70 days, on a normal patrol. When it returns, as Halloran reports, a fresh crew replaces the returning crew. Maintenance men repair machinery. They replace some missiles. This takes 18 working days. Then the new crew will run through its drills. And the Trident goes back to sea. It spends two-thirds of its time in operations at sea. This compares with about half for older submarines. Each Trident has two separate crews assigned. With its 6,000 mile range, it can strike Soviet targets at any time from the minute it leaves port. In the next 70 days it can be anywhere in the Earth's vast oceans. It can be under the ice at either pole. It can be in the Atlantic, Pacific, Indian Ocean, or elsewhere. It will always be moving—silently, swiftly. Over time each of these submarines has the destructive capability to destroy every major city in the Soviet Union. I am not talking about the U.S. submarines fleet as a whole. I am saying that each individual Trident submarine has the astonishing deterrent power.

Now, Mr. President, would not the ratification of the widely discussed treaty reducing the number of warheads of both superpowers to less than 5,000 seriously compromise this remarkable deterrent? Keep in mind that we already—today—carry 5,632 warheads on submarines. The Triad principle is based on the reasonable assumption that the substantial nuclear arming of each of the three legs—land, sea, and air provides an insured protection against a sudden, unexpected Soviet technological breakthrough. The Soviets conceivably could find a way to track and destroy our submarine fleet, for instance. So it would be unwise to reduce any of the three legs below the roughly 20 percent of the total number of warheads now represented by the land-based missiles. If the United States pursues this deterrent strategy and agrees to an overall nuclear warheads reduction of 50 percent, then we would sharply reduce the number of nuclear warheads carried by a oncoming Trident fleet.

Can we do this wisely? Yes. The wise way to do this would be to carry the same number of Trident submarines in our arsenal as we now plan to carry but design or redesign each of them to carry a smaller number of warheads. This would provide a more assured deterrent than withdrawing half of our submarine fleet. The number of U.S. submarines at sea at all times is critical to the credibility of our deterrent. We should keep enough American submarines at sea to make it virtually impossible for the Soviets to track and promptly eliminate each and every one.

Our Trident submarines deterrent should not block agreement to a treaty sharply reducing warheads of both superpowers. The nature of this deterrent does, however, require that we maintain the credibility of this most critical leg of our deterrent by maintaining the planned number of our Trident fleet. If we ratify the treaty calling for a 50-percent overall nuclear warheads reduction we can and should reduce the number of warheads per Trident, and certainly not the number of Trident submarines.

I ask unanimous consent that the article to which I referred in the New York Times by Richard Halloran be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 27, 1987]

SUBMARINES NOW DOMINATE U.S. NUCLEAR FORCES

(By Richard Halloran)

BANGOR, WASH.—Since President Reagan started to modernize the nation's long-range nuclear forces six years ago, the balance of American striking power has shifted, almost unnoticed, from land to sea.

Today, nearly half the nuclear warheads in long-range weapons are carried aboard submarines, an increase of one-third since 1981. The rest are in land-based missiles or bombs and cruise missiles carried by bombers.

The shift has taken place as eight Trident submarines have joined the fleet, each with 24 missiles armed with 8 warheads. The newest boat, Nevada, was loaded with missiles in August.

DELAYS IN MX PROGRAM

In coming years, the ratio will favor missiles on submarines even more. The Navy is constructing six more Tridents and plans a total of 20, while the Air Force has been delayed in deploying MX missiles because guidance systems have not been delivered on time. There is also little support in Congress for more land-based missiles.

The Trident program could be slowed by budget cuts or an arms agreement. The President is to meet with Mikhail S. Gorbachev, the Soviet leader, in Washington on Dec. 7 to sign an agreement limiting medium-range missiles and to begin looking for reductions in long-range weapons.

The emphasis on submarine-based missiles has not been articulated by the Reagan Administration, which has concentrated on the Air Force's MX missile and B-1 bomber, but has evolved from other strategic, political and technical developments.

VULNERABILITY ISSUE

Strategically, students of nuclear warfare say, improved accuracy in Soviet land-based missiles, the bulk of the Soviet nuclear force, has put American land-based missiles and bombers at risk from attack.

But Navy officers argue that submarines can hide in the sea. Vice Adm. Bruce DeMars, the Navy's chief submariner, contends that submarines have become "the pre-eminent leg of the strategic deterrence triad" of land, air and sea based missiles.

Politically, as William M. Arkin of the Institute of Policy Studies in Washington, wrote recently, the Navy's nuclear arms "so far have not been subjected to the same public scrutiny which has been focused on land-based nuclear forces" like the MX.

Technically, excess cost, delays and poor workmanship that marked the early construction of Trident submarines, which began in the Ford Administration, have been corrected, Navy officers said, thus damping Congressional criticism.

Altogether, Navy missile submarines today carry 5,632 nuclear warheads, as against 2,140 warheads atop the Air Force's Minuteman and MX missiles; the rest are aboard bombers.

But Trident has been costly. A report by Congressional Research Service said that, with spending on the Trident program to reach $69.8 billion by 1992, it has become "the most expensive U.S. weapons program."

But Naval officers say Trident consumes only 10 percent of the Navy's budget and 25 percent of the cost of long-range nuclear forces. They asserted the extra cost was worth it because undetected submarines deterred attack.

If the United States and the Soviet Union agree to limit long-range nuclear arms, Trident would undoubtedly be affected since the boats carry the greater number of warheads.

The Trident I missiles have a range of 5,000 miles, and the warheads could hit targets in the Soviet Union as soon as the submarine leaves port here.

In contrast, older submarines must steam some distance to get within range. The Navy has 28 Poseidon submarines with 16 missiles each. Of those, 12 have Trident I missiles and the remainder have Poseidon missiles with a range of 3,600 miles. Poseidon submarines are based at Charleston, S.C., and Holy Loch, Scotland.

All Polaris boats, the first American ballistic missile submarines, have been retired.

The Navy also has 100 attack submarines armed mainly with torpedoes.

The next Trident submarine, Tennessee, is to be delivered next year and will be the first to carry Trident II missiles with a range of 6,000 miles, 8 warheads and the ability to destroy fortified Soviet targets. Tennessee and the next nine boats are to be based at Kings Bay, GA.

All Trident submarines are currently based here. Every 12 or 13 days, a submarine returns from a patrol in the Pacific to trigger an urgent but orchestrated effort to get her back to sea.

A fresh crew replaces the returning crew, provisions for 70 days are stowed aboard, machinery is repaired and some missiles are exchanged. After drills, the submarine resumes patrol.

Trident submarines spend two-thirds of their service at sea, as against half for older missile-carrying submarines and one-third for most surface vessels.

WHITE KNUCKLES SITUATION

Each Trident submarine has two crews of 170 officers, chief petty officers and sailors. Named for Navy colors, the Blue crew prepares for sea while the Gold crew is on patrol.

The nuclear-powered submarine could stay at sea longer than the 70 days of a normal patrol. But that would put a burden on the crew in separation from families and friends and in fatigue.

The Blue crew starts getting ready the day the Gold crew leaves. With each patrol, about 20 percent of a crew is new because sailors leave for shore duty, to attend school or to leave the Navy.

Most training takes places in a building in which a Trident boat has, in effect, been broken apart. "We've tried to make this place as close to a ship as possible," said an officer. "We can put them in a high-stress, white knuckles situation right up to catastrophic emergencies."

While the crew trains, technicians prepared to service a submarine as soon as she returns. Much maintenance is planned: if a pump is designed to work three years, it will be replaced at 2½. "The whole idea is to pull it off before it fails," said an officer.

A key to swift turnarounds, submariners said, is the design. In older submarines with small hatches, machinery had to be disassembled and lifted out for repair; it could not be tested until after reassembly in the submarine. On the Tridents, however, machinery can be hoisted through a six-foot-square opening without disassembly. A new or rebuilt piece of equipment, already tested, is lowered and hooked up.

Repairs and replenishment usually takes 18 days, without weekends off. The captain then runs drills while the submarine is tied up and finally drills in Puget Sound before slipping out to sea.

EFFECTS OF CORPORATE TAKEOVERS

Mr. SANFORD. Mr. President, I rise to commend to my colleagues an article which appeared in this morning's Washington Post. What I find particularly compelling is that the article reflects an interview with the dean of the business school of George Mason University—a school widely known for its laissez faire economic philosophy—yet this dean, Coleman Raphael, emerges as an outspoken critic of hostile takeovers. Mr. Raphael's opinions result from the damage he has watched occur at one of the Washington area's most competitive companies—Atlantic Research Corp. ARC has produced a wide variety of products, ranging from rocket propulsion systems used in Stinger missiles, to electronic and computer security systems, and has consistently maintained a very impressive 20 percent annual return on equity for its shareholder.

In describing the takeover "game," Dean Raphael notes that it is "bad for the country," "a game marked by a short-sighted, bottom-line mentality, fed by vulture speculators, imposing astronomical costs on management resources and causing needless psychic distress and turmoil for workers."

Raphael described the devastation the takeover has had on employee morale, and his comments echo those we heard time and time again this year in hearings for the Banking Committee. Raphael comments that the costs, in terms of turmoil and loss of productivity was enormous as key managers began considering jumping ship. The United States cannot afford to lose its research capacity, but such loss time and again is the result of hostile takeovers.

It is exactly this type of devastation, loss of employee morale, and a new focus on the short-term bottom line that many of us on the Banking Committee believe must be stopped. I urge my colleagues to keep stories like these in mind when the Senate considers legislation to amend our tender offer laws. Unfortunately, it is companies like ARC, that appears to be well-run, with strong research and long-term growth strategies and good returns on equities, that are too often the target for raiders who are interested only in short-term dollars.

I ask unanimous consent to have the full text of this Washington Post article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 21, 1987]

ATLANTIC RESEARCH CHAIRMAN SHAKEN, BITTER AFTER TAKEOVER FIGHT

(By Michael Isikoff)

The letter came to Coleman Raphael's home two weeks ago, a heart-wrenching lament from a longtime employee of Atlantic Research Corp. A few days earlier, ARC, the rocket company that Raphael helped build into one of the glittering success stories of Washington business, had learned it soon would be swallowed up by Sequa Corp., a little-known but cash-rich conglomerate in New York.

Suddenly, a sense of gloom had swept through ARC's headquarters in Alexandria. Many of the firm's 3,800 employes were anxious, and despite official assurances from the soon-to-be new owners, worried about their futures.

"Yesterday, it was almost silent at Atlantic Research," began the employe's letter to Raphael, the chairman of ARC, its former chief executive and now dean of the school of business administration at George Mason University. "Employes tried to avoid the halls, the cafeteria, each other. What little small talk there was centered on laconic survival jokes.

"The sudden purchase of our independence dazes me and most of my colleagues. Our feeling of loss is genuine, because you created a unique constellation within this company that we may well never experience and enjoy again. Where else in American business could so many good ideas, so spontaneously, so regularly come from the ranks?"

As he read the letter to a visitor in his office on the GMU campus in Fairfax last week, Raphael could not help but be moved one more time. The letter, he emphasized, underscored everything wrong with the fevered takeover game played by corporations in recent years and which he had just lived through. It is a game, Raphael believes, that is "bad for the country," a game marked by a short-sighted, bottom-line mentality, fed by "vulture" speculators, imposing astronomical costs on management resources and causing needless "psychic distress" and turmoil for workers.

All that was seen in the more than year-long battle for control of Atlantic Research, Raphael said. The fees ARC paid to its investment bankers (First Boston Corp.), its lawyers (Skadden, Arps, Slate, Meagher & Flom) and others retained to fight a takeover came to an estimated $3 million, according to one company estimate. The costs, in terms of turmoil and loss of productivity among employes, was enormous, Raphael said.

"What is the dollar value of that psychic distress?" he asked. "People stop working, nothing is getting done. . . . People are sitting around wondering what is going to happen next."

The end result, he said, is only more uncertainty—new owners with an unknown agenda. "You put all these things together . . . and you have to ask, is it worth it?" he said.

Not that Raphael doesn't benefit financially. He became the firm's largest individual shareholder in the 1970s, buying $160,000 worth of stock with borrowed funds. Last week, he reluctantly tendered his remaining 326,645 shares at Sequa's $31-a-share asking price, netting him a pretax profit of about $10 million.

But Raphael, 62 believes there are larger issues at stake, enough to turn him into an outspoken critic of hostile takeovers. It is not an unheard-of transformation—many other top executives who have gone through bruising takeover fights have come away with similar views. But it is an unusual position for a business school dean at a university known as a national bastion of Laissez faire economics.

"I think we were one of the great companies in this country," Raphael said. "We always felt we knew how to run this company better than anybody. . . . We were smart."

Raphael's role at ARC will officially end at midnight tonight, when Sequa's tender offer expires, for all practical purposes sealing the $284 million deal. Within the next couple of days, he and the rest of the management team that has run the company for the past 12 years—William H. Borten, ARC's president and chief executive officer; W. Gerald Hamm, its executive vice president; and others—will lose their titles and surrender control to Sequa, formerly called the Sun Chemical Corp., a $1.2 billion firm with interests in gas turbines, jet engines, military electronics and specialty chemicals.

Last week, Sequa President Robert E. Davis visited with ARC managers and gave renewed pledges that the new owners have no plans to sell parts of the company or lay off employes. Davis indicated that Sequa plans to keep the company as a separate subsidiary, with existing operating management, under the Atlantic Research name.

He gave the right kind of assurances," said Borten, who expects to stay on. "What he said was, 'if it ain't broke, they're not going to try to fix it.'"

Atlantic Research was anything but broke when it first became a takeover target more than a year ago. Since 1976, when Raphael, Borten, Hamm and seven others acquired the Atlantic Research division of the old Susquehanna Corp. in a leveraged buyout, the firm has blossomed into one of the Washington area's largest and most profitable defense contractors. From less than $30 million in sales 12 years ago, it has grown exponentially virtually every year, posting $263.2 million in revenue in 1986 with profits of $14.7 million.

At the heart of the company's business, accounting for about half its sales, is a rocket propulsion division that is ranked among the tops in the field, manufacturing solid rocket motors for such key Pentagon weapons systems as the Trident nuclear and Tomahawk cruise missiles and the Army's multiple launch rocket system. When Afghan guerrillas shoot down Soviet helicopters, they use handheld Stinger missiles propelled by motors produced at Atlantic Research's rocket facility in Gainesville, Va.

The company has long since diversified into other areas—most notably the marketing of Tempest electronic and computer security systems used to protect sensitive government data. Raphael, who stepped down as CEO two years ago, notes that ARC consistently managed to produce a greater than 20 percent annual return on equity for its shareholders.

But, Raphael said last week, ARC always believed in something more than maximizing short-term profits for its shareholders.

The company gave annual bonuses averaging $600 to its employes and tried to create an informal atmosphere in which workers' views were not only listened to, but actively solicited, he said. It walked away from foreign deals in the Dominican Republic, the Philippines and other countries when strange "off the book" commissions or payoffs were requested. It prided itself on the quality of its work and on never getting tagged in the defense contractor scandals of several years ago.

"You can always give your shareholders more by squeezing your customers, but we said no, we're not going to do that," Raphael said. "And in the long run, if employes are happy and feel they have security . . . it will reflect in better work and higher productivity and the stock goes up and everybody will be happy."

Such was the case, Raphael believes, at Atlantic Research when, late last year, Clabir Corp. of Greenwich, Conn., launched a hostile takeover bid proposing a $36-a-share package of securities and cash that was widely derided by financial analysts. Suddenly, a new group of players turned up on the scene—Wall Street arbitrageurs who began buying up blocks of ARC stock and then swamping Raphael and other board members with calls pressuring them to agree to sell the company.

"You had a major transfer of stock from your loyal, long-term shareholders to . . . people who have no interest in what's going to happen to the company beyond next week, who are in it for the quick kill," he said.

Of all the aspects of the ARC fight, the pressure from the arbitrageurs was the most distasteful to its chairman. Starting with the Clabir bid last year and escalating when Sequa showed up on the scene this fall, Raphael says he was peppered with calls from faceless arbs, badgering him about his plans and hounding him with implied threats of lawsuits if he didn't do "what's best for the shareholders."

Raphael said, employe moral began to suffer, productivity fell off and key managers began considering jumping ship. On top of the burgeoning fees being paid to the investment bankers and lawyers who are figuring out how to fend off the raiders, a new cost was imposed—handsome severance agreements for about 50 top and middle managers to keep them from bailing out.

"You suddenly realize that key people who felt they had security, the people who are running your company, are looking for jobs elsewhere," he said.

ARC might have been able to weather all of this had it not been for the one factor that nobody counted on—the collapse of the stock market on Oct. 19. ARC had initially welcomed Sequa as a minority investor when the New York company bought out Clabir's 12.3 percent stake in the firm. But when the market dropped, ARC stock took a beating, dropping from the mid-20s to below $19 at one point (compared with more than $30 a share when the Clabir threat was active).

Sequa moved in for all the kill, first with a $30-a-share offer. Most analysts believed ARC was worth at least $35 a share, but with the newly depressed mood on Wall Street, a "white knight" could not be found to counter the Sequa bid. Some 40 firms were contacted, including many major defense contractors, but there were no takers. ARC was left with no choice but to negotiate to get another $1 a share out of Sequa.

"If you had asked me the day before [Black Monday], would I have sold my stock for $35 a share, I would have said, no way," Raphael said. "I would have said it was worth somewhere between $35 and $40. . . .

"I was wrong. The stock is not determined by what it's worth but by the perception of people in the market who are both a lot smarter and a lot dumber than you are," he said.

As he reflected on his experiences last week, Raphael said he is moving on the other goals—primarily, attempting to turn George Mason into one of the nation's best business schools. He also owns another company, Night Owl, that does between $2 million to $3 million in business a year supplying burglar alarms to Peoples Drug and other local stores. He also is on the board of Envipco, a McLean environmental firm.

And he still will be watching, purely as an onlooker, at what happens tro ARC. It may be, he said, that all the employees will keep their jobs and continue to thrive. It may be, he said, that Sequa will "turn out to be even smarter and better managers of ARC than we were."

However, he added, "I don't think so."

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. SANFORD. I yield.

Mr. PROXMIRE. Mr. President, I commend my good friend, the Senator from North Carolina. He has been a tower of strength in opposing these hostile takeovers, the damaging effect they have. We should have hostile takeovers at times, but we certainly have exceeded all bounds of prudence.

As he points out, it is something that again and again has taken jobs from hard-working Americans, has damaged our competitiveness, and, in the long run, will have a serious adverse effect on our economy. It has loaded up our corporations with debt as never before, so that they will be very vulnerable in the next recession.

I am glad the Senator referred to the legislation pending in the Banking Committee. We expect to bring it to the floor in the near future, and I hope earnestly that our colleagues will study that legislation and advance it, because I think it is very important, if we are going to keep our economy from being extraordinarily vulnerable in the next recession.

Mr. SANFORD. Mr. President, the distinguished chairman is exactly right. I am delighted to be working with the distinguished chairman in drawing up the kind of legislation that I believe will put us back on a steady course of corporate management and get away from what has turned out in the last decade to be an extremely devastating enterprise. I look forward to working with the chairman.

MISSISSIPPI GRIDIRON GREATS

Mr. COCHRAN. Mr. President, I rise today to commend three outstanding young men from my State who have been honored for conspicuous accomplishments in the National Football League.

Archie Manning, who graduated from the University of Mississippi and is from Drew, MS, was honored by the New Orleans Saints recently in ceremonies at halftime in one of the games in the Superdome. They have in New Orleans the Wall of Fame, a new way to honor those who have played for the New Orleans Saints and who should be remembered for their wonderful accomplishments for that team. Archie Manning is one of the first to be so honored. I congratulate him.

Walter Payton, from Columbia, MS, last Sunday was honored in pregame ceremonies in Chicago for his accomplishments as a running back for the Chicago Bears. He not only is a good football player, as everybody knows, but also is an outstanding individual and a good friend of mine.

Also, yesterday, we had a new player from Mississippi, Jerry Rice, who set two National Football League pass reception records, playing for the San Francisco 49'ers. He set a record for the number of touchdown passes caught in one season—20—when he caught 2 touchdown passes in the game against the Atlanta Falcons; and he set the record for the number of consecutive games for a player catching a touchdown pass—12.

For these wonderful accomplishments by a young man who is just in his third year in the National Football League, I congratulate him and tell him that I know that everybody in Crawford, MS, today is very proud of him for the way he is representing not only Mississippi Valley State University, where he played collegiate football, but also everyone throughout Mississippi.

Mr. President, I ask unanimous consent that the article in the Washington Post describing the record set by Jerry Rice be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 21, 1987]

RICE BREAKS RECORDS, 49ERS WIN

SAN FRANCISCO, Dec. 20.—Wide receiver Jerry Rice kept his new NFL records in perspective today following San Francisco's 35-7 triumph over the Atlanta Falcons.

"The most important thing to me is we won," Rice said. "Atlanta was a good team and we needed to win."

The victory ran San Francisco's season record to 12-2 and kept the New Orleans Saints (11-3) a game behind in the race for the NFC West title. Atlanta dropped to 3-11.

Rice caught a 20-yard touchdown strike from quarterback Steve Young in the third quarter to set two NFL marks and touch off a spurt of three touchdowns within 18 seconds. The touchdown reception was Rice's 19th of the season, eclipsing the mark of 18 set by Miami's Mark Clayton in 1984. He also caught a touchdown pass in his 12th straight game, breaking the mark of 11 set by both Elroy Hirsch and Buddy Dial.

Rice scored three times for the fourth time in five games.

"I think it [the record-setting performance] is fantastic," 49ers center Randy Cross said. "But we'd get more excited if he was more excited. He has so much talent and just seems to take things in stride."

Rice was held to but one reception in the first half.

"He didn't get many balls in the first half, but he's relentless," Young said.

"He's always working hard, whether its the first quarter, second quarter or second half. Jerry was patient and worked hard to get the ball in the second half."

Rice opened the scoring on a five-yard reverse for a 7-0 lead. His record-setting 20-yard third-quarter pass from Young put the 49ers ahead, 14-0.

Sylvester Stamps took Ray Wersching's ensuing kick on his 3, cut to the sidelines and outraced the 49ers 97 yards for the score to make it 14-7. Joe Cribbs then returned the Falcon's kickoff 92 yards for a 21-7 lead. It was the third set of back-to-back kickoff returns for touchdowns in NFL history.

Young, starting in place of injured Joe Montana, gave the 49ers a 28-7 lead with a 29-yard scramble touchdown with 12:11 left and Young threw a one-yard touchdown pass to Rice with 5:13 left.

San Francisco's defense ran its scoreless streak to nine quarters, intercepted four passes and had four sacks. The 49ers also blocked a field goal.

Young completed 13 of 30 for 216 yards and two touchdowns and gained another 83 yards on six carries and scored one rushing touchdown.

Chris Miller, starting his first game, completed 13 of 36 passes for 186 yards and four interceptions.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. COCHRAN. I yield.

Mr. PROXMIRE. Mr. President, I congratulate the Senator from Mississippi on his statement. There is no question about it: Mississippi is producing first-class football players—and, I might also say first-class Senators in every respect.

All of us honor, of course, the marvelous senior Senator from Mississippi on our side. Mr. STENNIS, who has done a superb job for many years, and the fine junior Senator, with whom I serve on the Appropriations Committee.

Mr. COCHRAN. I thank the distinguished Senator from Wisconsin for his very kind remarks.

The PRESIDING OFFICER. The Senator from Nevada.

THE BUDGET RECONCILIATION

Mr. REID. Mr. President, it is with a sense of revulsion and shame that I rise today to speak on the budget reconciliation legislation that shortly will be before us, revulsion at what can only be described as oppression and colonialism, directed at the people of my State by 49 other States who are supposed to be our allies in a political union, shame because the sad truth is that this legislation has been subverted into becoming a vehicle for the grossest kind of political chicanery.

Under the guise of cutting Government spending, this bill is being used to arbitrarily select Nevada as the Nation's first permanent high level nuclear waste repository, in violation of the principles of our national nuclear waste policy and against the will of the vast majority of Nevadans and I believe the vast majority of the people of this country. The repulsive and mendacious political backstabbing represented by the deal cut against the people of Nevada should bring a blush of shame to the face of every Member of Congress who has supported this nuclear waste legislation.

When certain States began to rely on commercial nuclear power several decades ago, it was obvious that two major hurdles had to be overcome if nuclear power was ever to provide a significant portion of the Nation's power. They were the need for absolute safety and the question of what to do with the radioactive waste produced by the plants. Given Three Mile Island and Chernobyl the question is at the least still open in the public's mind as to whether or not nuclear power is safe.

Disposal of radioactive waste was the industry's second major problem. Early on, many thought that reprocessing was the answer. Reprocessing, it was argued, would turn nuclear waste into a form where more energy could be obtained from the spent fuel. It sounded like the perfect solution.

When the public discovered, however, that one of the products of reprocessing was plutonium—the most poisonous substance known to mankind and the stuff of nuclear weapons—it became a considerably less attractive alternative. Combined with the cost ineffectiveness of the procedure, the problems caused by the unneeded and dangerous production of plutonium killed support for reprocessing.

Attention then turned to the idea of a storage system using a monitored retrievable storage facility to initially cool the waste and an underground storage site for permanent storage of high level nuclear waste.

The 1982 Nuclear Waste Policy Act was the culmination of efforts by 12 congressional committees to develop a scientific and fair process for determining the safest site for a permament nuclear waste repository. Certainly, no State wanted the poison, but at least the act was an attempt to assure the people of the several States that a site would be fairly chosen. Apparently, it was too fair.

The ink was not even dry on the act before its principles were being twisted by the Department of Energy in the name of politics. The gross excesses and illegal conduct of the Department of Energy finally led to the legislative efforts over the last couple of years to get the site selection process back on track, back on a scientific track, not a political track.

Beginning this year the story takes a new and ugly turn. Under the guise of correcting the site selection process, the Senate Energy Committee reported on legislation that used a new set of biased criteria to target Nevada as the site for the permanent nuclear waste dump. When I made it known that Nevada would fight, backroom deals were cut to assure its passage.

In order to obtain support a second underground site in the Eastern States was eliminated even though most of the nuclear waste is produced in the East and none is produced in Nevada. In addition promises were made to Members of Congress that their States would not be chosen for the monitored retrievable storage facility. By the time we came to a showdown on the Senate floor, only 33 hardy souls voted with me in opposition to this bill, which the press and others months ago tagged "The screw Nevada bill."

Nevada still hoped that there might be a chance that we could turn away from the direction that this legislation was taking and return to a fair and scientific site selection process. After all, the House Interior Committee had reported out a bill that would set up a mechanism to review the DOE's misconduct and provide time to get the siting process back on track. Perhaps, we hoped, the House would be responsive to concepts like decency, honor, and the bonds of comity which supposedly bind our Nation. It was not to be.

If you think things were bad in the Senate let us look at the House. In conference with the Senate on reconciliation, the leadership of the House Interior and Energy and Commerce Committees abandoned all pretense of a fair approach and fought like maddened hounds to see who could be first to single out Nevada for the permanent repository. In one wire story, House negotiators admit that they dropped the facade of basing their decision on good public policy and said, "as long as we're making decisions on a political basis, let's get my State out and cut our losses."

In a day when that kind of legislative lynch mob can exist, it is little wonder that surveys show that the public has little respect for or confidence in Members of Congress?

As one Nevada editorial put it, "In the game of political tag on the nuclear waste issue—Nevada is it!" The majority may have won this game, but not by fair, or decent or honorable means. Any man or woman in either body who has voted to do to my State what is proposed in this legislation, must live with the knowledge that on the alter of expediency they have sacrificed national morality to an extent not seen in this Nation since the ugly excesses of the McCarthy era.

Mr. President, some day our legislative descendents will hang their heads with as much shame and view the actions proposed with as much uncomprehension as we now look back on those witch hunts of the McCarthy era. How could they have done it? They will ask; how could they have been so blind?

History teaches us that there are three ways government can rule—they can rule by winning over the minds of their people by the rightfulness of their ideals; they can rule by winning over the people's heart through the strength of their values, or through the exercise of naked brute force. What we have seen the last few weeks is neither idealistic nor moral, but it is an example of raw power.

To support this legislation is to vote to set a precedent, a precedent that the membership of this body will live to rue. To support this legislation is to support the exercise of raw political power without even the veneer of fairness or objectivity. Raw political power without any consideration for the public health and safety of the State of Nevada or really of the people of this Nation when transportation is added into the quotient. What is proposed is an act of naked and unprovoked aggression by the people of several States against a State which is smaller and which has less power, the State of Nevada. No other justification exists, and the judgment of history in the end always rejects such conduct.

Legislative tyranny may be quieter, but tyranny it remains. I would remind this body that our Constitution was written, and this body exists, precisely to protect our people against the tyranny of the majority which we see before us today.

This Nation was founded with one underlying principle. That ideal so foreign to the petty princelings of Europe and the despots of Asia was that right was not based on might and that people and nations are protected by certain enduring truths. It saddens me to see the beauty of our ideal ravaged by the exercise of power without principle. It saddens and disturbs me.

When Haile Salassee of Ethiopia spoke to the League of Nations, he warned that his country would be but the first in a series of victims of aggressive acts if the world did not respond to his pleas for help. The world ignored his warning and Salassee was right—he was only the first in a series of aggressive acts by the fascist governments of Germany and Italy. Today I speak to you on behalf of another small State which has been the victim of aggression. Let us hope other States do not have to experience what Nevada has experienced.

We cannot win this vote when it takes place, but let the evil perpetrated upon us serve some good. Let it serve as a warning to every small State that when the principles are abandoned which have guided us for these 200 years past, then eventually all must suffer. If we can return to those principles of fairness, comity, and the rule of law, then the struggle we have waged will not have been in vain, and the Congress will reclaim its rightful position as protector of each and every Americans' right to be treated fairly under the law.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, how much time remains in morning business?

The PRESIDING OFFICER. There is 8 minutes and 25 seconds.

Mr. BYRD. Mr. President, I ask unanimous consent that that time be extended to 5 o'clock p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. And that Senators may continue to speak therein for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The acting Republican leader.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIREMENT OF CHARLES G. HARDY

Mr. SIMPSON. Mr. President, next month the Senate will lose through retirement a very valuable and respected employee whom all of us know, who has served the Senate with great dedication for more than 20 years. Before the Senate reconvenes for the 2d session of the 100th Congress, Charlie Hardy will begin a well-deserved retirement. We see him daily in our lives here, always very friendly and very courteous and very kind to us. He is an employee of the Sergeant at Arms' Office and has truly been a fixture in this institution.

He came to the Senate on January 3, 1967. My father left the Senate that year and I remember him telling me about this young man and he will now complete 21 years on the job by his actual retirement date next month. Before coming to work for the Senate, Charlie worked for 22 years for Royal Typewriter Co., an organization that did a great deal of business with the Senate in the days of the old secretarial pools and prior to the advent of computers and word processors and all that jazzy stuff that we use right now in great excess.

From his post near the floor, Charlie has always been available to perform very kind services to us that mean so much, especially in these times of night sessions or as we get into these type of crushes. As we are pressed for time in the hectic pace of the legislative business, he is unfailingly cheerful and his optimistic outlook has brightened many gloomy dispositions in this place.

So he has become a real friend in my 9 years here, as he has to all of us who have come to know him in these last years. He will surely be missed, and I want to join with all of my colleagues in thanking him for his admirable dedication and his very much appreciated good cheer. I wish for him and his family all the best as he leaves us to spend more time with his friends and family. I know he is looking forward to that, having that greater opportunity with his children and grandchildren, and his family will certainly be blessed by his additional presence among them.

He never fails to ask me about my father, who is now 90 years old and whom I shall see very shortly, I hope. Yet he lost his own father this year and was appreciative of the sympathy that was extended to him by the Members of this body.

So, to Charlie, God bless you. I hope you will come back and see us from time to time. I thank you, Mr. President.

The PRESIDING OFFICER. The Republican leader.

BEST WISHES TO MR. HARDY

Mr. DOLE. Mr. President, first let me thank the distinguished Senator, Senator SIMPSON, for that well-deserved tribute. I think all of us who know Mr. Hardy can attest to the statement made by Senator SIMPSON: A man of unfailing good cheer, a man of deep religious faith, and a friend of everyone in this Senate. We all wish him the best as he leaves the U.S. Senate. I am certain wherever he goes, whatever he does, he will have a positive impact on whomever he may touch in the process.

THE PRESIDENT WILL KEEP HIS PART OF THE BARGAIN

Mr. DOLE. Mr. President, on another matter let me indicate that Secretary Baker, and I think maybe the chief of staff of the White House, our former colleague, Howard Baker, will be coming to the Hill soon and we hope to have an opportunity to visit with them about the two remaining matters, the reconciliation bill and the continuing resolution, and maybe have some determination what is acceptable to the President. From that we may learn when we will be able to leave this place. Soon, I hope, and soon everyone else hopes. But I would just say this. I think the President certainly is willing to keep the bargain he made with the leadership and the Congress, Democrats and Republicans, and I think he might even be willing to bend a bit, but I do not believe we can ask the President, who in good faith has kept his end of the bargain, to now permit a number of things to crop up in either the reconciliation bill or the continuing resolution, which were not part of the agreement. The President understands the process quite well and he understands that Congress, maybe for good reasons at the last minute, since the bill is a $606-billion bill, might think the President would have to accept a few things because the bill is that large and that important and it is near Christmas and everything else. But I can tell you the President told us this morning that he is willing to live by the agreement but anything else he will veto. He did not say it in any hostile manner, any threatening manner, he just said it as a matter of fact. He made an agreement with the leadership, the Democratic and Republican leadership in the House and in the Senate, and he wants to abide by that agreement.

So I would hope we can have some information or some word from the representatives of the President in the next few minutes and that we might be able to leave here this evening at a reasonable hour. If not, hopefully before Friday of this week.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, what is the order of business?

The PRESIDING OFFICER. The Senate is in morning business.

Mr. DECONCINI. I thank the Chair.

NOMINATION OF ANTHONY M. KENNEDY TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES

Mr. DECONCINI. Mr. President, the Senate Judiciary Committee has concluded its hearings on the nomination of Judge Anthony M. Kennedy to be an Associate Justice of the Supreme Court of the Untied States. I am announcing today my decision to vote in favor of the nomination.

I believe that the constitutional responsibility to advise and consent on the President's nominees to the Supreme Court is one of the most important responsibilities granted to a U.S. Senator. The process of selection of an individual to fill the seat of retiring Justice Lewis Powell has been divisive and bitter. While I have been critical of President Reagan earlier in this process, I believe that in the appointment of Judge Kennedy he has found a way to resolve the matter responsibly and without further rancor.

Judge Kennedy is a conservative jurist, but, as I have found by reading his opinions and talking to many, many people in my State who know him and practiced before him, he is open-minded and willing to listen to all sides of an argument.

He believes in restraint and caution and follows that course. He has strong opinions, but has no agenda to pursue on the Court.

I was unable to attend as much of the Judiciary Committee hearings as I would have liked because I was attending the conference committee meetings on the continuing resolution, and chairing one section. I have been able to read much of the transcript and talk to my staff who attended the entire hearing.

I have talked to lawyers, as I have indicated, who practiced before Judge Kennedy. I have talked to lawyers who know him and who have worked with him. I have had the personal experience of meeting Judge Kennedy at several judicial conferences and listening to him. I am impressed, Mr. President.

From my study of the record and from numerous discussions with members of the Ninth Circuit Bar, I have concluded that Judge Kennedy will serve honorably and well on the Supreme Court for years to come.

As I mentioned in my opening statement before the Judiciary Committee hearings on Judge Kennedy's nomination, of my greatest areas of concern is the area of privacy. I was encouraged to hear Judge Kennedy respond to questions from myself and other Senators, assuring us that he believed that the right of privacy is found in the Constitution. Unlike Judge Bork, who repeatedly conveyed that the right to privacy, if it existed, could not be found in the Constitution, Judge Kennedy unequivocally said the right to privacy can be found in the Constitution. Although Judge Kennedy preferred to include the right to privacy under the protection of the "liberty" language of the 5th and 14th amendments, he nevertheless was clear in his belief that the right is there and should be protected by the judiciary.

Furthermore, Judge Kennedy has stated, under oath, that he believes that the right to privacy is a fundamental right. If I might just read from the record of the hearings for a moment:

> Senator DECONCINI. [I]t appears from reading your speech, that you have concluded, without question, that there is a fundamental right to privacy. And I think the chairman had you state that, and that is your position, correct?
>
> Judge KENNEDY. Well, I have indicated that that is essentially correct. I prefer to think of the value of privacy as being protected by the clause, liberty, and maybe that is a semantic quibble, maybe it is not.
>
> Senator DECONCINI. But it is there, is that——
>
> Judge KENNEDY. Yes, sir.
>
> Senator DECONCINI. No question about it being in existence?
>
> Judge KENNEDY. Yes, sir.

And further, in response to a question from the chairman asking if Judge Kennedy had any doubt that there is a right to privacy: "It seems to me that most Americans, most lawyers, most judges, believe that liberty includes protection of a value we call privacy."

It becomes abundantly clear after reviewing the transcript of the hearings that Judge Kennedy and Judge Bork do not share the same judicial philosophy as it pertains to the fundamental right of privacy. Judge Bork could not, no matter how hard he looked, find the right of privacy in the words of the Constitution. Judge Kennedy, as seen by the excerpts above, has reached an opposite conclusion.

> It is central to our American tradition. It is central to the idea of the rule of law. That there is a zone of liberty, a zone of protection, a line that is drawn where the individual can tell the Government: Beyond this line you may not go.

It is hard to argue with such a simple but pure articulation of the relationship between the people of our country and our Government. Judge Kennedy, unlike the picture painted by some of his detractors, is indeed a very eloquent individual.

I am reassured by my discussion with Judge Kennedy about the fundamental right of privacy. Although we both believe it exists, we also believe it is limited. The right to privacy does not give an individual the right to commit criminal acts in private. Nor, in my view, does it sanction the killing of unborn children. A belief in the right to privacy does not equate to a belief in the right to abortion. While neither I nor others have asked Judge Kennedy his views on abortion, I do not believe that his belief in the right to privacy signals any acceptance of Roe versus Wade.

In addition to the right of privacy being found in the Constitution, Judge Kennedy was asked whether or not he believed there to be any practical significance for the ninth amendment; whether or not there was any real value to be found in the ninth amendment; and whether or not there was any purpose for the ninth amendment? Just as he found himself of a different school of thought than Judge Bork on the right of privacy, Judge Kennedy's assertions regarding the ninth amendment were much different from those espoused by Judge Bork. In summarizing the past interpretations of the Supreme Court and the ninth amendment, the nominee said that it appeared to him that the Court was treating it as something of a reserve clause, to be used in the event that the phrase "liberty" and the other broad phrases in the Constitution appear to be inadequate for the Court's decision.

Now this distinction may not appear of a great magnitude at first glance. However, as Judge Kennedy pointed out, there may come a time in the future where rights not specifically mentioned in the Constitution achieve a level of importance requiring constitutional protection. In this event, the 9th amendment would serve to provide a constitutional basis on which such a right could be protected.

During the Bork hearings it became apparent that Judge Bork had changed his mind about how far the first amendment extended. Prior to the hearings, there was evidence in Judge Bork's writings that only political speech would fall under the blanket of first amendment coverage as Judge Bork interpreted the first amendment. During the hearing Judge Bork indicated that the first amendment did indeed cover more than purely political speech, yet Judge Bork was unclear as to what speech was covered.

Judge Kennedy had no problem explaining the application of the first amendment to speech. As he stated during the recent hearings:

> It (the first amendment) applies not just to political speech, although that is clearly one of its purposes, and in that respect it ensures the dialogue that is necessary for the continuance of the democratic process. But it applies, really, to all ways in which we express ourselves as persons. It applies to dance and to art and to music, and these features of our freedom are to many people as important or more important than political discussions or searching for philosophical truth, and the first amendment covers all of these forms. (TR 153)

It is apparent from the above quoted excerpt that Judge Kennedy's view of the first amendment is far more expansive than Judge Bork's.

During the Bork nomination hearings, Judge Bork communicated a belief that if one individual were to gain any rights, society or another individual would equally and inversely lose a right. Judge Kennedy, however, conveyed a different idea when discussing the right of an individual in society. Judge Kennedy said that he did not think there had to be a choice between order and liberty. But rather, "[w]ithout ordered liberty, there is no liberty at all. And one of the highest priorities of society is to protect itself against the corruption and the corrosiveness and the violence of crime, and in [his] view judges must not shrink from enforcing the laws strictly and fairly in the criminal area."

It would seem that in Judge Kennedy's view, individuals join together to protect their rights, and that unlike Judge Bork's view of our society as a "zero-sum" system, more than one interest can advance their liberties without taking liberty from other interests.

Judge Bork was clearly treading new ground when he formulated his "reasonableness" theory in the area of equal protection while speaking to the committee last summer. Prior to appearing before the committee, he had given no indication, either in his writings or in speeches, that he would apply this type of test to the various classifications of plaintiffs seeking equal protection under the 14th amendment. Once again, on this issue Judge Kennedy disagreed with the position taken by Judge Bork. Judge Kennedy informed the committee that he would follow current standards established by years of Supreme Court decisions and apply the three tiered system of review; strict scrutiny, heightened scrutiny, or rational basis, depending on what class of plaintiff is seeking redress.

Additionally, there was some question left in the minds of the committee members as to whether or not Judge Bork would apply equal protection to women. Judge Kennedy left no such doubt.

> Senator DECONCINI. Would you agree, first of all, that the equal protection clause applies to all persons?
>
> Judge KENNEDY. Yes, the amendment by its terms, of course, includes persons, and I think was very deliberately drafted in that respect.

Furthermore, while Judge Bork was uncertain whether the equal protection clause applied to women or not, Judge Kennedy was unsure that the current classification for women insured equal protection under the three tiered system. As Judge Kennedy said:

> And so the law there really seems to be in a state of evolution at this point, and it is going to take more cases for us to ascertain whether or not the heightened scrutiny standard is sufficient to protect the rights of women, or whether or not the strict scrutiny standard should be adopted. (TR 170)

But you need not take my only word as to Judge Kennedy's position and the equal protection clause. The following discussion between the distinguished Senator from Pennsylvania, Senator SPECTER, and Judge Kennedy should provide the necessary confirmation.

> Senator SPECTER. Is there any question in your mind about the equal protection clause applying beyond blacks to women, to aliens, to indigents, to mentally retarded?
>
> Judge KENNEDY. No. In fact, once again, the framers could have drafted the amendment so that it applied to blacks only, but they did not. They used the word "person". (TR 229)

I am satisfied by Judge Kennedy's explanation of his membership in, and resignation from, clubs that either by rule or by practice discriminate against women and minorities. I believe that he became concerned about these practices at about the same time as did the public at large. Of course, it would have been better if he had been a leader in this regard, but he did make efforts to change things after he realized that problems existed. When he was not able to make the changes that he thought where necessary and appropriate, he resigned from the clubs. I found that his conduct in these matters was acceptable and did not evidence any prejudice or bias. If he was guilty of anything, it was a lack of heightened sensitivity. I am afraid, however, that during the time period in question, most of us suffered from the same lack of heightened sensitivity.

The one concern that I do have about Judge Kennedy is in the area of the narrowness of his rulings in civil rights cases. I was impressed by the testimony of the two witnesses representing the Hispanic Bar Association and the Mexican American Legal Defense and Education Fund. These two witnesses expressed the concerns of the Hispanic community that Judge Kennedy was not sensitive enough to the problems faced by minority citizens, Hispanics in particular. Ms. Antonia Hernandez expressed these concerns in the following manner:

> The foregoing judicial opinions rendered by Judge Kennedy and in particular the way in which he reached his results, have quite naturally caused me to conclude that Judge Kennedy—if he becomes Associate Justice Kennedy on the Supreme Court—may not be fair in adjudicating the rights of Hispanics and of other minorities. Alas, this possible unfairness could become particularly prevalent in cases not subject to compelling judicial precedent.

The decisions that Ms. Hernandez cited as being the basis for her concerns were discussed in great detail with Judge Kennedy. He explained his reasoning and the constraint that he felt required him to issue the decisions that he did. While the discrimination against Hispanic citizens in Arnada versus Van Sickle does seem to be egregious based on the facts presented to the committee, Judge Kennedy's decision seems consistent with a restrained and cautious approach to issues. His decision shows an understanding of the problems faced by Hispanics in the community and sympathetic to their attempts to remedy them. His decision certainly did not satisfy the plaintiffs in the case, but does not seem to evidence a bias against any group.

The months since Justice Powell announced his retirement from the court have been difficult for all of us. While I wish that Judge Kennedy had been the first nominee sent to us, I do believe that the process that has been followed and the decisions that have been made throughout these long months have been correct. I congratulate President Reagan for sending to the Senate a nominee so well qualified by intellect, temperament, and integrity. I urge my colleagues to confirm Judge Kennedy as quickly as possible.

Mr. President, it is of great interest to me that the critics of the process when Judge Bork was rejected were the same people—and I joined them in that case—who were proud that the process worked so well when, a couple years ago, we confirmed Justice Rehnquist to be Chief Justice of the Supreme Court. The record will show and my colleagues and the President will recall that there were some 32 Members, I believe, who voted against Justice Rehnquist. Yet, he prevailed, and he is a fine jurist. There was opposition in my own State, where Justice Rehnquist had lived for a number of years, but I felt very strongly that Justice Rehnquist was qualified for that position.

My point is that the system worked then and it is working now with Judge Kennedy. It worked when the Senate turned down Judge Bork.

I am pleased to suggest to my colleagues that they support, after reviewing the hearing record and the decisions of Judge Kennedy, confirmation of the nominee early next year.

I suggest the absence of a quorum.

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. DeCONCINI. I will be glad to yield to the distinguished chairman of the Appropriations Committee, Senator STENNIS.

Mr. STENNIS. I thank the Senator for the service he has rendered. I am impressed with what he has said. I have been interested and concerned to a degree, although I heard nothing contrary to good things about this gentleman. I am especially glad to have the Senator's point of view. I know the Senator thought it through. I have watched the Senator, and I am proud that he reached that conclusion. I am satisfied with it to the extent that I am of the same view when it comes to voting.

I thank the Senator again.

Mr. DeCONCINI. Mr. President, I thank the distinguished chairman of the Appropriations Committee, Senator STENNIS. Let me say that his careful review and scrutiny of the debate on this floor has always impressed me, I appreciate his awareness of all the things that he is on top of, whether they are defense appropriations matters or the nominations to the Supreme Court.

I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from New York.

ATV'S AND THE CONSUMER PRODUCT SAFETY COMMISSION

Mr. D'AMATO. Mr. President, I rise this evening to comment on the U.S. Consumer Product Safety Commission. I focus on the Commission's December 16 proposed settlement of its imminent hazard complaint against the manufacturers of all-terrain vehicles known as ATV's.

Mr. President, their proposal is a Christmas present to the Japanese-based ATV industry, but it is a disaster for the American public, especially our children. ATV's have caused about 900 deaths and 330,000 injuries nationwide since 1982. At least 59 deaths have occurred in my State, in the State of New York. Half of the injuries and deaths are to children under the age of 16. ATV injuries and deaths cost the public more than $1 billion each year.

Over a year ago, Mr. President, the Consumer Product Safety Commission voted to pursue an enforcement action against the industry. Chairman Scanlon dissented from the vote. The matter was referred to the Department of Justice on February 2, 1987 and on December 11, 1987 the Department of Justice, in a long overdue decision, formally agreed to file a complaint in Federal district court seeking all the relief authorized by the Commission last December, including the refunds to consumers who purchased adult-sized ATV's for children as well as consumer refunds for all three-wheeled ATV's.

The December 16 proposed settlement, Mr. President, falls far short of the complaint and does not even match what the only American manufacturer has offered. Most importantly, because it deletes the requirement for consumer refunds, the settlement provides no effective means for keeping children from riding adult-sized ATV's—millions of which are in our communities. This is rather outrageous when the only major American ATV manufacturer has already agreed to refunds. We have an American manufacturer, Polaris of Minnesota, who has agreed to take responsible actions, while the Japanese companies, whose ATV's constitute the great bulk of products in the United States, are unwilling to do this.

Mr. President, the proposed settlement appears to be a carefully contrived attempt to limit manufacturers' products liability exposure while settling the case as cheaply as possible. In other words, CPSC has done the bidding and the work of the ATV manufacturers. Let me tell you why. The proposed settlement contains a so-called verification form that consumers must sign at the point of purchase and that manufacturers will try to use as a defense in products liability suits.

This would put the Federal Government's stamp of approval on what amounts to a release or consent covering nearly every conceivable products liability scenario associated with ATV accidents. For example, according to this settlement consumers must agree in writing to never drive at "excessive" speeds—whatever they are. The verification form doesn't explain what an "excessive" speed is. Imagine that. Our Government is saying that once the consumer signs this consent, this waiver, that he promises that he will never use this vehicle at "excessive" speeds and that he understands what "excessive" speeds are. Unfortunately, a driver finds out what the "excessive" speed is only after he has lost control and the vehicle has crashed. Obviously, if an accident occurs, the manufacturer will try to prove that the vehicle

was going at an "excessive" speed as a defense. The consumer also promises never to lend an ATV to an untrained person. How do we establish who is trained and who is untrained? The verification form also requires the consumer to promise at the time of purchase that he will never perform "stunts" such as "wheelies," and that the consumer will never drive an ATV without wearing heavy trousers or a long-sleeved shirt.

So what happens if your youngster leaves your home on a hot summer day without heavy trousers, or without a long-sleeved shirt, and is then injured? Could this then be used to mitigate any damages based on the argument that the manufacturer told you when you bought this vehicle that you have to wear long-sleeved shirts and heavy trousers. What about the people who borrow a vehicle? What about the child who loans the vehicle to one of his friends? The ATV purchaser must also promise to approach hills, turns, and obstacles with "extra care." What an incredible settlement!

Mr. President, I think it is unconscionable for the Federal Government to attempt to aid the industry at the expense of consumers by extracting a promise not to engage in certain broad, ill-defined conduct where the consumer has no meaningful opportunity to understand and appreciate the risk involved.

I am informed that this proposed settlement, this incredible plan, was negotiated after a secret December 7 meeting between the CPSC General Counsel James Lacy, Commission attorneys, and attorneys for the Japanese companies. The Consumer Product Safety Commission Chairman Scanlon and his general counsel then called a meeting of the CPSC Commissioners to propose this settlement. This meeting was called on December 16 and a proposed consent decree was approved that very same day at the insistence of the chairman and his general counsel. Interestingly, the Chairman's general counsel had this proposed consent decree for more than a week yet he never shared it with the other two Commissioners or with their staff members. The chairman and his general counsel kept it secret and never showed the key documents to them. The general counsel got them into a room and said what a wonderful settlement, please sign on the line! What took place is absolutely incredible.

I have expressed my concern on this matter to the Justice Department by way of a letter, I ask unanimous consent to have a copy of my letter to the Justice Department printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Committee on Appropriations,
Washington, DC, December 18, 1987.

Hon. Arnold Burns,
Deputy Attorney General, U.S. Department of Justice, Washington, DC.

Dear Arnie: I was pleased to learn from the Department of Justice that it will represent the Consumer Product Safety Commission in the immediate filing of an imminent hazard complaint against the ATV industry. As I indicated in my October 7, 1987 letter to you, such an action is long overdue, given the 900 deaths and 330,000 estimated ATV hospital emergency room treated injuries since 1982. The complaint would seek the relief authorized by the Commission in its December 12, 1986 vote, including refunds for consumers who had purchased three-wheeled ATVs or adult-sized four and three-wheeled ATVs for use by children under age 16.

However, I was shocked to discover that the Commission, led by Chairman Scanlon (who voted against the enforcement action last December), has hastily endorsed a settlement proposal offered by the Japanese ATV industry. The proposed settlement falls far short of what the complaint would seek and does not even match what the only American manufacturer has offered.

Most importantly, the proposed settlement does not include any provision for refunds for consumers who have been misled by the marketing practices of the ATV industry to purchase these vehicles for their children. Thus, there is no effective means in the settlement to get many of the present child riders off these "rolling death machines."

The settlement appears to be a carefully contrived attempt to limit future products liability exposure of the ATV industry, while settling the imminent hazard case at minimal expense to the ATV industry. The centerpiece of the notice campaign is a "verification" form to be signed by consumers at the time of purchase that would later be used by the industry in the defense of products liability lawsuits as a "release" or a "consent". There is no provision for any type of cooling-off period at the time of purchase, and no opportunity for the consumer to make an informed purchasing decision that involves any meaningful assessment of the risks.

Many of the other elements of the "notice" campaign are simply a regurgitation of materials already disseminated by the distributors. The notice focuses on consumer behavior, and does not stress the peculiar design and handling aspects of ATVs that present the imminent hazard.

Key elements of an effective settlement are simply left up in the air for future determination. For example, the proposal does not include any agreement on meaningful incentives for consumers to take the hands-on training course. (Two years ago the ATV industry assured the CPSC that it would train 40,000 riders in the next year—only 3,000 to 5,000 were actually trained.) The media campaign is also unspecified.

Unfortunately, if the ATV deaths and injuries continue after the agreement is implemented, as I fully expect they will, there is no mechanism built into the settlement to go back to the court and seek expeditious relief in the form of additional corrective action.

A settlement of the magnitude of public importance of this one should not be achieved through "secret" negotiations with the industry, but must be exposed to public scrutiny before being implemented.

I strongly urge you to reject this secret "deal," which is a Christmas present to the ATV industry and a disaster for the American public, who are footing the $1 billion a year bill for ATV deaths and injuries.

Sincerely,

Alfonse M. D'Amato,
U.S. Senator.

Mr. D'AMATO. In addition, Mr. President, I also sent a strong letter of my concern with respect to this matter to the Chairman of the Consumer Product Safety Commission.

I also ask unanimous consent that letter of December 19, 1987 be made a part of the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Committee on Appropriations,
Washington, DC, December 19, 1987.

Hon. Terrence Scanlon,
Chairman, U.S. Consumer Product Safety Commission, Bethesda, MD.

Dear Chairman Scanlon: After having been informed by the Department of Justice this week that they are prepared to immediately file an imminent hazard complaint against the All-Terrain Vehicle (ATV) industry, I was appalled to learn that the Consumer Product Safety Commission, at the urging of your General Counsel, James Lacy, has hastily decided to accept a settlement advanced by the Japanese ATV manufacturers.

This settlement is very good for the industry, but a disaster for the American public. It is yet another sad example of how the CPSC, through your machinations, has failed to carry out its statutory mandate. I have urged the Justice Department to reject this proposal and file the complaint immediately.

The proposed settlement approved by the Commission on December 16, 1987 falls far short of what the Justice Department has agreed to seek in court, and is inconsistent with the Commission's December 12, 1986 vote. By dropping all provisions for consumer refunds, the agreement contains no meaningful way of getting children off adult-sized ATVs. Although this omission is consistent with your vote last December not to pursue the case, it means that the proposed settlement provides far less than what the only major American manufacturer has offered.

The major beneficiary of this settlement will be the Japanese ATV industry, whose members will attempt to use it to reduce their products liability problems. The settlement contains an unconscionable safety verification form that will serve the ATV industry as evidence of a consumer "release" from liability or "consent" to certain risks of which the consumer has not been adequately informed.

I was most disturbed by the manner in which you and your General Counsel secretly arrived at this settlement, and presented it to the other Commissioners with no opportunity for them to carefully examine or consider it. Although the extensive settlement proposal had apparently been in existence for several weeks, and had apparently already been carefully reviewed by the industry, your General Counsel neglected to show the proposal to the Commissioners until the day of the Commission meeting. The Commissioners were then told that the proposal had to be given to the industry attorneys for their final review at a meeting scheduled the next day. Once again you have abused the collegial process to achieve your goals at the expense of American consumers.

You can be assured that this matter, and your actions, will be subject to a thorough investigation by the appropriate Congressional oversight Committees.

Sincerely,

ALFONSE M. D'AMATO,
U.S. Senator.

Mr. D'AMATO. Mr. President, I urge the Justice Department to reject Mr. Scanlon's proposed settlement. Indeed, it comes from Mr. Scanlon, it comes from his general counsel, and it comes from the Japanese manufacturers who are attempting to escape liability.

It seems to me that in order to protect all American consumers, 330,000 of whom have been injured and 900 who have been killed, the Justice Department must file a complaint immediately. It must be a complaint that does the business of the American people and their children rather than that of the Japanese ATV industry which this settlement proposes to protect.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO CALL OF THE CHAIR

Mr. BYRD. Mr. President, I ask unanimous consent that morning business continue over the period of the next hour and that Senators may speak therein; that, in the meantime, the Senate stand in recess, awaiting the call of the Chair.

There being no objection, at 5:20 p.m., the Senate recessed, subject to the call of the Chair.

The Senate reassembled at 5:46 p.m., when called to order by the Presiding Officer [Mr. SHELBY].

A SECRET TRIAL IN SHANGHAI

Mr. HELMS. Mr. President, this morning there was a secret trial in Shanghai. After holding him in solitary confinement for 11 months at the notorious Detention House No. 1, Chinese Communist authorities staged a mock trial without any pretense of elemental fairness and sentenced University of Arizona graduate student Yang Wei to serve 2 years in a labor camp. Like their model, the Soviet gulag archipelago, the Chinese Communists have long established a series of harsh regime labor camps in the most desolate part of the country.

In Communist eyes, his crime was a serious one: Think of it, Mr. President, Yang wanted to bring freedom and democracy to the Chinese mainland. What a horrible crime for him to commit. He wrote articles in magazines and put up wall posters calling for political reform in China. For a country like ours, brought up on the writings of Thomas Paine, this is pretty tame stuff.

The Maoist banners used to read "Uphold the Great and Glorious Cultural Revolution." It is clear from what happened today in Shanghai that the fires of the cultural revolution have not been put out. That time of madness when tens of millions were persecuted and died, and many were driven to suicide, may be upon the unfortunate Chinese people again. The charges against Yang Wei, "Counter Revolutionary Propaganda-Instigation," are the same type of charges which were hurled at innocent people from 1966 to 1976.

Mr. President, not long ago, the wife of Yang Wei was in my office; a delightful young woman. I wish every Senator could have had the experience of meeting with her and some of her friends.

At that time, they did not even know where Yang Wei was, but today we found out that for the past 11 months he has been in prison and today we found out that he has been tried summarily, with a snap of the finger, and sentenced to 2 years at hard labor for advocating freedom. Which reminds me of the evening about 10 years ago when Alexander Solzhenitsyn came to my home in Virginia and spent an evening. I recall that we had chairs drawn facing each other. We were looking each other in the eyes. And that evening, he pleaded: "Senator, when will the American people wake up? Senator, when will your leaders really understand what tyranny is all about?"

I am not sure that we are awake today. I am not sure that our leaders understand what tyranny is all about. But in the case of the secret trial of Yang Wei, today in Shanghai, the question will not go away.

Mr. President, what does this long illegal detention and secret trial say about the Chinese Communists' pretenses to establishment of a regime of laws? What does it say about the Communists' guarantee of human rights in Hong Kong after 1997? What does it say to potential Western investors? Well, I think I know. It says that the Chinese Communist Party has not changed its ways. Stalinism has not been abandoned. Arbitrary arrest and show trials are just beneath the surface.

Of particular concern is the precedential nature of this trial. It is clear that Chinese students who exercise the most basic of normal political rights must face a severe threat of persecution. It is equally clear that the Chinese Communists intend to suppress any calls for reform or calls for the sharing of power with an opposition party. In this respect the indictment of Yang Wei notes his association with the magazine "China Spring" and the "Chinese Alliance for Democracy," both of them being the formal names of those publications. Clearly anyone else who has associated with either of these organizations has a reasonable fear of persecution as well.

Over the course of this year the State Department has made a valiant effort on behalf of Yang Wei. Secretary of State Shultz has raised it more than once with Chinese officials but he has been greeted with nothing but stonewalling and lies. Just a few weeks ago he was assured by a high ranking Communist Chinese official that foreign observers would be welcome at Yang Wei's trial. But when American officials asked to observe this morning, they were turned away and the doors to the courtroom remained locked.

So, today I am pleased to join with my distinguished colleagues, Chairman PELL and Senator DECONCINI, in deploring this decision to try Yang Wei in secret. We ask that the Secretary again bring up the case of Yang Wei with the highest level of Chinese Communist authorities.

Incidentally, Mr. President, the Congress has already made its views known about Yang Wei. Section 907 of the Foreign Relations Authorization Act for fiscal years 1988 and 1989 recites the injustices of this case and calls for his immediate release. Given the intransigence expressed in this case, in the case of Tibet and in the case of continued arms sales to Iran, next year I intend to ask for a complete review of our entire relationship with the People's Republic of China. I intend to ask whether a downgrading of our relations is not in order to reflect the current realities.

Mr. President, I ask unanimous consent that the indictment of Yang Wei be printed in the RECORD so that Senators may see for themselves whether the charges are worthy of severe punishment or not. I also ask unanimous consent that the letter from Chairman PELL, Senator DECONCINI, and me to Secretary Shultz be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INDICTMENT OF THE BRANCH OF SHANGHAI PEOPLE'S PROSECUTOR, 1987 NO. 37

The defendant, Yan Wei, a male, 32 years old, of the Han nationality, native place Jiangjin county; Sichuan Province, originally sent to U.S. to study by Shanghai Biochemistry Institute of the Chinese Academy of Science and returned to China in May, 1986 and lived in 2nd Friendship Village, 4th Guangling Road, Shanghai.

The defendant, Yang Wei, was detained by Shanghai Public Security Bureau under the charge of "counter revolutionary propaganda and agitation" in Jan 10, 1987 and was arrested on Jan 19 according to the law. After investigation by the Shanghai Security Department, Yang Wei's case was presented to this Prosecutor. The examination further found out:

The Defendant, Yang Wei, affiliated himself in Summer of 1985 with a reactionary organization, "Chinese Alliance for Democracy", (abbreviated as Alliance) which takes "the elimination of the 'Four Cardinal Principles' from the constitution of People's Republic of China and basic reform of present autocracy in China" as its program. He also wrote many reactionary articles under the pseudonym of Sang Zi and Sang Yang for the reactionary journal "China Spring" published by the "Alliance". These articles advocate "shaking the absolute authority of Chinese Communist Party and its 'Four Cardinal Principles"; "creating a chance" for a "democratic coup d'etat"; agitating for the overthrow of the People' Democratic Dictatorship and socialism.

During his stay in Shanghai in December 1986, the defendant took advantage of a riot caused by a small number of students and went successively to People's square, Fudan University, Jiatong University, Tongji University and Medical Universityes etc, where he collected information to send to the headquarters of the "Alliance", providing the materials for distorting the facts and fabricating rumors. He said that many of the students "were beaten by People's policemen, and had bloody noses and swollen faces"; "a female student of Jiaotong University was beaten by three policemen, her hair was grasped and pressed onto the ground"; "some students were forced to kneel". At the same time, Yang Wei requested that the "Alliance" send to rioting students letters of support, indicating clearly in the letters oversea addresses and telephone numbers of the "Alliance" and "China Spring". He also requested that the "Alliance" compile leaflets, words of songs, letters expressing appreciation and solicitude and send them into China for distribution; and he designated appropriate watchwords. Moreover, he contrived to transfer the reactionary journal "China Spring" through Hong Kong into China.

On the night of December 22, 1986, the defendant, Yang Wei, went to Fudan University and posted up reactionary posters under the name of the "Alliance"; he put up reactionary slogans to support all out riot-making students.

On December 30, 1986, the defendant, Yang Wei, received "A Letter for Students in China of Supporting and Suggesting the Targets and Tactics of Democratic Movements" written by the leading person himself of the "Alliance" headquarters, advising riot-making students in "deciding clear and realistic intermediate objectives of struggle"; "changing the property of student's unions from being hack instruments of the Chinese Communist Party"; "tactically, making efforts to get support from worker's strike", instigating Yang Wei to "distribute the letter and collect detailed information about the student movement and convey it to us as soon as possible" and also appointing an address for direct mailing. On the next day, Yang copied the letter and sent it to Chen in Beijing and Shi in Guangzhou, telling them to make posters, mail copies, and spread them widely.

During this time, the defendant, Yang Wei, made leaflets for the reactionary program of the "Alliance", but the leaflets were found by the Public Security Department before he could distribute them.

In above criminal facts are confirmed by the reactionary leaflets found, reactionary posters and reactionary manuscripts, letters witness' testimony and a check of handwriting, etc. The defendant does not deny these facts. Summarizing above stated, the present prosecutor determined:

The defendant, Yang Wei, being hostile to People's Democratic Dictatorship and Socialism, doing reactionary propaganda-instigation, having broken the 102nd item of Penal Law of People's Republic of China, committed the crime of "Counter Revolutionary Propaganda-Instigation" and should be punished by law. The defendant is prosecuted according to the 100th item of the Criminal Proceeding Law of People's Republic of China.

Li Tian-Xi,
Shanghai Intermediate People's Court, The Branch of Shanghai People's Prosecutor.

U.S. Senate,
Committee on Foreign Relations,
Washington, DC, December 21, 1987.

Hon. George P. Shultz,
Secretary of State, Department of State, Washington, DC.

Dear Mr. Secretary: We join you in deploring the decision of Chinese authorities to try University of Arizona graduate student Yang Wei in secret today. This decision is manifestly counter to international principles of justice which uphold a defendant's right to a public trial.

Mr. Yang has been declared a Prisoner of Conscience by Amnesty International, and rightly so. For eleven months he was held incognito in the notorious Shanghai Dentention Center Number One contrary to both Chinese law and international norms. He has been charged exclusively with political crimes, namely distributing leaflets and writing articles calling for political reform in China. The charges against Mr. Yang would be considered the normal excerise of political rights in the United States or any other country which professes to respect human dignity.

The Congress has already spoken on the case of Yang Wei. Section 907 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 describes the unjust treatment of Yang Wei and calls for his release. We urge you to raise the issue of Yang Wei as a priority item with Chinese authorities at the highest level. We are particularly concerned that this trial not be used as an excuse to suppress freedom of expression by others.

Sincerely,

Claiborne Pell.
Jesse Helms.
Dennis DeConcini.

Mr. PELL. Mr. President, it has come to my attention that a Chinese student named Yang Wei, who had attended the University of Arizona, was convicted in a secret trial yesterday in Shanghai. He was sentenced to 2 years in a labor camp for distributing leaflets and putting up posters. I rise to express my deep concern about this matter and to support my Republican colleage, Senator Helms, in urging the Chinese Government to release Yang Wei and to permit greater freedom of expression for students and others seeking democratic reforms in China.

I ask unanimous consent that an article from the New York Times of December 21, 1987, be printed in the Record, at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Dec. 21, 1987]

Chinese Students Across U.S. Protest an Arrest in Shanghai

(By Wolfgang Saxon)

Chinese students at many colleges and universities across the United States have signed a petition to their Government on behalf of an American-educated molecular biologist who was arrested nearly a year ago in Shanghai during a crackdown on political dissent.

The petition, dated Dec. 18, is addressed to Zhao Ziyang, the Chinese party leader. It cites recent reports that the prisoner, Yang Wei, was about to go on trial in Shanghai "on charges of promoting and instigating counter-revolutionary propaganda."

The charges refer to articles Mr. Yang had written for the journal "China Spring," published in New York City since 1982 by a Chinese emigrant physician, Wang Bingzhang, founder of the Chinese Alliance for Democracy. In addition, Mr. Yang was accused of joining Dr. Wang's organization and of handing out leaflets during student demonstrations for freer speech and democracy in December 1986.

He was arrested at his parents' home last Jan. 11.

The petition noted that some signers might not see eye to eye with Mr. Yang on his politics and that many did not belong to any political organization. Nevertheless, it declared, prosecuting Mr. Yang for joining an organization and expressing ideas were violations of China's Constitution.

"Human rights situation in China," the open letter said, "is a major concern of many Chinese students and scholars abroad and has drawn a lot of attention of the international community." It said Mr. Yang's case was entirely political and belied Mr. Zhao's recent assertion that there were not political prisoners in China.

Detaining Mr. Yang for 11 months without formal charges or trial was also contrary to the country's law on criminal procedure, the signers said.

The petition demanded that the detention of Mr. Yang be explained and that he and his family be given the right to choose their own defense lawyers. It further asked that Mr. Yang be tried in public, and that his rights to a proper defense be fully assured.

Finally, the petition requested that representatives of Chinese students abroad be allowed to attend the trial or testify for Mr. Yang and that they be guaranteed freedom to return overseas to resume their studies.

Mr. HELMS. Mr. President, seeing no other Senators wishing to speak, I ask unanimous consent that I may be permitted to proceed on another subject for at least 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina.

THE RANGEL AMENDMENT

Mr. HELMS. It would be putting it mildly to say, Mr. President, that I was astonished to find over the weekend in the report on the reconciliation bill that the conference included the so-called Rangel amendment denying foreign tax credits to United States companies that do business in South Africa.

I say that I was astonished because the Rangel amendment was put forward in the guise of a revenue-raising amendment. I say it was disguised in the form of a revenue-raising amendment because its manifest purpose is quite the opposite. It is not a revenue raiser at all.

The purpose of the Rangel amendment is to make the tax bill so expensive for United States-based multinationals doing business in South Africa that they will withdraw from South Africa. If they withdraw from South Africa, they will get their foreign tax credits back. As soon as that happends, then there will be no enhanced revenues to the U.S. Treasury.

So the pretenses of the Rangel amendment have been laid bare. Mr. President, this measure is not a revenue-raising measure at all, and it has no place in the reconciliation package. Its sole purpose is to be punitive. It is noteworthy that it removes all tax credits a multinational may have, not just tax credits derived from operations in South Africa. So the purpose of this is to achieve by the back door a foreign relations purpose that has no reasonable relation to the revenue-raising process.

But that is not the only abuse of the legislative process, Mr. President. We have no idea of the extent of the impact of this measure. It is essentially a measure to force disinvestment in South Africa. The idea of disinvestment was roundly rejected last year when Congress passed the Anti-Apartheid Act. Disinvestment was considered too extreme, too risky, too punitive, with results that would fall upon the black and colored peoples of South Africa the most heavily.

Mr. President, the Rangel amendment has never been the subject of a single congressional hearing in either House of Congress. Neither the Senate nor the House has ever spent as much as a full day debating a measure with such far-reaching consequences. It has never even been considered in open session by any congressional committee.

Last year, we had the Dellums bill, which sought complete disinvestment. The Senate overwhelmingly rejected that proposal, and the House agreed with the Senate by receding from the bill it had previously passed. It was felt to be too extreme and totally unnecessary, in the view of the House of Representatives. But now we have another, derivative proposal, with no hearings, no debate, no justification as to why it is necessary.

Nor can one claim an overwhelming mandate for the inclusion of the Rangel amendment in this measure. The reconciliation package came before the House under a modified closed rule—one that prohibited amendments to Congressman RANGEL's proposal. And on final passage, the House passed the reconciliation measure by only a single vote—and then only after the Speaker kept the voting period open an extra 15 minutes during which arms were twisted and the needed votes secured.

So here we have it: A mischievous foreign policy initiative, placed on the House bill without amendments possible, and now suddenly thrust before the Senate as part of a larger package bringing government operations to a crisis. The Senate has no opportunity to work its will, Mr. President, no opportunity at all.

Mr. President, the administration is strongly opposed to this provision, and it is correct in doing so. If this legislation passes the Senate, I urge the President to veto it forthwith.

We all know what it really means when legislation is passed without holding hearings, and under rules that prevent its revision. It means that the proposal can't stand on its own two feet. It is a deed that must be done in the dark of night.

Neither the rush to solve our budgetary problems, nor the understandable haste to get out of here for the Christmas holidays should stand in the way of our efforts to help the peoples of South Africa. For we all know that the Rangel amendment is an amendment which will clearly result in the suffering and disruption for the black and colored people of South Africa. Of course, Mr. RANGEL seems to think that in the long run it will help those people; but the record is quite otherwise. Already the other sanctions Congress has imposed have thrown black people out of work, disrupted their career development, split up families.

Mr. President, the way to clear up the remains of apartheid in South Africa is more investment, not disinvestment. More investment creates more jobs, more consumer purchasing power, better education, and irresistible pressures for orderly political change.

But we know what sanctions have already cost South Africans. Sanctions have cut back on progress, have thrown people out of work, have increased tensions among blacks, and created dissensions between ethnic groups.

I am told that, for United States companies operating in South Africa, the South African operations comprise only about 1 percent, or less, of the multinationals' overseas business. They will simply pull out, rather than forgo their foreign tax credit.

Will this put pressure on the white business group in South Africa? Not in the short run, Mr. President. We have already seen what happens when so-called disinvestment takes place. Two things happen. With regard to whites, there will be further sellouts at "bargain basement" prices to South African entrepreneurs, creating instant millionaires. I read in an article recently that such sellouts by American companies since the U.S. Congress imposed sanctions last year already have made some 125 new millionaires. And at the present time, only a very few colored, Indian, or black South Africans have been in a position to take care of this.

And the second thing that will happen is that the poor, the unemployed, the blacks will be directly and immediately affected for the worse.

Mr. President, let us look at the record, in detail. I had the opportunity to go to South Africa last August. It was not a vacation tour, and not a junket taken at taxpayers' expense. I was invited to go by the South African Agricultural Union, a nonprofit private organization that represents 75,000 farmers, white, black, and colored. The Agricultural Union wanted me to see the evil that sanctions were bringing about in South Africa.

And I saw plenty. I talked to opposition politicians representing every ethnic group and every political persuasion except the Communists.

I talked to people who had lost their jobs, and others who were about to lose them. I also found out the great investment that the large corporations were putting into their human resources—their employees. The South Africans use a term that sounds old-fashioned and a bit quaint to American ears, but it is perfectly straightforward in their version of English. It is called an investment in uplift.

Because these companies operating in South Africa are multinationals, they have had the resources to develop a great number of these uplift programs for their black employees. Instead of just providing jobs for blacks, these companies often give education grants, provide improved housing for blacks, support local school and day care centers, and provide equal pay for equal work despite the color of their employees' skins. Will the South African companies who have purchased the American holdings be able to continue such programs? Most likely they will not, because they will have to rely on South African earnings alone and those earnings will not be large enough to sustain such uplift programs for their employees.

Up to March 1987, 120 United States companies had left South Africa, with 93 doing so after the sanctions campaign began in 1985. By August of this year, 144 American companies had left South Africa or said they had plans to leave.

Mr. President, I now want to quote from a recent study, "Sanctions: The Republic of South Africa," which appeared in the Journal of Defense and Diplomacy:

> The June 1987 report of the Investor Responsibility Research Center, Inc., states that since January 1, 1984, 36 non-North American companies have disinvested. During the same period, 120 U.S. companies have pulled out, 40 of them in 1985 and 48 in 1986. Few, however, have elected to pull out lock, stock, and barrel. Rather, many of the companies with a major presence have sold out to local management and have established formal or informal arrangements to be able to continue to market and service their products in South Africa. Others have chosen to sell to an offshore trust by way of a self-financed deal, which enables them to maintain a stake in the South African market and to continue to transfer capital overseas through loan repayments.
>
> Few companies believe that their departure will be anything but counterproductive as far as political developments are concerned. Corporations that have made the decision to withdraw from South Africa generally ascribe their departure to two factors: first, the poor performance of the South African economy throughout the past decade and particularly during the lastest recession, and second, the escalating political turbulence and violence. An additional reason for some departures is the failure of some American companies to remain competitive in the face of stiff competition.
>
> In late 1985, sanctions also became a factor. Upon Exxon's departure its President, Lawrence Rawl, explained, "The deterioration of the South African economic and business climate caused by the continuing internal and external constraints has affected our business and our potential for growth.
>
> When Fluor corporation announced its departure in December 1987, its Chairman, David Tappen, stated, "The management of Fluor believes sanctions and the departure of the American companies are not an effective way to hasten an end to apartheid. We have reached a point, however, where an orderly transfer of ownership is in the best interests of the corporation, its employees, shareholders and clients" . . . The Fluor corporation statement was a clear and direct result of sanctions, particularly those imposed at a state and local level.

In some industries, when U.S. holdings have been sold to local people, employment has been maintained at a fairly constant level, at least in the short run. In other industries, this has not been true. For example, let us speak of the auto industry in Port Elizabeth. When Ford sold to SAMCOR, the South African Motor Corporation, SANCOR decided to move the operation to Pretoria, closer to the largest auto market. While 200 employees were transferred to Pretoria, an estimated 4,000 in Port Elizabeth lost their jobs—and Mr. President, I remind my colleagues that they were mostly blacks.

Again I quote for the same study:

> Another extremely important consequence of the business withdrawal will be decreased funding for education and training. The University of South Africa's Bureau of Market Research, in a study that covered 98,623 firms in South Africa, calculated that 2.8 percent were foreign-owned or controlled enterprises which employed 11.9 percent of the employees concerned. They were, however, responsible for roughly 20 percent of all the expenditure on training and education by the private enterprises, and responsible for 14.8 percent of expenditure on in-service training. Furthermore, between 1981 and 1985, these foreign companies accounted for 19.5 percent of the expenditures on community development projects.

That's right, Mr. President. Those who want revolution in South Africa will be going a long way toward attaining the goal when they force all American companies to leave and further exacerbate the unemployment of the black population in South Africa.

Sanctions against South Africa have already resulted in the loss of thousands of black jobs in South Africa; the previous pullout and/or sale of American companies' holdings there have resulted in thousands of other jobs no longer being available; and now the U.S. Congress wants to make the situation even worse. When I was there this past August, I spent a great deal of my time in the agricultural areas, talking to whites, coloreds, Indians, and blacks. Sanctions have hurt the agriculture industry in South Africa—and once again, blacks have suffered the most.

Between 1.2 and 1.3 million blacks and coloreds in South Africa are dependent on the agriculture industry for jobs, and when you consider that each worker supports, on the average, a family of five people, you can then safely say that over 6 million blacks and coloreds depend on agriculture for their livelihood, with the majority—75 percent—being blacks who have no other skills and know no other form of gainful employment. Let's look at sugar farming as an example. There are 25,000 sugar farms in KwaZulu-Natal area—and 23,000 of them are small holdings operated by blacks.

Mr. President, I want to make that absolutely clear: 23,000 are operated by blacks. Over 150,000 blacks in this area are connected with sugar farming which means that almost 750,000 blacks in Natal rely on sugar farming to put food in their own mouths.

How has the United States recently helped them? We cut off South Africa's sugar quota last year, thus immediately affecting some 20 percent of blacks in South Africa. While the amount of sugar sold to the United States was not a large percentage of the total sugar exports, the impact was grossly out of proportion. Because the worldwide price of sugar has been depressed in recent years to about 5 to 6 cents per pound, selling a portion of the production to the United States was very important because the United States has paid 20 cents per pound under our quota system. The 2,000 large white sugar cane growers will weather the storm. If they can't make sugar cane growing pay, they can sell their farms to the timber industry—which does not employ any where near the same number of people as farming.

But what can the 23,000 black sugarcane growers do? They don't really own their land but hold it under a system of tribal grants—and you can't sell what you don't own. So, these black sugarcane farmers will have to go back to subsistence farming or migrate to the already over-crowded townships near the large cities, hoping to find work there.

Make no mistake about it, Mr. President. Complete disinvestment of American companies in South Africa—which the Rangel amendment will bring about—will not speed the pace of reform in South Africa; it will simply increase unemployment among blacks and, hopefully on the part of its proponents, bring revolution in the country closer than ever before.

The African National Congress [ANC]—which proponents of the Rangel amendment seem to think is the only legitimate successor to the present Government in South Africa—has made it clear that it wants a complete takeover in South Africa.

And what is the ANC doing now? Its leaders are condoning the killing of more blacks and thereby intimidating their fellow blacks in order to bring about, they think, a Marxist state on the tip of Africa. I quote from a Washington Post article of this past Saturday concerning the wounding by terrorists of 10 black constables and two civilian passers-by in Nyanga township near Cape Town this past week:

> It was the fourth serious attack on black policemen in 10 days and appeared to reinforce fears expressed by the white minority government in Pretoria that the outlawed African National Congress guerrilla movement planned to launch a pre-Christmas offensive of ambushes and bombings.
>
> The incident was similar to an ambush Saturday in Johannesburg's Soweto township, when gunmen opened fire on a police vehicle, killing two black policemen and wounding four others.
>
> "On Tuesday, a black policeman was killed and two others were wounded when a gunman fired on a patrol in Nyanga township. On December 9, two black policeman were wounded when assailants shot at a vehicle carrying 30 officers to their post near the New Crossroads squatters' camp near Cape Town.
>
> Black Policemen, employed by the South African police and by township councils, have long been the target of attacks by militant nationalists, who regard them as collaborators with the white government. The frequency of such attacks has increased in recent months, especially against hastily trained special constables.

These terrorists, Mr. President, are the ones this Rangel amendment supports. How can anyone in the U.S. Congress or elsewhere come down on the side of violence when alternative means can be found? I am sorry to say it, but one day we will all wake up and find that we have a Communist state in South Africa.

Mr. President, let me return to the study from the Journal of Defense and Diplomacy:

> By targeting labor intensive industries, sanctions have put thousands of black South Africans out of work; the dependents of these jobless number in the tens of thousands. The sanctions campaign has also diminished the resources available to put blacks back to work or to provide them health, education, and other services.
>
> Sanctions have increased the concentration of wealth in the hands of white South Africans.
>
> Sanctions have caused a very substantial increase in U.S. imports of strategic minerals from the U.S.S.R. and Eastern Bloc countries.
>
> Sanctions have enhanced South Africa's trade with the U.S.S.R. and the Eastern bloc nations.
>
> Sanctions have also diminished western influence in South Africa, particularly United States influence.
>
> As U.S. influence on the South African government and the white community has dropped to almost nothing, U.S. influence on black South Africans has seen no corresponding increase.

That's the story already, Mr. President. And we are about to adopt the Rangel amendment into law thereby making all these conclusions even more true.

Mr. President, let me summarize by repeating what I said previously:

> This amendment will result in further disinvestment by U.S. companies in South Africa and will bring the goal of its proponents much closer. It is a goal which can only result in bloody revolution and violence against a government which is making needed reforms. The Rangel amendment will bring the aims of the terrorist ANC closer and closer. I cannot believe that is what the U.S. Congress really wants, and I must disassociate myself from this action.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 6 p.m., recessed subject to the call of the Chair.

Whereupon, at 9:34 p.m., the Senate reassembled when called to order by the Presiding Officer [Mr. FOWLER].

The PRESIDING OFFICER. The majority leader is recognized.

SENATE SCHEDULE FOR 1988

Mr. BYRD. Mr. President, for the information of all Senators, I am placing the Senate schedule for 1988 in the RECORD. The Senate will reconvene for the 2d session of the 100th Congress on Monday, January 25.

The projected schedule for the next session generally follows the format of 3 weeks in session and 1 week out of session. There is a longer recess in August between the Republican National Convention and Labor Day. The target for sine die adjournment is Saturday, October 8.

I would hope that we would be able to meet that target, considering the fact that the national elections will be held in November. I hope we will be able to complete our work in advance of those elections sufficiently to give Members some time for campaigning without having to worry about the Senate schedule.

I also hope that it will not be necessary to return to Washington for a post-election session.

All Senators should expect sessions and votes, early and late, on Mondays and Fridays during the weeks that the Senate is in session.

I will have to have the cooperation of Senators if we are going to make this schedule work. I will have to have their cooperation in being present early on Mondays and late on Fridays and throughout the days of the week.

Also, I will need the cooperation of the Republican leadership as well as the Senators on my side of the aisle and on the other side of the aisle not to leave, in addition to the Republican leadership in calling up bills if I have must legislation to come before the Senate.

With the close cooperation by the membership of the Senate on both sides in considering legislation, this schedule should permit us ample time to transact the Nation's business.

Mr. President, I ask unanimous consent to include in the RECORD the Senate schedule for the 100th Congress, 2d session.

There being no objection, the Senate schedule was ordered to be printed in the RECORD, as follows:

SENATE SCHEDULE 1988, 100TH CONGRESS, 2d SESSION

January 25: Senate convenes.
February 8-12: Senate not in session.
February 15: Senate reconvenes Washington's Birthday.
March 7-11: Senate not in session.
March 14: Senate reconvenes.
April 1-8: Senate not in session.
April 1: Good Friday.
April 3: Easter Sunday.
April 11: Senate reconvenes.
May 2-6: Senate not in session.
May 9: Senate reconvenes.
May 30-June 3: Senate not in Session.
May 30: Memorial Day.
June 6: Senate reconvenes.
June 30-July 5: Senate not in Session.
July 6: Senate reconvenes.
July 18-22: Senate not in session, Democratic National Convention.
July 25: Senate reconvenes.
August 15-September 6: Senate not in session.
August 15-19: Republican National Convention.
September 5: Labor Day.
September 7: Senate reconvenes.
October 8: Sine die adjournment.

RETIREMENT OF CHARLES G. HARDY

Mr. BYRD. Mr. President, on Wednesday, December 16, Senators and staff gathered to extend their good wishes to Charles G. Hardy upon his retirement.

Mr. Hardy is officially retiring on January 3 after 21 years of service to the U.S. Senate. For all but 1 month of that 21 years, he has served as a Chamber attendant. In that capacity, he has been extraordinarily helpful to Senators and countless staff members and has always maintained his good humor during the long hours of Senate sessions.

Charlie has gone out of his way to be helpful to all of us and to express his concern whenever any of us have suffered personal tragedies. He will be missed by all of us.

Prior to beginning his employment in the Senate, Charlie had worked for the Royal Typewriter Co. for 22 years and was the first black employee of that company to become a supervisor.

When asked what he plans to do during his retirement, Charlie indicated that he will spend some time working with senior citizens and children. I know that everyone who benefits from his kindness in his new endeavors will appreciate him as much as we in the Senate have appreciated him.

I extend my appreciation to Charlie for his years of faithful service and wish him the best in his retirement years. We all hope too, that he will be back to see us from time to time.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, following the adoption of the conference report on the Housing bill, the Senate will shortly be taking up the reconciliation conference report and, following that, when the House has completed its work on the continuing resolution, the Senate, of course, will go to that.

I hope we will be able to complete our work in a reasonable amount of time on the reconciliation and continuing resolution conference reports.

There will be rollcall votes on both. These rollcall votes were announced as of yesterday by the distinguished Republican leader and myself and Senators have been duly alerted.

I will say that before the morning Sun comes creeping out of the East, hopefully we will be able to go out sine die and go home for a happy holiday season.

Mr. President, I yield the floor.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the clerk dispense with further reading of the roll.

The PRESIDING OFFICER. Without objection, it is so ordered.

JACK O'LEARY

Mr. DOMENICI. Mr. President, it is my sad duty to report that over the weekend our country lost one of its most distinguished and thoughtful public servants. John F. O'Leary, whose 30 years of national service included senior energy appointments under four Presidents, died of cancer in Philadelphia on Saturday.

To Jack O'Leary, serving one's country in high public office was a natural calling. Under Presidents Kennedy, Johnson, Nixon, and Carter, his many positions included Administrator of the Federal Energy Administration, Deputy Assistant Secretary of the Interior, and head of the Department's Bureau of Mines, Director of Natural Gas for the Federal Power Commission and Director of Licensing for the U.S. Atomic Energy Commission. From 1975-77, he moved to State service, serving as secretary of energy and minerals for the State of New Mexico. When the decision was made to create a new Cabinet-level Department of Energy in 1977, Jack O'Leary was made its Deputy Secretary.

At each post, and on each assignment, Jack O'Leary put sound public policy above political partisanship. He left public office in 1979. His integrity was so widely respected, and his knowledge of the nuclear utility industry so profound, that Jack played a leading role in TMI's recovery process, so much so that he was made chairman of GPU Nuclear Corp. in 1984, then Chairman and CEO of the parent GPU Corp. in 1987.

Let me echo the sentiments of his former colleague, Energy Secretary James R. Schlesinger: "Jack O'Leary was a long-time public servant, a man of great intellectual range and vision with a wry sense of humor, and a dedication to the achievement of his convictions and goals."

Mr. President, Jack O'Leary is survived by his wife Hazel Reid O'Leary, herself a valued former public servant. A memorial service will be held at 2 p.m. on December 30 at the Cosmos Club, and I know many of my colleagues will want to attend.

Secretary O'Leary leaves behind a legacy of service to one's country which is, perhaps, the finest remembrance we could hope to have of this man and his work.

I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SOUTH KOREA ELECTION

Mr. FORD. Mr. President, the Republic of Korea elected a new President, Roh Tae Woo, on Thursday. This election, which represents the first nationwide vote in 16 years, is a potentially giant step in that nation's transition to full democracy.

It is my hope that Korea's economic prosperity can continue under its new leadership in a manner that is beneficial to both of our countries. Trade figures indicate that the United States has been, and will continue to be, a key to Korea's economic growth. They are our seventh largest trading partner. In 1986, 40 percent of all Korean exports went to the United States. And for a variety of reasons, Korea's expanding trade surplus with the United States reached $7.4 billion last year.

I welcome the reported comments of U.S. Trade Representative Clayton K. Yeutter on Wednesday, where he indicated that the time now may have come to vigorously pursue a number of trade disputes with Korea. This action is inevitable in the development of a healthy trading relationship with any maturing democracy.

The 1987 national trade estimate report on foreign trade barriers, prepared by the USTR Office, outlines several areas where trade relations might be improved with Korea. There are various tariffs and other import charges affecting textiles, agricultural products, and several manufactured goods. Quantitative restrictions still apply to tobacco, poultry, beef, feed grains, and other agricultural products. Further unwarranted restrictions may exist regarding import licensing, labeling and certification standards, intellectual property protection, and various service barriers affecting insurance, banking, advertising, and telecommunications.

Mr. President, of particular interest to the many small farmers in my State are the ongoing negotiations being conducted by USTR with respect to the Korean cigarette market. At stake is the fundamental right to compete evenly in a market that is virtually closed to foreign producers. I am hopeful that these negotiations will now proceed expeditiously and in good faith to a final resolution, averting the need for any formal proceedings. It is quite clear that a negotiated solution would be far superior. I am also hopeful that progress will be made in the other areas currently being discussed by our trade officials.

Mr. President, I hope that expanded trade between the United States and the Republic of Korea will continue to the mutual benefit of both of our economies, and to the ultimate benefit of democracy around the world.

UNITA'S COUNTER-OFFENSIVE CRUSHES SOVIETS, CUBANS, AND ANGOLANS

Mr. HELMS. Mr. President, in July the forces of the Soviet Communist empire set out on the largest Communist offensive to date of the Angolan civil war.

The Soviets, the Cubans, the Angolans, and their combined military forces, suffered thoroughly devastating defeat at the hands of the pro-Western, prodemocratic, indigenous armed forces of the national union for the total independence of Angola, known throughout the Western World as UNITA.

The Communists had set out to overcome the memory of their 1985 defeat. As Senators may recall, that was when the combined Soviet, Cuban, and Angolan forces launched Operation Second Congress, embodying essentially the same military objectives and plan, but with substantially less military hardware and firepower, as this year's offensive. Operation Second Congress in 1985 failed miserably, and the Communist troops were routed.

However, Mr. President, this year the Communists were confident they could do better. After more than a year of planning and preparation, the Soviet Union shipped over 1 billion dollars' worth of heavy and sophisticated military hardware to Angola; they detailed Soviet General Konstantin Shagnovitch and his staff from combat experience in the Soviet-invaded country of Afghanistan. Even with all that, the Communists have suffered their largest military defeat in the Third World.

In late July, the massive Communist forces proceeded from their military base at Cuito-Cuanavale toward their objective, Mavinga, a key UNITA base. Traveling in three columns, the Communist forces planned to attack Mavinga in coordinated thrusts on its eastern, western, and northern fronts.

Think of it, Mr. President, the Communist military weaponry included more than 800 tanks; the most up-to-date SAM-8 Soviet antiaircraft batteries—with sophisticated radar and television optical equipment for tracking approaching planes—high performance Mig-23; and Mig-21 fighter jet aircraft; Mi-25/35 HIND helicopter gunships; Mi-8 troop-carrying helicopters; SU-22/Fitter tactical bombers; hundreds of armored personnel carriers; hundreds of trucks, several convoys of bridge building equipment, clusters of light and heavy artillery batteries—including the infamous BM-21 "Stalin Organ" rocket artillery batteries. All this and 16,000 Cuban and Soviet-backed Angolan troops.

Mr. President, the New York Times on September 14, reported that the 125,000-member combined army of Angolan and East bloc forces is one of Africa's most formidably equipped. The combined Communist army in Angola has over 37,000 Cuban troops, 5,000 Soviet and East German advisors, and 80,000 Angolan Troops.

Yet. Mr. President, despite this overwhelming superiority in numbers, armor, air power, fire power, and logistical equipment, UNITA completely devastated the Communist forces. It was the story of David and Goliath all over again. The column that was to attack Mavinga from the northern front was engaged by UNITA troops. The Communist troops were drawn into ambushes where UNITA utilized their high degree of mobility, and proceeded to cut to pieces the Communist armored column.

Mr. President, 70 percent of the Communist military equipment in that arm of the attack was either captured or destroyed. UNITA captured or destroyed over $700 million worth of Soviet military equipment.

As the battle wore on and the fighting became intense, the Cubans and Soviets were airlifted by helicopter out of the battle. The MPLA—the Communist Angolan troops—were then left to fight UNITA alone.

Needless to say, the Angolan Communist troops were mauled badly, and more than 300 MPLA troops defected to UNITA bringing valuable information and weapons. Communist troops who managed to escape were detailed to the other two columns that were supposed to attack Mavinga on the eastern and western fronts. However, once the other two columns of the attacking Communist force learned of the northern flanks' devastating defeat, the troops panicked.

In short, Mr. President, the combined Communist forces then turned tail and ran. They never even arrived at Mavinga, let alone get in position to attack the UNITA base.

Captured soldiers and Communist defectors confirmed that the Soviets were furious with their Angolan allies because some of the Soviet's best, top-of-the-line combat equipment was captured intact by UNITA.

Mr. President, UNITA has reported on the battle in some detail in its official communiques. UNITA reports that it captured in working condition:

> 33 tanks and armored vehicles;
>
> 206 military transport vehicles;
>
> 4 SA-8 missile systems (the Soviet's most advanced mobile Anti-Aircraft battery);
>
> Numerous pieces of long range artillery (BM-14 and BM-21);
>
> Hundreds of assorted individual rifles.

UNITA reports that it destroyed:

> 2,032 Communist troops, including 27 Soviets;
>
> 156 armored vehicles, tanks and river crossing equipment;
>
> 26 Combat aircraft, including five MiG-21 jet fighters; and
>
> 247 Military transport vehicles.

Mr. President, in a single ambush, UNITA captured 182 trucks that were packed with weapons. Over 5,000 Cuban and Angolan troops were wounded.

The military significance of this battle is the complete destruction of four Communist regiments. The Communists attacked with 12 regiments, and left another four in reserve. In other words, of the attacking troops, one-third were completely wiped out.

UNITA captured SAM-8, and SAM-13 antiaircraft missile batteries completely intact, along with their Soviet operators. UNITA has promised a Christmas present for their allies who are interested in the Soviet's latest ground-to-air, antiaircraft missile battery technology.

Most interestingly, UNITA shot down 5 Soviet-made, Cuban-flown Mig-23's and 17 other aircraft. They also captured 12 Soviet made "Stalin Organs," the 40-round mobile rocket artillery that are so devastatingly effective.

Mr. President, these details supplied by UNITA have received general confirmation by independent observers.

On November 22, the New York Times reported that "this is the third offensive by the Marxist government that Mr. Savimbi's troops have defeated in as many years."

The Washington Post, on November 2, reported that "in several weeks of fighting that subsided in mid-October, the rebels inflicted heavy losses on the Angolan Army, which is supported by Cuba and the Soviet Union."

In the same article, the Washington Post reported:

> In a recent briefing, U.S. officials said Savimbi's forces seized from the Angolan Army "very substantial" quantities of recently delivered Soviet weapons—including dozens of tanks, armored personnel carriers, trucks "galore" and few SA8 and SA13 antiaircraft missiles.
>
> The rebels, with some South African artillery and air support, also decimated the Angolan Army's 47th Brigade, and "seriously beat up" three or four other brigade sized units in the three-pronged attack on Mavinga, the gateway to UNITA's main stronghold in far southeastern Angola.

Mr. President, so complete was this military defeat, that the Soviets and Cubans have evacuated the very base from which the Communist forces launched their offensive in order to avoid being captured by the advancing UNITA troops.

However, while the Soviets and the Cubans have evacuated this base, they have left their fraternal Communist brothers, the Angolan MPLA troops, to face the UNITA forces from whom they have run away.

Mr. President, it is obvious that the Angolan troops would like also to retreat from the advancing UNITA forces, but they could not because the Cubans and Soviets control the use of the Communist air force and helicopters; and the Soviets and Cubans refuse to deploy them to evacuate the Angolans.

Needless to say, this betrayal has caused considerable resentment among the Communist MPLA troops. The fact that their Soviet and Cuban allies fled the battle zone in the face of the victorious UNITA troops' advance, and the fact that every major Communist offensive against Dr. Savimbi's highly mobile, highly trained, highly motivated, and highly experienced troops has resulted in defeat, has created a paralysis of the Communist Angolan troops will to fight and devastated their morale.

In fact, many of these Angolan troops are 16- to 19-year-old men who have been forced into combat at gun point. The Cuban troops are usually deployed behind the Angolans to protect the Cubans from being captured or killed in battle—and so they can shoot any Angolan troops that attempt to defect or retreat during combat.

Mr. President, intelligence from captured Cuban soldiers and documents reveals that the Cuban high command now feels that the battle in Angola is not winable.

Brig.-Gen. Rafael Del Pino Diaz, the former Cuban Air Chief of Staff in Angola who defected with his family to the United States this year, has published his insights in an interview "General Del Pino Speaks," published by the Cuban American Foundation. He says that while the casualty figures in Angola are kept secret, the estimated figure—before this most recent military defeat—was 10,000 dead.

Furthermore, he states that the attitude of the Angolan people toward the Cuban troops is increasingly hostile. Cuban troops in Luanda, Angola's capital city, regularly get scalding water and rocks thrown at them by angry crowds.

General Del Pino reported the Angolan troops are also hostile toward the Cubans. He said:

> The Angolan military are tired of our presence, they realize the inferior quality of

> our troops and that our troops at the most crucial moments always withdraw, as happened during the Cangamba battle—during Operation Second Congress in 1985. There, when the fight started we were side by side with the Angolans. The UNITA troops apparently withdrew. Then, after our helicopters withdrew our troops, UNITA attacked again and annihilated all the Angolan troops. This they feel strongly and they know the Cuban troops are not there to die with them, but only to sustain a group in power and maintain the Soviet Union in that strategically important area of the South Atlantic.

General Del Pino identified three reasons for the Cuban troop presence in Angola.

The first reason, he says, is that:

> Angola is a strategic key for the Soviet Union in the Atlantic South. Cubans are being used there as a way to pay 10,000 million rubles of military equipment supplied by the Soviet Union to Cuba.

Still quoting the general:

> The second reason is the vast unemployment existing in Cuba. We have sent thousands of Cubans to Angola, and the problem now is that with the present situation of unemployment it would be a catastrophe to return to Cuba those 40,000 Cubans.

The general continued:

> The third reason is that Angola is now a place of punishment for high-ranking officers, people who have lost the confidence of Fidel, or have command problems of qualification for promotion. To Angola are sent demoted officers.

Mr. President, it may be useful to review some of the history of how 38,000 Cuban troops, complete with $4 billion worth of Soviet military hardware arrived in Angola.

In mid-1975, after the Portuguese colonial government decided to leave Angola, the three anticolonial factions, which included the MPLA and UNITA, agreed in the Alvor accords to create a pluralistic democracy, and hold national elections to determine the makeup of Angola's national leadership. National polls indicated that Jonas Savimbi, the leader of UNITA, would win overwhelmingly. However, the MPLA, realizing they did not have a chance in national elections, sent a courier to Moscow with an urgent request for Communist troops to fight Savimbi's UNITA. The Soviet Union readily complied, and airlifted 12,000 Cuban troops into Angola, and militarily took over the country.

Mr. President, even the United States State Department refuses to give official recognition to illegal MPLA regime in Angola.

Today there are 38,000 Cuban troops, and 2,500 Soviet military advisers in Angola, up from 12,000 Cuban troops in 1975. Angola has received more than a billion dollars in military aid from the Soviet Union in the past 12 months in preparation for a failed offensive. Angola has received a total of more than $4 billion in Soviet military aid since 1975.

Compare that, Mr. President, to the wails of anguish in the United States Congress when Ronald Reagan proposes mimimal assistance to the anti-Communist Freedom Fighters in Nicaragua. It is noteworthy that since Gorbachev came to power, Soviet military aid to the MPLA has escalated significantly.

The Soviets now operate submarines, destroyers and cruisers from ports in Angola, ports that are within range of two key sealanes, the oil routes around the Horn of Africa, and the NATO resupply routes across the Atlantic.

Mr. President, most of the world today decides what type of government it has by the force of arms and by who controls the media and police powers of the state. It is tragic that we in the West so often lose sight of the fact that to enhance and project the principles of freedom—against Communists who are ready to wipe out militarily political opposition by the force of arms and police power—we must help those who are fighting for freedom if we really want to prevent the slaughter of those who believe in the God-given rights of man.

I am proud to say that UNITA believes that the single most important factor of their recent military victory was the U.S.-supplied Stinger missiles. UNITA's superior mobility and communications enabled them to concentrate massive fire power on the bottled-up Communist troops, while the Stingers protected the artillery, antitank weapons and ground forces from air attack.

Mr. President, at least in Angola, the United States is at least minimally complying with the Truman doctrine, the historical father to the Reagan doctrine, which states that the United States has a moral obligation to:

> * * * support free peoples who are resisting attempted subjugation by armed minorities or by outside pressure.

Angola qualifies in every sense under the Truman doctrine. UNITA is made up of "free people who are resisting attempted subjugation." The MPLA could be described as an "armed minority,"—less than 3 percent of Angola's population belongs to the MPLA party—and the 38,000 Cuban troops and 2,500 Soviet advisers clearly constitute outside pressure.

Mr. President, the United States must increase its aid to UNITA, and continue to do so until all foreign Communist troops leave Angola. We must be responsible to our principles, and continue to be sympathetic to the aspirations for freedom of the vast majority of the Angolan people. Living under the Communist MPLA government in Angola, is living under oppression, corruption and incompetence.

Human rights do not exist under the Communist totalitarian MPLA in Angola. Even the State Department agrees. It reports:

> Political dissension is not tolerated. In fact, the Angolan people live under censorship, intimidation, and Government control of the media. Opposition views are not tolerated. The Government publicly emphasizes the importance of propagating atheism and has been critical of all religious activities.

In summary, the West must not ignore or forget the importance of UNITA's military victory and the global ambitions of the Soviet Union. The United States must not shrink from this opportunity to see the aspirations for the freedom of the Angolan people realized.

Mr. President, this military victory for the forces of freedom was possible because good men did not stand by and do nothing. The United States' $15 million in aid was used to defeat the Communist force that spent billions of dollars. The United States must continue to aid UNITA, and our military support for UNITA must increase.

Surely there is a clear lesson in all of this concerning the fight for freedom in Nicaragua in our own hemisphere.

UNITA stands for freedom, self-determination, free elections, and an independent and strong Angola. The United States must have the courage to defend these principles wherever brave, dedicated people are willing to fight and die for freedom. To hesitate is cowardice. To the extent that the brutal, bloody hand of communism prevails anywhere in the world, our own chances of preserving freedom at home are diminished.

BICENTENNIAL MINUTE

DECEMBER 29, 1833: BIRTH OF SENATOR JOHN J. INGALLS

Mr. DOLE. Mr. President, on December 29, 1833, 154 years ago this month, John James Ingalls was born in Middleton, MA, the son of a shoe manufacturer. Ingalls spent his early years in New England, and graduated from Williams College before joining so many of his generation in the great migration westward. In 1858 he arrived in the frontier territory of Kansas, which he made his home, and which made him its U.S. Senator, from 1873 to 1891.

From all accounts, Senator Ingalls was one of the sharpest tongued debaters ever to serve in this institution. His biographer wrote that Ingalls seldom took the middle ground. "He was inclined to annihilate critics, whether friend or foe, and compromise in debate was to Ingalls a form of surrender." Once he caught Senator Joseph E. Brown, a Georgia Democrat, changing the substance of RECORD on a previous exchange between them. Ingalls denounced this "falsifying and forgery," compared Senator Brown to a "thug stabbing a sleeping enemy," and branded his opponent as the "Uriah Heep of the Senate * * *: a sniveling political Pecksniff."

Senator Ingalls never hesitated to say what he thought. He decried British imperialism, calling that nation "a ruffian and coward, and the bully among the nations of the Earth." He dismissed those Republican reformers who supported the policies of Democratic President Grover Cleveland as political eunuchs. And, alluding to Cleveland, he charged that "There is no man in this country whose ignorance is so profound, whose obscurity is so impenetrable, and whose antecedents are so degraded that he may not justifiably aspire to a Presidential nomination—by the Democratic Party."

Kansans enjoyed John J. Ingalls' vivid style and elected him to three terms in the Senate, where he served as President pro tem. Today his statue stands in Statuary Hall, seemingly poised to do verbal battle with all foes.

THE NOMINATION OF MARVIN T. RUNYON, JR.

Mr. HUMPHREY. Mr. President, the nomination of a member of the Board of Directors to the Tennessee Valley Authority [TVA] provides one of the few opportunities for Senators to examine the activities of a multibillion dollar Federal agency that assiduously avoids any form of public scrutiny.

By means of its enacting legislation, the Tennessee Valley Authority Act of 1933, and subsequent amendments, TVA's powerful protectors in Congress have constructed a wall around the agency that effectively shields it from any outside examination. As they have for years, Members of Congress from the Tennessee Valley have stood watch at the gates of TVA, beating back any effort to effect change at the agency. The TVA Act itself has been transformed into a statutory icon, before which Members may only genuflect in unending adoration. Apparently unique in its legislative perfection, one may look at the TVA Act, but one may certainly not touch. Typical of the attitude is testimony recently delivered by the senior Senator from Tennessee before the Committee on Environment and Public Works:

> I referred earlier to those who are hostile to the idea of public power and to the Tennessee Valley Authority. I believe that there are many, both in the administration and even some here in the Congress, who feel that hostility very deeply. I also believe that these forces look at an opening of the TVA Act, perhaps, in a way that a fox would look at the unguarded door of a henhouse * * *.

Members from the Tennessee Valley have reason to be fearful of close examination and it does not lie in hostility toward them, their constituents or the concept of public power. The fact is the TVA Act is fundamentally flawed and those flaws have wrought disaster upon the Valley.

Consider the unique arrangements under the TVA Act:

TVA's three Board members may serve an unlimited number of 9-year terms;

TVA has secured access to the Federal Financing Bank, from which it is able to borrow funds without review;

TVA has amassed a huge debt to the Federal Government, the large portion of which it has no plans to repay;

TVA is exempt from the authorization process;

The TVA Board establishes its own electric rates and those decisions are not subject to regulatory review.

Taken together, these provisions make TVA a very powerful agency which is almost completely insulated from outside review or oversight. During the depression, TVA was intentionally invested with these extraordinary powers as an experiment. The purpose was to help a backward region of the country.

Later, however, TVA's powers as a self-authorizing, self-regulating authority wrought disaster. During the early 1970's, TVA's Board invested over $15 billion in a nuclear power program which has been plagued by safety-related problems, and, at present, is completely broken down. Not only have 8 of the 17 planned nuclear plants been canceled, but all 5 of the completed plants have been shut down due to what the Nuclear Regulatory Commission characterized as "a sustained and consistent history of poor performance * * *."

Mr. President, TVA is in deep trouble. As chairman of the Subcommittee on Regional and Community Development during the 98th and 99th Congress, I have had the opportunity to examine closely the mission and the structure of TVA. The act is flawed and needs to be changed, and I have introduced a bill proposing reforms.

Until legislative changes are made, a shroud will continue to envelope TVA. Until the shroud is lifted, the nomination of a member of the Board of Directors presents one of the few opportunities for the Senate to review not only the nominee, but the agency itself. In the words of TVA Director John Waters, "Each new appointment has the effect of reconstituting the Board by providing a new mixture of strengths and a new perspective on issues." That is why this debate in important.

Mr. President, in my view, it is imperative that the next Board member at TVA express at least a minimal interest in considering some of the fundamental reforms that, I believe, are in order. On several occasions, I made this point to the White House while they were searching for a replacement.

Earlier this week, I submitted questions to the nominee, Marvin Runyon. I regret to report to the Senate that his responses reflect little interest in getting to the root of the problems at TVA. Further, his background as an auto company executive, though impressive, hardly lends itself to addressing effectively the day-to-day challenges of the Nation's largest electric utility, much less reviving a defunct nuclear power program.

Mr. President, I was particularly disturbed to learn that the nominee refused to respond to requests made by a large grassroots organization in the Tennessee Valley, the TVA Board Appointment Coalition. The group, which is comprised of 42 organizations, was formed in 1983 to review candidates for the Board. The organization recognizes a Board vacancy as a unique opportunity to review policy at TVA.

According to Mr. Runyon, he refused to provide answers to the TVA Board Appointment Coalition because he felt "it is only proper for the Members of the Senate Environment and Public Works Committee to hear my views directly * * *." Interestingly, during the last search for a Board member, the eventual nominee and present Director, John Waters, did meet with the group. When do these 42 organizations get to hear Mr. Runyon's views directly?

I do not question the strength of Mr. Runyon's management capability. His record as a manager is well proven through decades of experience in the automobile industry. I do question Mr. Runyon's perspective on issues crucial to the success of TVA.

Mr. President, I caution my colleagues not to diminish the importance of this nomination by confirming Mr. Runyon without careful consideration of his qualifications.

I ask unanimous consent that a copy of my questions to Mr. Runyon, and his responses, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTIONS BY SENATOR GORDON HUMPHREY

Question 1. I understand that you have been unwilling to meet with the TVA Board Appointment Coalition, a coalition of 42 concerned organizations in the Tennessee Valley, prior to your nomination hearing before the Environment and Public Works Committee.

1.a. Is this accurate?

Answer. I met with leaders of the Tennessee Valley Energy Coalition in Nashville last month in a listening session they requested, and was glad to learn their perspective on issues facing TVA. The Tennessee Valley Energy Coalition is an important part of the TVA Board Appointment Coalition.

1.b. If yes, what is the basis for your decision not to meet with the TVA Board Appointment Coalition?

Answer. I never objected to taking part in a listening session to become familiar with their views. My concern was about the timing and appropriateness of addressing complex TVA issues through a questionnaire format prior to the confirmation hearings. I believe it is only proper for the members of the Senate Environment and Public Works Committee to hear my views directly, rather than through a third party.

Question 2. Do you believe that the citizens of the Valley should have input in the decision to nominate a member of the TVA Board of Directors?

Answer. Citizens of the Tennessee Valley do have such input through their elected officials. During the years I have lived in the region, I have learned that citizens of this area take into serious consideration a candidate's views on TVA during the voting process.

Question 3. As Chairman of the TVA, how would you involve the public in the decision-making process?

Answer. TVA is a public agency, and it must earn the confidence and support of the public in carrying out its mission. TVA's historic commitment to public involvement is in harmony with my own philosophy of participative management. I intend to take full advantage of the opportunities to gain maximum public involvement through open Board meetings, listening sessions about critical issues, and meetings with individual citizens and constituency groups.

Question 4. To whom do you feel that the TVA Board of Directors is accountable? In what respect do you feel that the TVA should be held accountable to the public for its policies?

Answer. The TVA Board is accountable through the public's elected representatives. Congressional committees carry out their responsibilities for the oversight of a wide range of TVA programs. The location of TVA's headquarters in the region it serves rather than in Washington provides an additional avenue of accountability. Board members literally have to live with their decisions, and they can more directly obtain public input regarding those decisions.

Question 5. In 1986, the TVA Board established an Office of Inspector General to promote efficiency and to reduce fraud. The Inspector General is appointed by the TVA Board.

5.a. Do you believe that the Inspector General at TVA should be appointed by the President as is the policy for appointment of Inspector Generals at most large federal agencies?

Answer. I have a limited familiarity with TVA's Office of the Inspector General and an even more limited familiarity with Inspectors General elsewhere in government. I have been told that the reason for the present arrangement at TVA is to provide a solid framework that safeguards the IG's authority and independence while being consistent with TVA's corporate mission and structure. I will need more opportunity to observe the operations of the Inspector General's office before I can venture beyond that impression, however.

5.b. Do you believe that the activities of the Office of Inspector, the congressional oversight committees and the Board itself are adequate to provide for the efficient operation of TVA?

Answer. The TVA Board should be responsible for the efficient operation of a clear, purposeful, and positive management system at TVA. The public's interests are protected by the Inspector General and congressional oversight, and the current protections of that kind may be adequate, but effective management is essential for quality and productivity.

Question 6. Do you believe that TVA's exemption from the Congressional authorization process should be repealed so that TVA programs will be subject to the same Congressional scrutiny as programs under other federal agencies?

Answer. I am attracted to the original intent expressed by President Roosevelt that TVA should be allowed to operate with the "flexibility and initiative of a private enterprise," rather than facing every one of the constraints in management that apply to Federal agencies generally. I understand that the exemption from the authorization process was part of that flexibility provided to TVA.

At the same time, I recognize that TVA must be accountable to the Congress, the ratepayers of the region, and the Nation's taxpayers. I would be able to give a more substantive comment on this question when I have the opportunity to become more familiar with Congressional review processes.

Question 7. What are your views regarding proposals to restructure TVA in order to separate the policy-making apparatus from the day-to-day management? Do you object to opening up the TVA Act?

Answer. Whether or not the TVA Act should be amended to separate these two functions is a matter I would rather comment on after gaining experience at TVA and seeing first-hand how policy-making and management operate in that environment.

Question 8. What are your views regarding proposals to expand the three-member, full-time board to a larger, part-time board?

Answer. Many people believe the structure of the TVA Board has worked well in the past. TVA has accomplished many remarkable things with that structure.

My interest in serving on TVA's Board, and my understanding of my responsibilities on that Board, is based on the premise that the Board will be made up of three full-time members, each serving a nine year term. That is what I have agreed to.

I will know better what works at TVA after I have had time to serve on the Board. Without that direct experience, I could only speculate.

Question 9. Do you think that nine years is a reasonable term for TVA board members? Do you believe that the number of terms a board member can serve should be limited? Please comment on your views regarding a system under which the term for a Director would be reduced to three years, a new board member to be nominated by the President each year.

Answer. I am agreeing to serve a nine-year term. From my conversations with other Board members, I gather this length of term is required for first getting to know the diverse mission of TVA, setting a course, implementing plans, and working with newer board members as they come into service.

Question 10. Have you considered the recommendations of the Southern States Energy Board regarding creation of a formal rate review process? Please comment on the advisability of rate hearings for TVA's power program.

Answer. As I understand TVA's operations, public rate review meetings already are part of the process of determining the need for rate increases. I believe the TVA Board should seek pertinent information from the widest range of knowledgeable sources before acting on rate recommendations.

Question 11. Do you believe that TVA's power decisions should be subject to regulatory review by allowing state utility boards to review utility-related decisions?

Answer. I believe that TVA Board members must be committed to keeping power rates as low as possible, and must have access to the necessary data to make informed rate decisions that take into account the impact on the public as well as the power system. If those conditions are met, I believe the TVA Board can set rates more economically than would be the case if such decisions were delayed by another rate review process conducted by the separate state utility boards.

Question 12. In his testimony before the Environment and Public Works Committee on December 9, Governor Baliles stated that TVA is "a great national resource." Please comment on the tension resulting from TVA's simultaneous role as a "national resource" and a regional power system.

Answer. I firmly believe that an adequate supply of affordable electric power is an important resource for economic growth and development, in much the same way that a developed and well managed river system is a resource for economic growth. Therefore, I see electric power as one of several important tools that TVA has to apply to its single, overriding mission of promoting the economic development of the Tennessee Valley region.

What some see as TVA's dual roles of economic developer and regional power supplier, I see as a single, integrated program made up of several different parts. Each part has an appropriate role to play in the total program. Together, they add up to a significant package of tools that, when skillfully applied, can bring jobs and a higher standard of living to the people of the region.

Question 13. The sulfur dioxide (SO_2) emissions from TVA's fossil-fueled plants have been reduced significantly over the past few years and TVA is currently conducting clean-coal technology demonstration projects. Do you believe that TVA's SO_2 emissions should be further reduced?

Answer. Environmental quality must be maintained and enhanced in the Tennessee Valley and the nation. This is an essential ingredient in providing a quality lifestyle for the people. At the same time, the cost of electric power must remain affordable—another essential ingredient in providing a quality lifestyle.

The accomplishment of these twin objectives provides TVA with one of its major challenges. I will be giving serious study to the best ways of achieving these objectives in the months ahead.

Question 14. Do you believe that federally supported funds, power ratepayer funds, or a combination of both should be expended to resolve the dissolved oxygen problem in the vicinity of TVA's hydroelectric facilities?

Answer. I am aware that TVA is now conducting a comprehensive review of its reservoir system operations, with involvement from the public, other federal and state agencies, and outside experts. As I understand it, this study will help provide a sound basis for deciding this issue.

Question 15. What are your views regarding the role of energy conservation in supplying power to the Valley?

Answer. From the standpoint of the consumer, energy conservation provides a way for consumers to gain some degree of control over their energy costs—the less they use, the less they pay. I understand that TVA has one of, if not the best, program in the nation in helping consumers take advantage of potential energy savings. I support this effort.

From the standpoint of the utility, energy conservation offers equal advantages. It can delay the need for expensive new plants and equipment. It also can be used to level out daily and seasonal demands and lower operating costs. Such measures make good business sense.

So, in many ways energy conservation is a "no lose" situation. I support it fully, while reserving judgment on specific applications.

Question 16. Senator Breaux recently offered an amendment to the budget reconciliation bill to authorize TVA to spend power revenues to pay salaries that exceed limitation to not more than 25 key employees. In your opinion, is this amendment sufficient to deal with the constraints of the federal pay cap?

Answer. TVA's Board of Directors should have the authority to set TVA salaries because TVA is in competition with every other public utility. They must have the capability to pay their people commensurate salaries. TVA does very well, so I'm told, at lower levels in attracting bright young people. They work there for three or four years, and then they move into higher paying utilities. I think Senator Breaux's statement is going to be a tremendous asset to the TVA Board and to TVA because it will enable TVA to go to people and say: "How would you like to work for TVA for the rest of your life?"

Question 17. Do you believe that sound policy dictates that TVA continue to borrow through the Federal Financing Bank rather than through the private sector? Please comment on the relative merits of forcing TVA to borrow exclusively from the private sector.

Answer. I believe it is important for TVA to maintain the marketability of its power bonds and intend to give a higher priority to a close review of the power system's financial condition. I have not seen any information that would justify adding to ratepayer costs by withholding TVA's access to the Federal Financing Bank, which was created to coordinate borrowings for independent agencies and to hold down their borrowing costs.

Question 18. Of the 17 nuclear units which TVA intended to construct, eight have been cancelled, four are under construction and five have been shot down due to safety-related problems. TVA has invested over $15 billion in this failed program. What are some of your ideas regarding the proper course of action necessary to get TVA's nuclear program back on its feet?

Answer. TVA's current plans for restarting its nuclear units are generally responsive to immediate needs. In the near future, TVA should update its restart plans with several factors being considered; such as, projected power needs for the next decade and beyond, the capital cost of putting nuclear units back into operation, and the O&M costs of running the units once they are brought online.

Question 19. To date, TVA has borrowed close to $16 billion from the federal government. Many of these payments, made in the form of 25-30 year bonds, come due in the late 1990s or the early 21st Century. Do you believe that TVA should be required to repay this debt? Please comment on your plans for retiring TVA's debt to the Federal Financing Bank.

Answer. There is certainly a rationale for retiring the $4.5 billion investment related to nuclear projects that were subsequently cancelled. I understand that TVA has such a plan in place, and is making annual investments in a bond retirement fund that will reach that amount. However, before considering any proposals beyond that point I would want to follow through my intention to study the power system's financial condition in detail.

Question 20. Regarding TVA's current bond ceiling of $30 billion, do you believe that this bond ceiling should be reduced?

Answer. From past experience, debt ceilings in general do not seem to be a very effective substitute for efficient management and prudent financial policies. We will continue to closely monitor and require economic justification for the use of funds from the FFB.

THE SIEGFRIED & ROY ROYAL WHITE TIGERS OF NEVADA

Mr. REID. Mr. President, world-renowned illusionists Siegfried & Roy, whose success as entertainers on the Las Vegas Strip, has given new meaning to the word "phenomenal." In addition, their commitment to ensuring the preservation and perpetuation of the rare and endangered white tiger species represents a significant contribution to mankind. For these reasons, the two great entertainers marked a major milestone this week when their rare snow white tiger, Sitarra, gave birth to three precious white tiger babies. The cubs' birth is the second in as many years for Sitarra, one of only three snow white tigers known to exist in the world and the only one to have given birth. She is part of a growing line of the endangered species which has been nurtured and perpetuated by two of Las Vegas' favorite sons.

Long committed to the preservation of exotic wildlife, Siegfried & Roy have undertaken the considerable task—as their personal guest—of saving the white tiger from extinction. It is their goal to ensure that these rare jewels of nature not be allowed to fade into the history books, like the do-do bird and countless other extinct wildlife, for our children only to see through pictures in future years. Instead, the two preservationists work to replenish and perpetuate the white tiger species as living proof of the magic of nature so that future generations worldwide will have the opportunity to share in their majestic beauty.

The birth of the three new white tiger cubs is a giant step in that direction for Siegfried & Roy. It represents not only a personal success for Siegfried & Roy, but is also a testament to their method of providing a loving, nurturing environment in which the animals feel comfortable to reproduce.

It is, therefore, with great pride that I enter into this RECORD the birth of three new rare white tigers to Siegfried & Roy's white female tiger, Sitarra. I commend the famed entertainers for their contributions toward saving the endangered white tiger species through the Siegfried & Roy, Royal White Tigers of Nevada perpetuation program.

HOUSING, COMMUNITY DEVELOPMENT, AND HOMELESSNESS PREVENTION ACT

Mr. CRANSTON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 825.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 825) to amend and extend certain laws relating to housing, and for other purposes.

(The amendment of the House is printed in the RECORD of June 17, 1987 beginning at page 16456

AMENDMENT NO. 1376

(Purpose: To propose a substitute)

Mr. CRANSTON. Mr. President, I move to concur in the amendment of the House with an amendment that I send to the desk. It is a very small amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California [Mr. CRANSTON] proposes an amendment numbered 1376.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed later in the RECORD under amendments submitted.)

Mr. CRANSTON. Mr. President, I am pleased that the Senate is able to consider S. 825, the Housing and Community Development Act of 1987. And I am delighted to be able to join with Senators D'AMATO, DOMENICI, and GARN in offering a package of amendments to break the deadlock that has delayed Senate action on the housing bill for so long.

A great deal of work has been done in recent weeks to arrive at an excellent compromise. But now we have a housing bill that is acceptable to Senators on both sides of the aisle and is acceptable to the administration.

House Banking Committee members have worked extremely hard for the past several years to achieve a responsible housing bill. They have done their job very well on the House side. I intend to work very closely with them in the months ahead on housing matters.

I have talked with House Banking Committee Chairman ST GERMAIN. He has advised me to proceed with action on the bill, and that it has cleared on their side. They want to act on it tonight. And it is with that understanding that I offer this compromise to the Senate.

I want to commend Senator PETE DOMENICI and Senator JAKE GARN for the leadership they have shown in producing a compromise that is responsible and ensures that we will at long last enact a housing bill.

My appreciation also goes to my colleagues on the Banking Committee who worked long hours to achieve this solution in a spirit of bipartisan cooperation—the ranking minority member of the Housing Subcommittee, Senator AL D'AMATO with whom it is a great pleasure to work with on this and other matters, as well as Senator DON RIEGLE, Senator PAUL SARBANES, Senator ALAN DIXON, and Senator JOHN HEINZ.

This achievement would not have been possible without the commitment and effort of House Banking Committee Chairman FERNAND ST GERMAIN and House Banking Subcommittee Chairman HENRY GONZALES, Congressman CHARLES SCHUMER and Congressman BARNEY FRANK as well as Congressman CHALMERS WYLIE, Congresswoman MARGE ROUKEMA, Congressman STEVE BARTLETT, and other members of the House Banking Committee.

Mr. President, for the past year a number of Senators have worked very hard on a bipartisan basis to develop a responsible housing bill that makes important reforms which are needed this year. The product is one of which we can be proud.

The housing bill will help American families retain the dream of homeownership by making home mortgage credit available on a more reliable and affordable basis in every region of the country. The housing bill will prevent thousands of poor people—many of them elderly—from being forced out of their apartments in the next few months with little chance to find decent, affordable housing. The bill will make a number of urgently needed reforms that will help States and local governments provide their citizens with affordable housing, improve the quality of neighborhoods and attract good jobs.

The House-Senate conference committee produced a housing bill that was fiscally restrained—one that was well below the budget resolution targets. The bill won passage by the House on an extraordinary vote of 391 to 1. And it has strong, bipartisan support in the Senate as well.

In the past month, after the Senate failed to agree on a way to proceed with the housing bill and on many of its provisions, a number of Senators determined to go to work and find a way to get a housing bill. The result is this compromise amendment, which removes virtually all of the objections that were raised on the Senate floor.

In general, our amendment resolves all budgetary issues related to the housing bill that emerged from conference. It eliminates or defers several programs that the administration has opposed. And it removes objections that have been raised with regard to other provisions in the conference agreement.

I want to mention the key changes:

First, our amendment would refine language where necessary to make it clear the bill would authorize $15 billion in budget authority for Federal housing and community development programs in fiscal year 1988, which was the decision of the House and Senate conferees. That is a reduction of about $600 million below levels assumed in the congressional budget resolution.

Second, our amendment would eliminate all provisions that create direct spending and all provisions that prohibit the rescission of recaptured funds.

Third, our amendment would reduce the second year authorizations from the levels in the conference agreement by adopting the 2-percent inflation adjustment assumed in the budget summit rather than the 4-percent factor adopted in the housing conference.

Fourth, our amendment would sunset the Nehemiah homeownership grant program at the end of fiscal year 1989, which will enable lower income working families to buy homes in newly constructed city neighborhoods, and it would limit authorization for the program to $25 million in fiscal year 1988 and $100 million in fiscal year 1989.

Fifth, our amendment would restrict displacement assistance under the community development block grant [CDBG] and urban development action grant [UDAG] programs by requiring special rental assistance only for low-income tenants who are directly displaced as a result of luxury projects and requiring replacement of housing units only in areas with a shortage of low-income housing.

Sixth, our amendment eliminates the provision that would have required abatement of lead-based paint hazards in privately-owned housing if HUD fails to submit a workable abatement plan by a date specified in the act.

Seventh, our amendment authorizes a 2-year pilot program to test the effectiveness of vouchers in rural areas.

Eighth, our amendment would clarify existing law governing the treatment of illegal aliens in assisted housing by giving local governments the discretion to continue providing housing assistance to families in which the head of household or spouse is a citizen or legal alien. The amendment would also give local governments the discretion to defer the termination of assistance where that is necessary to permit the orderly transition of tenants to other affordable housing.

In short, our amendment resolves all of these major concerns that were raised against the housing bill conference report several weeks ago. It removes a number of other controversies as well.

It eliminates a proposed new grant program to transfer ownership of rural rental housing to nonprofit organizations and public agencies.

It eliminates or reduces the effect of provisions that would permit certain public housing tenants to pay less than 30 percent of their income for rent.

It terminates the section 235 homeownership assistance program at the end of fiscal year 1989, as requested by the administration.

It terminates the HODAG Program at the end of fiscal year 1989, as requested by the administration.

It strikes a provision that would have permitted salaries of former CETA workers to be eligible expenses for public housing operating subsidies.

It eliminates the provision authorizing direct loans to prevent defaults in FHA insured rental housing.

It imposes a 2-year sunset on a provision to permit the Federal flood insurance program to move structures back from the danger of imminent collapse.

It makes it clear that, if a public housing agency asks for a review of its operating subsidy level, the review might result in a reduction as well as an increase.

It makes clear that the "voucher adjustment pool," which is intended to assist localities experiencing unusually high rent increases, would be a set-aside from available funds.

This amendment offers the Senate a final chance to pass a housing bill in this session of Congress. I urge my colleagues to join in passing it and sending this responsible housing bill to the President's desk.

Mr. President, the compromise amendment would restrict displacement assistance under the Community Development Block Grant [CDBG] and Urban Development Action Grant [UDAG] programs by requiring special rental assistance only for low-income tenants who are directly displaced as a result of development projects. The amendment would also limit the requirement for providing replacement housing by exempting those areas where the Secretary finds there is an adequate supply of low and moderate income housing.

I want to make it clear the intent of this provision is that a locality would be required to replace lost low-income housing units with decent, safe and sanitary units that are affordable to low and moderate tenants for 10 years, unless the Secretary finds that there is available in the area an adequate supply of habitable affordable housing for low and moderate income persons. The Secretary shall base his determination upon objective information, which shall include (1) the supply of vacant existing housing meeting the Section 8 quality standards with rents that are affordable to low and moderate income persons; and (2) the number of eligible families on the waiting list for public housing or housing assisted under Section 8.

In making this determination, the Secretary should provide an opportunity for interested parties, including organizations representing tenants, non-profit organizations and others, to provide information which the Secretary should consider in making this determination.

The term "area" in this section would mean the area within the political boundaries of the grantee unless the Secretary finds that such boundaries are inappropriate in the case of a particular project, in which case, the Secretary would have the discretion to define the boundaries of the area to be considered.

Mr. President, Senate passage of this bill is made possible in large part by a remarkable staff effort that was carried out on a bipartisan basis over a period of many months. While representing Senators and Members of the House with differing positions on elements of the bill, numerous staff people have worked with an unusual degree of professionalism, dedication and cooperation. They deserve congratulations for a job very well done.

I extend my deep, personal appreciation to members of my own staff on the Housing Subcommittee: Staff Director Don Campbell and Subcommittee Counsel Bruce Katz as well as Lionel Collins, Andrew Valentine and Kim Tenhor. All, led by the remarkable Don Campbell, performed outstandingly.

I also thank other Senate staff members who deserve special commendation: Fred Millhiser, Sylvia Thompson, Ted Rozeboom, Bob Malakoff, Grace Morgan, Ed Rogers, Ed Redfern, Joe Trujillo, Carol Hartwell, Mary Dwyer Pembroke, Jan Maxfield and Tony Coppolino. Frank Burk was the excellent legislative draftsman who was responsible for drafting many of the provisions of the bill and without whose patience and skill we could not have achieved this moment.

The House staff, under the masterful leadership of Gerry McMurray, is unusually competent and committed to enactment of sound, sensitive legislation. They, too, have our heartfelt appreciation.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I would like to take this opportunity to thank the distinguished manager and chairman of the Subcommittee on Housing, Senator CRANSTON, for continued dedication to seeing to it that the goal of a housing bill that did something particularly for working families, those who are in need of housing, was accomplished. This is the first time in 7 years that we will have a housing bill.

I think Senator CRANSTON deserves our deep appreciation for his tireless efforts and for the staff. Many times we take credit for legislative initiatives and here I would like to pay tribute to the staff, Jan Maxfield, Mary Dwyer Pembroke, Carl Hartwell, Don Campbell, Bruce Katz, Lionel Collins, Tony Coppolino, Joe Trujillo, Grace Morgan, Tim Tenhor, and Andrew Valentine—all of these people, Republicans and Democrats on both sides of the aisle, worked tirelessly.

There is another person, Mr. President, who I would like to take an opportunity to make a very special mention of. He is not on the Banking Committee. He is not on the Housing Subcommittee. But that did not stop Senator PETE DOMENICI from coming to the floor and to help breech the gap as it related between the legislative side and the administration, to help forge the kinds of compromises in rural housing as it related to vouchers which made it possible for the House to accept some of the innovations that the administration has been fighting for.

So let me take this opportunity to say very clearly were it not for his leadership and his tireless efforts we would not be at this point.

I thank the Senator for his work and that of his staff.

I would like at this time, Mr. President, to add the name of Senator WILSON as a cosponsor to this legislation.

And I thank the Senator for his work, and another one of our colleagues, Senator ARMSTRONG, who had certain objections—I think they were very valid objections—to the original conference report. And were it not for his spirit of compromise, we could not have reached the point today that we have reached and I think putting forth a good, solid bill. Reasonable people may disagree on certain items. I want the body to know that Senator ARMSTRONG was tireless in the pursuit of those goals that he thought were important, helped bring about substantial changes that will inure to the benefit of the program, and yet was willing to yield on certain points that many of our colleagues in both the House and Senate thought were important. We are very appreciative not only for the Senator's moving in that direction, but for his leadership in this area.

Mr. President, as the Senate begins consideration of this new, compromise package of S. 825, the Housing and Community Development Act of 1987, I want to take this opportunity to commend the chairman of the Housing Subcommittee, Senator CRANSTON, for his able stewardship in reporting out this bill.

In addition, I would like to thank my colleagues, Senator DOMENICI, ranking member of the Senate Budget Committee; Senator ARMSTRONG; and Senator GARN, ranking member of the Banking Committee, for their cooperation in working on a bipartisan housing package that I believe will gain the support of the Senate and the House. It is time for a housing bill to be supported by Congress and enacted into law.

This compromise package is a new bill. Although it is based on the original conference report of S. 825, we have made some major adjustments to the bill. In an effort to accommodate every single objection made on the floor of the Senate a few weeks ago, Senator CRANSTON and I have designed a package that we believe will be acceptable to this body. We have spent weeks negotiating with Senators on both sides of the aisle to come up with a package that is acceptable to this body. Senator DOMENICI has been extremely helpful in this process, and I have appreciated his commitment to getting a housing bill passed through the Senate in 1987.

The adjustments to this bill are threefold: First, we have eliminated all budgetary problems with the bill; second, we have eliminated or deferred certain programs; and third, we have removed objections which have been raised to controversial provisions in the bill.

This compromise package authorizes $15 billion for fiscal year 1988. This is $900 million lower than the House passed bill, $600 million lower than the Senate passed bill, and $300 million lower than a fiscal year 1987 appropriations freeze.

Budgetary objections to the original conference report focused on approximately six specific provisions. I will briefly address how we have eliminated the budgetary objections relating to each of these provisions.

First, any direct spending in the bill made the bill subject to a point of order. Consequently, we have eliminated all direct spending from the bill. The new package drops section 523, a provision which permits certain cities to retain urban renewal land sale proceeds. In addition, the new package limits other direct spending items to amounts provided in appropriations. These adjustments free the bill from certain violations of the Budget Act.

Second, the new package limits new credit authority by making it available only to the extent or in such amounts as may be approved in appropriations.

Third, fiscal year 1989 budget authority for the bill is reduced in the new package to conform with the 2-percent inflation adjustment assumed in the budget compromise.

Fourth, language has been adjusted to make clear that a number of items that were double counted by OMB—like amendments—are included in the overall $15 billion funding level. This clarification accounts for $1.8 billion that OMB claimed was not accounted for in the initial conference report package.

Fifth, three items that were authorized "at such sums as may be necessary" were either eliminated or authorized at specific funding levels. Nehemiah funding, which was included at such sums, would be authorized at $15 million for fiscal year 1988 and $100 million for fiscal year 1989. Emergency Housing Counseling would be authorized at $5 million for fiscal year 1988 and 1989. The solar bank would be eliminated.

Sixth, the initial conference report contained a provision which allowed, subject to appropriations, recaptured funds from the 235 program or from the sale of GNMA-owned mortgages to be used for housing preservation. The new package eliminates this provision.

Along with eliminating budgetary objections to the bill, the compromise package also eliminates or defers certain programs. When the conference report came to the floor of the Senate a few weeks ago, a number of Senators expressed concern about new programs. In an effort to address these concerns, our new compromise package outright eliminates or defers a number of programs.

First, the new bill eliminates a provision that would permit certain localities to recognize additional eligible costs relating to CETA workers within public housing operating subsidy funding totals. The provision would not have increased expenditures because public housing operating subsidies are capped at an overall funding level. Opponents, however, perceived this provision to be controversial. Consequently, we have dropped this provision from the new package.

Second, the compromise package eliminates section 264, a provision which provides direct loans to troubled projects in order to prevent defaults.

Third, three provisions relating to public housing rents were eliminated or tightened. Section 102(c), a provision which provides discretion for the Secretary to set rents at less than 30 percent of income in certain elderly housing projects, has been dropped. The transition for ceiling rents to take effect has been reduced from 5 to 3 years. A provision allowing rents to be phased-in has been dropped.

Fourth, the compromise package eliminates a new grant program which was designed to address the rural prepayment problem. Because opponents of this provision objected to a Federal grants provision, the new package substitute loans to meet the needs of providing continued low income housing in rural areas. Other provisions on rural rental housing displacement prevention, including the right of first refusal by nonprofits and public agencies, were retained. The compromise package requires separate appropriations for any loans financing the transfer of ownership to nonprofits.

Fifth, the Nehemiah Program has been significantly tightened in order to provide Congress the opportunity to assess the effectiveness of the program. In the compromise package, first, a 2-year sunset has been imposed; second, authorization has been reduced from $150 million for fiscal year 1989 to $25 million for fiscal year 1988 and $100 for fiscal year 1989; and third, eligibility has been limited to 100 percent of area median income, with only 15 percent of the funds able to be used for individuals with incomes between 100 to 115 percent of area median income if the Secretary deems it necessary to make the project work.

Sixth, and somewhat related to the previous provision, is the termination of the existing section 235 Homeownership Program. This program currently provides mortgage insurance and interest subsidy for homebuyers. By eliminating this program, the Nehemiah Program will not be a new program. It will be replacing an old program. Thus, we will be getting an impotent program like the 235 program off of the books, and we will be giving the Nehemiah Program a 1-year opportunity to prove to Congress whether it is an effective way to address the homeownership problem in this country.

Seventh, the compromise package terminates the HODAG Program at the end of fiscal year 1989.

The final category of adjustments that have been made to the compromise package entails removing various objective or controversial provisions. Four key provisions fall into this category. I am confident that my colleagues will be comfortable with the way that we have tightened these provisions.

First, perhaps the most objectionable provision in the entire conference report related to providing assistance to individuals who are directly and indirectly displaced as a result of a UDAG or CDBG project. This provision was adamantly opposed by cities and mayors around the country.

The compromise package radically alters this provision in a number of ways. The League of Cities and Conference of Mayors now support this provision. The new compromise of this provision, first, eliminates assistance for "indirect displaces," and, second, removes requirements for replacement of demolished units in localities where the Secretary finds there is a sufficient supply of low and moderate income housing.

Another major issue of contention related to the lead-based paint provision. Like the antidisplacement provision, we have gone to substantial lengths to alleviate controversial aspects of this provision. The new provision, first, eliminates mandatory abatement of single family housing as a penalty for late release of the report; second, eliminates manditory testing and abatement of section 8 housing; third, requires HUD to meet its goal of removing hazardous paint from public housing within 5 years under the CIAP Modernization Program; fourth, requires HUD to complete study of cost-effective ways to deal with problems in privately owned housing, including federally assisted multifamily housing; fifth, enforces release of the report by prohibiting HUD commitments or expenditures for any other policy development and research project during the period in which the report is overdue.

Third, the new package clarifies that the review process in section 118 could result in lower subsidy payments as well as increases.

Fourth, the compromise imposes a 2-year sunset on section 544 of the conference agreement relating to structures under threat of imminent collapse. This would provide time for Congress to ensure that this item will not lead to increased costs to the Federal Government.

Fifth, this package authorizes a 2-year Farmer's Home Demonstration Program in up to 5 States with up to 7,500 vouchers in each of fiscal years 1988 and 1989. The demonstration sunsets at the end of fiscal year 1989.

Sixth, the package tightens the provision in the conference report which would have allowed all illegal aliens currently living in public housing to continue to live in federally subsidized housing. This package tightens this provision by giving the local public housing authority discretion to make exceptions for mixed families and to defer the termination of assistance for 6-month periods for up to 3 years.

These changes have appeased the budgetary concerns of the chairman and the ranking member of the Senate Budget Committee as well as the ranking member of the Senate Banking Committee. Senator CRANSTON and I have gone far out of our way to accommodate all of the many objections made on the floor a few weeks ago and, in reality, we have gone even further to address concerns that were not even specifically brought up on the floor.

This package is a reasonable package, it is a responsible package, and it is a package that promotes responsible Federal involvement in housing and community development during difficult budgetary times. I am hopeful that my colleagues will support this significant legislative effort.

Mr. President, Senator GARN again was one of those who was tireless in seeking a compromise that would result in this package.

Mr. GARN. Mr. President, I rise in support of the housing amendment before us this evening.

This legislation is the result of a lot of dedicated hard work, to achieve a responsible and rational housing authorization bill this year.

Compromises have been reached in many areas of the bill. Direct spending programs have been cut from the bill, and very objectionable provisions have been made less objectionable.

This legislation is not perfect. However, the bill has one provision of paramount importance, it gives permanent insurance authority to the FHA mortgage programs. By making FHA permanent, first time homebuyers can achieve their American dream.

It was our intention to craft a bill that could pass the Senate and the House and ultimately be signed into law by President Reagan. In my opinion we've achieved that goal.

Mr. ADAMS. Mr. President, I rise to congratulate the subcommittee chairman, Mr. CRANSTON, for his distinguished leadership on this important piece of legislation and to offer my special thanks for his efforts to deal with the provisions that would improve the energy efficiency of manufactured housing built in this country.

This is an extremely important issue in the Pacific Northwest where these structures account for approximately 30 to 40 percent of new electricity heated homes built in this region. The standards that we epxect to come out of this legislation should save my region alone approximately $500 million over the next 20 years.

I want to take this opportunity to clarify my support of the important features related to section 569 of S. 825.

It is my understanding that the Department of Housing and Urban Development will conduct a life cycle cost analysis, taking into consideration the cost of energy efficient measures and energy savings from those measures over the effective physical life of the structure and that this important analysis is to be completed within 1 year of this legislation.

Mr. CRANSTON. I thank the Senator from Washington for his support and assistance on this important legislation. The Senator is correct that the purpose of this section 569 of S. 825 is to require the Department of Housing and Urban Development to complete a life cycle cost analysis to develop national standards for the energy efficiency of new manufactured housing. This important analysis is to be completed in 1 year.

Mr. ADAMS. I thank the distinguished subcommittee chairman from California. This is a very important effort and we need to begin moving as quickly as possible.

Mr. D'AMATO. Mr. President, let me take a moment in outlining some of the provisions of this legislative effort before I yield to Senator DOMENICI for the purpose of making remarks.

Let me tell you, first, this bill is unique in that it is $300 million under the appropriated levels for this year, $300 million under, and yet in terms of what it accomplishes, it provides permanent insurance authority for the FHA programming; permanent insurance authority, and would that not be a pleasure instead of having us turn the spigot down and close off that stream of available housing insurance? And without FHA insurance, why, those loans that are made, $1.3 million annually for working families, just would not be.

It raises the level of the mortgage limits from $90,000 to $101,250, to more accurately reflect the increase in housing costs and to make housing opportunities available for working middle-class Americans.

Second, what about homeownership opportunities for working families, for low-income families living in public housing? Section 122 of the housing bill provides housing opportunities for low- and moderate-income families living in public housing projects to manage their own projects. That is important.

Further, section 123 provides that after a group of tenants have organized to manage their own public housing projects, they may choose to organize and buy the project, thus becoming home owners. That is one of the strong points of this bill—giving people an opportunity to be homeowners in this great society.

In addition to providing management opportunities in public housing, the bill allows the Secretary of HUD to waive existing regulations for tenant-management corporations, to allow public housing tenants to purchase their projects, to become homeowners. This provision alone, I believe, is the most significant first step toward providing home ownership opportunities for public housing residents.

Mr. President, let me concentrate on one other provision, and that is the one called the Nehmiah Housing Opportunity Grant Program. It provides home ownership opportunities for working families. It provides grants to nonprofit corporations. It provides for working families in distressed neighborhoods to purchase newly constructed or substantially rehabilitated homes. The maximum amount of the Nehemiah second mortagage is $15,000. It is the difference between giving a working family the opportunity to own a stake in their community and simply just pay rent, with never having a hope of being part of the community. This, I believe, will be particularly valuable in our inner core cities.

Mr. President, there are many other provisions of this very substantial legislative effort that go a long way toward making the housing laws of our Nation make better sense.

Mr. President, I ask unanimous consent that the name of Senator KARNES be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I have enjoyed the vital work of Frank Burk, the legislative counsel, and commend him for having brought us to this point.

I yield the floor.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. D'AMATO. I yield.

Mr. SARBANES. Mr. President, I simply say to the Senator that I strongly support his comments about the Nehemiah program, a program which I think is extremely significant in offering a push toward home ownership for lower income people.

I recognize the effort which he and Senator CRANSTON, the able chairman of the Housing Subcommittee and others have made to come up with a housing bill which is acceptable and which can pass; they have made a very significant contribution to the legislative process.

I commend the Senator for his statement in terms of what we are trying to do in this legislation. I agree completely with his observation that the Nehemiah program offers hope to create home ownership that did not previously exist, and I think this program will make an important contribution to the stability and strength of our neighborhoods across the country.

Mr. D'AMATO. I thank the Senator.

Mr. DOMENICI. Mr. President, I am pleased to join my colleagues in introducing this amendment to the housing bill, S. 825. I enthusiastically support the amendment and urge my colleagues to do the same.

When the Senate voted not to waive the Budget Act on the conference report to accompany S. 825, it was not a vote against housing.

It was a vote for fiscal responsibility.

It was a vote to uphold the rules of the Senate.

It was a vote against objectionable House provisions adopted in the conference report.

But it was not a vote against housing.

This Senator and many of my colleagues wanted to make sure that the waiver vote was not the last word on housing this year. So I am particularly pleased to have this matter back before the Senate.

Before discussing the amendment, I want to commend Senator CRANSTON and Senator D'AMATO, the chairman and ranking member of the Housing Subcommittee, for their efforts on behalf of this amendment. The Senator from Utah, [Mr. GARN] the ranking member of the Banking Committee, also deserves a share of the credit.

I also want to thank my good friend, the Senator from Colorado, [Mr. ARMSTRONG] for his role in crafting this bill and his willingness to work with us.

The changes made by this amendment are real and substantial. I believe we have addressed all of the major objections raised during last month's debate on the conference report.

Let me start with the numbers:

On its face, the conference report would have authorized $15 billion for fiscal year 1988. But a number of provisions were not included in that $15 total, leading OMB to say that the bill's true cost was closer to $19 billion.

With the amendment before us, that figure should drop by at least $2.7 billion. And $1 billion of OMB's total never should have been counted in the first place.

That leaves us with a true $15 billion authorization, which is slightly below last year's level.

The amendment also improves on a number of controversial provisions that had never been in the Senate bill, but were adopted in conference.

The new CDBG/UDAG displacement assistance requirements have been scaled back considerably. I understand that the cities and the mayors, who strongly opposed the original provisions, are satisfied with this version.

The provisions dealing with lead paint have also been tempered, with requirements for abatement limited to public housing and a clearly identified funding source.

The new Nehemiah Housing Grant Program has been limited to a 2-year demonstration, authorized at $25 million in fiscal year 1988 and $100 million in fiscal year 1989. The conference report would have authorized "such sums" in the first year and $150 million in the second.

It would impose a 2-year sunset on the provisions of the conference report dealing with flood insurance, to give us a chance to see what effect these new benefits have on the budget.

We have worked closely with administration officials in developing this compromise package and I want to thank them for their cooperation as well.

Clearly, this bill does not reflect all of the President's preferences in the area of housing policy. But the administration has made significant concessions to bring us to the point we are at today. For those who criticize this administration as unwilling to negotiate with the Congress, I point to this bill to show where they are wrong.

The substitute before us today does include a number of provisions requested by the administration. These include:

Termination of three programs: HUD's solar bank and, at the end of fiscal year 1989, housing development grants [HODAG] and section 235;

A demonstration program for rural housing vouchers;

A lower level for the rental rehabilitation program.

It is my understanding that this bill, if passed by the Senate and the House before we adjourn, will be signed by the President.

Now I understand that some Members of the other body may feel that we have strayed too far from the original conference report. To that, I would simply reply that the measure before us today is still a far cry from the "housekeeping" bill the Senate passed last spring.

This bill has been years in the making. Intransigence on the part of both Houses of Congress, as well as the administration, is to blame. I urge the House not to put this matter over into the new year.

Perhaps there is no other area of public policy where there are such widely divergent views, so deeply held. This bill represents our best efforts to forge a compromise between those differing views.

Mr. President, the Senator from New York has indicated the involvement of the Senator from New Mexico.

Many weeks ago, when the house bill came to the floor, the Senator from Colorado [Mr. ARMSTRONG] and the Senator from Texas [Mr. GRAMM] principally led a discussion, a very lengthy discussion, of the then-pending measure. It was my pleasure, in some small way, to be helpful to them with reference to the excesses in that bill and the budgetary implications.

As a result of their efforts and the efforts of a number of others, the housing bill, with its excesses, was dead.

But each and every one of us who worked to defeat that measure on budgetary grounds made the statement that we were not against the first major housing bill since 1981. We were against the conference report on budgetary grounds and on a number of policy grounds. We thought the bill would become unworkable in our cities. The conference report, if adopted, would have made many kinds of new development more difficult.

It was my privilege to work with the White House and members of the Senate Banking Committee to improve this needed legislation.

Since the Housing and Community Development Act of 1987 revolves around housing, realtors, and home builders, I saw the need for a broker.

I was a very privileged broker. I worked with the Senators on our side, then with Senator CRANSTON, and then with the White House. Our efforts were successful. I believe we have a much improved bill, which on fiscal grounds no longer violates the budget.

New programs are at a minimum. Some programs that are not as important for the future of housing, such as section 235 housing, the Solar Bank, and Hodag, are terminated in 2 years.

I also think there have been some important improvements to many ongoing housing and community development programs.

I say to those who might have misread the intentions of the Senate—in particular, our vote to sustain the budget point of order—that we wanted a housing bill. We did not want the original conference report.

We are in favor of tonight's amended housing bill, which will include a permanent extension of FHA. Many in our country say this permanent extension is long overdue.

There are some other very exciting concepts in our amendment. Because of our limited time tonight, I am going to close by talking about just one.

We have been wanting to improve rural housing for a long time. In our amendment we create an experimental program to use vouchers on rural housing for the first time in rural America.

I urge that the Farmers Home Administration look carefully at it, because if it works, I think it will make a point with Congress. We put in a 7,500-unit voucher system for rural America that essentially says this: The Farmers Home regions in America will inventory their housing stock, and if there is existing housing or rehabilitable housing, the vouchers will encourage improvements in the rental housing stock. Five States will be able to participate in this experiment.

I think this is exciting. I think it might work in some of our small communities.

I hope we will vote soon on this amendment. It will mean that almost all of those who voted against the conference report on a point of order will be able to show their support for this much improved amendment.

Again, it has been a pleasure to work with Senators D'AMATO, CRANSTON, GARN, ARMSTRONG, and others. I urge my colleagues to support our concerted effort to improve our Nation's housing and community development programs.

I yield the floor.

Mr. WILSON. Mr. President, I am one of those described by the senior Senator from New Mexico who voted to sustain the point of order that the conference report was in violation of the Budget Act, because indeed it was. There was some doubt as to the amount of the excess, but it was substantial.

Mr. President, though I have perhaps been more critical than anyone else of our processes on this floor, I have to concede tonight, with great pleasure, that this is a story in two parts, and the second part has a very happy ending.

There has been a great deal of deserved congratulations, a great deal of thanksgiving, by Members on this floor. I am one not privileged to serve on the Banking Committee, but those who do were more than cordial in permitting me to participate in the deliberations that led to what I think is a very carefully crafted compromise.

My colleague from California, Senator CRANSTON, is due great credit for having kept alive this bill at a moment when it would have been easy for him to engage in partisanship. He has made it clear, that rather than having the kind of phony campaign issue that sometimes seems to be of paramount importance on this floor, he did what he thought was necessary in the Nation's interest, and we actually got a workable housing bill. He, along with the ranking member, Senator GARN, the ranking member of the subcommittee, Senator D'AMATO, Senator ARMSTRONG, and Senator DOMENICI met. I watched a very interesting process occur, one of give-and-take, and very much a part of that was the Office of Management and Budget representing the White House. The result has been what, I repeat, is a very carefully crafted and equitable compromise and one that does not cost $19 billion. It is in fact under $15 billion. It is substantially less than the bill that passed the Senate and substantially less than the House bill as well as the conference report which we twice rejected because it violated the budget.

So tonight what we have is the first free-standing housing bill in many years. It is one that makes permanent the authorization of FHA so that we will no longer have the incessant interruptions, the need for short-term extensions, the kinds of suspended authority that last year meant 51 days when FHA financing was unavailable for young American home buyers. It also increases the FHA loan rate to respond to the reality of high cost area housing prices. It does not increase in an unwarranted fashion GNMA or FNMA, or other user fees. It does provide continued adequate funding so that we may be assured that we will have the decent deserved housing for our elderly Americans.

I will not go on. Mr. President, let me just say that it does one other thing. It is tremendously important and I think that it was recognized in both Houses, that what we did in this bill would have a distinct bearing on the affordability of housing for young American home buyers.

At the end of the last administration we were faced with interest rates that were the highest in recent memory. It was difficult for builders to build. It was even more difficult for them to find families able to qualify for mortgage loans. And obviously, had we persisted in the course chosen by the conferees, we would have in fact not been celebrating the first housing bill in years tonight. More to the point, had we somehow gone the other way and enacted a bill at a cost of $19 billion our credibility in terms of deficit reduction and the seriousness with which we attack that deficit would be in serious disrepair.

So tonight we have not only a useful bill but an affordable bill, one that will make housing affordable, one that promises homebuilders to build housing, realtors to sell it and American home buyers to be able to afford the dream of an American home.

Mr. President, I think that there is a great deal of credit to go around, but we are advised that the House is awaiting this bill, so I will take no more time. I will simply extend my gratitude to those who kept alive that hope of young home buyers, because it very nearly did not come to pass.

Having criticized the process, tonight I am in a position to express my gratitude that in this instance it has worked, and worked to the great benefit of the American home buyer.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I am pleased that we are nearing final action on the housing conference report.

I congratulate the managers of the bill, Senators CRANSTON and D'AMATO for their work in fashioning a package that will meet the concerns over the budget.

The funds authorized by the housing conference report are below levels approved in the congressional budget resolution. When the Senate passed the housing bill by a margin of 71 to 27, the Senate decided to freeze budget authority on housing programs at the fiscal year 1987 level. The housing conference report is $600 million below the freeze level.

Mr. President, housing has already taken a heavy share of past budget cuts. During the past 7 years, we have seen budget cuts take a 70-percent bite out of our assisted housing programs. We have also seen the Community Development Block Grant Program cut by 40 percent, and a 60-percent decrease in the Urban Development Action Grant Program.

What we are talking about here today is our commitment to providing a better way of life to the American people as a whole. What we are talking about here today is our commitment to community development to attract new industries, our commitment to provide better housing for our senior citizens and our commitment to insure that the American dream of owning a home is attainable by our young families.

The provisions contained in S. 825—as agreed to by the Senate and House conferees—embody the reaffirmation of the Congress' commitment to assist in providing decent housing for our low- to moderate-income citizens, as well as in contributing generally toward a better way of life through enhanced community development and economic assistance for those areas which so badly need it.

The report makes permanent the FHA insuring authorities so that in the future we will not be faced with the termination of the important FHA home mortgage insurance that in recent years has lapsed several times because Congress and the administration could not agree on how best to address the housing needs of our country. Essential HUD and Farmers Home Administration housing programs, as well as the Community Development Block Grant and Urban Development Action Grant Programs have been assured for another 2 years. And most important, this measure makes statutory changes which will insure that the intent of Congress is followed in the administration of the HUD and FmHA assisted housing programs.

All of these programs have greatly assisted and will continue to help West Virginia. In my home State decent housing is one of the most urgent and compelling needs we face. The Community Development Block Grant Program has and will continue to provide West Virginia and other States with funding so badly needed for sewer and water projects and for other programs and projects which add to the quality of life and enhancement of attractiveness for purposes of economic development.

West Virginia's unemployment level has reached 21 percent in the not too distant past. Absent the Urban Development Action Grant Program, in particular, and the help which it and other community and regional development programs have provided, we would not have been able to lower this unemployment to under 10 percent today—a level which still remains unacceptably high. Since the UDAG Program's inception in fiscal year 1978, it has provided funding for 19 projects in West Virginia, amounting to $40 million. These funds have leveraged an investment into the State of almost $200 million in private sector funding, along with the creation of 5,500 permanent jobs.

While much has been accomplished, much more remains to be done. Many of our towns and cities have been devastated by the economic policies of the last few years. Factories have closed, jobs have been lost, and people are suffering. At a time when many of our rural States are in the greatest need, Federal funding is disappearing. In 1987, it is a sad commentary that many of our communities are still without adequate sanitation or water systems, and that there is little or no money to provide those services. It is a sad commentary, that more and more, our young people are finding the American dream of owning their own home vanishing, and many of our elderly are living in substandard housing.

Now is not the time to renege on our commitment. It is the time to act responsibly in meeting the needs of the people we represent and the communities in which they live. I support the adoption of this conference report.

Mr. President, I again commend the managers, Mr. CRANSTON and Mr. D'AMATO, for the good work that they have done, for their superb dedication over a period of many, many months and for their success in obtaining an agreement that has such wide bipartisan support.

Mr. CRANSTON. Mr. President, I simply want to thank the majority leader for his kind remarks and for his help on this in arranging the schedule when we needed the schedule and helping us expedite matters to this point.

I thank him very much.

Mr. BYRD. I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, this is a great moment in the Senate. We are all in a great mood and everybody is congratulating everybody else and justifiably so.

What we are about to enact is a fine legislative accomplishment, and in a few minutes I would like to join in the general sense of congratulatory observations and so on, but before I do so, before I comment on the bill which is before us, I would like to begin by putting into context the legislation which we are enacting tonight and which the President has promised to sign because during the months under which this housing bill has been considered by the Senate, an impression has grown up—indeed it has been created—that somehow we have been shortchanging subsidized housing in this country.

In fact, I was dumbfounded just a few days ago to hear stated on the floor of the Senate that during the Reagan era, during the years when President Reagan has occupied the White House, we have cut housing expenditures by 80 percent, and indeed we hear a wonderful emotional speech by one of our most distinguished colleagues who came to the floor and almost with his voice shaking and in a mood and temper that would bring tears to the eyes of any thoughtful and compassionate person pointed out that there were homeless people all over this country, and on and on and on.

Mr. President, it seems to me that this legislation and the issue we are addressing here is far too significant to let it rest upon that kind of emotional and indeed inaccurate portrayal of the circumstances of housing in America and the record of the Reagan administration and of this Congress because the reality is exactly the opposite.

There is absolutely no basis or foundation to say that we have cut spending for housing and in my judgment there is no danger, none whatsoever, that this year or next or any year in the future we will underfund housing needs in this country.

There is a very great danger in my opinion that we will go to excess in providing more and more and more spending for subsidized housing.

So I asked my staff to prepare some charts and I would invite Senators to take a look. Some of my staffers thought when we made up the charts we would probably get Vanna White to come down and turn the cards, but it did not work out that way. I hope my colleagues will nonetheless take a look at some of the facts.

First how well people are being served by public housing in this country? This chart reflects the dramatic increase in the number of people served in Federal subsidized housing. In 1960 a little over 1 million, about 1.2 million people. By 1970 the number of beneficiaries had risen to 3.6 million. By 1980, 12.9 million, and during the years in which it is alleged we have underfunded this program because President Reagan came to town with a tightfisted agenda by which we were going to cut back on spending for the social programs and for the safety net we have increased the number of persons served by federally subsidized housing by another 3.4 million persons.

Now my question, Mr. President, and I am going to vote for this bill tonight—in fact I am going to in short order explain why not only I think it is worth voting for but indeed it is a worthy and praiseworthy compromise.

But this is not the last housing bill we are going to consider. We are going to be here in a few months taking another look at this issue and be back year after year. And the question I hope my colleagues will begin to consider is this: How many million people do we think ought to be subsidized for housing in this country?

It is my belief that when you start talking about putting 15 or 16 or 18 or 20 million Americans in subsidized housing that you have just about reached the outer perimeter of the number of those who are, by any reasonable standard or definition, needy.

Now, if that is true—and, intuitively, we know it is—my colleagues, do we not realize intuitively that, if we have 10 percent of all Americans in subsidized housing units, that about takes care of those who are needy. If we believe that to be true, then how can it possibly be that there are still people who are still demonstrably needy who do not have adequate and proper housing.

The answer is very simple. It is because so many of these nearly 20 million people in subsidized housing are not by any reasonable definition needy people. We have created an enormous number of programs and funded them lavishly to spend for those who are not needy but, in fact, qualify for programs on some other basis.

Mr. President, I invite my colleagues to take a look at some other statistics that tell the same story in a slightly different way. This, for example, portrays the number of Federal housing units. In 1960, less than half a million. By 1970, 1.2 million. By 1980, the number had nearly tripled to 4.5 million.

And, during the Reagan Administration, during the years when this tightfisted President, probably the most conservative President we are ever going to see in our lifetime, has occupied the White House, we have increased the number of subsidized units by another 1.1 million, bringing the total to 5.7 million. And there is more in the pipeline. If we never pass another housing bill, there would be more units coming on line because that is the way the system works.

And I regret to say—and I say this cautiously, but it is a fact, ladies and gentleman—there are a lot of Senators who do not understand how this program works. And the way it works is this: When we appropriate, we set in motion not just 1 year's expenditures, but 5, 10, and, in some cases, as much as 30 or 40 years of expenditures. So each new appropriation, year by year, is not just the total of what will be spent for the ensuing year, but adds to everything that is already in the pipeline. And the pipeline is tremendous.

The next chart talks about the actual expenditures for subsidized housing. Having looked at the number of persons served, it is not surprising that we have seen a large increase in the outlays. In the last 10 years alone, a $6 billion increase, 173 percent, up to now $16 billion.

Now, Mr. President, last, but not least, I want to call attention to a 352-percent increase in Federal housing outlays during the last decade. It is interesting, it is instructive, and I hope Senators will recall this the next time somebody comes to the floor to rail against the Reagan administration for underfunding subsidized housing. I hope Senators remember that in 1980, when Ronald Reagan was elected, we were spending $5.6 billion. We are now spending in fiscal 1987 $13 billion, which is an increase of 130 percent. And if anybody wants to criticize President Reagan, it seems to me it is not for underfunding this program, but for permitting it to run out of control.

Now, to his credit, let me say that Mr. Reagan had repeatedly called for curtailing many of the programs that make up this total and has called for us to terminate a number of the programs. He has not yet been successful in achieving these goals. In fact, year after year, he sent up messages to us to abolish programs like UDAG. I am not going to rail against UDAG tonight. I have agreed with my colleagues that litigating the question of UDAG and whether or not we ought to have the Federal Government paying the bills for new hotels and marinas and condominiums for the most affluent, most successful corporations in America, and office buildings and all of that, that that is an argument we ought to lay over until next year. And, in due course, I will again ask Senators to consider that question.

But I do want to point out, to his credit, despite the fact that the funding for this program has increased very rapidly during the Reagan years in the White House, the President has wisely and courageously called for us to terminate some of these programs.

Now, Mr. President, the bill that we are about to consider. A few days ago, I asked Senators to join me in opposing a motion to waive a budget point of order on the conference report of the housing bill. And I was pleased that 42 Senators joined me in doing so. It is precisely because, in part, they were willing to stand up and be counted on that issue—Senators who wanted a housing bill, particularly Senators who would like to see the FHA Loan Guarantee Program extended, stood up to be counted and cast a vote which many of them believed, perhaps correctly, was a very risky vote for them to make politically—it is because of their willingness to do so and their courage that we are now able to consider a much better bill tonight.

When Senators made that vote—and there are a few of them on the floor right now that fit into that category—when Senators made that vote against waiving the point of order, they had no way to know whether or not we would ever get a chance to have a housing bill. They did not know whether we would get back to it this year or next year, or whether the matter would ever come up again or whether they would ever have a chance to express their support for a housing bill. And some of them wondered to themselves or aloud: How is this going to look back home? How is it going to look when my opponent in the next election says: "Here is a Senator that voted against the housing bill. He doesn't care about housing. He doesn't care about the homeless. He doesn't care about whether or not they have a permanent extension of the FHA. He doesn't care whether or not we increase to $101,000 the loan limits under the FHA Program."

I think Senators who took that risk, particularly those who are planning to be candidates for reelection in 1988, deserve our special thanks, because if they had not been willing to stand up and be counted, we would not have had another crack at this bill and it would not have improved in the dramatic fashion which Senators have already pointed out.

Second, I want to say that we would not have a better bill here tonight if the managers of the bill, the Senator from New York and the Senator from California, had not made up their minds that what they really wanted was a bill rather than an issue. They could have just dug in their heels and said, "No, by gosh, we are not going to compromise. Let the President veto it and it will be on his head. And anybody who votes to sustain his veto, they will have to stand up for it politically." And they could have done that.

I compliment them for being willing to take into account the very real concerns the President has about this bill and which many Senators have and in working with us to accommodate some of them. They could not, in their own conscience, accommodate every single concern we laid on the table, but they did take us into their confidence enough that we were able to strike a compromise. And it seems to me their willingness to do so—and I mention particularly the Senator from New York, Mr. D'AMATO, and the Senator from California, Mr. CRANSTON, the managers of the bill. I think they deserve our special thanks, too.

But, more than anybody else, Mr. President, do you know who gets the credit for this bill? If it is a good bill and Senators like it, and if people out in the country find it is the type of bill they like—I think that would probably be the case—nobody deserves as much credit as Ronald Reagan, because we know that we would not have had the votes on the point of order and we would not have had the clout to negotiate with the proponents of housing legislation if the President had not said, "I'm going to veto this bill."

And it is instructive, and I hope that we have all learned something, especially people who advise the President, it is instructive that the President did not send us an equivocal signal. We did not have any of this subterfuge about how people in the administration have great reservations. We did not see those notices posted that if this bill were to be passed, the President's senior advisers would be forced to recommend he seriously consider turning down this legislation.

Why, no, Mr. President, the President said: "If that bill reaches my desk, I am sure as shootin' going to veto it."

And it was that conviction, that willingness for him to stick his neck out at a time when he did not know whether he would get 40 votes to sustain a veto or 10 that made the difference.

And so those are the elements of the compromise. First of all, Senators who were willing to stand up and be counted when it was not easy to do; managers of the bill who were flexibile enough and willing to take into account the concerns of people who had a different view on the legislation; and the courage of the President at a time when it would have been very easy for him to just say, "Well, it is going to happen, and so let's let it happen."

As a consequence, Mr. President, we come up with a bill which is vastly better than what we had just a few days ago when the conferees reported the first conference report. Now, it is still too expensive for my taste. I am going to vote for it but I wish it was less money. However I note in passing that it is about $4 billion less in spending than the earlier version of the bill. Among other things, we have eliminated the "such sums" authorizations, the open-ended authorizations for spending which were contained in earlier versions of the bill.

Mr. President, we have also eliminated the direct spending provisions which, though not large, were the specific issue which led to the point of order which was sustained and under which the conference report fell.

Mr. President, we have limited the new credit authority in this legislation by making it subject to appropriation.

We have, to my very great pleasure, targeted the new Nehemiah program so that almost all of the money, virtually all of it, will go to those who are truly needy. And I especially want to salute the Senator from New York, my friend, AL D'AMATO, and not only for his relentless championing of this program right from the start. He has brought this program forward, explained how it has worked in New York, and pointed out how it could be of benefit elsewhere. Then I salute him for his willingness to compromise and say that most of the money, almost all of it in fact under this final compromise, will go to persons whose income is below the median income in the area to be served.

The significance of this is very simple. If you let high-income people qualify for this Nehemiah program, which is interest free $15,000 second mortgage loan, it very quickly becomes what its critics said it would be and that is a subsidy for a bunch of yuppies. Literally middle and upper income people would be subsidized in part by the tax dollars contributed by low income working men and women around the country, and that is not fair and it is not right. And so this is the final compromise, although I still have some questions about how the program is going to work and I am not sure whether or not 2 years from now I am going to want to vote to extend it.

I like the fact that it is home ownership. I like the values and citizenship that is fostered by home ownership and I particularly like the fact that the people who backed this from the start were willing to see it targeted almost exclusively, not 100 percent but almost 100 percent, to those who were below median in income. I am glad we are terminating at least the 235 home ownership program. I am glad we have taken out of the bill the provisions to pay the salaries of CETA workers, which was in the conference report and has been eliminated. I am glad that we have been able to attenuate, not eliminate but at least attenuate the new antidisplacement provision that was in the conference report.

I want to comment on that because Senators may recall that this was a matter that I was pretty steamed up about. We never thought about this idea in the Senate. I had not been the subject of hearings. It had not been discussed on the floor. We got over here and here in the conference report was the notion that if somebody had been displaced by a UDAG or CDBG project, the local government units were going to be required for 10 years to subsidize their rental income and that struck me as an idea which, frankly, I just could not mention in very complimentary terms. It is a terrible idea.

I must admit I still am not sure that we are not going too far, but we have targeted this in a way that certainly seems to take care of the real problem where somebody is displaced by a Federal project. When the Federal bulldozer comes in and knocks down, say, a single room apartment hotel where there are a lot of poor people living in order to build a luxury, high rise or something under UDAG, at least we are going to take care of those people. But we are not going to open the door to a 10-year, unlimited, unguided undirected kind of expenditure; specifically it is limited in this to 5 years, not 10. It is limited with respect to the replacement of units to findings of fact by the Secretary of HUD that such units are not already available within the area to be served.

So I think it is a reasonable compromise although, again, I think it is a program that bears careful watching and if it is abused, it ought to be further reformed or should be terminated.

Mr. President, one of the things that we addressed in this compromise is the issue of illegal aliens. A couple of years ago or maybe a little more, and at my request, the Senate adopted a provision which simply forbids giving rent subsidy to illegal aliens. The reason that came to pass was I picked up the paper one morning and in a big headline read the story that there was, apparently, some number of illegal persons receiving Federal housing subsidies. It just seemed unthinkable to me that we would subsidize the living expenses of persons whose very presence in the country violated our laws. So I contacted HUD and they gave me the doggonest song and dance I have ever heard that they did not have the legal authority to stop paying illegal persons a rent subsidy. So, rather than argue about it, we just put through a provision that cut it off.

The advocates of this bill, the floor manager and some of those who were interested in the bill from the House, pointed out some problems which, frankly, we had not foreseen, so I was glad to be able to strike a compromise with them. The broad outline of the compromise was this. We are not going to let any more illegals into subsidized housing. That is clear from this conference report agreement. But we are saying that where you have a mixed family, that is a legal person, a citizen or a legally resident alien who is receiving housing subsidy and is the husband or wife or son or daughter or father or mother of an illegal person who is living in that same residence, that we are not going to force them to break up that family.

This is a direct, head-on collision, Mr. President, between two very deeply engrained values in our society. One is obeying the law, which is certainly contravened by paying them subsidies. But the other and perhaps in this case an even higher value is the sanctity of the family.

So I think the ultimate outcome of this is probably about as good a compromise as we could make. In fact, I guess I would have to say that in my opinion it is almost a Solomon-like compromise. It is not a compromise of my suggestion, but I warmly endorse it and enthusiastically agree to it.

I am very pleased, Mr. President, that we have done away in this bill with the HODAG Program. Senators will remember that I criticized that program when it was here before, when the bill was before us. As you know, this is a rent subsidy program and it has turned out to be about the most expensive possible way to subsidize low-income persons. As a matter of fact, only one-fifth of the units in a HODAG project have to go to low-income people and it is part of the problem that I referred to earlier.

We have all of these people, 16 or 18 million of them already in subsidized housing and yet a lot of them are people who are not by any reasonable standard poor people. And, as a result of the fact that it is not very well targeted, HODAG subsidies costs about $73,000 for each low-income unit. And in some cases the subsidy is $100,000 for each low income unit.

So, Mr. President, doing away with that program over the 2-year cycle of this bill is, it seems to me, a very worthy provision.

When the conference report came back to us, Mr. President, there was some language in there that would have set us out on a very expensive venture to remove led-based paint in public housing and perhaps at some point in private housing as well. We have narrowed that down in a way that I think, first of all, make it much less expensive but more important it does address in a thoughtful and conclusive way the public health problem. So that we are not going to hear of children becoming ill or possibly even dying as a result of lead-based paint that could be removed but also so that we are not going to be removing lead-based paint from every building in North America.

Mr. President, one of the problems we saw in the conference report when it came to us was a weakening of the reform that the Senator from Utah, JAKE GARN, put in the law a few years ago where he said everybody, even poor people, ought to pay at least 30 percent of their income toward housing. The reason he got to 30 percent was because that is what a lot of working people paid and it did not seem unreasonable to him nor to the Senate nor to our colleagues in the House that even a poor person ought to pay 30 percent. It might not be 30 percent of a very high number but it ought to be a resonable effort to pay toward their own rent. The conference report sought to weaken that in a way which we thought was unwise and in essence, though with some qualification, we have retained the 30-percent standard.

We have made one exception and again it is an exception that I am pleased to support because it says this: If a person is in a subsidized unit and gets a job or gets a pay increase if they are already working, and if for that reason they would be either required to leave the unit or to pay more than they had previously been paying, that we have a phase-in period. It started out to be 5 years and then at one point we thought we had it down to 2 years, now it is up to 3 years and that is the final resolution of it. They have up to 3 years to conform to the 30 percent standard. Again, I think a good compromise because it preserves the sanctity of the idea which Senator GARN put into law here a couple of years ago and yet it also says if somebody has enough gumption, enough get-up-and-go to go out and get a job, that they ought to have some benefit from that before they have to start paying more for their housing.

Mr. President, there are a number of other provisions I could mention, but I think you get the idea that this is a very much better bill. So I want to joing my colleagues in urging its adoption.

In closing, I especially want to compliment some of the people who have worked on this measure. I mentioned my colleagues, and, of course, they deserve great credit. But I would be remiss if I did not mention what a wonderful job Joe Wright and Carol Crawford, of OMB, have done. I suppose in the past week I have talked to one or the other of them maybe 50 times by telephone. They have been in on the negotiations in both the House and the Senate. And the able assistance of Alan Rhinesmith and Kathy Peroff, of OMB. Grace Morgan has been at Mr. D'AMATO's side through all of this and actually wrote a lot of this, also suggesting a couple of the compromises, as did Carol Hartwell who represents Senator D'AMATO as did Don Campell and Bruce Katz, who worked on this for ALAN CRANSTON; also Frank Burk, maybe unknown to many Senators but actually the unsung hero of this and many other bills that have come before us. He is the legislative counsel that did a lot of drafting for us, and I assume others. Also Jan Maxfield, who sat at the table on behalf of JAKE GARN.

Mr. President, I can mentioned some others, but that sort of covers the waterfront so far as I am concerned.

I want to say this is a good bill, a good compromise, a good outcome, and I am grateful to my colleagues and to the staff who made it possible.

Mr. CRANSTON. Mr. President, we have heard a lot of inaccurate talk about housing these past few months—inaccurate talk about housing policy, housing needs and this housing bill.

The fact is that law and moderate income families in this Nation face a rental housing crisis. They face a crisis because there simply are not enough affordable apartments available for their use. Between 1975 and 1983 the number of rental households earning under $10,000 increased by 3 million, while the number of rental units they could afford declined by 2 million. Two-thirds of the 23 million low-income households currently pay excessive rents or live in physically delapidated structures.

For the past 7 years, this administration has opposed efforts to mitigate America's housing crisis and, in fact, has done everything it could to exacerbate the problem. They continually argue that they provide more families with housing assistance than ever before. Yet that is clearly misleading. The increase in housing assistance is a result not of this administration's policies but of the housing policies of earlier administrations. And the real question is how many more families would have been served—how many less homeless people would there be—if the housing budget had not been cut by more than 70 percent since 1981?

The Senator from Colorado points to the additional families that have been served during the Reagan years. The administration will tell you that 4.1 million families were being assisted under the HUD's subsidized housing programs in fiscal year 1986. They will also tell you that this number is expected to grow to 4.3 million by the end of fiscal year 1988.

What the administration won't tell you is that this increase in housing assistance is a result not of Reagan administration policy, but of the housing policies of earlier administrations. Where previous administrations have attempted to leave a legacy of housing security in years after they left office, this administration is doing all it can to leave a legacy of lost low-income housing.

What they won't tell you is that as a result of the Reagan administration housing policy, we will witness a rapid decline in housing assistance starting in 1991, shortly after Reagan leaves office. The President's budget consistently ignores the vast number of units which might be lost in coming years from such causes as mortgage prepayments, foreclosure sales and public housing demolitions.

The declining supply of rental housing affordable to low-income families is the most pressing housing issue facing the Congress today. Over the coming years the Nation may lose as many as 1.7 million low-income housing units because of mortgage prepayments and the expiration of section 8 rental assistance contracts.

What happens when a prepayment occurs is easy to illustrate. Earlier this year an owner in Morris County, NJ, prepaid his mortgage on an 84-unit project. The owner then informed his tenants, 85 percent of whom are elderly, that he would raise rents from $360 to $675, an increase of nearly 100 percent. Unless the Federal Government intervenes, these tenants will be evicted from their homes and be forced to look elsewhere for affordable apartments which do not exist in their community.

Mr. President, fortunately responsible Senators are willing to stand up and refuse to contribute to further cuts in housing.

We cannot correct all the damage that has been due to this Nation's housing policy in the past 7 years. We can, however, prevent further damage in years to come.

After 7 years of neglect, the issue of housing has forced itself back on the national agenda. Homeless families, declining supply of affordable rental units, declining home ownership opportunities—these issues are here and they are here to stay and they require a Federal response. This bill is the beginning, a fiscally responsible beginning, of that response.

I look forward to working with my colleagues on a housing policy that will meet the needs of the next decade.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Illinois.

Mr. DIXON. Mr. President, once again, the Senate turns to consideration of S. 825, the Housing and Community Development Act of 1987.

Although the substitute amendment before us is not crafted as I would have liked, it is the best compromise we could produce, given the current political and fiscal restraints. The amendment should remove all elements from the bill which made it objectionable on November 17, 1987, when the Senate considered the conference committee report on S. 825.

As my colleagues know, the objections that were raised included three provisions that involved a total of $47 million in direct spending, even though these items were in the Senate bill, which passed earlier.

This substitute amendment takes the Federal Government further from its national commitment of providing "decent housing and a suitable living environment" for every American family. However, Mr. President, I am in a position where I'd rather have the housing proposal which we are considering now than to have no housing authorization legislation at all. This is truly a compromise proposal, and I support it.

S. 825 is on its way to becoming the first major freestanding housing bill that Congress will have approved in 7 years. In the meantime, assisted housing programs have taken a 70 percent budget reduction, far more than their fair share.

According to a recent Chicago Urban League study, Federal funding for low-income housing in Illinois has been cut by a whopping 87 percent since 1980. Mr. President, the devastating situation in Illinois, as is the case in other States, is that neither the private sector, the State nor local government has come close to making up the difference.

Housing programs have not caused our budget deficit problems. Instead, housing program reductions have contributed to both an increase in the number of homeless individuals and families, as well as to the lack of available and affordable housing for low- and moderate-income families.

S. 825 makes permanent the FHA Mortgage Insurance Program. It authorizes for 2 years the HUD- and Farmers Home Administration-assisted housing programs, and the Community Development Block Grant and Urban Development Action Grant Programs.

In addition, S. 825 authorizes a demonstration program to assist public housing agencies in providing child-care services for low-income residents, and authorizes 12,000 new housing units for the elderly and handicapped. It also prohibits user fees on mortgage insurance and secondary mortgage market programs.

I am especially pleased that S. 825 maintains provisions of S. 243, the "Public Housing Resident Management Act of 1987," which on January 6, 1987, I introduced with the cosponsorship of Senators Glenn, Danforth, and Kennedy. These provisions are also similar to those in S. 2242, the tenant management bill which, also with Senator Glenn, I introduced on March 26, 1986.

Under S. 825, residents of public housing developments are authorized to manage their own housing conditions. Under contract with the local public housing agency, a resident management corporation is authorized to manage the housing project and to retain profits from improved rent collections.

As an incentive to increase flexibility for tenant-managed projects, corporations may be provided with comprehensive improvement assistance for project renovations and improvements.

Residents at Leclaire Courts, a public housing development in the city of Chicago, recently formed the State's first tenant management corporation. They are preparing to manage their 615-unit development.

I look forward to seeing innovative projects at Leclaire Courts, such as the creation of jobs and health clinics, formation of day-care centers, and, overall, the development of a safer and more stable community.

Resident management can improve the overall living conditions of tenants at public housing developments and can provide a valuable return on investment for taxpayers.

Mr. President, I solicit the support of my colleagues for immediate approval of S. 825.

Mr. President, last week we attempted to work out a compromise on the housing bill after it had originally failed. We urged the leaders on both sides, particularly those who had been very active on the House bill, to try again. Mr. President, I am in my seventh year in the U.S. Senate and President Reagan is in his seventh year as President of the United States and, in that time, we have not passed a housing bill in the Congress.

As I have said so many times in the past, we have doubled military spending—I have participated in some of that as a member of the Armed Services Committee—while at the same time cutting housing in America in the last 7 years by over 70 percent and, in my State, Mr. President, and unbelievable 87 percent.

I just want to say, Mr. President, that I express my warm appreciation to Senator Cranston, the distinguished assistant majority leader, for his work; to my warm friend, the distinguished Senator from New York, Senator D'Amato; to Senator Domenici, to Senator Garn, to Senator Armstrong, to every other person. I see others standing on the floor who, I am sure, have participated in this effort. I thank them for the fine result which has been obtained here, Mr. President.

I want to make this final remark: compared to a great many things we have done here, the first bill was certainly not a budget-buster. I continue to resent the implications by some who opposed this bill that it was. But this is a fine bill and I am delighted to support it.

Mr. President, I am delighted that it contains the title of a bill that I crafted along with the support of some others here, a title which permits tenants in housing projects all over America to manage their own affairs and their own housing units. I think that will be a wonderful, wonderful opportunity for us to see a tremendous improvement in public housing in America.

I see my friend, Senator Sarbanes, of the committee, who has been so helpful, and I thank him. I thank all my colleagues for their good work.

I want to close once again by thanking Senators Cranston and D'Amato for their continued efforts throughout a long and very difficult period of time to bring this to the fine culmination that has been brought about this evening in what I see as the best legislation. Their perseverance has brought us to the first housing bill in 7 years. They are to be warmly congratulated. I am delighted I played a part in it, Mr. President, and I am delighted to express my sincere support for this legislation.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, a few moments ago, Senator Armstrong, of Colorado, mentioned several improvements which had been made in this compromise, which, in this Senator's opinion, makes this a much better housing proposal.

I wish to compliment the Senator from Colorado because I think it is very seldom where we see one Senator take on an issue, as the Senator from Colorado did in this case, take on an issue and do a lot of homework on it and find serious fault with the legislation as it passed the Senate and as it passed the House.

The legislation, if I remember, as it passed the House, had one negative vote. Yet, the Senator from Colorado was still willing to look at this legislation and not get rolled up in the enthusiasm for it, to look at the details.

I think he by his efforts, and I am giving him the credit because I think it was largely through his efforts, exposed a lot of the faulty portions of both bills. Largely as a result of his efforts, we were successful in making significant improvments and making an acceptable compromise package, one where I believe, because of the amendments, because of the changes, because of the efforts of Joe Wright, of OMB, Senator Cranston and Senator D'Amato, and others, significant improvments were made so that the moneys that we are spending under this housing bill will be far more effective in actually helping those who really need the help.

I compliment the Senator from Colorado as well as the Senator from New York and the Senator from California for their efforts.

Mr. KARNES addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KARNES. Mr. President, I wish to join my colleagues, the Senators who are here today, in complimenting Senator Cranston, Senator D'Amato, Senator Domenici, Senator Garn, Senator Armstrong, and those others who worked so diligently to secure for the first time in 7 years a housing bill that is acceptable to both sides of the Congress and also the administration.

I want to compliment my colleagues who worked so diligently to arrive at this acceptable compromise. It has taken a lot of hard work. There have been a lot of strong feelings exhibited.

As a member of the Banking Committee I had the opportunity to participate in some of the meetings. I realized at that time how important it was to have a bill this year. More importantly, the spirit of compromise prevailed in working out solutions to these sticky problems that brought us to the point where we have a bill that can be approved.

I will not add to the eloquent remarks of my colleagues who have talked about the pluses in this bill and the significant changes that have been made to make this bill acceptable at this point in time.

Mr. President, I rise in support of the Cranston-D'Amato-Domenici-Garn-Armstrong compromise on the housing substitute. I want to compliment my colleagues who have worked so diligently to arrive at an acceptable compromise between the House, Senate, and administration. I am well aware of the strong feelings of all sides on this issue of housing and I applaud the leadership including Senators CRANSTON, GARN, D'AMATO, ARMSTRONG, and DOMENICI for the hard work.

As my colleagues in the Senate know, the country has been without new housing legislation for nearly 7 years. Much has changed during this period. Existing housing programs that have proven beneficial will be continued. Several programs have been reduced, several have now been designated to be eliminated in future years—a sunset provision. In fact at least one Federal program has been completely eliminated—the solar bank. This is what the taxpayers of this country would like to hear. A reduction or even elimination of Federal programs that have outgrown their usefulness. This is a very positive sign. Also, I might add, that a new program to encourage home ownership has been added. Much scrutiny of existing programs has resulted in important fund adjustments—all allowing the housing needs of Americans to be better served by our Government.

Mr. President, this Senator is very pleased that a compromise has been reached that removes the major objectionable items from the bill and retains the basic provisions that are critical to the housing industry.

I have always been supportive of the major provisions of the bill including the permanent extension of the Federal Housing Administration insuring authority, increasing the maximum authority to insure adjustable rate single family mortgages to 30 percent, limiting FHA mortgage premiums to 3.8 percent, and prohibiting user fees on federally sponsored credit agencies such as Fannie Mae, Freddie Mac, and Ginnie Mae.

At the same time, most of the objectionable provisions of the original conference report have been removed. The aggregate funding authority remains at $15 billion in 1988 with a 2-percent increase allowed in 1989 compared to a 4-percent increase in the original conference report. This funding point is important because this compromise establishes funding certainty in all the program areas. Just 3 weeks ago we were asked to vote on a budget waiver on the housing conference report in certain program functions that had no spending caps, only a statement as follows "* * * such sums as appropriated * * *." Now I have only been a part of this distinguished body for 8 months, but in that time I have learned that such open-ended language may constitute carte blanche authority to increase spending beyond original levels. Thus, such was one of the many reasons why I voted against waiving the Budget Act approximately 3 weeks ago. Other provisions that have been removed or altered in this compromise version include;

First, removal of the $47 million in direct spending which was the reason for the point of order in the first place.

Second, the bill makes a significant change in the displacement provision in the CDBG and UDAG. The relocation benefits would be limited to persons directly displaced by CDBG/UDAG-assisted private development projects. The compromise would eliminate assistance to "indirect displacees" and restrict other provisions to cases where displacement is caused by luxury housing development or by commercial or industrial projects that do not principally benefit low- and moderate-income people. This section alone, if not changed, would have put a chilling effect on vitally important public-private urban development.

Third, the compromise would limit the required rental assistance for direct displacees to resources available, after good faith efforts, through vouchers, section 8 certificates and project loan repayments.

Fourth, the Nehemiah home ownership grants which were strongly objectionable would be reduced to $25 million in fiscal year 1988 and $100 million in fiscal year 1989. The demonstration would sunset at the end of fiscal year 1989. The eligibility requirements were tightened to include incomes up to 100 percent of area median income with Secretary discretion to permit 15 percent of the units go to those with incomes of up to 115 percent of median income.

Fifth, the lead based paint detection and removal provisions would apply only in public housing, where the cost would be absorbed by modernization programs. Privately owned housing, including section 8 projects, would be excluded under this substitute bill. Thus, through this compromise we have spared millions of America's homeowners who have FHA insured loans from being forced at the time they sell their home to first spend an average of $200 per home to obtain a "lead paint test" on each room in their homes and if lead based paint thereafter is found, an average of $8,000 per home may have to be expended by the homeowner to remove this lead based paint. Estimates are that such provision would cost the FHA insured American homeowner in excess of $1 billion. I am pleased to say this provision has been significantly changed so that this lead paint applies only where the greatest lead consumption risk exists—that is public housing.

The conference report includes several provisions which are very important to rural housing and my State of Nebraska in particular. The compromise includes $1.775 billion for rural housing loans, rural rental assistance funding of $275 million, $52.3 million for rural housing grants, and $26 million for rural displacement prevention. I am also pleased that a demonstration project by which up to 10 percent of guaranteed rural home loans would be earmarked for buyers earning up to 100 percent of median income in the rural areas. This provision will enable people who live in any community too small to be covered by FHA programs and meet the eligibility requirements to be eligible for the FmHA Guaranteed Loan Program.

Two other provisions of the housing bill warrant special comment. The first is section 312—a study of mortgage credit in rural areas. This provision requires the HUD Secretary to study the availability and use of funds for the purchase and improvements of residential real property in rural areas, particularly in communities that have populations of not more than 2,500 individuals. The study will provide much needed information on the availability of mortgage financing for the average middle class citizen in small rural communities. Section 417 called the home equity conversion mortgage insurance demonstration also deserves mention. This provision calls for a demonstration program allowing conversion of home equity mortgages for elderly homeowners. The provision creates an innovative approach using Government and private industry to allow the elderly to access the equity in their homes. This demonstration could provide a new revolutionary method for the elderly without adequate cash-flow to utilize the equity that they accumulated on their homes for their immediate cash needs. I applaud the sponsors of this provision and look forward to the results of the demonstration.

Mr. President, several other provisions have been altered or removed from the bill. I thank my colleagues who have participated in crafting this compromise. They have acted in a very responsible, fiscally accountable manner. This compromise now gives the Congress a housing bill that we can all support and I encourage my colleagues to do so.

Lastly, I want to publicly acknowledge the significant, meaningful, constructive efforts of Secretary of HUD Samuel Pierce and his able staff to those needs in Kansas as well as many other areas of this country.

Finally, this amendment would authorize free-standing vouchers that will give this form of assistance a chance to prove its effectiveness. A 2-year rural voucher demonstration is also authorized. Vouchers are not the only answer to our Nation's housing problems, but they certainly should play an important role.

CONCLUDING REMARKS

In short, by voting for this amendment, we will be voting for fiscal responsibility. We will not be voting to maintain existing programs at levels that are too high, nor will we be creating a lot of new and unnecessary programs at a time of record deficits.

This amendment recognizes that one of the best things we can do to make housing more affordable is to keep our economy strong and healthy. Low inflation and low interest rates can do more for housing than all of the Government programs put together.

At the same time, this amendment represents a commitment to continue to reach out to those truly in need, including the elderly, the handicapped, and the homeless. And this amendment represents a commitment to do what we can to help keep housing affordable. I intend to do my part to see that we do.

I understand that, as amended, the White House has agreed to sign this bill into law.

Again, I congratulate my colleagues for their diligence in coming up with a workable compromise. I intend to support it and I urge other Senators to do the same.

Mr. SANFORD. Mr. President, I rise in support of S. 825, as amended, the Housing and Community Development Act of 1987. I commend the distinguished Housing Subcommittee chairman, Senator CRANSTON, and the distinguished ranking minority member, Senator D'AMATO, for their efforts in crafting a housing bill that accommodates the various concerns that have kept this bill from moving forward.

I would also like to commend the efforts of two distinguished minority members, Senators GARN and DOMENICI, who have helped craft this compromise bill and have deliberated with the administration. The compromise bill, pending today, would not be on the floor without their help. Staff should also be congratulated for their extraordinary efforts to move this bill forward. It is now incumbent on Senators to show their support for this legislation that will extend and revise current housing and community development programs and help meet the growing need for affordable housing.

The bill that we have before us today has undergone several changes since it was brought to the floor as a conference report. There are many provisions in the bill that Members will individually find hard to swallow. I for one, am very upset that rural housing programs are once again given short shrift. The current compromise bill would require rural housing needs to be met with housing vouchers, a big city remedy to a rural problem. Big cities are not happy, however, because they have had to compromise on the Nehemiah Homeownership Program.

But, as a whole it is not only a bill we can live with, but a bill that we need. It has been far too long—indeed over 6 years—since a freestanding housing bill has been enacted. During that time we have repeatedly seen periods in which the authority for the Federal Housing Administration's mortgage insurance programs has lapsed, forcing FHA to shut down. Such disruption has clearly harmed our housing industry and thousand of home buyers. At a time of tremendous volatility in the stock markets, I believe it is essential that we do what we can to provide stability and support to America's home buyers by granting FHA permanent authority.

The compromise bill we have before us is not a budget buster, nor was its predecessor. The pending version of S. 825 would authorize an aggregate budget authority level of $15 billion for fiscal year 1988 and $15.3 for fiscal year 1989. I must point out that the fiscal year 1988 level of $15 billion is $300 million below the fiscal year 1987 level, $600 million below the concurrent budget resolution for fiscal year 1988 and $900 million below the House-passed bill.

Indeed, far from being a budget-busting bill, conferees, with budgetary concerns constantly in mind, decided to reduce the authorizations in this bill below the amounts expected from appropriations. This bill authorizes less spending than has been appropriated for the new fiscal year in appropriations legislation for urban and rural housing that has already been passed by both the House and the Senate.

The $15 billion authorization called for in this conference report must be viewed against the backdrop of the more than 70-percent cuts that have taken place in housing and community development programs since 1980. In view of the huge waiting lists for public housing we are seeing throughout the country—and in my own State of North Carolina we have as many families on the waiting lists as are housed in some areas—and the growing number of homeless families and elderly people, we must simply provide at least the $15 billion called for to support our housing programs.

The importance of this bill must be recognized: it makes permanent the mortgage insuring authority of the FHA; it reauthorizes for 2 years the HUD and FmHA assisted housing programs; it reauthorizes the Community Development Block Grant and Urban Development Action Grant programs that have provided revitalization assistance to so many of our communities; it preserves our stock of low-income housing and it reauthorizes our rural housing programs.

In addition, I believe that the bill establishes a number of innovative demonstration programs that will assist communities in devising more comprehensive solutions to housing problems. I commend in particular a demonstration program conceived by the Charlotte Housing Authority in my home State of North Carolina. That program, entitled the "Public Housing Comprehensive Transitional Demonstration Program," is designed to foster better coordination between our Federal housing programs and other Federal programs.

The transition program will allow participants to continue to live in public housing while receiving assistance from a variety of programs, including remedial education, completion of high school, job training and preparation assistance, substance abuse treatment and counseling, training in homemaking skills, or training in money management. Those participating in this demonstration would not be forced to move out of public housing the moment their income rises above the levels traditionally permitted for public housing residents, but would be permitted to stay put for a limited period while preparing for the transition to private housing. The concept behind the demonstration is one I am sure we can all embrace: removing the obstacles into the labor and private housing markets for our low-income families.

Mr. President, the legislation also contains a number of provisions to increase the efficiency of our housing programs and to expand the home ownership opportunities for residents of public housing. While the compromise bill is not perfect, I believe it deserves our solid support. It is fairly close to the Senate's original version of the bill, which passed this body by a solid vote of 71-27. It is a bipartisan bill that meets the needs of a wide variety of people and places. I again commend Senators CRANSTON, D'AMATO, DOMENICI and GARN on the fine job they have done in bringing this legislation to the floor and urge my colleagues to support it.

Mr. SASSER. Mr. President, as a member of the Housing Subcommittee, I rise in strong support of this amendment to S. 825, the Housing and Community Development Act of 1987. The alterations made by this amendment are significant. There is no longer a budgetary issue that can raised concerning this bill. I commend my colleagues in formulating this compromise on this important bill.

The Housing and Community Development Act of 1987 is the first significant housing bill in 7 years—it is legislation that is long overdue. Indeed, the bill contains several critical provisions, particularly to assist persons in affording homes and to aid economically distressed communities.

Mr. President, as important as this bill is, it just begins to address the mammoth housing problem facing America. This legislation really only sets the stage for the broader, fundamental reassessment of our national housing policy, that the Housing Subcommittee will conduct in the months ahead. It is our goal to comprehensively evaluate the role of the Federal Government in the provision of our Nation's housing. And to attempt to develop new approaches to both new and old problems.

Mr. President, housing is one of the biggest problems facing this country. Since 1970, housing prices have risen at a rate four times higher than incomes. Further, indications are that a drastic shortage of affordable housing, particularly for low-income families, is developing. And for first time home buyers, the words "housing" and "affordability" are becoming a contradiction in terms. Since 1980, the rate of homeownership has declined, after rising steadily for 35 years—the greatest decline has been among home buyers 25 to 34 years old.

Mr. President, I am pleased that this bill makes many important contributions to the Nation's housing and community development needs. First, it provides for the permanent authorization of FHA mortgage insurance programs. We will not experience again the disgrace of having the FHA shut down six times in 1 year—for a total of 51 days. We will no longer impose needless costs on home buyers and sellers, and the Nation's real estate industry.

Second, Mr. President, the bill prohibits the imposition of user fees on the activities of the Government sponsored secondary mortgage market agencies. I am proud that I fought against user fees in both the Budget and Banking Committees. The proposals to impose user fees were a blatant attempt by the administration to tax individuals and financial institutions for using the self-funding Federal credit agencies. Mr. President, I am pleased that as a result of this bill the budget will not be balanced at the further expense of the homeownership aspirations of young Americans.

Another provision of this bill, the development of which I was very much involved, and take particular pride in, was the change in the section formula for the UDAG Program. Over the past few years the UDAG Program has been successful in assisting distressed urban communities with a unique public-private cooperative approach. UDAG's provide leverage to entice and expand private sector development, create jobs and stem the spiral of urban decay. Since 1978, every dollar spent by the UDAG Program has been matched by $6 from the private sector.

However, in recent years as the money available for this worthy program became limited, many projects which were eligible under the existing selection criteria could not be funded. Unfortunately, many of the most productive, job creating projects went without funding. Consequently, Mr. President, I worked with several of my distinguished colleagues in developing a formula which places greater emphasis on projects designed to relieve economic distress in a local community—the focus of the UDAG Program when enacted.

Mr. President, this bill contains many other worthy and notable provisions which are designed to enhance our Nation's housing opportunities an its communities. Among other things, the bill provides expanded authority for the FHA to insure adjustable rate mortages—a program which will be of great assistance to home buyers. It authorizes a demonstration program to expand the availability of home equity conversion mortgages—a means for the elderly to gain needed funds from their most valuable asset, their home. In the area of public housing, the bill would permit tenants to form corporations for the purpose of managing their projects, and on a demonstration basis, even allow tenants to own their own projects. And the bill authorizes funds for another demonstration program to assist housing authorities in providing child care services.

In sum, Mr. President, this is vitally important legislation and is long over due. Our Nation's housing problem is serious and worsening; it deserves our deepest commitment. This bill is an important first step. I yield the floor.

Mr. RIEGLE. Mr. President, I rise today to support the amendment offered by the distinguished senior Senator form California [Mr. CRANSTON] and to compliment him on his role in bringing this bill before the Senate.

I want to take a few moments to impress upon my colleagues the importance of passing a housing bill at this time.

Mr. President, it has been 7 years since the Senate has passed an independent, free standing housing bill. Yet, during the same period we have seen valuable community and economic development programs like CDBG and UDAG targeted for elimination or crippled by severe funding cuts. Sadly, housing assistance for low-income people has decreased by 70 percent, and elderly housing opportunities have decreased by over 80 percent during the same period.

What we have ended up with is a hodgepodge of housing and economic development programs whose objectives have been blurred and whose tasks have been made much more difficult through repeated budget cuts.

In my opinion, we need a housing bill now to bring stability and restore direction to our Nation's housing and economic development programs. We need to reassure those individuals and young families who rely on FHA to finance their homes that the needless shut downs of FHA will not be repeated. We need to reassure the poor and the elderly that housing opportunities will continue to be available to them and their families. We need to reassure our Nation's cities that vital community development programs like UDAG and CDBG will be there to help them rebuild and bring economic opportunities to their communities.

I think the Senate can send that message today if we pass this legislation, and I urge all my colleagues to vote for this bill.

Mr. President the legislation before us today makes some very important changes to our Nation's housing and community development programs, and I would like to take just a moment to highlight some of these.

PERMANENT FHA AUTHORITY

This legislation will permanently extend FHA lending authority and will avoid the needless disruption in home mortgage finance that plagued FHA during 1986. As many of my colleagues may recall, during the last 2 years Congress has had to pass a series of stop-gap, short-term bills to extend authority for FHA insurance and other programs.

Despite our best efforts, FHA insurance shut down six times during 1986 for a total of 51 days and that was at a time when demand for FHA insurance has been the highest in history, at a time when 5,000 to 10,000 applications were being submitted every day.

These disruptions were simply irresponsible and must not be allowed to be repeated. By adopting this provision, we are taking a major step in reassuring American homebuyers and the home mortgage finance industry that such disruptions will never occur again.

COMMUNITY AND ECONOMIC DEVELOPMENT

Vital community development programs like the Community Development Block Grant [CDBG] Program and the Urban Development Action Grant [UDAG] Program are reauthorized for 2 additional years. Both programs will be funded at their current appropriated levels of $3 billion and $225 million respectively.

As many of my colleagues will recall, these programs have been the repeated targets of budget cutting proposals. I have opposed those cuts in the past, and I am delighted that the conferees have decided to maintain these programs at their current levels.

The bill before us also contains necessary changes to the UDAG selection criteria to allow at least 35 percent of the grant fund to be awarded on the basis of project merit only. These changes are similar to legislation, S. 1133, that I introduced in the 99th Congress, and I believe that they will do much to restore broad political support for the UDAG Program.

GREAT LAKES EROSION RELIEF

An important new provision will assist families whose homes are in danger of falling into the Great Lakes. It will allow homeowners who qualify for Federal Flood Insurance Program [FFIP] to make a claim for up to 40 percent of the value of their home to relocate it behind a 30- or 60-year erosion line.

This additional coverage is a common sense approach to a very difficult problem. Homeowners win because they no longer have to sit idly by and watch their homes fall into the water before making a claim under the FFIP. The Federal Government wins because the amount of the claim is reduced by more than half since the cost of relocation is substantially below the cost of paying the full claim. The environment wins by promoting a policy that moves development back from our Nation's shorelines.

This provision has the support of the Association of State Floodplain Managers, Inc., the Coastal State Organization, the Center for the Great Lakes, the Coastal Alliance, the National Wildlife Federation, and the Sierra Club, Coastal Committee.

CHILD CARE IN PUBLIC HOUSING

Testimony before the Housing Subcommittee has shown that an increasing number of families with young children are seeking housing assistance. The bill responds to this new challenge by authorizing a $5 million demonstration program for child care in public housing.

The provision adopted by the conferees is similar to legislation I have introduced in both the 99th and 100th Congress and is based on a successful model already in place that allows nonprofit organizations to conduct before and after school child care in public schools.

ENTERPRISE ZONE LEGISLATION

As a long time supporter of enterprise zone legislation, I am delighted that the conferees have included a provision that gives the Secretary of HUD the authority to designate up to 100 enterprise zones.

Although this provision only provides HUD with the administrative authority to create such zones, I believe is an important first step to further job creation and economic revitalization in our Nation's most distressed communities.

Mr. KERRY. Mr. President, I would like to commend the distinguished Senators from California and New York as well as the other Senate and House conferees to the housing authorization beofre us today, for the diligence they have displayed in bringing this measure to the floor for our consideration in such an expeditious manner. The legislation before us today is vitally important and is the first free-standing housing authorization passed since 1980. The Senate passed its version of the bill early in this session of the 100th Congress and the House did likewise shortly thereafter. While I believe that the original, better Senate version met this Nation's housing needs I support the bill before us today and urge my colleagues to join in its passage.

As most of my colleagues know, the Federal Government has undertaken a massive disinvestment in housing, forcing on the Nation at large, a crisis of enormous proportions. Since 1980, Federal funding levels for housing have been reduced by more than 70 percent. This crisis in decent, affordable housing affects not only low-income families, but the handicapped, the elderly and middle-income families as well and has proven to be one of the fundamental causes of our current homelessness problem. The legislation before us today attempt to stem the tide of disinvestment by providing for the smooth and continued operation of existing housing and community development programs. The 2-year authorization of all but a very few programs provided by this bill will go a long way toward providing a sense of stability and continuity not only to these vital programs but also to the States and localities that administer them, that have limped along on stopgap authorizations since 1980.

In addition to reauthorizing housing and community development programs with adjustments to comply with the budget summit agreement, the bill contains a number of other important provisions. First, it provides the FHA with permanent insurance authority. I do not have to remind my colleagues of the disaster that ensued last year when the FHA was forced to shut down six times for a total of 51 days when Congress failed to pass the FHA extension legislation. Permanent authority for the FHA will eliminate this as a possibility in the future.

The bill also prohibits fee increases that have been proposed to reduce Federal support for the Nation's home mortgage system; provides for a fairer project selection system for the Urban Development Action Grant [UDAG] Program; allows for the testing of new approaches to the management of public housing; and implements the Fair Housing Initiatives Program.

I regret that the Nehemiah Homeownership Grant Program has been reduced to the 2-year authorization with limited sums of $25 million in fiscal year 1988 and $100 million in fiscal year 1989. The program will, I am sure, prove itself over the next 2 years and be reauthorized rather than permanently sunset at the end of this 2-year period. Like the Boston and Massachusetts Housing Partnership Programs, Nehemiah builds on the initiatives and commitments of local and/or State participation to create much needed housing stock for a range of citizens.

Equally as important, Mr. President, this bill provides us with the breathing room necessary to begin to take a fresh look at our national housing policy and to formulate comprehensive housing legislation. I know that my distinguished colleague from California, Senator CRANSTON, has indicated that this will be one of his top legislative priorities as chairman of the Housing Subcommittee during the coming months and I would like to express my support for his efforts in this regard and my willingness to assist that effort in whatever ways are appropriate.

Mr. President, no area of development is more crucial to our national well-being than housing. We need enough quality housing to meet the needs of our citizenry; it must be affordable to all income groups; it must suit a great variety of needs and preferences and it must be located reasonably close to where jobs are. The economic health of our communities and the well-being of our citizens depend in large part on stimulating a better performance in the housing market. This effort will require a renewed commitment on the part of the Federal Government to the goal of providing a decent and suitable living environment for every American. The bill before us today goes a long way toward accomplishing this goal. I reiterate my wholehearted support for the measure and urge my colleagues to pass it expeditiously.

Mr. CHAFEE. Mr. President, shortly the Senate will consider a compromise housing bill which is a sound and reasonable response to this year's challenge in housing: To renew and update our basic housing programs in a way that responds to the need but is fiscally responsible. The package before us today fills that bill, and I urge my colleagues to give it their support.

I'd like to commend Senators D'AMATO, ARMSTRONG, CRANSTON, DOMENICI, and GARN for their work in bringing this bill to the floor. It is a substantive, good-faith effort to address each of the objections that was raised to the housing conference report considered in the Senate last month. In that regard, it is an extraordinary agreement, and deserves the support of the full Senate.

This bill differs in several key respects from the conference report, and I'd like to outline briefly some of the changes that have been made.

First, the technical problem with the conference report that gave rise to a budgetary point of order has been resolved. As my colleagues will recall, the conference report called for a small amount—$47 million—of direct spending, that is, spending that is not subject to further appropriations. This made the bill technically subject to a point of order which ultimately prevented us from considering it on its merits.

In the new bill, this $47 million of direct spending has been dropped. The Budget Committee has examined the bill, and has assured us that it is in complete compliance with the Budget Act.

Several of the new programs and provisions in the conference report were criticized as too costly or ill-advised. In most cases, these have simply been dropped. For example, this bill eliminates the controversial provision requiring immediate removal of lead-based paint if HUD failed to meet its deadline for a required report on this subject. Also eliminated from the bill are two new programs that were in the conference agreement—the Hiler-Lehman Rural Housing Grant Program, and a program to prevent defaults on federally insured apartment buildings. Provisions allowing rents to be set at less than 30 percent of income in certain circumstances have been dropped, as have the controversial provisions pertaining to the salaries of former CETA workers. Finally, the new bill recognizes the need to eliminate programs that are no longer working as intended, by terminating the section 235 homeownership program at the end of fiscal year 1989.

In other cases, controversial provisions have been substantially modified in the spirit of compromise. For example, some objected to the Nehemiah program as too costly. This bill scales the program back significantly, lowering the authorization level to $25 million in the first year, $100 million in the second year, and imposing a 2-year sunset. Some objected to the requirement that cities provide replacement housing for low-income tenants displaced by CDBG or UDAG projects. This bill refines that provision by limiting assistance to those that are directly displaced, and to cases where displacement is caused by luxury development, that is, developments that do not primarily benefit low and moderate income people. The intent here is to avert instances we have seen in which affordable housing was razed—using Federal grant money—to make way for a luxury hotel or shopping center. In my view, this refinement clarifies the uncertainties of the original provision and makes it one which most Senators should be able to support.

This bill also addresses the larger budgetary charges that were levied against the conference report. As my colleagues will remember, OMB had charged that the conference report would cost some $4 billion more than the $15 billion CBO estimate. This discrepancy was largely the result of double-counting; that is, OMB counted as add-ons items which the conferees had intended to be paid for within the bill's $15 billion ceiling. The new bill remedies this problem by making it absolutely clear that such items would be funded out of the $15 billion total for the bill.

Another objection that was raised was the authorization of "such sums as may be necessary" for three programs. In all three instances, this has been changed to specified funding levels—and very modest ones at that. These amounts are also included in the $15 billion authorization ceiling.

Mr. President, this reauthorization bill is long overdue. Congress has not passed a free-standing housing bill since 1980; since that time, funding for the housing assistance programs of the Department of Housing and Urban Development, or HUD, has dropped by 70 percent. Last year alone, the mortgage insurance authority of the Federal Housing Administration lapsed six times as a result of impasses here in Congress, causing needless disruption in the markets and countless lost or delayed housing opportunities.

This bill addresses those issues head on. It makes permanent the mortgage insurance authority of FHA, so that there will be no more agency shutdowns. It reauthorizes HUD housing assistance programs in a prudent manner, freezing spending levels this year and allowing room for inflation growth next year. This includes $622 million in section 202 loan authority, permitting construction of 12,000 new units for the elderly and handicapped; $337 million for new construction of public housing; $2.34 billion for rental assistance through the Section 8 Program; and $400 million for the rehabilitation of existing but uninhabitable units. It also continues the Community Development Block Grant Program at its current $3 billion level.

Mr. President, this compromise bill truly represents the best of both worlds. It renews our national commitment to decent and affordable shelter for all Americans. But it is also a reasonable bill in terms of costs: It authorizes funding levels which are $360 million below a freeze level from fiscal year 1987, according to CBO estimates. This is $900 million below the House-passed bill, and $600 million below the Senate-passed bill.

It also addresses the objections to the orginal conference report in a very constructive way. I supported the conference report as a strong and sound response to housing needs. With this new proposal, we have addressed the concerns that were raised without sacrificing the strengths of the original bill.

This bill is one case in which compromise has consistently improved the product. It is a solid, well-reasoned package which successfully reconciles the conflicting objectives of fiscal restraint and housing assistance for those in need. As such, it deserves our resounding support.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the motion to concur in the House amendments with a further Senate amendment.

The motion was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. D'AMATO. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PREVENTING FRAUD AND ABUSE IN HOUSING AND URBAN DEVELOPMENT PROGRAMS

Mr. CRANSTON. Mr. President, there is one tidying up matter that needs to be taken care of. I send a bill to the desk and ask for its immediate consideration. This bill has been cleared on both sides as part of the compromise agreement on the housing authorization bill. This separate piece of legislation addresses fraud and abuse in housing and urban development programs.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 1994) to prevent fraud and abuse in housing and urban development programs.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill? If not, the bill will be considered as having been read the second time and the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

Mr. CRANSTON. Mr. President, this separate piece of legislation addresses fraud and abuse in housing and urban development programs. The bill incorporates section 206 of S. 825 as originally passed by the Senate in March of this year. The provision was a noncontroversial item which was included at the behest of the administration. However, the conference report deleted the provision because of jurisdictional objections from the House Ways and Means Committee.

The bill would allow the Department of Housing and Urban Development to obtain the Social Security number or employer number and a signed consent form from program participants to determine their eligibility. This information would permit HUD to verify current wage and benefit information and avoid fraud and abuse. To protect the applicants, provisions have been included to prevent the release of this information to unauthorized individuals.

We hope that the passage of this provision as a separate piece of legislation will allow the House to address this issue promptly when they return from recess.

REPORT LANGUAGE FOR SEPARATE LEGISLATION

In Preventing Fraud and Abuse in Housing and Urban Development Programs:

DESCRIPTION

Subsection (a) would allow HUD the option of obtaining the social security number or employer number of programs applicants or participants as a condition of initial or continuing eligibility in HUD housing programs.

Subsection (b) would allow HUD the option of obtaining a consent form signed by the program applicant or participant to request current or previous employers to verify salary and wage information pertinent to the applicant's or participant's eligibility or level of benefits.

Subsections (c) (1), (2), and (3) would define the following terms: Secretary, applicant, participant, and public housing agency.

Subsection (d)(1) would allow HUD access to wage or unemployment compensation information contained in State agency records. The information could be used only to determine an individual's eligibility for HUD assistance. The subsection would also give the Secretary of Labor the authority to withhold payment to a state until it has complied with this provision.

Subsection (d)(2) would establish a procedure for protecting the applicant or participant from the improper use of information.

Subsection (d)(3) would impose a penalty on any person who knowingly and willfully requests or obtains, under false pretenses, information described in this section or any person who knowingly and willfully disclose such information to an individual not authorized to receive it.

Subsection (d)(4) would allow this section to take effect on September 30, 1988 or, at a state's option, any date before September 30, 1988 which is more than 90 days after the date of enactment of this section. Subsections (d)(2) and (d)(3) would take effect 90 days after the date of enactment of this section.

COMMENT

The sponsors believe that applicants and tenants who are adversely affected by violations of these statutory provisions should have a cause of action to enforce the statute in Federal court. In the past, such causes of action were not explicitly specified in the statute because program beneficiaries were thought to be able to protect their interest under the Administrative Procedure Act, section 1983 and the implied cause of action doctrine. Because the courts have been somewhat unreceptive to private causes of action, the bill would make this one explicit. This change in law is not intended to weaken any right of program beneficiaries to enforce their benefits previously or in the future.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1994

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PREVENTING FRAUD AND ABUSE IN HOUSING AND URBAN DEVELOPMENT PROGRAMS.

(a) IN GENERAL.—As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving loans, grants, interest or rental assistance of any kind, or mortgage or loan insurance, and to assure that the level of benefits provided under these programs is correct, the Secretary may require that an applicant or participant (including members of an applicant's or participant's household) disclose his or her social security number or employer identification number to the Secretary.

(b) APPLICANT AND PARTICIPANT CONSENT.—As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving initial and periodic review of an applicant's or participant's income, and to assure that the level of benefits provided under the program is correct, the Secretary may require that an applicant or participant (including members of an applicant's or participant's household) sign a consent form approved by the Secretary authorizing the Secretary, or the public housing agency or owner responsible for determining eligibility or level of benefits to request current or previous employers to verify salary and wage information pertinent to the applicant's or participant's eligibility or level of benefits. This consent form shall not be used to request taxpayer return information protected by section 6103 of the Internal Revenue Code of 1986.

(c) DEFINITIONS.—As used in this section:

(1) The term "Secretary" means the Secretary of Housing and Urban Development.

(2) The terms "applicant" and "participant" shall have such meanings as the Secretary by regulation shall prescribe. Such terms shall not include persons whose involvement is only in their official capacity, such as State or local government officials and officers of lending institutions.

(3) The term "public housing agency" means any agency described in section 3(b)(6) of the United States Housing Act of 1937.

(d) ACCESS TO STATE EMPLOYMENT RECORDS.—

(1) AMENDMENT TO SOCIAL SECURITY ACT.—Section 303 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(h)(1) The State agency charged with the administration of the State law—

"(A) shall disclose, upon request and on a reimbursable basis, to officers and employees of the Department of Housing and Urban Development any of the following information contained in the records of such State agency with respect to individuals applying for or participating in any housing assistance program administered by the Department—

"(i) wage information, and

"(ii) whether an individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such individual, and

"(B) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to insure that information disclosed under subparagraph (A) is used only for purposes of determining an individual's eligibility for benefits, or the amount of benefits, under a housing assistance program of the Department of Housing and Urban Development.

"(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he or she is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, he or she shall make no further certification to the Secretary of the Treasury with respect to such State.".

(2) APPLICANT AND PARTICIPANT PROTECTIONS.—(A) In order to protect applicants for, and recipients of, benefits under the programs of the Department of Housing and Urban Development from the improper use of information obtained pursuant to the requirements of section 303(h) of the Social Security Act from the State agency charged with the administration of the State unemployment compensation law, no Federal, States, or local agency, or public housing agency, or owner responsible for determining eligibility or level of benefits receiving such information may terminate, deny, suspend, or reduce any benefits of an individual until such agency or owner has taken appropriate steps to independently verify information relating to—

(i) the amount of the wages or unemployment compension involved,

(ii) whether such individual actually has (or had) access to such wages or benefits for his or her own use, and

(iii) the period or periods when, or with respect to which, the individual actually received such wages or benefits.

(B) Such individual shall be informed by the agency or owner of the findings made by the agency or owner on the basis of such verified information, and shall be given an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility factors under the program.

(3) Penalty.—Any person who knowingly and willfully requests or obtains any information concerning an individual pursuant to the authority contained in section 303(h) of the Social Security Act under false pretenses, or any person who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. The term "person" as used in this paragraph shall include an officer or employee of the Department of Housing and Urban Development, and officer or employee of any public housing agency, and any owner (or employee thereof).

(B) Any indiviual affected by (i) a negligent or knowing disclosure of information referred to in this section or in section 303(h) of the Social Security Act about such person by an officer or employee of any public housing agency or owner (or employee thereof), which disclosure is not authorized by this section, section 303(h), or any implementing regulation, or (ii) any other negligent or knowing action that is inconsistent with this section, section 303(h), or any implementing regulation may bring a civil action for damages and such other relief as may be appropriate against any officer or employee of any public housing agency or owner (or employee thereof) responsible for any such unauthorized action. The district court of the United States in the district in which the affected individual resides, or in which such unauthorized action occurred, or in which the individual alleged to be responsible for any such unauthorized action resides, shall have jurisdiction in such matters. Appropriate relief that may be ordered by such district courts shall include reasonable attorney's fees and other litigation costs.

(4) Effective dates.—(A) The amendment made by subsection (d)(1) shall take effect on September 30, 1988, except that at the initiative of a State or an agency of the State, and with the approval of the Secretary of Labor, the amendment may be made effective in such State on any date before September 30, 1988, which is more than 90 days after the date of enactment of this section.

(B) The effective date of subsections (d)(2) and (d)(3) shall be 90 days after the date of enactment of this section.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. D'AMATO. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. I thank all concerned.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished acting Republican leader, Mr. Armstrong, if Calendar Orders numbered 118 and 249 are cleared for indefinite postponement, and if Calendar Order No. 495 is cleared for passage on his side?

Mr. ARMSTRONG. Mr. President, if the leader will yield, the answer to that is yes, we are ready to go on all three of those items.

Mr. BYRD. I thank the Senator.

MEASURES INDEFINITELY POSTPONED

Mr. BYRD. Mr. President, I ask unanimous consent that Calendar Orders numbered 118 and 249 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

CREDIT AND CHARGE CARD DISCLOSURE ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 495.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 515) to provide for more detailed and uniform disclosure by credit card and charge card issuers with respect to information relating to interest rates and other fees which may be incurred by consumers through the use of any credit or charge card.

The Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Credit and Charge Card Cost Disclosure Act".

SEC. 2. CREDIT CARD AND CHARGE CARD COST DISCLOSURE REQUIREMENTS.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end thereof the following new subsections:

"(c) Disclosure in Connection With Credit Card and Charge Card Applications and Solicitations.—

"(1) Direct solicitation.—

"(A) Mailed materials.—An application to open a credit card account for any person under an open end consumer credit plan, or a solicitation to open such an account without requiring an application, that is mailed to consumers shall disclose clearly and conspicuously the following information, to the extent applicable:

"(i)(I) The annual percentage rate or rates applicable to extensions of credit under such credit plan.

"(II) Where an extension of credit is subject to a variable rate, the fact that the rate is variable, the annual percentage rate in effect at the time of the mailing, and how the rate is determined.

"(III) Where more than one rate applies, the range of balances to which each rate applies.

"(ii) Any annual fee, other periodic fee, or membership fee imposed for the issuance or availability of a credit card and any transaction charge imposed in connection with use of the card to purchase goods or services.

"(iii) The date by which or the period within which any credit extended under such credit plan for the purchase of goods or services must be repaid to avoid incurring a finance charge, and, if no such period is offered, such fact shall be clearly stated.

"(iv) The name of the balance calculation method used in determining the balance on which the finance charge is computed if the method used has been defined by the Board, or a detailed explanation of the balance calculation method used if the method has not been so defined. In promulgating regulations under this clause, the Board shall define and name no more than the 5 balance calculation methods determined by the Board to be the most commonly used methods.

"(B) Telephone solicitations.—In a telephone solicitation to open a credit card account, the person making the solicitation shall orally disclose the information referred to in subparagraph (A). The preceding sentence does not apply if—

"(i)(I) the card issuer does not impose a fee described in subsection (c)(1)(A)(ii), or

"(II) in connection with telephone solicitations, the card issuer does not impose such a fee unless the consumer signifies acceptance by using the card;

"(ii) the card issuer discloses clearly and conspicuously the information referred to in subsection (c)(1)(A) within 30 days after the consumer requests the card, but in no event later than with delivery of the card; and

"(iii) the card issuer discloses clearly and conspicuously that the consumer is not obligated to accept the card or account and the consumer will not be obligated to pay any of the fees or charges disclosed unless the consumer elects to accept the card or account by using the card.

"(2) Other materials.—

"(A) In general.—An application to open a credit card account for any person under an open end consumer credit plan, or a solicitation to open such an account without requiring an application, that is made available to the public or contained in catalogs, magazines, or other publications, shall either contain the disclosures required by paragraph (1)(A), or disclose clearly and conspicuously that—

"(i) there are costs associated with the use of credit cards; and

"(ii) the applicant may contact the creditor to request disclosure of the information described in paragraph (1)(A) by calling a toll free number or by writing to an address, specified in the application.

Upon receipt of a request for any of the information described in paragraph (1)(A), the card issuer or its agent shall disclose all of the information described in paragraph (1)(A).

"(B) Effect of partial disclosure.—Where an application or solicitation described in subparagraph (A) discloses any one or more of the items described in paragraph (1)(A), it shall disclose all such items in accordance with paragraph (1)(A).

"(C) Dating materials.—An application or solicitation that is subject to this paragraph

and that discloses the items described in paragraph (1)(A) shall disclose such items clearly and conspicuously and in a manner that is accurate on the date of printing, and shall disclose clearly and conspicuously the date that the information is accurate and that the information disclosed is subject to change.

"(3) CHARGE CARD APPLICATIONS AND SOLICITATIONS.—

"(A) IN GENERAL.—Any application or solicitation for a charge card shall disclose clearly and conspicuously the following information, to the extent applicable:

"(i) Any annual fee, other periodic fee, or membership fee imposed for the issuance or availability of a charge card and any transaction charge imposed in connection with use of the card to purchase goods or services.

"(ii) A statement that charges incurred by use of the charge card are due and payable upon receipt of a periodic statement rendered for such charge card account.

"(B) ISSUERS OF CHARGE CARDS WHICH PROVIDE ACCESS TO OPEN END CONSUMER CREDIT PLANS.—If a charge card permits the card holder to receive an extension of credit under an open end consumer credit plan, which is not maintained by the charge card issuer, the charge card issuer may provide the information described in subparagraph (A) in lieu of the information required to be provided under paragraph (1) or (2) with respect to any credit extended under such plan, if the charge card issuer discloses clearly and conspicuously to the consumer in the application or solicitation that—

"(i) the charge card issuer will make an independent decision as to whether to issue the card,

"(ii) the charge card may arrive before the decision is made with respect to an extension of credit under an open end consumer credit plan, and

"(iii) approval by the charge card issuer does not constitute approval by the issuer of the extension of credit.

The information required to be disclosed under paragraph (1)(A) shall be provided to the charge card holder by the creditor which maintains such open end consumer credit plan before the first extension of credit under such plan.

"(C) CHARGE CARD DEFINED.—For the purposes of this subsection, the term 'charge card' means a card, plate, or other single credit device that may be used from time to time to obtain credit which is not subject to a finance charge.

"(d) DISCLOSURE PRIOR TO RENEWAL.—

"(1) IN GENERAL.—A card issuer that imposes any fee described in subsection (c)(1)(A)(ii) shall transmit to a consumer at least 30 days prior to the scheduled renewal date of the consumer's credit or charge card account a clear and conspicuous disclosure of—

"(A) the date by which, the month by which, or the billing period at the close of which, the account will expire if not renewed,

"(B) the information described in subsection (c)(1)(A) that would apply if the account were renewed, and

"(C) the method by which the consumer may terminate continued credit availability under the account.

"(2) TIME FOR DISCLOSURES.—The disclosures required by this subsection may be provided prior to posting the fee to the account, or if the consumer is given a 30-day period to avoid payment of the fee or to have the fee recredited to the account in any case where the consumer does not wish to continue the availability of the credit, with the periodic billing statement first disclosing that the fee has been posted to the account.

"(3) SHORT-TERM RENEWALS.—The Board may by regulation provide for fewer disclosures than are required by paragraph (1) in the case of an account which is renewable for a period of less than 6 months.".

SEC. 3. CIVIL LIABILITY.

Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640) is amended—

(1) by striking out "in section 127" in the third sentence and inserting in lieu thereof "in subsections (a) and (b) of section 127"; and

(2) by inserting after the third sentence the following: "In connection with the disclosures referred to in section 127(c) or section 127(d), a card issuer shall have a liability under this section only to a cardholder who pays a fee described in section 127 (c)(1)(A)(ii) or who uses the credit card.".

SEC. 4. COORDINATION WITH OTHER LAWS.

Section 111 of the Truth in Lending Act (15 U.S.C. 1610) is amended—

(1) in subsection (a)(1), by striking out "Chapters 1, 2, and 3" and inserting in lieu thereof "Except as provided in subsection (e), chapters 1, 2, and 3"; and

(2) by adding at the end thereof the following new subsection:

"(e) CERTAIN CREDIT CARD APPLICATION DISCLOSURE PROVISIONS.—The provisions of sections 127(c) and 127(d) shall supersede any provision of the law of any State relating to the disclosure of information in any credit card or charge card application or solicitation which is subject to the requirements of section 127(c) or any renewal notice under section 127(d), except that—

"(1) nothing in this subsection affects any State law enacted or used to enforce the requirements of section 127(c) or section 127(d), and

"(2) any item of information with respect to credit or charge card solicitations, applications, and renewals that—

"(A) is or would be required to be disclosed by a State law which was in effect, or by a bill which one house of a State legislature had passed, as of December 2, 1987, and

"(B) is in addition to the disclosures required by sections 127(c) and 127(d),

shall be required to be disclosed on and after the date on which such State adopts a law reenacting such earlier State law, or on which such bill becomes law. Such date shall be after December 2, 1987, but not later than December 2, 1989.".

SEC. 5. REPORTING TO THE BOARD OF GOVERNORS.

Section 136 of the Truth in Lending Act (15 U.S.C. 1646) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection:

"(b) The issuer of any credit card shall submit semiannually to the Board the information required to be disclosed by section 127(c). The Board shall make such information available to the public upon request, and shall report such information annually to Congress."; and

(3) by striking out "subsection (a)" in subsection (c), as redesignated, and inserting in lieu thereof "subsections (a) and (b)".

SEC. 6. INSURANCE PROVIDED IN CONNECTION WITH CERTAIN OPEN END CREDIT CARD PLANS.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end thereof the following:

"(e) INSURANCE IN CONNECTION WITH CERTAIN OPEN END CREDIT CARD PLANS.—

"(1) CHANGE IN INSURANCE COVERAGE.—(A) Whenever a card issuer that offers any guarantee or insurance for repayment of all or part of the outstanding balance of an open end credit card plan proposes to change the person providing that guarantee or insurance, the card issuer shall send each insured consumer written notice of the proposed change not less than 30 days prior to the change.

"(B) Whenever a card issuer proposes to make a change described in subparagraph (A), the card issuer shall send to the insurance commissioner of the appropriate State written notice of the proposed change not less than 30 days prior to such change.

"(2) SPECIAL RULE FOR ADVERSE CHANGES.—In any case where a proposed change described in paragraph (1) will result in new guarantee or insurance coverage which is not at least equivalent in cost, amount, terms, and conditions as the current guarantee or insurance, the cardholder may continue the guarantee or insurance only if the cardholder affirmatively files a written election to continue to purchase such guarantee or insurance.

"(3) STATE NOTIFICATION REQUIREMENT.—If the law of the appropriate State requires notification and reenrollment of the consumer, the card issuer shall comply with such State notification and reenrollment requirement rather than the requirements under paragraphs (1) and (2).

"(4) 'APPROPRIATE STATE' DEFINED.—For purposes of this subsection, the 'appropriate State' is the State in which the card issuer has its principal place of business, except that where a majority of the cardholders under a card issuer's open end credit plan resides in a State other than the State where the card issuer has its principal place of business, the appropriate State is that other State.".

SEC. 7. EFFECTIVE DATE.

(a) SECTION 2 REGULATIONS.—Regulations required to be prescribed by the Board under the amendment made by section 2 of this Act shall—

(1) take effect not later than the end of the 120-day period beginning on the date of enactment of this Act; and

(2) apply only with respect to applications, solicitations, and other material distributed after the end of the 120-day period beginning after the end of the period referred to in paragraph (1).

Any creditor may, at its option, comply with the amendment made by section 2 of this Act after the publication of final regulations and prior to the effective date of such regulations, in which case the amendment made by section 2 of this Act shall be fully applicable to such creditor.

(b) SECTION 6.—The amendment made by section 6 of this Act shall take effect on July 1, 1987.

SEC. 8. REPORTS TO THE CONGRESS.

Not later than 1 year after the regulations prescribed under section 6 of this Act become effective and annually thereafter, the Board of Governors of the Federal Reserve System shall transmit to the Congress a report containing—

(1) an assessment by the Board of the profitability of credit card operations of depository institutions, including an analysis of any impact of the amendments made by this Act on such profitability;

(2) a description of the methods of balance calculation being used by card issuers in

connection with open end credit plans and particularly on any changes in the types of balance calculation methods being used by card issuers; and

(3) the impact of the amendments made by this Act on the availability of credit (including credit cards) to low income consumers.

Mr. DODD. Mr. President, I rise in support of H.R. 515, the Credit and Charge Card Cost Disclosure Act.

As Christmas approaches, people's thoughts turn to gift giving—and credit cards. Why do they turn to credit cards? Because credit cards are what we so often use to pay for our Christmas gifts. Therefore, it is appropriate that the Senate pass H.R. 515, legislation designed to reduce the cost of using credit cards, before we adjourn.

The rationale for this bill lies in the numbers. Today, more than 105 million Americans own over 800 million credit cards of all kinds. We have VISA and Mastercards from banks, we have "charge" cards such as American Express, and we have store cards and gasoline cards. These cards have made it easier for us to purchase goods and services, but often at a price we do not fully appreciate.

In 1981, the prime rate exceeded 20 percent and the rate on 30-year mortgages was more than 18.5 percent. At the same time, credit card interest rates stood at slightly less than 18 percent.

While high credit card interest rates were justifiable during the time of high interest rates, it is hard—if not impossible—to justify such rates today. Since 1981, almost every major interest rate indicator has declined by about 50 percent. However, the national average for credit card interest rates remains above the 1981 average. The result has been record profits.

Over the past 2 years, the Consumer Affairs Subcommittee, which I now chair, has tried to determine how credit card interest rates continue to defy gravity. How could a market with literally thousands of card issuers behave in such a noncompetitive fashion? While we did not find any definitive answers, the source of the problems seems to lie in the history of the industry and the nature of the transactions. In part, because of State usury ceilings, until recently, there had been very little variation in the costs of credit cards and so both card issuers and cardholders alike came to not expect any. Moreover, because the cost of rolling over payments from month to month is not large—1 month's interest on rolling over $1,000 at 18 percent is only $15—people tended not to pay attention to the costs of different cards.

The way credit cards are sold may also have a lot to do with the lack of competition. In 1987, consumers will receive over 2,400,000,000 solicitations for credit cards, mostly through the mail. All of them tout the positive features of the cards. Very few of them mention the costs, primarily the annual fee and the interest cost if you don't pay on time.

H.R. 515 is designed to get this basic cost information to consumers before they decide which card to get. It requires disclosure of the annual fee, the annual percentage rate, the grace or free period before interest is charged, and the name of the balance calculation method. It also requires card issuers to report this basic information to the Federal Reserve Board semiannually. I hope that consumers, armed with the basic cost information in solicitations and hopefully provided with comparative cost information by the newspapers from the Fed data, will start shopping around. If that happens, we may well witness the first shopping spree that ever resulted in lower costs to consumers.

Mr. President, if this legislation achieves its goal, then maybe consumers will experience less of a headache when they have to pay their Christmas bills next year.

Mr. KERRY. Will the distinguished Senator from Connecticut yield for a question?

In reviewing this legislation, I note that section 4 of the bill, which provides for the coordination of this legislation with other laws that exist in the various States, has been amended to allow States which are considering or have passed legislation relating to credit card disclosure to continue to enforce the provisions of those statutes provided they are reenacted within 2 years.

Mr. DODD. The Senator is correct.

Mr. KERRY. My understanding of the measure, as amended by the Senator from North Carolina, is that to be eligible for such "grandfathering" of State legislation, the State statute must simply have passed one house of the State's legislature in some form before December 2, 1987. Thus, the Massachusetts legislation, H. 5796, sponsored by the Honorable Larry Alexander of the Massachusetts House and passed by that body on June 23, 1987 is eligible for reenactment under the terms of this legislation, as I understand it.

Mr. DODD. The Senator from Massachusetts is absolutely correct.

Mr. KERRY. I thank the Senator from Connecticut, and I commend him for the leadership he has demonstrated in bringing this very important consumer protection legislation to the Senate for consideration today.

Mr. GARN. Today the Senate passed the "Credit and Charge Card Cost Disclosure Act." This bill will provide consumers with the key terms concerning credit and charge card programs with each application. This comparison of credit card terms should enhance competition among card issuers and by letting the marketplace work, reduce costs to consumers.

Notwithstanding my support for the disclosure provisions of this legislation, I remain concerned about several other sections of the bill. In particular, I remain opposed to those sections of the legislation which would impose new reporting requirements on card issuers and the Federal Reserve Board. I believe that sections 5 and 8, which require the Federal Reserve Board to develop and submit to Congress a series of new reports on credit card programs, and to publish a listing of data for all card issuers in the country, represents an unnecessary waste of Federal resources.

I also have reservations about section 6 of the bill, which requires creditors offering certain types of insurance in connection with credit card programs to satisfy notice and reenrollment requirements when they wish to change insurance carriers. The laws of many States already require that consumers be notified when policy terms are changed. In addition, the reenrollment requirements may discourage card issuers from changing insurance carriers even if the overall change would be beneficial for consumers. As a result, this section is opposed by many insurance industry representatives as well as by card issuers.

As we proceed to final enactment of this legislation, I believe that we should carefully review the need for these provisions, which are not contained in the House passed version of this bill.

Mr. EXON. Mr. President, I join in support of H.R. 515 as it has been reported out of committee. I have long believed that interest rates on credit cards have stayed artificially high and that fair competition will help bring those rates down to realistic levels.

I would like to add that the bill contains a provision that I have been working on for some time. Section 6 of the bill requires that purchasers of credit-card insurance receive advance notice of the bank's intention to change the company that is providing that insurance. It further requires that the purchasers of the insurance be reenrolled in the event that a change in the terms of coverage is made when the insurance company is changed. Reenrollment is, however, only required if the new coverage is not equivalent in cost, amount, terms, or conditions to the old coverage.

Credit-card insurance of this type can be simply explained as follows. It is usually sold for a small monthly fee to the cardholder. The card issuer sells the insurance, collects the premiums, and keeps a portion of those premiums. The insurance company provides the insurance and receives the remainder of the premiums. Should the cardholder die or become unemployed, the insurance company pays the outstanding balance on the card, usually directed to the lender.

This provision will help protect the interests of the credit-card insurance purchaser. The terms of the insurance to be sold to the cardholder are negotiated between the insurance company and the card issuer prior to being offered to their customers. The consumer does not sit at the table when those terms are negotiated. The consumer protects himself or herself by being knowledgeable about who is providing the insurance and about the terms of the insurance. Yet, insurance companies for this type of insurance have been changed by the card issuers with the consumer being notified after the fact. Consumers are entitled to know that their insurance is being changed prior to its actually being changed.

This provision also promotes fair competition. Card issuers will be required to reenroll customers only if changes not in the cardholder's benefit are made in the terms of the insurance. If the insurance company and card issuer, in effect, negotiate the cardholder's terms, then the cardholder must be brought back to the table through reenrollment. Banks and insurance companies can openly and fairly compete for business but cannot do so by shortchanging the consumer.

This provision was changed in several respects to accommodate the concerns of card issuers. They would, of course, prefer that there be no protection for the cardholder and that they be trusted to do what was best. But, it will be a simple and inexpensive task to notify cardholders of a change in insurance carriers. This provision strikes a careful balance between the legitimate concern of the card issuers and the protection through disclosure that cardholders should be provided.

Mr. GRAMM. Mr. President, as we consider this legislation today I would like to commend the Senator from Connecticut [Mr. DODD] for the consideration that he has given to all the various parties concerned with this legislation. I appreciate his willingness to modify the provisions of the bill where necessary. This bill has gone forward in a spirit of cooperation, and that spirit is continuing in the debate on this bill today in the Senate.

We are covering new ground with this legislation, so there are bound to remain bugs that need to be worked out as we go forward. I am concerned particularly that some more work needs to be done at the very least to refine the provisions of section 6 of the bill. As the language now stands I fear that it could impose unnecessary and burdensome notice requirements when a card issuer changes insurance carriers. It is not clear that the provision would provide any meaningful benefits to consumers. It would substantially increase the costs of making any such changes in insurance. That would tend to discourage innovation in these kinds of insurance products, innovation that could be beneficial to consumers. I always have a great deal of difficulty with anything that stifles innovation in the marketplace.

Section 6 of the bill, as currently drafted, could also discourage card issuers from changing carriers, since such a change could trigger the notification requirements of the bill. The bill could thereby have the unintended consequence of restricting competition among insurance companies offering insurance in connection with credit-card accounts. Credit-card issuers may then become, in effect, locked-in to their current insurance carriers, even when the carrier may not be offered competitive products. For these reasons, I understand, section 6, in its current form, is opposed by many insurance carriers and credit-card issuers alike.

I am also concerned about the requirement under the provisions of section 6 for positive action in order to maintain insurance coverage. I am worried that this requirement could lead to situations where credit-card issuers believe that they are covered by an insurer when in fact they are not because of their failure to indicate their intention to continue the altered policy.

I would like to make it clear that I am sympathetic to the goals of the legislation. I believe that taking care of these problems that I have cited would make this a better bill. I am not, however, offering an amendment to delete or modify section 6 today. I am hopeful that in the next few weeks improved language can be worked out and made a part of the bill in conference. I understand that the Senator from Connecticut has indicated a willingness to work out this problem and develop appropriate language. That would be in keeping with the spirit that Senator DODD has shown throughout the consideration of this bill, so I have every confidence that this will continue.

Having said that, I support adoption of the bill at this time and sending it to conference with the House.

THE CREDIT CARD AND CHARGE CARD DISCLOSURE ACT

Mr. KARNES. Mr. President, I wish to join my colleagues on the Banking Committee in urging swift passage of H.R. 515, the Credit and Charge Card Disclosure Act.

H.R. 515 promotes the timely disclosure to consumers of relevant interest rate and other cost information of credit cards. Consumers today receive numerous solicitations for credit cards but do not always receive basic cost information to evaluate card programs. The bill helps solve that problem and will enable consumers to do some comparison shopping among alternative credit card programs. As the Banking Committee's report suggests, additional information results in better informed consumers and a more efficient and competitive marketplace. People should know all the details up front before deciding to sign up for a card.

During the Banking Committee's markup of the legislation, I offered an amendment to section 6 of the bill regarding insurance sold in connection with credit card programs. This amendment was agreed to without objection by the committee. Such insurance provides, for example, life, disability, and involuntary unemployment coverages on outstanding credit card balances. My amendment requires that whenever a card issuer that offers such insurance proposes to change the insurance company providing the coverage, the card issuer must notify each insured cardholder and the appropriate insurance commissioner of the change. The notice must be in writing and given not less than 30 days prior to the change.

In the case of adverse changes, that is, when the new insurance coverage is not at least equivalent in cost, amount, terms, and conditions as the current insurance, the card issuer must obtain written approval from the cardholder which affirmatively states the cardholder's election to continue with the new coverage. As the committee's report indicates, this reenrollment requirement would be applicable whenever the new coverage would be more costly to the cardholder or when a significant term has been changed to the detriment of the consumer. For example, changes in the waiting period before benefits commence may be significant depending on the time changes made in such period or on the overall impact of such a change on insured cardholders as a group.

The amendment also provides that if an appropriate State requires notification and reenrollment, the card issuer shall comply with that requirement instead of the requirements of this bill. The appropriate State is the one in which the card issuer has its principal place of business. The only exception would occur where a majority of cardholders resided in another State, wherein, the issuer would comply with the requirements of that State.

My amendment was designed to protect the interests of cardholders by assuring that they are made fully aware of changes in insurers or changes made in insurance plans. Currently, many consumers merely receive notice of such changes after the fact. Through increased disclosure and more effective notice and other procedures, the provision preserves consumer rights and promotes equitable competition without imposing undue burdens on card issuers.

H.R. 515 protects credit card customers from surprise or abrupt changes in the status of their cards. This legislation is a bill based on sound principles of consumers' rights, and it promotes the best defense against customer problems: an informed consumer.

I urge immediate passage of this bill, and I yield the floor.

The PRESIDING OFFICER. Are there amendments? If there be no amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 515), as amended, was passed.

H.R. 515

Resolved, That the bill from the House of Representatives (H.R. 515) entitled "An Act to provide for more detailed and uniform disclosure by credit and charge card issuers with respect to information relating to interest rates and other fees which may be incurred by consumers through the use of any credit or charge card", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Credit and Charge Card Cost Disclosure Act".

SEC. 2. CREDIT CARD AND CHARGE CARD COST DISCLOSURE REQUIREMENTS.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end thereof the following new subsections:

"(c) DISCLOSURE IN CONNECTION WITH CREDIT CARD AND CHARGE CARD APPLICATIONS AND SOLICITATIONS.—

"(1) DIRECT SOLICITATION.—

"(A) MAILED MATERIALS.—An application to open a credit card account for any person under an open end consumer credit plan, or a solicitation to open such an account without requiring an application, that is mailed to consumers shall disclose clearly and conspicuously the following information, to the extent applicable:

"(i)(I) The annual percentage rate or rates applicable to extensions of credit under such credit plan.

"(II) Where an extension of credit is subject to a variable rate, the fact that the rate is variable, the annual percentage rate in effect at the time of the mailing, and how the rate is determined.

"(III) Where more than one rate applies, the range of balances to which each rate applies.

"(ii) Any annual fee, other periodic fee, or membership fee imposed for the issuance or availability of a credit card and any transaction charge imposed in connection with use of the card to purchase goods or services.

"(iii) The date by which or the period within which any credit extended under such credit plan for the purchase of goods or services must be repaid to avoid incurring a finance charge, and, if no such period is offered, such fact shall be clearly stated.

"(iv) The name of the balance calculation method used in determining the balance on which the finance charge is computed if the method used has been defined by the Board, or a detailed explanation of the balance calculation method used if the method has not been so defined. In promulgating regulations under this clause, the Board shall define and name no more than the 5 balance calculation methods determined by the Board to be the most commonly used methods.

"(B) TELEPHONE SOLICITATIONS.—In a telephone solicitation to open a credit card account, the person making the solicitation shall orally disclose the information referred to in subparagraph (A). The preceding sentence does not apply if—

"(i)(I) the card issuer does not impose a fee described in subsection (c)(1)(A)(ii), or

"(II) in connection with telephone solicitations, the card issuer does not impose such a fee unless the consumer signifies acceptance by using the card;

"(ii) the card issuer discloses clearly and conspicuously the information referred to in subsection (c)(1)(A) within 30 days after the consumer requests the card, but in no event later than with delivery of the card; and

"(iii) the card issuer discloses clearly and conspicuously that the consumer is not obligated to accept the card or account and the consumer will not be obligated to pay any of the fees or charges disclosed unless the consumer elects to accept the card or account by using the card.

"(2) OTHER MATERIALS.—

"(A) IN GENERAL.—An application to open a credit card account for any person under an open end consumer credit plan, or a solicitation to open such an account without requiring an application, that is made available to the public or contained in catalogs, magazines, or other publications, shall either contain the disclosures required by paragraph (1)(A), or disclose clearly and conspicuously that—

"(i) there are costs associated with the use of credit cards; and

"(ii) the applicant may contact the creditor to request disclosure of the information described in paragraph (1)(A) by calling a toll free number or by writing to an address, specified in the application.

Upon receipt of a request for any of the information described in paragraph (1)(A), the card issuer or its agent shall disclose all of the information described in paragraph (1)(A).

"(B) EFFECT OF PARTIAL DISCLOSURE.—Where an application or solicitation described in subparagraph (A) discloses any one or more of the items described in paragraph (1)(A), it shall disclose all such items in accordance with paragraph (1)(A).

"(C) DATING MATERIALS.—An application or solicitation that is subject to this paragraph and that discloses the items described in paragraph (1)(A) shall disclose such items clearly and conspicuously and in a manner that is accurate on the date of printing, and shall disclose clearly and conspicuously the date that the information is accurate and that the information disclosed is subject to change.

"(3) CHARGE CARD APPLICATIONS AND SOLICITATIONS.—

"(A) IN GENERAL.—Any application or solicitation for a charge card shall disclose clearly and conspicuously the following information, to the extent applicable:

"(i) Any annual fee, other periodic fee, or membership fee imposed for the issuance or availability of a charge card and any transaction charge imposed in connection with use of the card to purchase goods or services.

"(ii) A statement that charges incurred by use of the charge card are due and payable upon receipt of a periodic statement rendered for such charge card account.

"(B) ISSUERS OF CHARGE CARDS WHICH PROVIDE ACCESS TO OPEN END CONSUMER CREDIT PLANS.—If a charge card permits the card holder to receive an extension of credit under an open end consumer credit plan, which is not maintained by the charge card issuer, the charge card issuer may provide the information described in subparagraph (A) in lieu of the information required to be provided under paragraph (1) or (2) with respect to any credit extended under such plan, if the charge card issuer discloses clearly and conspicuously to the consumer in the application or solicitation that—

"(i) the charge card issuer will make an independent decision as to whether to issue the card,

"(ii) the charge card may arrive before the decision is made with respect to an extension of credit under an open end consumer credit plan, and

"(iii) approval by the charge card issuer does not constitute approval by the issuer of the extension of credit.

The information required to be disclosed under paragraph (1)(A) shall be provided to the charge card holder by the creditor which maintains such open end consumer credit plan before the first extension of credit under such plan.

"(C) CHARGE CARD DEFINED.—For the purposes of this subsection, the term 'charge card' means a card, plate, or other single credit device that may be used from time to time to obtain credit which is not subject to a finance charge.

"(d) DISCLOSURE PRIOR TO RENEWAL.—

"(1) IN GENERAL.—A card issuer that imposes any fee described in subsection (c)(1)(A)(ii) shall transmit to a consumer at least 30 days prior to the scheduled renewal date of the consumer's credit or charge card account a clear and conspicuous disclosure of—

"(A) the date by which, the month by which, or the billing period at the close of which, the account will expire if not renewed,

"(B) the information described in subsection (c)(1)(A) that would apply if the account were renewed, and

"(C) the method by which the consumer may terminate continued credit availability under the account.

"(2) TIME FOR DISCLOSURES.—The disclosures required by this subsection may be provided prior to posting the fee to the account, or if the consumer is given a 30-day period to avoid payment of the fee or to have the fee recredited to the account in any case where the consumer does not wish to continue the availability of the credit, with the periodic billing statement first disclosing that the fee has been posted to the account.

"(3) SHORT-TERM RENEWALS.—The Board may by regulation provide for fewer disclosures than are required by paragraph (1) in

the case of an account which is renewable for a period of less than 6 months.".

SEC. 3. CIVIL LIABILITY.

Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640) is amended—

(1) by striking out "in section 127" in the third sentence and inserting in lieu thereof "in subsections (a) and (b) of section 127"; and

(2) by inserting after the third sentence the following: "In connection with the disclosures referred to in section 127(c) or section 127(d), a card issuer shall have a liability under this section only to a cardholder who pays a fee described in section 127(c)(1)(A)(ii) or who uses the credit card.".

SEC. 4. COORDINATION WITH OTHER LAWS.

Section 111 of the Truth in Lending Act (15 U.S.C. 1610) is amended—

(1) in subsection (a)(1), by striking out "Chapters 1, 2, and 3" and inserting in lieu thereof "Except as provided in subsection (e), chapters 1, 2, and 3"; and

(2) by adding at the end thereof the following new subsection:

"(e) Certain Credit Card Application Disclosure Provisions.—The provisions of sections 127(c) and 127(d) shall supersede any provision of the law of any State relating to the disclosure of information in any credit card or charge card application or solicitation which is subject to the requirements of section 127(c) or any renewal notice under section 127(d), except that—

"(1) nothing in this subsection affects any State law enacted or used to enforce the requirements of section 127(c) or section 127(d), and

"(2) any item of information with respect to credit or charge card solicitations, applications, and renewals that—

"(A) is or would be required to be disclosed by a State law which was in effect, or by a bill which one house of a State legislature had passed, as of December 2, 1987, and

"(B) is in addition to the disclosures required by sections 127(c) and 127(d),

shall be required to be disclosed on and after the date on which such State adopts a law reenacting such earlier State law, or on which such bill becomes law. Such date shall be after December 2, 1987, but not later than December 2, 1989.".

SEC. 5. REPORTING TO THE BOARD OF GOVERNORS.

Section 136 of the Truth in Lending Act (15 U.S.C. 1646) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection:

"(b) The issuer of any credit card shall submit semiannually to the Board the information required to be disclosed by section 127(c). The Board shall make such information available to the public upon request, and shall report such information annually to Congress."; and

(3) by striking out "subsection (a)" in subsection (c), as redesignated, and inserting in lieu thereof "subsections (a) and (b)".

SEC. 6. INSURANCE PROVIDED IN CONNECTION WITH CERTAIN OPEN END CREDIT CARD PLANS.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end thereof the following:

"(e) Insurance in Connection With Certain Open End Credit Card Plans.—

"(1) Change in insurance coverage.—(A) Whenever a card issuer that offers any guarantee or insurance for repayment of all or part of the outstanding balance of an open end credit card plan proposes to change the person providing that guarantee or insurance, the card issuer shall send each insured consumer written notice of the proposed change not less than 30 days prior to the change.

"(B) Whenever a card issuer proposes to make a change described in subparagraph (A), the card issuer shall send to the insurance commissioner of the appropriate State written notice of the proposed change not less than 30 days prior to such change.

"(2) Special rule for adverse changes.—In any case where a proposed change described in paragraph (1) will result in new guarantee or insurance coverage which is not at least equivalent in cost, amount, terms, and conditions as the current guarantee or insurance, the cardholder may continue the guarantee or insurance only if the cardholder affirmatively files a written election to continue to purchase such guarantee or insurance.

"(3) State notification requirement.—If the law of the appropriate State requires notification and reenrollment of the consumer, the card issuer shall comply with such State notification and reenrollment requirement rather than the requirements under paragraphs (1) and (2).

"(4) 'Appropriate state' defined.—For purposes of this subsection, the 'appropriate State' is the State in which the card issuer has its principal place of business, except that where a majority of the cardholders under a card issuer's open end credit plan resides in a State other than the State where the card issuer has its principal place of business, the appropriate State is that other State.".

SEC. 7. EFFECTIVE DATE.

(a) Section 2 Regulations.—Regulations required to be prescribed by the Board under the amendment made by section 2 of this Act shall—

(1) take effect not later than the end of the 120-day period beginning on the date of enactment of this Act; and

(2) apply only with respect to applications, solicitations, and other material distributed after the end of the 120-day period beginning after the end of the period referred to in paragraph (1).

Any creditor may, at its option, comply with the amendment made by section 2 of this Act after the publication of final regulations and prior to the effective date of such regulations, in which case the amendment made by section 2 of this Act shall be fully applicable to such creditor.

(b) Section 6.—The amendment made by section 6 of this Act shall take effect on July 1, 1988.

SEC. 8. REPORTS TO THE CONGRESS.

Not later than 1 year after the regulations prescribed under section 6 of this Act become effective and annually thereafter, the Board of Governors of the Federal Reserve System shall transmit to the Congress a report containing—

(1) an assessment by the Board of the profitability of credit card operations of depository institutions, including an analysis of any impact of the amendments made by this Act on such profitability;

(2) a description of the methods of balance calculation being used by card issuers in connection with open end credit plans and particularly on any changes in the types of balance calculation methods being used by card issuers; and

(3) the impact of the amendments made by this Act on the availability of credit (including credit cards) to low income consumers.

Mr. BYRD. Mr. President, I move to reconsider the vote for which the bill was passed.

Mr. ARMSTRONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GAS ROYALTY ACT

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3479.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the text of the bill (H.R. 3479) entitled "An Act to provide for adjustments of royalty payments under certain Federal onshore and Indian oil and gas leases, and for other purposes", with the following amendment:

In lieu of the matter inserted by the amendment of the Senate to the text of the bill, insert:

(a) That this Act may be referred to as the "Notice to Lessees No. 5 Gas Royalty Act of 1987".

(b) Findings.—The Congress finds that—

(1) effective on June 1, 1977, in Notice to Lessees and Operators of Federal and Indian Onshore Oil and Gas Leases Numbered 5 (NTL-5) (42 Fed. Reg. 22,610), the Secretary of the Interior established the method of calculating the amount of royalties to be paid to the United States on natural gas production from Federal and Indian oil and gas leases.

(2) NTL-5 was a duly promulgated rule of the Department of the Interior within the meaning of the Administrative Procedure Act;

(3) under the NTL-5 method of calculation, the base value for royalty purposes of certain gas production was the greater of the price received under the gas sales contract or the highest applicable ceiling rate then established by the Federal Power Commission. The applicable ceiling rate was subsequently interpreted to be the maximum lawful price established under the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 et seq.);

(4) although between 1982 and 1986 gas prices in many areas declined below the maximum lawful prices established under the Natural Gas Policy Act of 1978, the continued application of NTL-5 required some royalties to be paid on the basis of a ceiling rate higher than the market value for the gas;

(5) effective August 1, 1986, the Secretary of the Interior modified the method of calculating certain future Federal and Indian gas royalty payments. This modification, published in the Federal Register on July 25, 1986 (51 Fed. Reg. 26,759) was a duly promulgated regulation of the Department of the Interior. The modification left the original provisions of NTL-5 in effect for gas sales prior to August 1, 1986, since the Secretary found that retroactive modification of NTL-5 would have resulted in inconsistent royalty enforcement and would have undermined the policy of strict compliance with lawful Federal royalty valuation rules and the need to ensure that Federal lessees and other payors rely upon rules until such

time as the rules are lawfully changed (51 Fed. Reg. 26,759);

(6) in January 1987, the Department of the Interior proposed to reconsider its position and proposed to modify NTL-5 retroactively;

(7) there is a trust responsibility of the United States for the administration of Indian oil and gas resources as reaffirmed in sections 2 (a)(4) and (b)(4) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 (a)(4) and (b)(4)); and

(8) the failure to adjust the method of calculating royalty payments resulting from changes in the gas market created various problems in valuation, produced inequitable situations for many lessees and payors whose gas market price was well below the NGPA ceiling prices, and created uncertainty associated with the collection of royalty revenues. Uniform application of NGPA ceiling prices was inequitable given market conditions during this period. For these reasons, it is necessary and appropriate for the Congress to provide for certain adjustments through legislation.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(a) Secretary.—The term "Secretary" means the Secretary of the Interior or his designee.

(b) NTL-5.—The term "NTL-5" means the Notice to Lessees and Operators of Federal and Indian Onshore Oil and Gas Leases published May 4, 1977 (42 Fed. Reg. 22,610).

(c) Other Terms.—All other terms carry the same meanings as provided in section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. Sec. 1702).

SEC. 3. VALUATION FOR ROYALTY PURPOSES OF CERTAIN GAS PRODUCTION FROM FEDERAL AND INDIAN LANDS.

(a) Applicability.—The provisions of this section shall be used in determining the value for royalty purposes of any gas production from Federal onshore or Indian oil and gas leases during the period from January 1, 1982, through July 31, 1986, which is within the coverage of section I.A.2, section II.A.2 or section VI of NTL-5.

(b) Royalty Calculation for Certain Federal Onshore and Indian Oil and Gas Leases.—If the gas referred to in subsection (a) of this section was produced from a Federal onshore or Indian lease, the value of production, for the purpose of computing royalty, shall be the reasonable value of the product as determined consistent with the lease terms and the regulations codified at part 206 of title 30, Code of Federal Regulations, in effect at the time of production. In establishing the reasonable value, due consideration shall be given to the highest price paid for a part or for a majority of production of like quality in the same field, to the price received by the lessee, to posted prices, and to other relevant matters. Under no circumstances shall the value of production of any of said substances for the purposes of computing royalty be deemed to be less than the gross proceeds accruing to the lessee from the sale thereof or less than the value computed on such reasonable unit value as shall have been determined by the Secretary. In the absence of good reason to the contrary, value computed on the basis of the highest price per thousand cubic feet or gallon paid or offered at the time of production in a fair and open market for the major portion of like-quality gas, or other products produced and sold from the field or area where the leased lands are situated will be considered to be a reasonable value. In addition, if the gas was produced from an Indian lease, the reasonable value shall be determined consistent with the Secretary's trust responsibility, the lease terms, and the regulations codified at section 211.13 or section 212.16 of title 25, Code of Federal Regulations, as applicable, in effect at the time of production.

(c) Written Documentation.—In order for the Secretary to make royalty value determinations under this section, there must be written documentation which (1) has been determined to be adequate by the Secretary, (2) was in existence at or near the time of sale, (3) shows the actual price received, and (4) may include, but is not limited to, a gas sales contract, purchase statement, receipt, minerals management service, oil and gas records, or other written documentation.

(d) Exception.—This section shall not apply to any gas for which, in the Secretary's judgment, the lessee or royalty payor received less than the highest applicable price under the Natural Gas Policy Act due to a failure by the lessee or payor to collect amounts which the purchaser would have been required to pay under a gas sales contract providing for that price and not as a result of market conditions or considerations.

SEC. 4. PROCEDURES.

(a) Case-by-Case Audit for Certain Federal Onshore Oil and Gas Leases.—The Secretary shall publish in the Federal Register and send to each lessee or royalty payor of record for any Federal onshore oil and gas lease a notice of enactment of this Act informing such lessees and royalty payors of the provisions of this Act. Such notice shall include a description of the process whereby underpayments, if any, by lessees will be sought and the terms and conditions to lessees for obtaining refunds, if any, based on royalty calculations under this Act. Any lessee that has reason to believe that it is entitled to a refund under this Act shall provide written notice to the Secretary in a form prescribed by the Secretary specifying the Federal onshore oil and gas lease or leases involved. The Secretary, and any State in accordance with delegations of authority under section 205 or cooperative agreements under section 202 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C 1732, 1735), shall conduct a case-by-case audit of royalties for such leases and any other Federal onshore lease which is examined under existing law to determine the amount of royalties due and payable under this Act and other applicable law and the amount of any refund due a lessee. In addition to those leases for which the lessee has provided written notice to the Secretary pursuant to this subsection, priority shall be given to auditing those leases for which there is the greatest likelihood of underpayment of royalties.

(b) Case-by-Case Audit on Indian Leases.—The Secretary shall publish in the Federal Register and send to each lessee or royalty payor of record for any Indian oil and gas lease a notice of enactment of this Act informing such lessees and royalty payors of the provisions of this Act. Such notice shall include a description of the process whereby underpayments, if any, by lessees will be sought and the terms and conditions for lessees to obtain refunds, if any, based on royalty calculations under this Act. Any lessee that has reason to believe that it is entitled to a refund under this Act shall provide written notice to the Secretary in a form prescribed by the Secretary specifying the Indian oil and gas lease or leases involved. The Secretary, and any Tribe in accordance with cooperative agreements under section 202 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1732), shall conduct a case-by-case audit of royalties for such leases and other Indian oil and gas leases on which gas was produced at any time during the period from January 1, 1982, through July 31, 1986, which is within the coverage of section I.A.2, section II.A.2, or section VI of NTL-5 to determine the amount of royalties due and payable under this Act and other applicable law and the amount of any refund due a lessee. In addition to those leases for which the lessee has provided written notice to the Secretary pursuant to this subsection, priority shall be given to auditing those leases for which there is the greatest likelihood of underpayment of royalties.

(c) The Secretary shall demand payment of any underpayment which is determined to be owed to the Federal or Indian lessor as a result of the case-by-case review required in this section.

(d) MMS Notice.—The Secretary shall provide a notice under this section to each lessee under a Federal onshore or Indian oil and gas lease on which an audit was performed in accordance with this section. The notice shall contain each of the following:

(1) A statement of the amount of the royalty payments made in accordance with the provisions of NTL-5.

(2) A statement of additional royalty payment, if any, to be made by a lessee or the amount of refund, if any, to which the lessee is entitled under this Act and a description of the means by which such refund will be provided.

(e) Report to Indian Tribes.—The Secretary shall provide a report to each Indian Tribe holding an Indian oil and gas lease on which gas was produced at any time during the period from January 1, 1982, through July 31, 1986, which is within the coverage of section I.A. 2, section II.A.2, or section VI of NTL-5. The report to each Tribe shall contain information for each such lease held by the tribe stating the difference between royalties computed in accordance with NTL-5 and royalties computed in accordance with subsection 3(b) of this Act.

SEC. 5. REFUND OF ROYALTIES PREVIOUSLY PAID.

(a) Refund for Federal Onshore Oil and Gas Leases.—

(1) If the Secretary or a court of competent jurisdiction determines that a lessee or royalty payor on a Federal onshore lease has paid, prior to October 1, 1987, more than the value determined under subsection 3(b) of this Act for any gas within the coverage of subsection 3(a) of this Act, the Secretary shall refund the Federal share of such overpayment from moneys received under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 191), which would otherwise be deposited to miscellaneous receipts in the Treasury, in accordance with procedures established by the Secretary.

(2) The portion of any excess amount, as determined under paragraph (1) previously paid to a State under applicable law from royalties paid under a Federal onshore oil and gas lease or group of leases subject to a unit agreement shall be recouped from the next subsequent disbursements to that State. If the total amount of such recoupments for any month exceeds ten percentum of the total disbursement to that State for that month from mineral lease revenues, the Secretary shall recoup amounts in

excess of that level from disbursements to the State in the next month subject to the same limitation. The Secretary shall pay any difference between the amounts required to be paid to a State as a result of this paragraph and the amounts available to be paid to the State from current royalty revenues from moneys received under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 191), which would otherwise be deposited to miscellaneous receipts.

(b) REFUND FOR INDIAN LEASES.—If the Secretary or a court of competent jurisdiction determines that a lessee or royalty payor has paid, prior to October 1, 1987, more than the value determined under subsection 3(b) of this Act for any gas within the coverage of subsection 3(a) of this Act and produced from an Indian lease, the Secretary shall refund the amount paid in excess of the value determined under subsection 3(b) from monies received under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. Sec. 191) which would otherwise be deposited to miscellaneous receipts in the Treasury. The Secretary shall not recoup any portion of any such refund from the Indian lessor.

(c) The total amount of refunds made under this section shall not exceed two million dollars ($2,000,000).

SEC. 6. RECORD KEEPING REQUIREMENTS.

Notwithstanding the requirements of section 103 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. Sec. 1713), and any regulations promulgated pursuant thereto, lessees and other payors are required to maintain records related to the value of gas production to which this Act applies for the period January 1, 1982 through July 31, 1986, until the Secretary gives notice that maintenance of such records no longer is required.

SEC. 7. SAVINGS PROVISION.

Nothing in this Act shall be construed to affect the right of any Indian, Indian Tribe, or lessee to bring any action in a court of competent jurisdiction.

Resolved, That the House disagree to the amendment of the Senate to the title.

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

Mr. MELCHER. Mr. President, I rise in strong support of H.R. 3479 which is intended to provide clarification regarding the royalty payments owed under Federal onshore and Indian oil and gas leases for certain gas production. I am pleased that agreement has been reached with the House of Representatives on legislation that will resolve the inequities which have resulted from the uniform application of NTL-5 to determine value for Federal onshore and Indian oil and gas leases during the period from January 1, 1982 to July 31, 1986. I note that enactment of this legislation will supersede language in the continuing resolution for fiscal year 1988 which precludes the Department of the Interior from implementing a modification to NTL-5 until such time as legislation is enacted addressing the issue.

As the sponsor of S. 1814, the Senate version of the NTL-5 Gas Royalty Act of 1987, I would like to clarify the effect of one provision of the measure we are approving today. The legislation provides, as do the regulations in title 30, Code of Federal Regulations, that absent good reason to the contrary, the highest paid for a major portion of the production from a field or area is a reasonable value. It is my understanding that during the period covered by this act, gas prices were falling and many sellers were forced to accept lower prices, often the result of so-called market-out clauses. Am I correct that this market circumstances is "good reason to the contrary" such that under this legislation, MMS could, and in most cases should, accept as royalty value contract prices which were dictated by the market and which would be lower than the highest price paid for a major portion of production?

Mr. JOHNSTON. That is my understanding.

Mr. McCLURE. I would also answer that question affirmatively.

Mr. MELCHER. I note that the legislation restates provisions contained in part 206 of title 30 with minor modification. The legislation eliminates the word "estimated" from the phrase "estimated reasonable value." In my view, this change is insignificant and does nothing to change the standards under those regulations. Is this correct?

Mr. McCLURE. That is correct.

Mr. JOHNSTON. I agree.

Mr. MELCHER. So it is correct that the legislation does not create any new standard departing from that imposed under those regulations?

Mr. JOHNSTON. That is correct.

Mr. McCLURE. That is my understanding as well.

Mr. NICKLES. As an original cosponsor of the Senate version of the NTL-5 Gas Royalty Act of 1987, S. 1814, I would like to ask the chairman of the Committee on Energy and Natural Resources to discuss the reasons for accepting the language in section 7 of H.R. 3479. This provision was not included in S. 1814.

Mr. JOHNSTON. I am pleased to respond to the Senator from Oklahoma. The Senate rejected section 8, the so-called savings clause, contained in the original House bill because it was overly broad and ambiguous. In rejecting section 8, the Senate emphasized its purpose in enacting this legislation, which is to eliminate the uniform application of the highest applicable price under the Natural Gas Policy Act of 1978 as the basis for determining the value of certain gas production for royalty purposes during the period January 1, 1982 through July 31, 1986. Given market conditions during that period, uniform application was simply unreasonable and would have created inequitable situations for lessees. I believe that the new section 7 savings provision does not in any way imply that use of the NGPA ceiling prices was reasonable during the January 1, 1982 through July 31, 1986 period, nor does the provision enhance the likelihood of success in litigation to recover such amounts.

Mr. McCLURE. I agree. Indeed, given this legislation, it would in all likelihood be difficult for Indian lessors to prevail in a case brought to recover royalties based on the NGPA ceiling prices from the lessees as noted in the report of the Committee on Energy and Natural Resources. NTL-5, while not unreasonable when contract prices were identical to the highest applicable prices under the Natural Gas Policy Act, proved to be unreasonable and unfair as soon as market prices started dropping below those NGPA price ceilings. The purpose of this legislation is to ensure that lessees of Federal onshore and Indian oil and gas leases pay royalties based on the reasonable value of the product as currently provided for by 30 CFR part 206, including section 206.103, and as would be calculated under those regulations in the absence of NTL-5. These lessees should not be required to pay royalties based on NGPA prices for the period covered by the bill unless those prices would be the reasonable values calculated under those regulations. The committee preferred not to include any savings clause, and the bill as the Senate originally passed it contained none. Neither the committee nor the full Senate would agree to a savings clause with the meaning of the one contained in the House bill as explained in the House Committee report, inasmuch as such a clause would be counterproductive to the purposes of the legislation and create serious ambiguity. The saving clause which has been agreed to merely states that this legislation is not meant to affect the right of any Indian or Indian tribe, or any Federal or Indian lessee, to bring any action in a court of competent jurisdiction.

Mr. JOHNSTON. I concur with the views of Senator McCLURE.

Mr. WIRTH. I certainly agree with the distinguished chairman and ranking member of the Energy and Natural Resources Committee concerning the importance of rejecting the ambiguous language in section 8 of the original House bill. However, I urge the Senate to accept section 7 in this most recent version of H.R. 3479. I believe that section 7 is needed to make certain that the passage of this legislation will not affect any ongoing or future litigation by Indian lessors with respect to their basic royalty rights pursuant to underlying Department of the Interior regulations in 25 and 30 CFR. We must make certain that the rejection by the Senate of the section 8 savings clause in the original House-passed bill is not construed to imply that the Congress intends to affect litigation by the Indian tribes under part 206 of title 30 and sections 211.13 and 212.16 of title 25 of the Code of Federal Regulations.

Mr. McCLURE. I have no disagreement with the Senator's remarks.

Mr. NICKLES. I thank my colleagues for this clarification. With that understanding of the limited nature of this new savings clause, I will not oppose inclusion of section 7.

Mr. McCLURE. I want to make it absolutely clear that this statute does absolutely nothing to change or alter in any manner the process currently used by the Secretary to determine, or estimate if you prefer, reasonable value. The language in section 3(b) is clear and unambiguous and states that the value shall be determined consistent with the lease terms and the regulations covered under part 206 of title 30 of the Code of Federal Regulations. The language does not, and I want to emphasize this, does not say "except for 206.103." There may be those who would prefer to ignore particular regulations or pretend they do not exist, but the statute is clear. If we had intended to avoid 206.103, we would have said so. We did not and any suggestion to the contrary is just so much wishful thinking.

I should also note that section 3 of the bill in fact states much of 206.103 with the technical deletion of the word "estimated." There may be those who would seek to read some extraordinary significance into the deletion, but let me assure everyone that the deletion makes not one iota of difference. The reason is that the Director continues to make the determination. His determination, and his alone, is in fact his estimate. The reasonable value which he calculates is still the estimated reasonable value. I'm afraid English is still English—however much others would prefer it not to be—and the language and intent of the act is clear and unambiguous.

Mr. JOHNSTON. I agree wholeheartedly with the banking member's remarks. The language of section 3(b) of the legislation specifically references the regulations at part 206 of title 30, indicating that reasonable value is intended to be determined under the standards set forth in those regulations, including 30 CFR 206.103. The omission of the word "estimated" is insignificant and does nothing to change the standard. Implying that there is a new standard as a result of this omission is drawing a distinction without a difference.

Furthermore, the bill does nothing to "tighten" the language of 30 CFR 206.103 referring to methods of valuation. Simply stated, the legislation makes one insignificant change from the language in the regulation by omitting the word "estimated" and changes one verb tense in the regulatory language. Our clear intent, as is evidenced by the plain language of the legislation, is that no valuation standard different from that in 30 CFR 206.103 is created by the legislation.

Mr. NICKLES. Mr. President, I support the changes made by the House to the Senate passed version of H.R. 3479. I am an original cosponsor of S. 1814, the NTL-5 Gas Royalty Act of 1987, sponsored by the distinguished chairman of the Subcommittee on Mineral Resources Development and Production, Senator MELCHER. I have been a strong advocate of the need for this legislation, and am pleased that we are on the verge of seeing it enacted.

This legislation will accomplish two very important goals for gas producers on Federal onshore and Indian oil and gas leases; certainly and fairness. Lessees will finally know that the Department of the Interior, the States and the Indians and Indian tribes will not be taking enforcement actions against the lessees pursuant to the Department's ill-advised Notice to Lessees-5 which was originally published in 1977. There has been uncertainty about the legal force of NTL-5 since the Department started notifying lessees that the Department was not going to enforce the valuation methodology prescribed by that notice. NTL-5 called for lessees to pay royalties based on Natural Gas Policy Act natural gas ceiling prices, which by 1982 became no longer relevant measures of what lessees were actually receiving for their gas. This legislation will remove that uncertainty.

This measure also meets my goal of achieving fairness in reaching a solution to the problems caused by NTL-5. The Department is to faulted for selecting a short-hand method of determining natural gas value. The NGPA ceiling prices were imposed as part of an ill-advised price regulation scheme that did not even pretend to bear any relation to the economic value of the gas. No reasonable person could argue that a law that contained over 26 different price categories for the same commodity—natural gas—could possibly be an appropriate measure of the value of that commodity. Obviously, the prices received by lessees for their natural gas were the same as the NGPA ceiling prices so long as there was a tight market for natural gas. This tight market, I might add, was the result of congressional insistence in placing ceiling prices on interstate—and under the NGPA, intrastate—natural gas.

However, when the supply of natural gas began to match the demand in 1982, consumers were no longer willing to pay the NGPA ceiling price for the highest of those 26 or so categories of natural gas. Thus, beginning in 1982, the lessees producing high ceiling price natural gas not only began receiving lower prices for their gas—causing financial hardship in trying to pay off their drilling loans—but also were slapped with a massive de facto Federal royalty increase. This non-legislated royalty increase occurred because the NTL-5 guidelines told auditors to charge the NGPA ceiling price even if the lessees were actually receiving only a fraction of that amount for their gas.

This legislation will end this unfairness by declaring the NTL-5 directive to use the NGPA ceiling price to be unenforceable by the Federal Government, the States and the Indians and Indian tribes during the period January 1, 1982, through July 31, 1986.

I am also pleased that this legislation solves this NTL-5's unfairness to lessees in a manner that does not impose a hardship on the States or the Indian tribes. NTL-5 was a Federal mistake, and we are not asking the States or Indian tribes to pay for that mistake. This bill provides that the Federal Government will reimburse the States and Indians and Indian tribes for any refunds that they will have to make to lessees who actually made royalty payments above what they otherwise should have paid under the normal Federal royalty regulations.

It is my understanding that most producers, especially the large producers, withheld payments on the disputed valution—that is the difference between the money they received for the gas and the arbitrary NGPA ceiling price. The Department of the Interior has estimated the total refunds that will be owed to lessees—mostly the smaller independents—will only be about $500,000. We have provided for a cap of $2 million to protect the U.S. Treasury in the event the Department's estimates are too low.

As a result of discussions with my colleagues, staff and representatives of the Department of the Interior, I am advised that the change made by the House to the Senate passed version of H.R. 4379 in deleting the word "estimated" from section 3(b) discussion of how royalties will be assessed by the Secretary of the Interior is of insignificant legal affect. It is with this understanding that I reluctantly support the House change, but I must make it clear that I certainly would object to this needless and pointless deletion if there were any chance that dropping the word "estimated" were to change the manner in which the Federal royalties are to be calculated under part 206 of title 30 and sections 211.13 and 212.16 of title 25. I will not object, because of the assurances I have received from my colleagues that this minor word change will not change the manner in which the Secretary of the Interior calculates royalties under section 3(b) as passed by the Senate.

I am proud to be an original cosponsor of this legislation and compliment Chairman MELCHER for his leadership in moving this legislation, and for his cooperation with the minority during this process. This is truly a bipartisan effort that deserves the support of the full Senate.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the Senate concurred in the House amendment.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OSCAR GARCIA RIVERA POST OFFICE BUILDING

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of H.R. 1948.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1948), to designated the United States Post Office Building located at 153 East 110th Street in New York, New York, as the "Oscar Garcia Rivera Post Office Building".

There being no objection, the Senate proceeded to the immediate consideration of the bill.

AMENDMENT NO. 1377

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk on behalf of Senator PRYOR and Senator STEVENS, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. ARMSTRONG], for Mr. PRYOR (for himself and Mr. STEVENS) proposes an amendment numbered 1377.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

SEC. . SERVICE CREDIT COMPUTATION.

Subsection (b) of section 8332 of title 5, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (15);

(B) by striking out the period at the end of paragraph (16) and inserting in lieu thereof"; and"; and

(C) by inserting after paragraph (16) the following new paragraph:

"(17) in the case of any individual who first becomes an employee of the Department of Transportation, the Interstate Commerce Commission, the National Mediation Board, the National Transportation Safety Board, the Railroad Retirement Board, the GAO, or an employee as defined in 5 U.S.C. 2107, on or before December 31, 1983, service performed on or after December 31, 1935, as an employee subject to the provisions of the Railroad Retirement Act of 1935, the Railroad Retirement Act of 1937, or the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.), if such employee—

"(A) acquires 5 years or more of creditable civilian service (other than service performed on or after December 31, 1935, as an employee subject to the provisions of such Railroad Retirement Acts); and

"(B) makes a deposit to the Fund in an amount equal to the excess of the amount which would be required under section 8334(c) of this title, but for section 8334(g)(7) of this title, over the total amount contributed by such employee under such Railroad Retirement Acts.".

SEC. . DEPOSITS.

Section 8334(g) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(7) service creditable under paragraph (17) of section 8332(b) of this title, except to the extent provided in subparagraph (B) of such paragraph.".

SEC. . INELIGIBILITY FOR ANNUITY UNDER RAILROAD RETIREMENT ACT OF 1974.

Section 2 of the Railroad Retirement Act of 1974 (45 U.S.C. 231a) is amended by adding at the end the following new subsection:

"(i) An individual who is entitled to an annuity under subchapter III of chapter 83 of title 5, United States Code, is not eligible to receive an annuity under this section on the basis of the same service.".

Mr. BYRD. Mr. President, I ask unanimous consent that I may be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Arkansas [Mr. PRYOR].

The amendment (No. 1377) was agreed to.

Mr. ARMSTRONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1378

Mr. BYRD. Mr. President, on behalf of Mr. SASSER, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD), for Mr. SASSER, proposes an amendment numbered 1378.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place in the bill, H.R. 1948, insert the following language:

SEC. . WEATHER SERVICE EMPLOYEES.—Title 5, section 2109(1) of the United States Code which defines "air traffic controllers" is amended to read as follows: "[A]ir traffic controller" or "controller" means a civilian employee of the Department of Commerce or Department of Transportation or Department of Defense who, in an air traffic control facility or flight service station facility or National Weather Service or National Environmental Satellite Data and Information Service Facility—

(A) is actively engaged—

(i) in the separation and control of air traffic;

(ii) in providing preflight, inflight, or airport advisory service to aircraft operators; or

(iii) in providing meteorological observations and forecasting, meteorological data gathering and processing which is available to air traffic controllers or pilots; or

(B) is the immediate supervisor of any employee described in subparagraph (A).

Mr. SASSER. Mr. President, I rise to offer an amendment to H.R. 1948, which passed the House of Representatives on August 3, 1987. My amendment adds certain employees of the National Weather Service, and of the National Environmental Satellite, Data and Information Service, to the class of employees eligible for early retirement under the Federal employees' retirement system, or "FERS."

Now FERS, which was established by Public Law 99-335 and which went into effect on January 1 of this year, permits early retirement with unreduced benefits for a number of categories of Federal employees. Certain law enforcement personnel, firefighters, flight service specialists, and air traffic controllers may retire at age 50 with at least 20 years of service. The early retirement provision was created in recognition of the fact that the stresses posed by some occupations may shorten life expectancy.

What are the particular stresses confronted by NWS and NESDIS employees, which warrant their inclusion in the early retirement structure?

One is the rotating shifts requirement. Obviously, weather service facilities must have at least some personnel on duty at all times to provide weather watches and to ensure public safety. Rather than some employees working exclusively day shifts, however, and others exclusively at night, NWS instituted the rotating shift. In other words, shift assignments are constantly changing so that each employee is responsible, over time, for equivalent amounts of day and night work. And NWS employees' exposure to such shift work continues throughout their careers, regardless of seniority. Thus, all are exposed to certain well-documented hazards associated with irregular sleep patterns. Scientific evidence demonstrates up to 10 percent reductions in lifespan due to flip-flopped light schedules, while persons who must routinely sleep fewer than 6 hours are more susceptible to heart disease and stroke.

A second factor, adversely affecting weather service and meteorological employees, is the stress of responding in timely fashion to public safety needs. In fact, the more severe the weather situation, the more acute is the need to meet deadlines swiftly and accurately if large populations are not to be endangered.

I might note in this regard that when FERS was established under Public Law 99-335, the definition of "air traffic controllers" eligible for early retirement included "flight service station facility" specialists. These employees are responsible for providing preflight, inflight, or airport weather advisory services to aircraft pilots. I would hardly question the inclusion of these persons in the early retirement provision—for aren't they subject to the very occupational stresses I have just described?

And yet, I think by oversight, employees of NWS and NESDIS, engaged in the same kind of work as flight service specialists, are omitted from the definition of eligibles. This omission appears even less justifiable when you stop to think that the information that flight service specialists are passing along was generated and written—under tight deadlines and with lives in the balance—by none other than National Weather Service and NESDIS employees. In fact, flight service specialists routinely refer the more complicated pilot briefings directly to NWS employees, who also participate alongside flight service specialists in coordinating search and rescue efforts.

My amendment would establish equitable treatment for weather service employees, to whom we all owe such a debt of gratitude for their conscientious performance of duty. It is estimated that it would currently affect no more than about 300 senior employees, although those 300 deserve our help.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Tennessee [Mr. SASSER].

The amendment (No. 1378) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 1948), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

KOREAN WAR VETERANS MEMORIAL CONTRIBUTIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of H.R. 1454, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

> A bill (H.R. 1454) to permit certain private contributions for construction of the Korean War Veterans Memorial to be invested temporarily in Government securities until such contributed amounts are required for disbursement for the memorial.

There being no objection, the Senate proceeded to the immediate consideration of the bill.

Mr. GLENN. Mr. President, I rise to express my support for H.R. 1454 which would authorize the Secretary of the Treasury to invest private funds contributed to the American Battle Monuments Commission [ABMC] for the construction of the Korea War Veterans Memorial in public debt securities. In July Senator ARMSTRONG and I introduced the Senate companion measure, S. 1525, and in October the House approved H.R. 1454 without dissent. I very much appreciate the efforts of my colleagues on the Public Lands Subcommittee and the Energy and Natural Resources Committee to bring this measure up for Senate consideration prior to the end of this session.

As my colleagues recall, last year Congress enacted legislation to authorize the construction of a memorial to veterans of the Korean war. The memorial project is to be funded primarily by private contributions and the American Battle Monuments Commission was given responsibility for the project.

H.R. 1454 and S. 1525 seek to make minor modifications in the law enacted last year. Primarily, the bills would permit the American Battle Monuments Commission to earn interest on the contributed funds, until such time as they are needed for the memorial project, by investing them in interest-bearing obligations of the United States or an obligation guaranteed as to principal and interest by the United States. To date the ABMC has received $1.547 million in contributions toward the Korean War Memorial and they estimate that, absent the authority contained in H.R. 1454 and S. 1525, they are currently forgoing $10,000 per month in interest.

Senator ARMSTRONG and I, and all who share our interest in seeing a Korean War Memorial become a reality, appreciate the efforts of every Senator who has cooperated to expedite consideration of this measure.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 1454) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REMOVAL OF INJUNCTION OF SECRECY—MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER

Mr. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Montreal protocol on substances that deplete the ozone layer—Treaty Document No. 100-10—which was transmitted to the Senate today by the President of the United States.

I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The President's message is as follows:

To THE SENATE OF THE UNITED STATES:

I transmit herewith, for the advice and consent of the Senate to ratification, the Montreal Protocol on Substances that Deplete the Ozone Layer, done at Montreal on September 16, 1987. The report of the Department of State is also enclosed for the information of the Senate.

The Montreal Protocol provides for internationally coordinated control of ozone-depleting substances in order to protect public health and the environment from potential adverse effects of depletion of stratospheric ozone. The

Protocol was negotiated under the auspices of the United Nations Environmental Program, pursuant to the Vienna Convention for the Protection of the Ozone Layer, which was ratified by the United States in August 1986.

In this historic agreement, the international community undertakes cooperative measures to protect a vital global resource. The United States played a leading role in the negotiation of the Protocol. United States ratification is necessary for entry into force and effective implementation of the Protocol. Early ratification by the United States will encourage similar aciton by other nations whose participation is also essential.

I recommend that the Senate give early and favorable consideration to the Protocol and give its advice and consent to ratification.

RONALD REAGAN.

THE WHITE HOUSE, December 21, 1987.

ACTION WITH RESPECT TO CERTAIN BILLS ON CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate's request for a conference with respect to S. 864, S. 865, and S. 866, and the listing of S. 1174 as a bill in conference, no longer be printed as part of the Senate's daily calendar.

This should result in a significant saving to the taxpayers, by virtue of the fact that those several pages of the Calendar of Business will not continue to have to be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPUTER SECURITY ACT OF 1987

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 145, the Computer Security Act of 1987, which is being held at the desk.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 145) to provide for a computer standards program within the National Bureau of Standards, to provide for Government-wide computer security, and to provide for the training in security matters of persons who are involved in the management, operation, and use of Federal computer systems, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. CHILES. Mr. President, I am pleased to announce that the Senate will soon move to adopt and pass by unanimous consent H.R. 145, the Computer Security Act of 1987.

I want to comment on the legislation before we do.

The bill comes to us from the House of Representatives. During this Congress and last, the House Committees on Government Operations and Science and Technology held hearings and deliberated upon this legislation—H.R. Report 100-153, part 1 and 2. With the support of the administration the full House passed this legislation by voice vote on June 22 of this year.

Let me compliment Congressman GLICKMAN, the sponsor of this legislation and my friend Chairman BROOKS for their leadership in bringing this legislation about.

In considering this legislation here in the Senate, several Senators representing points of view from the Governmental Affairs, Commerce, Judiciary, and Intelligence Committees engaged the administration to bring together several interests in the executive branch in order to explain the consensus that exists within the executive on this legislation.

As a result of participating in that process, Mr. President, I want to make the following comments on the bill.

The bill we have before us today, the Computer Security Act of 1987, will move us a long way toward providing much needed protection for the vast amount of data which the American people entrust to the computer systems of the Federal Government. We all know that in this computer age all of society, but especially the Federal Government, relies on computers to handle information of extraordinary importance—information which must be protected from unauthorized access, manipulation, or destruction.

The protection of information stored in computers or transmitted among computer systems is vital, for example, to preserving our Nation's security, to protecting the privacy of individuals, to maintaining the integrity of financial and medical transactions, and to assuring safety in our transportation industry. Inadequate computer systems security can lead to access or manipulation by hostile intelligence services, criminal elements, foreign economic competitors, or even unbalanced individuals, The threat is too serious to be ignored. This legislation will move us a step closer to providing adequate protection.

National Security Decision Directive 145—NSDD 145—assigned significant responsibility for the Nation's computer security matters to the Department of Defense, specifically the National Security Agency, NSA. This arrangement has given rise to widespread concern about a defense or intelligence agency having responsibility over Federal computer systems that contain nondefense and nonclassified information. To allay these concerns, this bill quite properly assigns the primary responsibility for certain computer security matters to the National Bureau of Standards [NBS].

The bill requires that NBS in doing its work shall draw upon computer system technical security guidelines developed by the National Security Agency. Consequently, the Senate expects that NBS will work closely with NSA to assure that the fine work done by that organization is put to good use and that NBS, to the maximum extent feasible, assures that computer security standards that it sets are consistent and compatible with computer security guidelines developed by NSA.

This bill alters the previously existing Presidentially directed assignment of responsibilities in the computer security arena by making NBS the primary agency responsible for sensitive civil sector computer matters. It is important that it be understood that this bill is not intended in any way to alter the assignment of responsibilities in the area of telecommunications security.

Now Mr. President, let me turn to Senator GLENN, the chairman of the Governmental Affairs Committee, who will pose questions to me which I will answer.

Mr. GLENN. I recognize that up to this time there has been significant responsibility for computer and telecommunication security vested in NSA by virtue of a Presidential directive. But, I would like to point out that since 1965, under the Brooks Act, Public Law 89-306, the Commerce Department NBS has had a significant role in this area, as well.

Mr. CHILES. I thank the Senator for this clarification.

Mr. GLENN. I also recognize that in the statement of the Senator, he expressly states that this bill is not intended in any way to alter the assignment of current responsibilities in the area of telecommunications security. Is the Senator aware that under the same law—that is, under Public Law 89-306—NBS has responsibility for both computer and telecommunication standards, and that this responsibility for standards includes responsibility for security standards in these areas, as well?

Mr. CHILES. Yes, the law can be read that way. I am aware that NBS has the statutory charges to develop and implement both computer and telecommunication standards and that that charge includes responsibility for security standards in the fields of both computers and telecommunications. Keep in mind, to the extent that cryptography is involved, it is essential for purposes of national security that NSA retains its present responsibility.

Mr. GLENN. I have one final question. Is it the intention of this bill that, when developing security guidelines, NSA will make every effort to assure that those guidelines are consistent with those standards issued by NBS?

Mr. CHILES. Yes, that is true. It is very important that NBS and NSA activities complement each other, rather than spark confusion through inconsistency.

Mr. HUMPHREY. I say to the chairman that our Judiciary Subcommittee on Technology and the Law has jurisdiction over the Freedom of Information Act, computer security and Government information policy, does it not?

Mr. LEAHY. That is correct.

Mr. HUMPHREY. There has been some concern that the language of section 8(2) of the pending bill could be construed to support the expansion of existing Government disclosure obligations. And I appreciate the Senator's willingness to work with me to address these concerns.

Mr. LEAHY. Concerns have also been raised that the Computer Security Act might be misconstrued to restrict existing Government disclosure obligations.

It is not the intent of this bill to expand or to restrict the Federal Government's disclosure obligations under the Freedom of Information Act with respect to any category or medium of information.

Section 8 of H.R. 145 provides that the bill shall not be construed to authorize the withholding of any agency records or information which are disclosable under the Freedom of Information Act.

At the same time, section 8 does not require the disclosure of any records, information, electronically stored data, software, data processing information, or computer programs which could be withheld under the Freedom of Information Act. Nor does the bill authorize the withholding of any records, information, electronically stored data, software, data processing information, or computer programs which would be disclosed under the Freedom of Information Act.

Mr. HUMPHREY. I thank the Senator for the clarification. Let me address a second issue that has been raised.

U.S. commercial computer technology vendors have invested heavily in research efforts to meet the unique security requirements of intelligence and defense agencies with commercial products. This spurs development of data security technology while ensuring that its costs do not fall principally on the Government. We are mindful of the potential negative impact on technology companies, and the Government as well, should this legislation give rise to two separate and distinct regimens of computer security technology—one for civilian agencies and another for intelligence and defense agencies. Will this legislation adequately safeguard the commercial interests of these companies?

Mr. LEAHY. The legislation does not mandate or even urge the establishment of two sets of data security standards or systems. Instead, it provides a framework for recognizing and reconciling the sometimes differing security needs of these distinct communities.

Mr. President, today we are considering the Computer Security Act of 1987. The House sent this bill over to the Senate on June 23. Since that time, I have been working with Senators CHILES, GLENN, HOLLINGS, and ROTH, Congressmen GLICKMAN and BROOKS, the National Security Agency, the National Bureau of Standards, and the Office of Management and Budget to assure the adoption of this important legislation.

This legislation will restore civilian control over all Federal computer systems except those excluded under the Brooks Act (10 U.S.C. 2315) and the Paperwork Reduction Act (44 U.S.C. 3502(2)). The Computer Security Act is a significant act of Congress that rejects the promulgation of information policy by executive fiat.

The central purpose of this legislation is to reject the Federal computer security plan set forth in NSDD-145. National Security Decision Directive 145 signaled a dramatic shift in the management of Government information protection from civilian authority to military authority. It has set the Government on a course that has served neither the needs of national security nor the interests of the American people. Since the issuance of that directive we have watched a Government attempt to:

Limit the availability of unclassified data in Government data bases;

Place selective limits on who may access Government data bases;

Intimidate private data base firms and public libraries to limit access to their electronic files—files which contain information published in newspapers everyday;

Impose unnecessary restrictions on the nearly 500 U.S. firms that sell information abroad.

These efforts have been widely opposed by the leaders of our information industry and those concerned with the public's right to know. The president of Mead Data Central told a Congressional hearing that "Such new restrictive and unwarranted policies under the unilateral control of the Defense Community threaten to bring this industry to a halt and would negate the significant productivity gains being made in many sectors of our economy. . . ." The Computer Security Act of 1987: Hearings before the Subcommittee on Science, Research and Technology and the Subcommittee on Transportation, Aviation and Materials of the House Committee on Science, Space and Technology, 100th Cong., 1st Sess. 112 (1987) (statement of Jack Simpson). Counsel for dialog has warned that these controls could have a devastating impact, noting that "the information industry is one of the few areas of commerce in which the United States has a favorable balance of trade." The Boston Globe, April 20, 1987, at 35.

Moreover, such efforts obstruct the free flow of information in our society. Information is the cornerstone of our democracy. As a comprehensive report from People for the American Way released last week warns, a government of secrecy produces "Decisions without Democracy."

The Computer Security Act establishes a comprehensive program for Federal computer systems security. A civilian agency—the National Bureau of Standards [NBS]—will implement that program. As H.R. 145 states in the first specific purpose outlined in section 2(b)(1), the act assigns to the National Bureau of Standards responsibility for developing standards and guidelines for Federal computer systems, including responsibility for developing standards and guidelines needed to assure the cost-effective security and privacy of sensitive information in Federal computer systems, drawing on the technical advice and assistance of the National Security Agency, where appropriate.

The Computer Security Act assigns to NBS responsibility for developing standards and guidelines for the security of Federal computer systems. It provides for a Computer Systems Advisory Board to identify emerging Federal computer security and privacy issues. It requires the development of security plans by the heads of all Federal agencies. And it will establish a training program for all persons involved in Federal computer systems. These are sound and comprehensive objectives for a Federal computer security policy.

There is no question that properly classified information requires specialized security measures to safeguard against unauthorized acquisition, alteration, or destruction. That is why the Computer Security Act leaves NSA's authority over computer systems containing such information unchanged.

OMB Director Jim Miller has also outlined this relationship between the agencies:

> . . . it is the Administration's position that NBS, in developing Federal standards for the security of computers, shall draw upon technical security guidelines developed by NSA in so far as they are available and consistent with the requirements of civil departments and agencies to protect data processed in their systems. When developing technical security guidelines, NSA will consult with NBS to determine how its efforts can best support such requirements.

> We believe this would avoid costly duplication of effort.
>
> Computer security standards, like other computer standards, will be developed in accordance with established NBS procedures. In this regard the technical security guidelines provided by NSA to NBS will be treated as advisory and subject to appropriate NBS review . . ." H. Rep. 100-153, 100th Cong., 1st Sess., pt. 1, 41 (letter to Congressman Roe); H. Rep. 100-153, 100th Cong., 1st Sess. pt. 2, at 37 (letter to Congressman Brooks).

It is my understanding that this continues to be the administration's position and that the administration consensus described by Senator CHILES in his statement is consistent with Director Miller's letter.

I want to remind all those involved in the protection of Federal computer systems that we should not fall into the trap of characterizing computer system security as simply a matter of national security. This invites technological xenophobia, and produces misguided policies and misdirected programs. A recent report stated:

> Security experts are nearly unanimous in their view that the more significant security problem is abuse of information systems by those authorized to use them, rather than by those trying to penetrate the systems from outside. Office of Technology Assessment, *Federal Government Information Technology: Management, Security and Congressional Oversight* 65 (1986).

The report of the House Committee on Science, Space, and Technology on H.R. 145 found that Federal computer fraud and abuse is most often conducted by insiders. An extensive 1984 ABA study on computer crime and another study conducted by the President's Council on Integrity and Efficiency supported this finding. A computer security policy that fails to recognize this insight will impose unnecessary costs on the Government and the private sector. It will substitute high-technology fixes for solid management practices. Ultimately, such a policy would frustrate this much needed effort to enhance Federal computer system security.

This country cannot afford a hemorrhage of vital national security information. Federal computer security is critical to the cost-efficient implementation of Federal programs as well as to a secure future for all Americans. As chairman of the Senate Subcommittee on Technology and the Law, I look forward to continuing to work the National Security Agency and the National Bureau of Standards to promote necessary, strong, and cost-effective Federal computer systems security.

Access to information by our country's scientists, inventors, scholars, historians, journalists, and, most importantly, American citizens is also vital to America's future. Interest in, and awareness of, the activities of our national government instills vitality in our political process. Therefore, computer security legislation must be carefully crafted so that it safeguards systems without restricting access to unclassified information.

That is why I would prefer that the legislation not include the charged phrase "sensitive information." However, I have worked to ensure prompt passage of the bill because of the urgency of reasserting civilian control over the computer systems of the Federal Government. I hope that the next time the Congress considers this issue it will aviod terms that raise fears of increasing Government restriction over access to unclassified information.

As used in the Computer Security Act, the phrase "sensitive but unclassified information" is intended to underscore the importance of information held in Federal computer systems, particularly as it affects the conduct of Federal programs or the privacy of individuals. As defined in the legislation, this term is an explicit rejection of the broad and ambiguous phrases used in NSDD-145 and the 1986 National Telecommunications and Information Systems Security Policy No. 2. It does not create another category of restricted Government information. (See H. Rept. 100-153, 100th Cong., 1st Sess., pt. 1, at 24, 31.)

Further, the Computer Security Act states that public availability or use of information shall not in any way be limited. I discussed the Freedom of Information Act with the ranking minority member of the Technology Subcommittee earlier today. The House Committee reports on section 8 examine other laws. (See H. Rept. 100-153, 100th Cong., 1st Sess., pt. 1, at 31, Committee on Science, Space, and Technology); H. Rept. 100-153, 100th Cong., 1st Sess., pt. 2, at 30-31 (Committee on Government Operations)).

In closing, Mr. President, I want to say that we are adopting a good piece of legislation that reflects several years of congressional study. This act will coordinate many aspects of Federal computer security without trampling on the rights of its users, the ultimate beneficiaries of all activities undertaken by this Government, American citizens. As we are protecting the security of Federal computer systems, we will also safeguard the most precious right of Americans—the opportunity to understand and participate in the activities of our Government.

I would like to thank Senators CHILES, HOLLINGS, GLENN, ROTH, and HUMPHREY for all their help on this legislation. I would also like to thank their staff members, Bob Coakley with Senator CHILES, Pat Windham with Senator HOLLINGS, Stephen Ryan with Senator GLENN, John Elliff and Ed Levine with the Senate Intelligence Committee, John Parisi with Senator ROTH, and George Smith with Senator HUMPHREY, for their hard work.

Finally, I would like to thank my own staff, Ann Harkins and Marc Rotenberg, for their efforts to ensure passage of the Computer Security Act of 1987.

Mr. ROTH. Mr. President, I am pleased that the Senate is considering H.R. 145, a bill that will help improve the security of the ever-increasing number of computer systems utilized by the Federal Government. The provisions of H.R. 145 will strengthen Federal efforts to deter computer crime and to ensure the integrity and privacy of information stored in computer systems utilized by the Federal Government.

The bill appropriately divides responsibility for developing computer security standards between the National Bureau of Standards and the National Security Agency. NSA will provide guidelines for computer systems which handle classified information and NBS will provide guidelines for those which handle unclassified but sensitive information.

One concern that was raised over this division of responsibility was the potential for duplication of effort. The terms of the bill seek to militate against that, and the ongoing cooperative efforts of NSA and NBS will be continued under the bill.

Continued cooperation between NSA and NBS under the terms of this act will be helpful to the many private firms which are in the business of developing computer security systems. The process of testing and validating these systems for use by the Federal Government, particularly our defense and intelligence agencies, is very rigorous and can take a long time. Some of these firms, including firms in my State of Delaware, were concerned that they might be forced to run the gauntlet twice: once through NSA's National Computer Security Center and then again through the National Bureau of Standards. I have been assured by NBS that, once a system has passed muster at NSA's Computer Security Center, it would not have to go through the NBS process for use by agencies with unclassified systems. If the system provides the additional safeguarding required for classified systems, it would clearly be sufficient for use by agencies with unclassified systems.

So, I am pleased that agreement has been reached to clear this legislation for the President's signature and look forward to its successful implementation.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMPLIMENTS TO MAJORITY AND MINORITY FLOOR STAFFS

Mr. BYRD. Mr. President, I thank my friend, Mr. ARMSTRONG, for his cooperation.

I want to take this opportunity, also, to thank our excellent floor staffs on both sides of the aisle, who have made it possible for the Senate to conduct its work expeditiously and very professionally.

Mr. ARMSTRONG. Mr. President, I should like to join in the majority leader's commendation of the floor staffs. It is just extraordinary, the level of responsibility and the patience and attention to detail which this handful of people on the floor demonstrates. They do the vast bulk of the routine work of the Senate. The majority leader is quite right to compliment them.

Mr. BYRD. What we see is really a phenomenal job done by Howard and Elizabeth Greene, Charles Kinney, Marty Paone, and Bill Norton. These people work together so well, and they make our work easier. They are exceedingly pleasant to work with.

I compliment the people on the other side of the aisle. This fine young lady, Elizabeth Greene, and her husband, Howard, are pleasant to work with. It makes my work a lot easier and certainly moves the work of the Senate along.

Without their cutting the briars out of the path, the Senate would not be able to act as expeditiously and as thoroughly as it does.

THE MAJORITY LEADER'S SINE DIE TIE

Mr. LEAHY. Mr. President, will the distinguished majority leader yield?

Mr. BYRD. I yield.

Mr. LEAHY. Mr. President, I concur completely in what the majority leader has said. I do not know what any of us would do without the staffs on both sides of the aisle.

I also note something else.

In my State, we have certain harbingers, as other States do: the robin, the first harbinger of spring; the maples changing color, the first harbinger of fall.

Mr. President, I note that the distinguished majority leader has the one harbinger that all of us look for day after day at this time of the year. I refer, of course, to that unique item of haberdashery, his sine die tie.

Many of us have looked in vain for that the past few days, and now I hope it is not a mirage. I hope it is not an illusion. I hope that that tie, which comes out only on occasions such as this, is an indication that perhaps there will be freedom for the Senate 100.

So I say that, like the robin in the spring and the maples in the fall, the unique tie of the distinguished Senator from West Virginia is the harbinger of sine die—I hope.

Mr. BYRD. I thank the Senator.

Mr. President, I hope I am not still wearing it at this time tomorrow night. [Laughter.]

I thank the distinguished Senator for his very generous comments.

TRIBUTE TO BOB BERRY, READING CLERK OF THE HOUSE OF REPRESENTATIVES

Mr. BYRD. Mr. President, Bob Berry is one of the reading clerks of the House. He delivers messages to this body often, and we all are accustomed to seeing his simiiling face as he comes in the south door of the Chamber.

He has been the reading clerk in the House for the last 17 years. Before that, he was minority counsel to the Senate Governmental Operations Committee and legislative assistant to the late Senator Carl Mundt.

I call to the attention of my colleagues that this will be the last time that Bob Berry delivers a message to this body. [Applause.]

MESSAGE FROM THE HOUSE

At 11:09 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3545) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1988.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida is recognized.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. CHILES. Yes.

Mr. BYRD. Could he and his distinguished counterpart give to the Senate some indication of the time that they believe will be required on this report so that we can notify Senators. Some Senators will need 30 to 40 minutes, probably, notice to get here for the rollcall which will occur on the adoption of the conference report.

The CHILES. Mr. President, I think they ought to start if they are going to need that long.

Mr. DOMENICI. I concur, unless someone around here wants to talk a lot longer than I.

Mr. CHILES. I say they are starting late.

Mr. BYRD. Very well.

Mr. CHILES. I am going to take a few minutes in my remarks.

OMNIBUS BUDGET RECONCILIATION ACT—CONFERENCE REPORT

Mr. CHILES. Mr. President, I submit a report of the committee of conference of H.R. 3545 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3545) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1988, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 21, 1987.)

Mr. CHILES. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CHILES. Mr. President, in the long fight against the Federal deficit, this has been the longest year. With the approval of this conference report, we can make it the most successful year.

This is not the first time we have spent months of hard work or dealt with frustrations. But this time all the effort has produced landmark results.

As a practical matter, we are about hopefully to agree on the largest deficit-reduction package in history. It is real and it is for 2 years. We said we wanted to get $76 billion in savings at the summit, and that is exactly what we have done.

Of the savings we aimed for, roughly $50 billion of that amount is contained in the reconciliation package now before the Senate.

Included in that amount are $13.5 billion in entitlement savings—$5.8 billion for 1988 and $7.7 billion for 1989.

When added to the provisions included in the continuing resolution, the total savings on the spending side are $33 billion—$20 billion in domestic and $13 billion in the military.

So, Mr. President, with the nearly $50 billion in deficit reduction contained in reconciliation and the additional savings in the continuing reconciliation, we will have reached our goal of $76 billion cut from the deficit.

This agreement stands for something central to the future of the economy. A year ago—as the Senate changed hands—all that people were talking about was suspicion and doubt and impasse.

A year ago, all the predictions were that the President would not work with a Democratic Congress and the Congress would not cooperate with the White House.

A year ago, the budget process was a watchdog without teeth. The automatic provisions of Gramm-Rudman-Hollings had been removed and the deficit was high and all indications were it was going higher.

And a year ago, the only attention anyone paid to the deficit targets was who would miss them first.

So, while this has been a very long year, it has been a year of very great change.

We have for the first time in many years, a bipartisan, bicameral agreement. Working together for just 2 months, we have cut the deficit by $75 billion. If we can keep it up for another year or two, we can get to a balance.

So, a Democratic Congress, a Republican President, and a minority under the Republicans in Congress have worked together. We restored the automatic features of Gramm-Rudman-Hollings. And we have worked out an effective agreement to reduce the Federal deficit.

Any time people meet face to face to work out their differences in public, there will always be people on the sidelines and in the bleachers who compare the outcome with some set of ideals. You get a lot of critics who say what it should have been and everything that should have been in it.

Some years ago a gentleman from the media said a critic is the person who walks across the field after the battle is over and shoots the survivors.

Those of us who have been through the battle—and there have been so many who fought so long to put this package together—know what it has been like.

We have heard from the groups on one side who suffered some pain. We have heard from groups on the other side who preferred a scorched-earth approach. And we have left some tears of our own on the negotiating table.

But we have been through the battle, and I am convinced time will tell us it was a major victory for the American people and for the Nation's economy.

Within the last couple of days, we have had a report from the Institute for International Economics that spoke of a global economic collapse unless we did better. The report of the economists called the summit agreement, grossly inadequate—but, of course, that comes from a profession with a tendency to be "grossly inaccurate."

Yet, the economists warned that we need $40 billion in deficit reduction each year for the next 4 years, and that is something I agree with. In fact, that notion is at the center of the package before the Senate which aims to reduce the deficit at least $36 billion in each of the next several years.

Here is the point. The reconciliation conference report is tough. It involves sacrifice, taxes to pay, and funds denied. It will make a positive difference in the course of the Nation's economic affairs.

The reconciliation package achieves Medicare savings of $2.1 billion in 1988 and $3.9 billion in 1989, with the bulk of those savings derived from physicians and hospitals rather than from Medicare beneficiaries.

In Agriculture programs, we have found savings of almost $800 million over a 2-year period from target price and income support reductions, and nearly one-quarter of a billion dollars from a decline in the loan rate.

We have saved $250 million in the Guaranteed Student Loan Program.

We have raised nuclear regulatory cost recovery levels from the current 33 percent up to 56 percent.

Through the work of the House Committee on Post Office and Civil Service and the Senate Committee on Governmental Affairs, we have found savings totaling some $1.7 billion over 2 years. This includes a deferral of roughly 60 percent of the 1988 capital investment projects.

Any Member of the Senate can go home for the holidays and face the people of their States with a good conscience. You can say, if you like, we didn't do everything we should have done.

And you will be right. We did not.

Any Member of the Senate can point to a list of spending cuts he or she might have preferred. Some can go home and say it is too bad there are extra revenues in the package. All of us can go home and say we should have taken more out of the deficit.

But at the same time, each of us can return home and say we did well. We have done extremely well under unique and demanding circumstances.

This conference report is worthy of the Senate's support. I strongly encourage all Members to look at the good it achieves, to recognize how far we have come, but not lose sight of the fact that we still have so far to go.

Let us take this key step and renew our pledge to go the whole route.

Mr. President, I ask unanimous consent that additional materials detailing the provisions of the reconciliation package be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 1.—TOTAL SAVINGS OF RECONCILIATION CONFERENCE AGREEMENT

[In billions of dollars]

	1988	1989	1988–89
Revenues:			
Hard taxes	9.078	14.097	23.175
User fees as revenues	0.335	0.318	0.653
Subtotal, revenues	9.413	14.415	23.828
Spending:			
Other user fee provisions	0.030	0.030	0.060
Entitlements and other:			
Medicare	2.094	3.921	6.015
Other finance provisions	0.136	−0.338	−0.202
Farm price supports	0.997	1.511	2.508
GSL balances	0.234	0.000	0.234
Postal/civil service	0.860	0.854	1.714
PBGC premiums	0.400	0.400	0.800
VA origination fee extension	0.198	0.201	0.399
VA loan guarantee	0.800	1.083	1.883
VA vendee loans	0.042	0.024	0.066
Tongass Timber Supply fund	0.040	0.045	0.085
Subtotal, entitlements	5.801	7.701	13.502
Loan prepayments and asset sales	7.700		7.700
Debt Service	0.904	2.407	3.311
Subtotal, spending	14.435	10.138	24.573
Total deficit reduction	23.848	24.553	48.401

TOTAL SAVINGS IN RECONCILIATION BILLS—SUMMIT AGREEMENT, SENATE-PASSED AND CONFERENCE AGREEMENT

	Summit	Senate	Conference
Revenues and spending:			
1988	14.800	15.390	15.244
1989	21.950	22.070	22.146
Asset sales:			
1988	5.000	7.850	7.700
1989	3.500	3.500	
Debt service:			
1988	0.780	0.916	0.904
1989	2.274	2.536	2.407
Subtotal:			
1988	20.580	24.156	23.848
1989	27.724	28.106	24.553
Discretionary savings:			
1988	7.600	7.600	7.600
1989	14.000	14.000	14.000
IRS compliance:			
1988	1.600	1.600	1.600
1989	2.900	2.900	2.900
Additional debt service:			
1988	0.4	0.4	0.4
1989	1.2	1.2	1.3
Total:			
1988	30.200	33.740	33.444
1989	45.850	46.170	42.746

Mr. CHILES. Mr. President, I will yield now, but first I express my profound appreciation and support to my friend and colleague, the distinguished Senator from New Mexico, the ranking member on the committee, who has served so well as chairman of the Budget Committee, and say how much I enjoyed working with him as we tried to work together on this package and how much I am indebted to him for his efforts and his support, without which we could not be here tonight with this kind of package.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I first thank my good friend from Florida, the distinguished chairman of the Budget Committee, for all of his work in bringing this day, and hopefully not only this day, but bringing this bill and the one that will follow it, the continuing resolution, the appropriations, before the U.S. Senate, and sending both to the President of the United States. I think it should be a very happy day for him.

Having said that, Mr. President, I am going to take about 10 minutes. I will be delighted—and I am sure my friend from Florida would—to answer detailed questions about this package. But I would like in my own way to indicate to the U.S. Senate and those interested in matters that pertain to our deficit why we are here and why I believe it is imperative that we pass this resolution tonight, this reconciliation resolution, and that we pass the continuing resolution which will follow it, hopefully, later in the evening.

Mr. President, if we look back on this year when this country suffered the shock of the precipitous drop in the stock market, many people in the U.S. Congress on both sides of the aisle, Democrats and Republicans, asked the President of the United States to engage himself in a process of negotiating with the Congress for deficit reduction. And, frankly, Mr. President, we would not be here, in my opinion, if the President had not agreed to that.

Whatever the reasons, whatever the motivation, I believe we should say thank you to the President of the United States for agreeing to meet with us, both Houses of Congress, Members of the leadership of the Senate and the Republican Party that went to meet with him.

Now, whether or not this package is adequate, nonetheless it is my humble opinion that we would not be passing a reconciliation bill with new revenues, with significant entitlement cuts, restraints and reforms, with 2-year caps on appropriations for defense and domestic appropriated accounts—one which we will live up to shortly when we pass the bill on appropriations and the other that we will be obligated to live up to next year—if it had not been for that summit conference.

So, obviously, I extend my appreciation to those Members of both Houses that met for those long and difficult days in an effort to reach an agreement. Now, I admit, so long as we have a democracy in the House and the Senate, we cannot go to a summit conference and evolve, as some would like us to, with a fiat and hold a piece of paper out and say to all of the committees of the Congress and the President of the United States: "Here is an agreement. It now is the law of the land." That just is not the way America operates.

So we have had a difficult time. As a matter of fact, in order to incorporate the essence of that summit agreement, it is my recollection that 18 subconferences under the budget resolution—meaning 18 separate groups of House and Senate Members, Republican and Democrat—had to meet to reach this goal. And at the same time, in a whole other process, the U.S. Congress and its appropriation representatives had to pass an appropriation bill. And we have 13 separate appropriation bills as a matter of precedent. And they had to put those together and then reach the targets that had been agreed upon in this summit conference.

And, yes, in the last few days it has been tedious, onerous, difficult, cumbersome. And people have thought, "Why can't we do something better than this?"

Well, obviously, the summit was late in the year and perhaps somebody can find a way to do it better. But, in essence, tonight, when we pass this reconciliation bill, we will adopt the revenues, new revenues, agreed to by our President almost to a letter for 1988 and 1989. We will adopt reforms in entitlement programs for agriculture, Medicare and others that, for all intents and purposes—but for some conflicts in scorekeeping, which are inherent especially in Medicare—complies with the summit understanding. And then we will have accomplished the asset sales and the user fees contemplated by that agreement.

In toto, it is our estimate that this package in the first year will reduce the deficit by about $33 billion. And if the asset sales contemplated in the second year are accomplished, we will get $45 billion to $46 billion in the second year. You add the two together and that is a substantial deficit reduction package.

I agree with the distinguished Senator from Florida. In terms of substantive policy changes on the revenue side and the entitlements side, this will be the most significant reduction in the deficit by actual action of Congress that we have had in the history of the budget process. And it is obviously somewhat convoluted, it occurred through a summit conference, but when we finish it tonight it will be real.

And this is it. It is extremely complicated; many pages.

But I believe that when the President and his advisers finally look at it, they may have three or four objections, principally on scorekeeping and principally on Medicare, but I believe it ought to be signed. It is, essentially, in the first year, on substance and savings, within the four corners of the agreement we reached in that summit; not with reference to each specific asset sale or user fee, but in toto it does precisely and slightly more than we agreed to in the summit conference. I think we ought to adopt it.

And for the nonbelievers who said we could not do it, we ought to do it here in both Houses within the next couple of hours. And, hopefully, sometime tomorrow after an opportunity to review it, the President will sign it. I hope he will.

For those experts called economists and for those on Wall Street who complained that this was not enough, I suggest that it is an awful lot better than what we would have before us if we had not had the summit and if we do not adopt this. And in my humble opinion it is far better than putting the Government on automatic pilot and having the across-the-board cuts of Gramm-Rudman-Hollings.

I need not repeat why, but I believe when we work together to achieve something, it is better than sitting around and having the across-the-board cuts.

So, frankly, I think we should adopt it. I compliment those who worked on it—those who crafted the Gramm-Rudman-Hollings law that kept the heat on, the President who asked us to meet with him after he was urged to. All of those who participated in it, I compliment them.

It is not what I would draft if I was here all alone. It is not what Senator CHILES would draft if he was drafting it all alone. But, considering that we have to accommodate so many people, it has now passed the House, I hope we pass it tonight.

To Wall Street, whose voices say we should do much more, well, frankly, I believe had we tried more in the summit, we would have had all of the same difficulties and maybe more. We are here tonight with a credible package. I urge its adoption.

I yield the floor.

REJOICE IN RECONCILIATION

Mr. BYRD. Mr. President, for much of this year we have been wrestling with the purse strings that the Constitution places in our hands. For several years, the budget deficit seemed to become an every day fact of life. It would not, we were told, cast a shadow on the bright new morning in America.

We knew better, Mr. President. And this year, the financial markets have sent us warning after warning. A tumbling dollar, the midyear rise in interest rates, and the Black Monday plunge in stock prices, pushed the President into serious negotiations with the Congress.

The first step was an agreement between the Congress and the President to cut the deficit by $76 billion over 2 years. The initial agreement was followed by tough decisions on specific budget cuts and revenue increases incorporated into the reconciliation conference report.

This conference report is not all that each of us would have crafted if left to our own devices. But it is a responsible, credible fulfillment of the budget agreement between the President and the bipartisan congressional leadership.

In fact, the reconciliation bill is a considerable achievement. Its enactment, along with the continuing resolution, will result in the largest 2-year legislative package of permanent deficit reduction. That is not a mouse. It is an achievement of which we can be proud.

Furthermore, this bill does another thing. It shows that Government works. It shows that despite some tortured procedures, the Congress and the President can work together to solve our pressing problems. I hope the results of this cooperation will not be lost on the White House as we look to next year. Nothing could be more reassuring to Wall Street, to our allies, and to the American people.

The provisions of this conference report will cut the deficit by some $76 billion over the next 2 years. They will raise about $23 billion in new revenues over that period and make even greater reductions in spending. In addition, this bill, combined with the continuing resolution, will reduce discretionary spending, both in defense and domestic programs, by $21 billion.

Mr. President, some critics have complained that this was a painless package. Well, I can tell you that the nearly endless series of meetings these past many weeks and over this past weekend especially late into the evenings on Saturday and Sunday, revealed a considerable degree of anguish over many of the provisions in this conference report.

But those cuts, and the revenue increases, were needed to fulfill our agreement with the President and to reduce the deficit.

Many Senators, Mr. President, played a part in crafting the reconciliation conference report. I want to thank them all, and I thank their counterparts in the House who worked long and hard to reach the agreement that is now before us.

I especially want to note the cooperation of the Speaker, Mr. JIM WRIGHT, the majority leader in the House, Mr. TOM FOLEY, DANNY ROSTENKOWSKI, and TONY COELHO. Their efforts throughout the budget summit, especially the outstanding work by TOM FOLEY as chairman of the budget negotiations, were instrumental in reaching the agreement and implementing it. The President's representatives, particularly Howard Baker and Jim Baker, played a critical, constructive role throughout the process. And my good friend, the Republican leader, ROBERT DOLE, also lent his valuable support and advice to our efforts, and his presence throughout the weekend and throughout many of the meetings that occurred during the several weeks, to bring the budget agreement to fruition.

There are several Senators who played a particularly prominent role in hammering out the final agreement on reconciliation. Senator BENTSEN and Senator PACKWOOD labored for many days to meet the targets for revenue increases.

They also worked with Senators MITCHELL and CHAFEE who did yeoman's work in forging a compromise on Medicare and Medicaid—another difficult job well done.

Senators JOHNSTON and MCCLURE not only found their share of budget cuts but also worked out an agreement on a permanent site for storing nuclear waste.

Senators GLENN, PRYOR, ROTH, and STEVENS, like the rest of the conferees, faced the challenge and found a way.

And Senators LEAHY and LUGAR found their task complicated by the fiscal plight of many farmers. Yet once again, they overcame the obstacles and fulfilled their responsibilities in connection with the budget agreement while keeping essential programs from foundering.

Other committees also held up their part of the bargain. I thank the members of the Commerce Committee under Chairman HOLLINGS and Senator DANFORTH; the Environment Committee under Chairman BURDICK and Senator STAFFORD; the Labor and Human Resources Committee under Chairman KENNEDY and Senator HATCH; and the Veterans Committee under Chairman CRANSTON and Senator MURKOWSKI.

On a related issue, I also commend the hard work of those Senators who remained at their posts to resolve the vexing issue of aid to the Contras, particularly Senators INOUYE, SASSER, HARKIN, STEVENS, and RUDMAN.

Mr. President, I have not yet mentioned the principal architects of the reconciliation bill. Senator CHILES and Senator DOMENICI deserve an extra measure of thanks. Their year has been swallowed by the effort to meet the Government's fiscal needs and still reduce fiscal deficit. Senator CHILES' masterful management of this difficult budget package is an added reminder of how much we regret his decision not to seek reelection next year. And, of course, Mr. DOMENICI and his expertise and experience in being chairman of that committee has contributed, likewise, and likewise his time has suffered and his sacrifices have also been great.

Mr. President, our year of wrestling with the budget is coming to an end. Our task is not complete. But the progress we have made is testimony to what can be accomplished when we work together. It has been a long year with a particularly arduous conclusion. True to the spirit of the holidatys and the spirit of the times, Mr. President, I can only say God rest ye weary gentlemen and women.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I am going to overcome my natural reluctance to follow such a gracious and warm-spirited statement with a discouraging word, but I do not agree with any of the characterizations that we have heard thus far of this legislation. If this bill contributes one iota to strengthening the economy of this country, I will be utterly amazed. And deep down in their hearts, Mr. President, I do not think there are very many Senators who honestly believe that that is the case.

Mr. President, this legislation is virtually the opposite of what it has been characterized to be. If words have any meaning—and after being around here for about 10 years I am not sure they do—but if words have any meaning we ought to speak with great care and great precision before we put our stamp of approval on this legislation.

Now, how did we get here? A few weeks ago it suddenly dawned on some people that Gramm-Rudman-Hollings, with its automatic sequester provision, was going to cause an automatic $23 billion reduction from the baseline in Federal spending. Not a reduction from what we spent last year. We were not going to really be asked to tighten our belt. But we were going to automatically take $23 billion off of the amount which was assumed to have been spent next year under the formula.

Let us first think about what that formula is. The formula is last year's spending plus a little over 4 percent.

Now, from that the Gramm-Rudman-Hollings sequester would take about $23 billion. It so happens that is about 2 percent. So the awesome prospect was that the Federal Government for next year, if we had let the sequester go into effect, would have had to get by on an increase of only about 2 percent.

It so happens, Mr. President, I have got quite a few people out in Colorado who are not going to have a 2-percent increase in their income. They are not going to have a 3-percent increase. Not even a 1-percent increase. But the Congress of the United States trembled at the thought that somehow we were going to have to get by and run the Federal Government for 1 year on only 2 percent more than the largest amount that had ever been spent at any previous time in history. We just could not let that happen.

You know, it was really remarkable to see how the leaders of our country acted when confronted by the prospect that we have an automatic sequester. That is a mechanism, it is interesting to note, that a majority of the House and Senate voted for and the President signed into law, somewhat grudgingly, I guess, only a few weeks before. But when the reality of it came upon us, somehow we just could not let that happen. We had to find some way out of this dilemma and so, by gosh, we put together this summit conference and we got the Director of OMB and the Secretary of the Treasury and a bunch of important leaders from this Chamber and the other body and got them around the table for about 4 weeks and they finally produced the budget summit conference, which is implemented in part by this budget reconciliation bill.

Mr. President, I do not think there is anything to be proud of here, and I do think there are some alternatives—even, yes, at almost midnight on what we hope is the last night of the session. There is another, better, wiser course. One of the things we have been told is that we have somehow got to pass this bill because if we do not, there is no other way out. And that is not true. There is another alternative. That is, if we defeat this, we will get a sequester and so instead of getting $12 billion or $14 billion in cuts, some of which are not very real, some of which are correctly described as smoke and mirrors, we would get $23 billion in real cuts.

That may be too much for some, but I will just tell you there is at least one Senator who think that $23 billion in cuts from an inflated baseline is not only reasonable, it is minimal. It is pusillanimous. It is just the start of what we ought to do.

Mr. President, this is a proposal of golden gimmicks, smoke and mirrors, and so much cosmetics that it would make Mae West blush and I just want to take a few minutes to take a look at what the specifics are in this conference report. It is alleged that we are going to have budget deficit reductions from the baseline, admittedly an inflated baseline of $23 billion. I have been handed, I guess, just within the last 20 minutes, a list and a little background and explanation and items just jump off this page. These things are phonies, Mr. President. They are not, by any reasonable standard or definition, deficit reductions. They are certainly not spending reductions.

What is the largest single item on this list except for the tax increase which I want to discuss in a moment? The largest single item is $7.65 billion in asset sales.

Now, an asset sale may be a good idea. In fact, I think there are a lot of things we could do without. There are even some things the Government owns that I would be glad to give away, but that does not make it a deficit reduction by any ordinary standard of accountability. That does nothing to reduce the Federal budget deficit. True, it produces some cash.

You know, any private company, any of the companies that are regulated by the New York Stock Exchange or by the Securities and Exchange Commission, in fact any public company, I think, has to adhere to what the accountants call generally-accepted principles of accounting.

There is not any accountant that I ever heard of who would say that this, under ordinary, accepted principles of accounting, ought to be scored as a budget deficit reduction measure, and yet that accounts for over $7.5 billion of the $33.5 billion in projected savings under this conference report.

The second largest item is defense savings, and I presume those are real, about $5 billion.

Another item which is probably real and which I applaud is the $1 billion in the savings in the Farm Program. I note with approval that we are actually going to reduce not much but slightly, the target prices and make some savings in that way.

I wish that this was not necessary, but I think it is, and I do congratulate the conferees for having the courage to at least make some real savings.

I think it is an irony that when they have piece of legislation which is full of smoke and mirrors, that one of the few places where they really come down hard and make some genuine savings, about a 4-percent reduction in target prices for next year, is on a segment of our economy which is most defenseless.

I support it. It is something we should do. But I would like to see some cuts in other programs in the context of an across-the-board cut which affected more of the affluent section of our society. I do not see how we can give ourselves a pay raise, raise salaries for Federal employees, raise many, many programs of low priority, and then say to the farmers, "We are going to cut you back."

I think they should be cut, but I think others should be as well.

Mr. President, I mentioned smoke and mirrors. Here is another one that I wonder if Senators really think can be called or scored properly as a budget deficit reduction measure. That is $1,200,000,000 in debt service.

That means that there is an estimate that we are going to save on interest rates. It may turn out to be true; it may not. Either way, that is a saving that would have occurred over and above the $23 billion or $24 billion which are automatic under the sequester of Gramm-Rudman-Hollings. So it will probably not materialize, but, if it does, it still is not properly scored as a spending restraint or a tax increase. It is just a number that has been plugged in there.

Mr. President, it is analogous in some sense to the magic asterisk that we plugged in one year in the budget. Remember that thing? The then Director of the OMB came to town and said we were going to save a certain amount of money but we did not know how to do it, so we put an asterisk in the budget and said they would tell us later what it would be.

It is not accurate to say that this is a spending restraint.

Mr. President, that brings me to the savings of about a $58 billion saving in the VA Loan Program. That is phony. The conference agreement alters the current restriction on nonrecourse vendee loan sales by allowing the VA to sell these loans with or without recourse, depending on a determination by the Administrator of the VA as to which basis would be in the best interest of the functioning of the Loan Guarantee Program.

In other words, we are going to do basically, not exactly, the same thing we have done every year, but we are going to account for it in a slightly different manner, and, as a consequence, we are going to claim a savings under this proposal in order to head off the dreaded Gramm-Rudman-Hollings sequester.

Then, Mr. President, we are going to recapture some money in the Student Loan Program, the balances which the agencies maintain to meet their obligation. It is probably a good idea. So far as I know, it is. But it is not spending restraint by any manner or means. It is just instead of being in the bank accounts of these agencies, the money will be recaptured to the Treasury. But to anyone who thinks it is a deficit reduction or spending restraint, I honestly cannot see it.

That brings me to the tax portion of the bill.

I clipped an editorial that appeared on the 5th of December in the New York Times. I do not always agree with the New York Times, but they are a very thoughtful publication.

I must say I was surprised about their frank characterization of what was going into this budget summit conference. They wrote this editorial up with the headline "The Senate Fakery Committee's Bill:"

> The Senate Finance Committee has been working to cut the budget deficit, but not very hard. The new tax bill would make corporations pay $1.6 billion next summer that would not otherwise be collected until next fall. That is not a tax increase but a speed-up. It accounts for almost one-fifth of the committee's $9 billion package to reduce the budget deficit. Pure fakery.

The words of the New York Times. The editorial goes on.

> I think it is reasonable for Senators who were concerned about the allegations of fakery, and that is only one—there are some others in the tax portion of this bill—to ask how did the conferees do? Did they improve

it? Did they make it worse? How are we ending up? What is the level of commitment that is implied by the adoption of the tax portion of this bill?

With the world waiting with bated breath to see if the United States can stem the tide of red ink in its budget, with the Nation's securities markets precariously balanced, we are told, and all over the world—in Tokyo, in Europe, in Zurich, you name it—other countries taking their cue from what happens here, what in the world is the Senate Finance Committee and the Senate doing about it?

Well, I am going to tell you. One day not too long ago, we had one-fifth of the Members of the Senate plus a number of the most important leaders of the administration, including the Secretary of Treasury, considering a proposal to deny the dependent care credit for overnight camp expenses. Can you imagine the boldness, the courage of these leaders gathering together at a moment of crisis, to find out if camp expenses have been contributing to this horrible financial mess that we find ourselves in?

That is one of the actions that emerged in this bill. I do not know how you feel about it. It is a tough issue, but, by golly——

Mr. GRAMM. Had that been a part of our problem?

Mr. ARMSTRONG. They concluded that it had been. They did not have the guts to take on the tougher issues but they did take on the camping expenses.

The provision for overnight camp expenses has been taken care of in this reconciliation, and we do not have to face the prospect of that abuse continuing indefinitely.

Mr. President, this $9 billion which is the alleged amount which will be contributed to deficit reduction, and that is part of the smoke and mirrors which I will mention further in a moment, if you take that at face value, do you know that that $9 billion brings to exactly an even round $1 trillion the amount of tax increases that we have legislated for the period 1982 to 1990?

This includes TEFRA, 1982; DEFRA, 1984; COBRA, 1985; OBRA, 1986; the gasoline tax, and the higher Social Security taxes which we have legislated. I am told that the sum of those through 1990 is exactly $991 billion, and the alleged amount of this is another $9 billion, which brings us up to $1 trillion.

Anyone who thinks that you can grow strong, that our economy can grow strong, if we are just courageous enough to raise taxes, must be convinced that our economy is stronger than gangbusters because that is $1 trillion in tax increases.

Now I want to address the specific features that are contained in this bill because not only do I not like the idea, and not only do I think it is fiscal horseplay at best, but the specific pieces which have been included I think are most ill advised.

First of all, we are going to extend a surcharge of two-tenths of 1 percent on all taxable wages for the Federal Unemployment Tax Act, FUTA. In other words, we are going to continue a two-tenths-of-1-percent tax on employment.

One of the people here on Capitol Hill whom I admire greatly likes to point out if you want more of something you subsidize it; if you want less you put a tax on it.

We are putting a tax tonight on employment, not a huge tax, just a little one, two-tenths of 1 percent.

What we are really saying is that every time an employer wants to think about whether or not to add one more person to his payroll, there will just be a little marginal increment of disincentive to do so.

You might not think that is important, but the reality is that in most large corporations and many small ones in this country today payroll taxes are a much bigger cost of doing business than the combined total of Federal and State income taxes. Let me say it again. Payroll taxes cost more to a lot of companies than income taxes. Is it any wonder that we have suffered for years with the problem of growing unemployment? Because we are taxing it, and it is no wonder we are getting a lot less of it.

The same applies in a sense to the requirement to tax cash tips. Four hundred and sixty-five million dollars is estimated to be removed from the restaurants around this Nation over the next 2 fiscal years by requiring those businesses to pay more in FICA taxes, 7.15 percent on tips paid by customers to employees when tips bring income above the minimum wage.

The next item that is included in the package is a freeze on estate and gift taxes. It is expected to raise $197 million in 2 fiscal years by freezing the tax rate at 55 percent for 5 years, thereby reversing a reform which was long sought and widely applauded when it was scheduled to decline to 50 percent.

In fact, I remember, Mr. President, a lot of people in this Chamber and beyond the walls of this Chamber really applauded when we said that no more were we going to tax estates at more than 50 percent. By definition, this is money that has been accumulated by people after they have already paid their Federal income tax, paid fair FUTA taxes, paid their FICA taxes, paid their gasoline taxes, paid their State taxes of all kinds and then at the end of their life there was some thought that just a sense of justice and fair play would limit to no more than half the amount that the Federal Government would get after a person is gone; that a person, after working a lifetime and paying their taxes and getting by and doing the best they can, for heaven's sake, at least ought to be able to leave half of whatever they had managed to accumulate to their children and grandchildren, and so on.

I remember that very well. That was thought to be a big reform a couple of years ago and now we are reversing it. I do not know whether it is fair. I do not think so. I know it will have a great practical effect in some of the farm communities around where it will make it that much harder, and significantly harder, 10 percent harder, roughly, to keep these family farms and small businesses together.

In addition, a related provision would have repealed the State death tax credit and replace it with a deduction. That means to my State of Colorado about $18 million. I asume that the State legislature will not have to find some way to raise taxes in Colorado by $18 million to make up for that.

Then we are going to extend the 3-percent telephone tax, and that is a regressive one.

And here is one that I believe very few Senators realize is in this bill. There has not been a lot of discussion about it but there should be. The foreign tax credit and deferral of U.S. tax on income from a controlled foreign corporation is denied by this bill if it arises with respect to South African activities. Not if it applies to Russia or to Cuba or Nicaragua or any other country so far as I know—and I am ready to be corrected, because I just learned of this recently myself, but if you are doing business in South Africa you get taxed differently than any other country in the world.

Mr. President, I am ill-prepared to tell you the specifics of a measure which changes in a way about which I am uncertain the lobbying and political activities of the tax-exempt organizations. It is simply not clear. This thing has been put together so fast and come to us so suddenly that my staff is unable to report to me, nor am I able to report to you, with precision exactly what has happened. The House adopted some limits on political and lobbying activities of some tax-exempt organizations, and the penalty for exceeding those limits is the loss of tax-exempt status at a 10-percent excise tax on the amount spent on political activities and 5 percent of the amount spent on lobbying activities. I cannot tell as we prepare to vote exactly how that turned out in the final draft of the bill.

Now, those are some of the things that are wrong with this legislation. In support of it, we are given the following arguments. First, this is going to impress Wall Street. Mr. President, I have talked to lots of Wall Streeters in the last month or so. I talk to a lot of them all the time. I serve on committees whose jurisdiction touches Wall Street. I am on the Banking Committee. I am on the Securities Subcommittee. I am on the Finance Committee. I am on the Budget Committee. And over the years I have just come to have great respect for the intellectual horsepower of the people who head up and work in these great securities organizations. I do not know of one—there probably are a few, but I do not know of one Wall Streeter who is impressed by the budget summit conference, and I know a lot of them who are laughing about it; they think it just shows that their worst suspicions about the Congress are right.

In fact, I do not know whether I should really tell this. Maybe I will not. Mr. President, I think I will skip over what I was about to say. It is probably ill-becoming of me to share the insight, but suffice it to say that at least in many quarters on Wall Street there is a genuine contempt for the way the Congress of the United States handles the Nation's fiscal affairs. Any notion that this is going to impress them is simply not borne out by contacts that I have had among people who are on the firing line.

The second allegation is that we have no alternative. We do have an alternative. If we defeat this bill, we get a sequester with $23 billion or $24 billion in real cuts plus whatever we save on interest—$1.6 billion is estimated here, and with no tax increase, and so it is more cuts, more real savings. We could go back and do the asset sales any time and pick up the odds and ends and pieces of it.

Mr. President, we are urged to vote for this because this agreement proves that we can govern. It proves—in fact, I wrote this down during the course of the debate tonight. Somebody got up and said that we have to vote for this because, "If we do not, it shows that we cannot come to an agreement."

Well, in my opinion we are implementing an agreement that is the product of a charade. It is not a bold, courageous stroke. It is not increasing the measures of deficit reduction. It is backing away from it. It does not constitute an appeal to the best instincts of our country. It is not saying to the people of America we are going to solve this problem by meeting it head on. This reconciliation measure, in my opinion, is exactly the opposite of what it has been portrayed to be. It is in truth a copout and it deserves to be defeated.

Mr. STEVENS. Mr. President, as a conferee from the Committee on Government Affairs, I have signed this conference report with some reluctance. I want to state clearly for the record that I signed this agreement only because I am committed to seeing the Budget Summit Agreement enacted into law.

I do not approve of the way this conference agreement affects the U.S. Postal Service. This conference agreement requires the U.S. Postal Service to absorb 73 percent of the $1.7 billion in savings the Government Affairs Committee was asked by the Leadership to develop in the fiscal years 1988 and 1989. These cuts, $510 million in fiscal year 1988 and $735 million in fiscal year 1989, come from the U.S. Postal Service operating and construction budget.

My colleagues will recall that the Summit Agreement suggested reforms in the "Federal Personnel" System. However, 73 percent of the money saved in this conference agreement has little to do with "Federal Personnel." Instead, it contains $1.2 billion in Postal Service reductions over the next 2 years, primarily in postal construction costs. Specifically, the conference language will defer for 1 year 65 percent of the Postal Service capital improvement program, reducing capital outlays by $350 million in fiscal year 1988 and $465 million in fiscal year 1989.

Mr. President, these postal facilities are urgently needed throughout the Nation. They are needed to continue the Postal Service's congressionally mandated program of improvement in productivity which is intended to make the Postal Service more efficient and less costly to those who use the U.S. mail. These deferrals of construction and capital expenditure projects simply postpone, but do not eliminate, the need for these expenditures.

New postal capital spending projects all across the country have already been frozen, and nearly every one that was scheduled to start during the remainder of this year, and some more in 1989, are not going to get off the ground before 1990 at the earliest. In virtually every State, wherever a new or modernized post office building is most sorely needed, the local people and community leaders who have fought for years to get the necessary approvals and funding are going to discover overnight that the fruits of their efforts have been snatched from their hands at the last minute.

These capital investment deferrals and cutbacks in postal services do not get at the real, permanent deficit problem in this country. Over the long-term our postal services pay for themselves, if we do not destroy the quality of the service which our people feel they have a right to expect.

These delays will have a direct effect on the economic well-being of many areas of this Nation, especially those areas of the Nation that are experiencing rapid growth.

Mail service will suffer, and the pain to our constituents will be real. We do not know exactly where or how the pain will develop, but we are going to know, and soon, and so will our constituents. The postal system is the one Federal service that everybody in this country uses first hand and on a regular basis. The American people know when the system works and when it does not. They know what they are getting for their postage dollar. Today, people are generally satisfied that they get good value for their postal dollar, according to most independent surveys. Tomorrow, their reaction will be far different.

The 25-cent stamp is already in the cards. A revenue increase will arrive as early as spring. People are going to be paying more and getting less.

Mr. President, my colleagues should be aware that one unique feature of this agreement allows the fiscal year 1989 savings of $465 million resulting from deferred Postal Service capital expenditures to be put into a separate account, an escrow account if you will, that can be used by the Postal Service in 1990. Now let's be realistic. In 1990, Gramm-Rudman-Hollings requires that the deficit be no more than $100 billion—down from $144 billion this year and $136 billion in fiscal year 1989. This means that the Government Affairs Committee will be required to make even further reductions in its area of authorization for fiscal year 1990. Ironically, this $465 million sitting in an escrow account will then be scored as Postal Service spending in fiscal year 1990.

In short, not only will we have to reduce the Federal deficit by another $36 billion for 1990, but our mission will be complicated by the deferred $465 million in additional capital construction funds which will appear in 1990. Realistically, what will happen is that the $465 million, if it is used as it is intended, for Postal Service construction projects, will make the possibility of meeting deficit reduction goals in 1989 much more difficult. If that news were not bad enough, Postal Service operating budgets will be cut by $160 million in fiscal year 1988 and $270 million in fiscal year 1989. This will directly affect the Postal Service's ability to provide the service the public expects and deserves.

Mr. President, Senate conferees were in the position of having no choice but to approve the postal cutbacks which are part of this bill. We all know that we have to have a budget bill to show the world we can deal with the Federal deficit situation. But the process has been structured so that a big chunk of the budget reduction is going to be taken out of the Nation's mail system during the remainder of this year and the next. Over the past week, the Government Affairs Committee and the Senate have simply not been given the room to look for more sensible alternatives. Committee conferees have succeeded only in reducing the size of the damage being done from some $1.7 billion to just under $1.25 billion. But Senators should make no mistake about the consequences of this decision.

Mr. President, I want to make it clear that my strong reservations about the conference report in no way reflect discredit on the conferees; they had an almost impossible task. I specifically want to express my appreciation to Chairman Bill Ford and his colleagues, Gene Taylor, Frank Horton and Mickey Leland, for getting the best possible compromise for the Postal Service that could have been agreed to. Senator John Glenn and Senator David Pryor also looked at various options. But because of budget scoring problems, committee conferees were in such a box that we had very little room to be innovative in the way we could save taxpayer's money.

I hope that we can institute a better process than the process which we faced over the weekened. Happily, next session the Senate Rules Committee will be looking further into possible ways to improve the operation of the Senate and its committee structure. Hopefully, we will not be in the same position in 1989 that we were in this last weekend.

Mr. CHAFEE. Mr. President, the reconciliation conference report before us addresses many troubling health care issues in both the Medicare and Medicaid programs. The original House and Senate reconciliation packages contained very substantial differences in their Medicare and Medicaid provisions. The agreement before us represents compromise by both the Senate and the House, but I believe it represents better health care policy than either of the original bills.

This was not an easy conference. My colleague from Maine, Senator Mitchell, and I spent many hours with the House conferees on Medicare and Medicaid issues working to resolve significant differences between the two bills. I would like to commend my colleague for the tremendous job he did in representing the Senate in this Conference and his splended ability to arrive at a reasonable and fair compromise.

Many of the changes in the Medicare and Medicaid Program included in this conference report will reduce the deficit, but overall I believe that we were also able to balance most of the spending reductions with good health care policy.

I would like to describe some of the changes which are included in this bill which will help those in need of better or more comprehensive health care services.

Even though we were instructed to reduce spending, we were able tin some instances to increase very important programs, especially those dealing with the poor.

The bill includes numerous provisions which will address the needs of the elderly. These provisions will improve the care nursing home residents receive. The amendments will go a long way toward ensuring that elderly individuals have a good quality of life and receive high quality medical care in their twilight years. In addition, we increased the amount of money that those living in a nursing home can keep each month. We also established a National Commission on Long Term Care.

We made a number of changes in the Medicare home health benefit which will assist in alleviating many of the ambiguities and problems home health care providers face that is district nurses for example—in attempting to receive reimbursement from Medicare for the services that they provide to the elderly.

In a further effort to improve home health care services for the elderly, the conference adopted a provision I proposed to allow demonstration projects designed to improve the delivery of health care services to Medicare beneficiaries outside of institutional settings. This provision will help fill the gaps in home health care for the elderly by providing a predetermined payment to community nursing organizations. This is designed to provide the services Medicare beneficiaries need to fully recover from an illness. Community nursing organizations will also help more Medicare beneficiaries live independently longer, by providing in-home assistance to help prevent institutionalization.

We also addressed the health care problems children face. And I would like to draw the Senate's attention to this provision. This package includes another small step forward in improving the health care services for young children, infants and pregnant women. This continues our efforts over the last 5 years to ensure that our health care system provides access for the very poor—especially children. The provision we adopted includes expanding the Medicaid Program to cover pregnant women and infants who are between 100 percent and 185 percent of poverty. These families are the so-called working poor.

The great gap in our Medicaid Program is that it stops when you reach a certain poverty level. Then if you should go to work and rise above the proverty level, even though you work for a firm that provides no medical coverage at all, you lose your medical coverage under Medicaid. And that is an understable barrier that poor women face in deciding whether or not to take a job. Why take a job if you lose the Medicaid coverage not only for yourself—maybe you can take that—but when you lose it for your children as well?

So what we are trying to do is encourage individuals on welfare to break out of these throes and become independent, but we have to help them in the initial steps, encourage them to take a job and in the meantime provide them some medical coverage for their children and themselves.

This is a critical first step toward recognizing the need to create a health care system which will include those who are working, but have a limited income and are uncovered through their employment. It is also a component of a bill I introduced earlier this year called MedAmerica.

We also attempted to address some of the problems individuals with disabilities face in the Medicare Program. The conference report includes a provision I advocated which will eliminate disincentives to work for those with disabilities.

Let us take an example. You have an individual who is qualified for SSDI and Medicare. What we did was provide a permanent extended eligibility if the individual has to discontinue work for the same disability. Let us take somebody with multiple sclerosis. Let us say they qualify for Medicare. Then the multiple sclerosis goes into remission. The individual goes out to work. And then after a couple of years the MS comes back again and further afflicts them.

Under the current law, they cannot go back onto Medicare for the same disability without an extended waiting period. What we did in this bill is say they can go back onto Medicare without the normal waiting period and thus we encourage them to take a chance when in this instance the multiple sclerosis goes into remission. The individual will say, "I will go to work. I know I will not lose my Medicare if I get sick again. I can go back immediately onto Medicare. So I will take a chance. I will go to work." That is the best thing of all for the individual and for our society as a whole.

For any individual, with a disability who has qualified for SSDI and Medicare, it provides permanent extended eligibility if the individual has to discontinue work for reasons of the same disability. This provision is of special concern to those with disabilities such as multiple sclerosis who may be able to return to work for an extended period of time, but always face the threat that their disability could deteriorate to a point where working becomes impossible. At that point, if they are not able to get back on Medicare without the normal 2-year waiting period, they face enormous financial and health care problems.

We also made some technical changes in Medicaid to address some problems which are simply wrong under current law. For example, we adopted a provision which allows infants to be included under their mother's Medicaid coverage to avoid the tragedy of an infant being refused medical treatment simply because his Medicaid eligibility has not yet been processed.

This is possible as the law exists now unless this conference report is adopted. The child is refused treatment because his medical eligibility has not yet been processed.

Another example is a change we made in the law to fix a problem in the Katie Beckett waiver program which was excluding eligible children from the program.

This package also contains spending reductions in the Medicare Program. The cost of the Medicare Program is still increasing at an unacceptable rate, and we all rocognize that. And we will continue to look at how the program can be changed to show these increases down. However, these changes must be based on good health care policy decisions. We made a strong effort to ensure that the final changes in the program are fair and represent good health care policy. I believe we were successful.

One of the most troubling problems addressed in the conference report involves the increase in payments to hospitals. The prospective payment system established a single rate of payment for hospitals based upon the illness to be treated—the DRG rate. When we developed that system, we knew that fine tuning would be necessary. The conference agreement addresses many of the concerns about the differences between urban, rural and inner city hospitals. Under this agreement, inner-city hospitals will receive a 1.5-percent increase, urban hospitals will receive a 1-percent increase and rural hospitals will receive a 3-percent increase.

To reflect the concerns raised by hospitals in the mid-western and New England regions, this agreement slows down the transition to national rates for 3 years. This will mean a 0.4-percent update for hospitals in these regions which have higher costs, especially energy costs, than other areas of the country.

Another difficult issue addressed by the conference was physician reimbursement under the Medicare Program. The conference report reflects the very strong feelings that the House conferees had regarding physician payments. They strongly believed that it was necessary to retain a difference in the increase in reimbursement between those who will accept what Medicare will pay as payment in full and those who wish to charge beneficiaries more than that amount. We agreed to retain a small differential.

More importantly, we included in this package a substantially larger increase for what are called primary services—office visits, emergency room visits and nursing home visits. This is an issue I feel strongly about—this will encourage cognitive services—the doctor talking with his patient—rather than highly technical services.

I believe the agreement we reached with the House is a reasonable compromise and good policy. It will save the Federal Government money, control beneficiary out-of-pocket costs and allow physicians to increase their charges at a reasonable rate.

We also included two demonstration projects on preventive services. The first was to provide therapeutic shoes for diabetics and the second was to provide for influenza shots. It is my hope that these two projects will show once and for all that an ounce of prevention is worth a pound of cure.

This is a good agreement and I urge my colleagues to join me in supporting it.

The PRESIDING OFFICER (Mr. ADAMS). Who seeks recognition?

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I want to make a few remarks about this bill tonight. I will try to be brief. I think at this late hour in the session everybody has made up their mind on one thing; that is, they want to go home for Christmas. If this bill being adopted contributes to that then I am sure if anybody is on the margin, that is going to sway them in the direction of supporting it. But lest we be too covered with tears about the harsh spending reductions in this bill, I would like to just remind people of a couple of salient facts.

First of all, despite all the talk about cutting spending, one looks in vain for true spending cuts in this bill. In fact, I think it is interesting to look at what we are spending under this reconciliation and under the continuing resolution in fiscal year 1988, compared to what we spent last year. If you look at those figures, you find that under this budget compromise Federal spending rises by 4.5 percent over the level we spent last year. In fact, there is not a major component of the budget that is actually cut under the terms of this agreement. Defense, in outlays, rises by 1.1 percent. Nondefense discretionary spending rises by 4.1 percent, and mandatory programs and entitlements rise by 7.9 percent.

I think it is instructive, in looking at the 4.5-percent increase in spending, to note the fact that last year spending grew by 1.2 percent. With all the pressure of the automatic cuts under the Gramm-Rudman-Hollings law and despite all the concern about the collapse in equity values on the stock market, we, in this compromise, are increasing spending 3.7 times as fast as it grew last year.

That was the agreement as it was written right out here in the hallways of the Capitol that was the agreement that was made between the White House and the leadership. I think that it is important to note, however, that this reconciliation package in very serious ways does not live up to that agreement. This plan for example, scores $1 billion in Medicare savings by using a higher baseline than was established in those agreements.

In fact, as the distinguished Senator from Rhode Island has just pointed out, what this agreement does—and we now have done it several years in a row—is start with a very high baseline for Medicare growth. We do not reimburse the providers at that rate of growth, we claim savings, and then we add new benefits that will spend out in the outyears and have the effect of actually raising Medicare spending.

That is what we have done here. We have done other things, like delay certain payments by 10 days in 1988 and by 14 days in 1989. Rather than having the Post Office actually cut expenditures, we have them delay 60 percent of their capital expenditures—that is, defer them—in fiscal 1988, into the future.

I would like to sum up by saying that we are going to face the same problem next year. I hope that the economy will be strong and that our task in the election year will not be difficult. But if in fact many of these savings do not turn out to be real, if in fact they do not spill over into the outyear, then we are going to be facing in an election year further necessary actions to reduce the deficit.

Finally, it would not be fair if I did not point out one fact that I think we ought to recognize if we want to try to find a silver lining in this agreement. I have gone back and looked at the last 11 election years; and, on average, in those last 11 election years, Federal spending has grown, under Democrats and Republicans, by 11.2 percent.

If, in fact, we can live up to the spending restraint commitment for fiscal year 1989, which is simply set out as a guideline in this bill and not legislated, we will be controlling the growth of spending at roughly a 4.5-percent rate, and that would be a dramatic improvement in an election year. I, for one, hope we can do that. I will vigorously oppose any supplemental appropriation bill that violates this agreement. I hope the President will veto any supplemental that violates this agreement.

I think this is a very marginal deal. It was not a deal that was meant to appeal to me or to garner my vote. It is a deal, however, that achieves more than would have happened in the absence of either Gramm-Rudman-Hollings or this agreement.

Whether or not we would be better off with the $23 billion in across-the-board cuts, I do not know. I do not know to what extent they would stand up. I do not know to what extent they would be undermined by the President and by Congress, through supplemental appropriations. But with this deal in place, I think it is vitally important that we try to enforce it.

I, for one, am very concerned that we have seen quite a bit of slippage between the agreement made by Congress and the White House and the package before us. I hope we will not see further slippage over the next few years. If we do, we will lose the positive things contained in the agreement, and the negative things will still be there.

[The following proceedings occurred after midnight.]

Mr. DOMENICI. Mr. President, I understood that the distinguished minority leader wanted to make a statement.

Mr. DOLE. Mr. President, I will just take a moment, because I know we are going to vote. We will be here all night, anyway, so it does not make any difference how long we take on this. We will have to wait until 4 or 5 o'clock for the continuing resolution to come from the House. Maybe we could recess for a few hours.

I have listened to the arguments pro and con on this package, and maybe they are all correct. All I know is that there has been a great deal of effort expended by a great many people on both sides of the aisle, in both Houses, for a matter of about 30 days, and I think we missed a great opportunity.

I think that after the October 19 stock market crash, we had a 10-day opportunity, or a 10-day window, to make a bold move, but it did not happen.

A lot of us had a lot of ideas, including the distinguished Senator from New Mexico and the distinguished Senator from Louisiana and others, and they gave everybody a lot of opportunities to go for the bold play, but it did not happen. We could not reach a consensus.

In the final analysis, we ended up with this package, over a 1,000 pages, probably 10 or 12 pounds, and a lot of work and a lot of effort and a lot of things that probably should not be in the package.

Maybe some other Senator can put it together, probably not precisely the same package. It is easy to find fault with a number of things in this package. But, overall I think we did establish one thing: That the Democrats and the Republicans could work together, that the President of the United States could work with Congress, the Democrats and the Republicans, as he did.

I think that, in itself, should indicate that we can govern when necessary—maybe not the way some would like. But, in the final analysis, we demonstrated—maybe not in the way we should have or as large as we should have—but I do believe we send a signal, with our affirmative vote for this conference report, that will be heard around the country and on Wall Street and maybe around the world. So I hope we will support this effort.

The leadership on both sides of the aisle, in the Senate and in the House, appointed Members to represent us. No one is bound, of course, by the agreements they reach, but I certainly commend all of them. I think they have made every effort they could.

I commend the majority leader for sticking with the agreement. Time after time, we have met in his office the past few days, and he said time after time, "I'm going to stick with the agreement."

We have not had much difficulty at all on the Senate side. There has been some difficulty, but not much. There has been more in the other body.

So I congratulate all those who have been players in this effort—Republicans and Democrats, Members of the House and Members of the Senate.

I hope that the President will sign this bill. I understand that he will. There are a couple of items that the President does not like, a couple of items that probably should be changed. They are both controversial, and you can read into each argument your particular point of view.

Mr. President, I intend to support this conference report. I hope that my colleagues on both sides of the aisle will vote to give a strong indication that they support the efforts of a lot of Members here who have spent a lot of time putting together a pretty good package—not as good as we would like, but the best we can get.

Mr. EXON. Mr. President, will the minority leader yield for a question?

Mr. DOLE. I am happy to yield.

Mr. EXON. Mr. President, I heard the minority leader yesterday indicate that there was a request on his side of the aisle for a rollcall vote on the continuing resolution. As I understand it now that is scheduled to follow this sometime around 4 or 5, maybe 6 o'clock in the morning.

Is that the information that the minority leader has?

Mr. DOLE. That is correct.

Mr. EXON. Just as a matter of information for this Senator, is there still going to be a rollcall vote requested on the continuing resolution as far as the minority leader is concerned? I have not checked with the majority leader on the floor. As far as the minority leader is concerned there is still that request for a rollcall vote on the continuing resolution.

Mr. DOLE. Unless that Senator should doze off somewhere and not be able to be located.

Mr. EXON. If the Senator could name him maybe we could see that he did go off somewhere.

Mr. DOLE. No. Doze off, go to sleep.

Anyway, he is here and wide awake and alert. He said he would be that way at 5 o'clock. I assume there will be a rollcall vote.

The PRESIDING OFFICER. The Senator for New Mexcio.

Mr. DOMENICI. On our side I see the senior Senator from Nevada on the floor. Did he desire to speak on this?

Mr. HECHT. I thank the distinguished Senator from New Mexico. I wish to speak no more than 3 minutes.

Mr. DOMENICI. As much as he would like. I wanted to remark for about 3 minutes myself and I think we are finished. There is no one else asking on our side and Senator CHILES has a wrapup.

Mr. DOLE. They are starting to wake up.

Mr. DOMENICI. We are going to yield to the Senator and vote after that.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 3 minutes. Is that what he wishes?

Mr. HECHT. Thank you, Mr. President, probably 3 minutes, no more than 4 minutes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. HECHT. Mr. President, as all my colleagues know, I am opposed to the bargain struck by the conferees on nuclear waste. I am opposed to deep geologic disposal of unreprocessed spent nuclear fuel. Deep geologic disposal is wrong. It has not been proven safe, and it will be terribly expensive. I am therefore opposed to a deep geologic repository being built in Nevada, or anywhere else. Instead, we should reprocess and recycle nuclear waste, and burn it as energy.

Realizing early in the legislative process that any legislation passing this Congress would narrow the choice and target Nevada, I worked diligently to amend the bill and protect Nevada's interest. I succeeded in amending this nuclear waste legislation 17 times as it passed through the Senate. As a result, the bill, although still unacceptable, is much better for Nevada and for the Nation as a whole. This compromise legislation that is now before us has retained 12 of the Hecht amendments.

Mr. President, these are good amendments. The conference report targets Nevada and I don't think that's fair. But, if Nevada is going to be targeted, then I think it should be protected as much as possible. That's what I have attempted to do with these amendments, and my fight will not stop here.

As I've said before, burying nuclear waste is wrong. Reprocessing it is right. If I'm beginning to sound like a broken record on this subject, then my colleagues better get used to it. I am just getting started.

Mr. President, I yield the floor.

Mr. HEFLIN. Mr. President, I rise today to discuss the revenue provisions in the Budget Reconciliation Act of 1987. Both what is in the bill and what was left out of the bill causes me grave concern. First the sheer volume of the tax increase is staggering. This bill raises $9 billion in new taxes during 1988 alone. This is one of the largest single year tax increases since World War II. Some argue such a tax increase is the only way to balance the Federal budget. I disagree. The alternative to increasing taxes to balance the budget is to cut spending. Reducing Federal spending is a better way to balance the budget than raising taxes. Our Government has not incurred this massive debt because our citizens are undertaxed; it is because the Government overspends. Congress and the administration must learn to live within our means.

As I reviewed the tax portions of the budget reconciliation, I remember two principles from my courtroom days: nonfeasance and malfeasance. In short, nonfeasance is leaving undone those things which you ought to have done, and malfeasance is doing those things which you ought not to have done. The budget reconciliation bill contains examples of both.

Mr. President, I feel the budget reconciliation bill should have addressed problems of associated with the formation of capital. The most pressing problem is the removal of preferential treatment for capital gains. While I am not in favor on addressing every national need through the Tax Code, a long term capital gains differential must be reinstated. Tax law prior to the 1986 act allowed taxpayers to exclude from income 60 percent of the gain upon the disposition of a long term capital asset. This provided an incentive for Americans to make an investment and then hold on to that investment. This has the twin benefits of promoting capital formation, thus providing the basis for new economic growth, and reducing volatility in the marketplace. At a juncture where our Nation has one of the lowest savings rates of any industrialized country and is facing economic volatility so great that it threatens our entire national economy, we must restore the incentive to save and invest.

The areas in which the need for tax incentives to invest are the greatest are those which are subject to the biological process. Manufacturers have control over their costs of production and their sales price while service workers can control the quality of their services and the quantity they provide. Farmers and foresters have no similar control over the factor which most controls their production: the weather. I have already tried to eduate my colleagues about moondogs and blackbirds in December; some may even remember what a welcome sight sundogs can be to a drought-striken farmer. These things can help a farmer predict the weather, but by no means do they allow him to control it. Farming and timber growing continue to be risky business.

Congress needs to encourage continued investment by our food. fiber, and timber producers. The best way to encourage this is by providing a capital gains differential for timber, an investment tax credit for farm equipment, the accelerated cost recovery system for farming and income averaging for farmers. Without these tax incentives, America could find her strong agricultural base eroding. We must not allow this to happen.

Mr. President, another item which the budget reconciliation bill should have included is the Technical Corrections Act. There are too many important provisions in technical corrections to let the bill drop by the wayside. This bill was ready for consideration more than a year ago and Congress has yet to enact it into law. There is no excuse for such delay. The technical corrections bill will address and hopefully solve a vast number of flaws in the Tax Reform Act of 1986.

One group which would have been helped by passage of the technical corrections bill is professional authors and photographers. The Tax Reform Act of 1986 adopted uniform capitalization rules for costs of "producing tangible personal property." Capitalizing such costs generally is appropriate in matching such expenses with related income items. However, a footnote added to the conference report expanded the new capitalization requirement to professional freelance authors, even though the matter was not addressed in the statute or during floor debate. Under this new requirement, authors will be required to allocate every expense they incur among each of their pending projects and then amortize such costs over the projected life of the projects. Thus, authors who are researching and writing books could not deduct their expenses for that book against income from other writing projects.

The required allocations and projections of useful lives for each project will be far more complex and uncertain than even the capitalization requirements applicable to manufacturers. The new capitalization requirements for authors will essentially represent pure guesswork.

Since authors on the whole have modest earnings and little sophistication in tax and accounting procedures, the burden placed upon them by this provision will far outweigh any benefit this provision may have to the Treasury. It is time Congress repealed the capitalization rules as they apply to professional authors.

Another group which would have benefited from the enactment of the technical corrections bill is graduate students. An inconsistency exists between section 117, which taxes tuition remission scholarships, provided to graduate teaching and research assistants, and section 127(c)(8), which would exclude such amounts from taxation. Congress needs to clarify its intent to provide tax exempt treatment of tuition remission scholarships under section 127.

Another issue which needs to be addressed is the treatment of certain deferred compensation plans of tax exempt employers. The IRS, in Notice 87-13, took an overbroad position that the types and nature of deferred compensation plans governed by section 457 include nonelective deferred benefit plans which Congress actually intended to be outside the scope of section 457 rules. Congress must clarify its position on this matter in the near future.

Next, Mr. President, I would like to discuss some of the provisions which were included but which should not have been included.

First, there is the problem of freezing certain tax rates. Recently, the Senate overwhelmingly rejected a proposal to freeze the income tax rates at 1987 levels. This indicates a widespread belief that once Congress tells American taxpayers their tax rates are going to drop at some point in the future, Congress should live up to this promise.

Several years ago, Congress enacted an excise tax of 3 percent on the use of telephones. This excise tax was scheduled to decrease to 2 percent and then to 1 percent and then be eliminated completely. However, Congress has repeatedly extended the tax rate at 3 percent. In this bill, Congress is again extending the 3-percent excise tax.

The second example is an extension of the FUTA tax. In 1976, Congress enacted a temporary 0.2-percent rate increase to the Federal unemployment tax. This temporary additional rate was added to repay the borrowings of the Federal Unemployment Trust Fund from the general fund of the Treasury during the mid-1970's. The outstanding indebtedness was repaid during 1987, and the additional tax was scheduled to terminate at the end of the year. However, even though the debt has been repaid, Congress is about to extend this so-called temporary 0.2-percent additional FUTA tax rate for 3 years, through 1990. This is a mistake. Business accepted the additional tax in order to pay back money borrowed by the Federal Unemployment Trust Fund during the period of high unemployment of the mid and late 1970's. The crisis of high unemployment rates is over—at least for the time being—and the debt has been repaid. Congress should live up to its promise to repeal this tax once the debt has been repaid.

The next item is a freeze on the estate tax rate. The highest marginal tax rate on estates is currently 55 percent. This rate was scheduled to drop to 50 percent at the end of this year. However, in this bill, Congress will extend the 55-percent tax rate for 5 more years. In itself, this freeze in the tax rate is undesirable. However, when one considers that the top marginal tax rate on estates was supposed to drop to 50 percent at the end of 1985, but was temporarily extended for 2 years, this new extension of the tax rate becomes even more ominous. This will mean that the drop in the top bracket will have been delayed for 7 years. One can see that the top margin tax rate on estates will most likely never reach the 50-percent level.

There is another concept of a freeze in the estate planning area which has nothing to do with the tax rates. Rather, this refers to a technique by which taxpayers can freeze the value of an estate at some point prior to the death of the testator. The provision contained in the budget reconciliation bill is extremely vague, so vague that it is having a chilling effect among estate planners. There are numerous questions which this provision raises but does not answer. For example, what if property is sold before death? Are the proceeds tainted? Will the estate have to include the value of assets not owned by the decedent on the date of death in the valuation of the estate? Mr. President, the Finance Committee is leaving too many questions to the regulation writers rather than answering these questions in the legislation.

Other provisions I object to are the limitations on the deductibility of interest on qualified residences. Under this bill, homeowners will not be able to deduct interest paid on the amount of a loan which exceeds $1 million for primary mortgages or $100,000 on home equity loans. While the caps are generous, the fact that these provisions are included at all, causes concern. This is the camel's nose under the tent. In the next few years Congress will need to raise additional revenues. It will be far too easy to look to these provisions and, bit-by-bit, lower both of these caps. Within a short period of time, we could see the limitation on primary mortgages drop from $1 milion to $500,000 to $250,000 and then simply disappear. The Senate extensively debated this matter during the Tax Reform Act of 1986 and determined that interest payments on first and second mortgages on first and second homes should remain fully deductible. This is the first step to repealing these provisions. Congress should not even take the first step down this path.

Another provision to which I object is the reduction in the dividends received deduction. This provision increases the cost of captial to American business. Businesses will have to pay higher returns to their business investors to offset the increased "partial triple tax." This makes little sense when we should be focusing on helping business be more competitive in international trade. Also, by eliminating flexible financing instruments which fall between pure common stock, pure preferred stock and pure preferred debt, we put businesses in a straitjacket, instead of allowing them to develop methods of raising funds which are tailored to their needs and those of their investors. Why should hybrid financial instruments which companies have designed to attract investors, using some of the benefits of both stock and debt in different combinations, be eliminated because they do not fit simplistic tax compartments? There is no reason, Mr. President.

This provision will cause hardship to many corporations in America, but will particularly affect the industries which rely heavily on preferred stocks. One such industry is the utility industry. Their predominant reliance on preferred stock means that their cost of capital will increase dramatically. This means that the utilities will have to pay more to their investors. This in turn means that telephone, gas, and electric rates will rise.

Another major user of preferred stocks is the savings and loan industry. Almost a third of this industry is hard pressed today. It does not make sense to increase their cost of capital only a few months after Congress passed a multibillion dollar S&L bailout bill.

Another provision of concern is the expansion of the empoyer's share of the FICA tax to include all cash tips. This will cause an unreasonable and disproportionate tax burden to be placed upon restaurant owners and others who have employees who receive a large amount of tip income.

The flat 34-percent tax rate on personal service corporations is also objectionable. This change is at variance from well established tax policy. Almost from the inception of the personal income tax, we have had increasing marginal tax rates. There is a very good reason for using graduated marginal tax rates. People and businesses with higher net incomes are better able to pay higher taxes. There are no sound tax policy reasons to treat personal service corporations any different than other corporations or individuals by denying them the use of graduated tax rates.

Mr. President, I am also concerned over the treatment of publicly traded partnerships. I strongly disagree with the provision in this bill concerning the treatment of publicly traded partnerships under the passive loss rule. The Tax Reform Act of 1986 dealt harshly with real estate. Any further burden on real estate could depress the entire industry.

Mr. President, I would like to take this opportunity to congratulate Senator BENTSEN on his work in conference on several other provisions. A provision I am delighted to see included in the bill is the modification to the calendar year conformity requirement of the Tax Reform Act of 1986. The provision is drafted to be revenue neutral. Therefore, Congress has every reason to modify the calendar year conformity requirements and no reason not to do so.

On several occasions throughout this year I brought the problems associated with the calendar year conformity requirements to the attention of my colleagues. Only 2 days ago I again described the havoc failure to modify the calendar year conformity requirements would wreak on tax preparers such as CPA's, bank trust departments, and tax attorneys. In this speech I called for the conferees to include this provision in the conference report, I am glad they have decided to do so. Although this provision is not the outright repeal of the calendar year conformity requirements I would have preferred to see, I am still very pleased to see the provision adopted.

I must thank the chairman of the Senate Finance Committee, Senator BENTSEN, and Senator BAUCUS for their fine efforts in adopting this provision.

I would also like to recognize the conferees for addressing the problem of "phantom fund income," which plagues mutual funds and those who invest in them. Before enactment of the Tax Reform Act of 1986, which was supposed to bring us tax simplification, figuring a mutual fund shareholder's taxable income was simple; it was whatever the fund actually paid the shareholder. However, the 1986 act has caused several problems for mutual funds by restricting deductions for miscellaneous items such as investment advice. In order to prevent taxpayers from circumventing the restriction on tax advice by investing in mutual funds, the 1986 act required mutual funds to include in amounts attributed to shareholders an amount equal to the shareholder's pro rata share of the fund's investment-advice expense.

This means the funds must report a portion of their expenses as if the mutual funds had actually paid them and the shareholders must report this amount as if they had actually received them. This, in turn, means the shareholders must include this amount in taxable income. Thus, taxpayers must pay taxes on money they have never received. People cannot use this money to buy groceries or medicine, or educate their children, or heat their homes. The only thing this income is good for is to pay taxes on.

The phantom income problem was bound to cause confusion and error come tax time and impose an unnecessary burden on mutual funds. By addressing this problem in a revenue neutral manner, the conferees have eliminated a great problem.

Also, by insisting on the Senate position on some other matters, the Senate conferees greatly improved this bill over the House version. I am particularly glad to see that the provisions regarding the amortization of customer base intangibles, cafeteria plans, like-kind exchanges, and corporate acquisition indebtedness were dropped. Furthermore, I am very pleased that the House proposal to change the unrelated business tax on 501(c)(6) organizations was deleted. Likewise, dropping the House proposals to change the alternate minimum tax for corporations improved the bill.

Thank you, Mr. President.

Mr. JOHNSTON. Mr. President, the conferees on the budget reconciliation bill have reached an agreement that will redirect the Nation's program for the management of nuclear waste along the lines set out in S. 1668, the bill reported by the Committee on Energy and Natural Resources on September 1, 1987. Although this redirection is being enacted as part of title V of H.R. 3545, the budget reconciliation legislation for fiscal year 1988, the legislative history of the nuclear waste provisions is that of S. 1668.

This redirection will move the program forward, so that its goal of safe, permanent isolation of nuclear waste under Federal auspices can be achieved. There will be significant cost reductions—at least $4 billion.

The bulk of these savings will result from concentrating our efforts to develop a deep geologic repository on a single site, rather than on three sites as required under the Nuclear Waste Policy Act of 1982. S. 1668 provided for a selection of a preferred repository site by the Secretary of Energy by January 1, 1989 and a phasing out of site characterization activities at the remaining two sites. The conference agreement selects the Yucca Mountain site in Nevada as the preferred site and directs that siting activities in Texas and Washington State be phased out in an orderly manner and terminated within 90 days. While it is not specifically required by the agreement, it is my hope that DOE will report to Congress at the end of the 90-day period and provide an inventory of the work and contracts phased out at each of these sites and any nonsite specific activities that are planned to continue.

The House conferees insisted on the selection of the Nevada site by Congress in the compromise legislation. In the Senate, we had retained the process of selection by the Secretary of Energy based on scientific information gathered and analyzed by the Department of Energy [DOE] under the scrutiny of the Nuclear Regulatory Commission and the National Academy of Sciences. The House approach greatly simplifies this process. I believe that this simplification should render moot the litigation that currently challenges DOE's siting decisions in the Repository Program. S. 1668 contained a provision explicitly preserving pending litigation. This provision was dropped out by the conferees, however. Now that Congress has made the decisions to proceed with characterization of the Yucca Mountain site and to terminate the second repository program, I believe that the judicial review of the siting decisions in the first and second repository programs should no longer be necessary or appropriate.

The conference agreement also follows the policy set forth in S. 1668 in authorizing a monitored retrievable storage facility as an integral part of the Nation's nuclear waste management system. The MRS can be of great value to the system as a packaging and handling facility and as a source of backup storage capacity in the event that the first-of-a-kind process of developing a deep geologic repository takes longer than DOE anticipates in current planning documents. As a packaging and handling facility, the MRS allows the collection of spent fuel in the Eastern United States near the center of gravity of spent fuel production and shipment to the repository in Nevada by unit train. Spent nuclear fuel shipment miles will be reduced by about two-thirds in comparison with a no-MRS waste management system under which individual shipments from each reactor site in the East go directly to the repository.

As a source of backup storage capacity, the inclusion of the MRS in the national nuclear waste management system will result in a much more flexible system and will permit early hands-on experience with spent fuel management. Accepting spent fuel at an MRS will also mean that staff at DOE responsible for repository development will be able to concentrate on repository work in a way that is uncomplicated by waste acceptance issues.

The House conferees, it is fair to say, do not share the Senate's view of the value of the MRS to the Nation's nuclear waste management system. House conferees expressed deep concern that an MRS could become a substitute for the deep geologic repository itself. This has never been the intent of the Senate, as we have said many, many times. The MRS is a part—a very important part—of the Repository Program.

At the insistence of the House conferees, the compromise legislation contains several unfortunate and unneeded restrictions on the MRS. These restrictions will necessarily reduce somewhat the contribution to the program that the MRS will be permitted to make. I expect that the effect of these restrictions will be studied and evaluated objectively by the MRS Commission that is retained in the compromise from the Senate bill. The Commission should examine how the MRS can contribute to the waste management system both with and without the restrictions, so Congress will more fully appreciate the value of the MRS. In determining whether an MRS should be a part of the Nation's nuclear waste management system, the Commission should look at both the constrained and an unconstrained MRS. The expenditures of the MRS Commission will be paid for out of the nuclear waste fund.

One of the restrictions added at the insistence of the House conferees makes it so that DOE may not formally select an MRS site until after completion of site characterization of the Nevada site, at the time at which the Secretary of Energy recommends to the President a site for development as a repository. According to DOE's current schedule, that will result in formal site selection in 1994.

It is unfortunate, in my opinion, that the House conferees insisted upon delaying formal MRS site selection until the mid-1990's. However, the provisions of the conference agreement will allow the site survey and evaluation to proceed after June 1, 1989, the date for submission of the MRS Commission report. As part of that site survey and evaluation, DOE will be able to gain access to any of the sites surveyed in order to obtain data and information sufficient to support an MRS license application to the Nuclear Regulatory Commission. This provision of the agreeement will allow DOE to conduct the necessary site-specific work and to gather the essential site data prior to the formal selection and designation of an MRS site and, hence, minimize the time between the selection of a site and submission of a license application to NRC. Therefore, there should be no significant time lag between these two milestones.

One of the other restrictions added at the insistence of the House conferees, would prohibit continued construction of an MRS or acceptance of spent fuel at such a facility if a repository license is revoked by NRC or if construction of the repository is terminated. It should be understood, however, that revocation of the repository license or termination of repository construction is a high threshold. This restriction is not intended to allow suspension of MRS construction or acceptance of spent fuel simply because of a temporary interruption in repository construction. This restriction is intended to suspend MRS construction or acceptance of spent fuel only in the event that there is a serious threat to continued repository construction.

The specific statutory language of this provision is that MRS construction or acceptance of spent fuel at an MRS will be prohibited if repository construction ceases. It is useful to note that the definition of cease is discontinue or put to an end. Cease does not mean to suspend or halt temporarily. Therefore, it should be clear that this restriction of MRS construction or operation should only be invoked in the event that there is a permanent end to repository construction.

The conference agreement also follows the policy set forth in S. 1668 relating to benefits for a State hosting a repository or MRS. S. 1668 provided for benefits agreements between DOE and a host State, by which the State would receive up to $100 million per year for hosting a repository and up to $50 million per year for hosting an MRS. In order to receive those benefits, the host State would have to waive its right to veto the siting of the facility.

The amount of money available to a host State was reduced substantially in the conference agreement at the insistence of the House conferees. The process, however, remains the same. In order to receive the benefits under such an agreement, the host State must waive its veto. The conferees agreed that benefits to a host State are appropriate, but it must be a cooperative effort if such vast resources are to be given as unrestricted benefits.

Finally, the conferees agreed to include provisions offered by the House to appoint a negotiator to negotiate the terms and conditions under which a State or Indian tribe would be willing to host a repository or MRS, in lieu of the benefits provided under a benefits agreement. The negotiator's efforts are independent of, and would proceed in parallel with, DOE's efforts to site a repository in Nevada and an MRS facility. Any agreement worked out by the negotiator would have to be enacted into law by Congress. Although it is not explicitly provided in the conference agreement, it is my belief that a negotiated agreement enacted into law by Congress would have to contain additional assurances that there would be a cooperative effort between the State and DOE toward siting a repository or MRS. I would assume that this would include the dropping of any pending litigation brought by the State against DOE.

In spite of my concerns about these unnecessary restrictions on the MRS, I am pleased that agreement has been reached. Agreement on this nuclear waste legislation is a major accomplishment. This redirection will move the nuclear waste program forward and allow significant cost reductions. This agreement is the result of an entire year's effort on the part of many people. In that regard, let me especially thank my colleague from Idaho and ranking minority member on the Energy and Natural Resources Committee, Senator McClure, for his tireless efforts toward this end.

Mr. HEFLIN. Mr. President, the Agriculture Committee of the Senate and House were charged by the budget summit with the task of cutting $2.5 billion over the next 2 fiscal years from overall program outlays. This process of budget cuts in the Agriculture Committee was particularly difficult. These cuts meant cutting actual farm income provided to individual farmers. No crop, or region was left untouched by this process. While I do believe that this process was an equitable and balanced cut of all program expenditures; nevertheless, in that I was not a conferee, I must express my displeasure for certain additions and deletions to the Senate budget package.

Mr. President, first, I was particularly disappointed that the Soybean—oilseeds—Marketing Loan Program was deleted from the agriculture title of this budget reconciliation package. I must express my dislike and lack of understanding of why this soybean marketing loan was stricken from the bill. This program would have had no significant effect on the budget and I believe it would have been of great help to Alabama and to the Nation's soybean farmers.

Yet, I understand that the administration was determined to kill this provision, in what I believe to be a protectionist move for the Brazilian and Argentine soybean farmers, as well as the New York bankers. Here, by striking this marketing loan for soybeans, the administration has been successful in their efforts to protect foreign soybean farmers and New York bankers. But I cannot fathom why the administration is more concerned with the interests of foreign farmers than it is with the well-being of American farmers. Time and time again, the administration has been, in my judgment, more interested in protecting our foreign competitors, than they are in protecting the livelihood of the U.S. soybean farmer and the U.S. soybean industry as a whole.

I believe the Congress has missed a valuable opportunity to get our Nation's priorities straight and place the American farmers before foreign farmers. In my opinion, the Congress has ignored the change to put the U.S. soybean industry on a competitive footing with foreign farmers for the first time in many years. I believe this program would have helped the United States to compete head to head with foreign producers and help regain the U.S. market share that has been lost over the past few years. Striking the soybean marketing loan from this bill was highly unwise.

Mr. President, the soybean marketing loan is a good program, with great possibilities. Everyone can be assured of my continued efforts on the behalf of Alabama's, as well as the Nation's, soybean farmers, to gain passage of a soybean marketing loan.

Mr. President, I am also aware that the Huckaby person-payment limitation provision is in this package. There is no doubt that any abuses relative to payment limits—no matter how large or small—must be addressed. But I must point out that the Secretary of Agriculture has the authority to correct many of these abuses. I believe the Secretary should use all of the authorities he currently has at his disposal to address these problems.

However, I am uncertain that the Huckaby provision is in the best interest of existing agriculture programs, such as the Cotton and Rice Marketing Loan Programs. There have been no hearings in the Senate on these provisions, and it is unclear of their effect on particpation in the current programs of acreage control. I believe the evidence indicates that the loan programs for cotton and rice have worked. I am hopeful that we will see continued program participation, and continued budget savings, as have been evident over the last year, as well as those savings projected by CBO for the next several years.

Mr. President, again, I would like to point out that this process has been a difficult one. And, looking toward the future, it is by no means over. These issues will be coming up again and again in the next months and years as we try to represent the best interests of the citizens of this Nation. But in this process, I, for one, will endeavor to see that the interests and well-being of our Nation's farmers and rural communities are protected and well-represented.

Thank you, Mr. President.

Mr. WILSON. Mr. President, let me state my opposition to increasing taxes so Congress can keep spending or increase spending, while professing to cut the deficit without making real spending cuts in lesser priority programs. Congress should lower spending, not raise taxes, in our effort to get Federal spending under control.

Just as important, it is clear that if the leadership's deficit reduction package based on the budget summit agreement reached 3 weeks ago is designed to calm the fears of Wall Street or main street, it has failed miserably. Neither believes that this package actually will result in 30 billion dollars' worth of deficit reduction. Neither wants higher taxes; the American public wants the Congress to get Federal spending under control. As the Wall Street Journal noted after the package was announced, the "ho-hum in the markets may have been overly optimistic." Let's face it, Mr. President, America's financial community cannot believe that this package is the best that Congress has been able to produce after such protracted agonizing.

They are right, Mr. President, and that is the final reason that I oppose passage of this legislation. It simply won't work. A large portion of the package is based on the hope that the Federal Government will gain a one-time windfall of billions of dollars when it sells some of its assets. Asset sales do not represent true deficit reduction; they are a one-time, nonrecurring source of revenue—a nonsolution. Another $2 billion is to be accrued from yet another hope, that of better IRS enforcement. This at the time that nondefense discretionary spending will be reduced by $2.6 billion. Bloated farm programs, which make little sense to begin with, are cut by less than $1 billion.

Overall, Mr. President, this supposed budget deficit package will not do the job. It cuts spending in the wrong places, and depends on tax increases to do the job that the Congress is unwilling to perform—making carefully selected spending cuts. The Senate should not approve this legislation. We are deceiving ourselves—but not the American people.

Mr. MATSUNAGA. Mr. President, I rise as a member of the joint House-Senate conference committee on H.R. 3545, to commend the conferees on accepting the Senate provision to bring the Medicare outpatient mental health benefit up to date. I would also like to express my appreciation to the chairman of the Finance Committee, Senator BENTSEN, for his leadership on this issue.

The current $250 annual cap on outpatient mental health benefits has not been increased since Medicare was established in 1965. This amount in constant dollars buys only about 57 dollars' worth of care in 1987. Raising the cap to $1,100 takes into account the increase in health care costs over the past 22 years and should not be characterized as an expansion.

The provision also excludes from the cap brief office visits for the sole purpose of prescribing or monitoring prescription drugs used in the treatment of mental disorders. In addition, it codifies the partial hospitalization benefit, under which psychiatric patients can be treated in a hospital-based setting on an outpatient basis.

Recently, exciting new breakthroughs in the treatment of mental disorders have changed our understanding of mental disorders and have given us the ability to treat such disorders much more effectively. Access to these advances is largely denied to beneficiaries because of current Medicare limits. Medicare's inadequate coverage dissuades many beneficiaries from seeking mental health care when it is most timely and effective.

Most researchers agree that the mental health needs of elderly individuals are underserved. Between 15 and 25 percent of this population suffer from significant mental illness symptoms. As they lost spouses and loved ones, physical functioning, and meaningful work, they are placed at significant risk. This problem is compounded because these needs are often mistakenly treated as physical disorders.

Mr. President, I am heartened by the conferees' recognition of the importance of this Medicare benefit. As the sponsor of S. 718, a bill to eliminate the Medicare outpatient mental health cap, I recognize the budgetary constraints within which we must work. I believe this provision is an important step in meeting the unaddressed mental health needs of Medicare beneficiaries.

Mr. HECHT. Mr. President, I would like to point out to the Senator from Idaho that while I appreciate the fact the conferees on nuclear waste included 10 amendments that I offered in committee and on the floor in their conference report, I would like to clarify how the conferees treated 2 amendments that were not expressly accepted.

First, the Senate adopted an amendment which I offered that would have ensured that site characterization of Yucca Mountain would include an analysis of any possible conflict between manmade earthquakes induced by weapons testing at the Nevada test site and the safety of a repository that might be located at Yucca Mountain. It is my understanding that the conferees would expect this issue to be addressed by the Department of Energy during site characterization. Is that correct?

Mr. McCLURE. The senior Senator from Nevada is correct. He raised a very valid and significant question through his amendment on this subject, and this issue must certainly be addressed during site characterization. I would add that the conferees were aware that the senior Senator from Nevada convinced the Energy Department to undertake this earthquake analysis after nearly 18 months of effort on his part. After his efforts, the need for this study was so obvious to the conferees that they did not see any need to include specific langague to that effect in the conference report.

Mr. HECHT. I thank my colleague for clarifying the conferee's position on that matter. The other matter that I wish to pursue is the amendment which I offered that authorized such funds as may be necessary for transportation-related improvements in the State where a repository is located. How did the conferees deal with that amendment?

Mr. McCLURE. This is one of the items that the conferees thought should be left in the hands of the nuclear waste negotiator to discuss with the affected State. The conferees had no objection to transportation improvements being considered as part of a negotiated arrangement. I would add that I understand that the senior Senator from Nevada was particularly concerned about transportation improvments that would allow waste shipments to avoid passing through the urban centers of Nevada.

There is ample precedent for these types of transportation improvements. For instance, in the case of the waste isolation pilot project in New Mexico, the Federal Government is providing funds for necessary transportation improvements in that State.

Mr. HECHT. I would like to clarify the significance of two more amendments. I attached an amendment to this bill, when it was before the Senate Energy Committee, that would require the Secretary of Energy to give special consideration, in siting research projects, to States where a repository is located. This amendment means that if a repository is built in Nevada, then Nevada would receive special consideration by the Department of Energy allocating Federal research projects funded by the Department, assuming that the State presents an adequate proposal for those projects. Does the Senator from Idaho agree with me in this regard?

Mr. McCLURE. If Nevada is the host for a repository, then I think Nevada should receive special consideration by the Department of Energy for other Federal research projects, as this amendment so directs. In other words, this amendment means, for instance, that if Nevada gets a repository, then Nevada also has a head start in the competition to get the superconducting super collider. If Nevada's proposal is at least as good as that put forward by any other State, it will receive special consideration. The Nevada proposal would be looked over especially carefully and given every consideration. The same would hold true for dozens of other Federal research projects for which a number of States are competing.

Mr. HECHT. I thank the Senator from Idaho for his comments. The second amendment I want to elaborate on is derived from a resolution of the Nevada State Legislature, Senate Joint Resolution No. 5, which passed the legislature earlier this year. That resolution urged that if Nevada is selected for a repository, then Nevada should be provided assistance by the Federal Government to mitigate the adverse effects of such a facility in a number of areas. The areas for which the legislature sought assistance include education, public health, public safety, cultural and recreational needs, conveyance of Federal lands, transportation, public utilities, and others. In the opinion of the Senator from Idaho, what effect would this amendment have?

Mr. McCLURE. This amendment requires the Energy Department to report to the Congress on Federal responsibilities with respect to the categories of assistance listed by the Nevada State Legislature in its resolution. I believe it is quite likely therefore, that Nevada would be eligible to receive a wide variety of financial compensation from the Federal Government in return for hosting a repository.

I would like to commend the senior Senator from Nevada on the hard work he has put in on the question of nuclear waste. He was with us on our inspection trip to Sweden and France. He has made good suggestions, constructive suggestions to improve the program and protect his State. He has gotten to be very knowledgeable on the subject, unlike some critics who do not want to know anything about the program. They just want to criticize. He has not offered empty criticism. Instead, he has been very involved with the process and played a very constructive role, and I think all of us on the Energy Committee appreciate it. Nevada is better off as a result of his efforts.

Mr. HECHT. I thank the distinguished Senator for his statement.

NUCLEAR WASTE PROVISIONS

Mr. BURDICK. Mr. President, today we are passing legislation that will fundamentally change the direction of the Federal Nuclear Waste Program. I sincerely hope that these changes will help solve the problem of finding a safe, permanent place to dispose of highly radioactive nuclear wastes.

With respect to the first repository program, the reconciliation bill affirms this Nation's commitment to deep geologic disposal as the preferred environmental alternative for the disposal of highly radioactive wastes. To proceed with this commitment, the bill directs the Department of Energy [DOE] to characterize one of the three sites recommended by DOE and nominated by the President for characterization pursuant to the original Nuclear Waste Policy Act. This one site is located at Yucca Mountain, NV.

The weight of the technical information available to date supports the DOE's recommendation to characterize this site. Nonetheless, there are some unresolved major technical issues concerning the suitability of this site, such as the potential for earthquakes and active volcanoes. These issues can only be resolved through characterization.

Thus, I bleive that the Yucca Mountain site should be studied further. this was the position taken by the Committee on Environment and Public Works during its consideration of the reconciliation bill.

However, it also was the committee's position that the Yucca Mountain site not be the only site that should be studied further. Our position was that it is too early to choose Yucca Mountain as the single site for characterization for a repository. It is unfortunate that the bill does not provide for the further study of other sites, too.

The original Nuclear Waste Policy Act required the selection of a single site only after full characterization of three sites. This was to ensure that the selected site was the best of the reasonable alternatives. It also was based on the principle established in the National Environmental Policy Act [NEPA] that we should fully consider reasonable alternatives when making decisions that will significantly affect the human environment.

Additionally, full characterization of multiple sites provided reasonable assurance that a suitable site could be found in a timely manner even if one of the sites undergoing full characterization proved unsuitable. The search for a second repository in the original act provided additional insurance that a permanent repository would be available even if all the candidate sites for the first repository proved unsuitable. This bill terminates that search, thereby eliminating that insurance, too.

Since the passage of the NWPA the costs and scope of characterization have greatly expanded. Characterization of each site may now take from 5 to 7 years and cost as much as $2 billion. It is natural to ask whether it is necessary to undertake such an expanded program of characterization before we may reasonably choose the best site from the alternatives and have sufficient back-ups.

The Environment and Public Works Committee concluded that it would not be necessary to fully characterize all three sites at depth before choosing a single site. However, for the reasons the NWPA required characterization of three sites prior to the selection of a single site, the committee reported reconciliation language that would have required a certain amount of characterization at all three sites—namely 3 years of surface studies—prior to the selection of a single site.

The Environment and Public Works Committee's position was based on technical information provided by the experts in this area. Both the technical staffs of DOE and the Nuclear Regulatory Commission informed the committee that surface-based testing is a major part of site characterization and will yield meaningful information regarding the suitability of each site.

The technical staff of the Nuclear Regulatory Commission recommended that all three sites undergo approximately 3 years of surface characterization prior to the selection of a single site for at-depth characterization. Each of the five Commissioners supported this recommendation at a hearing before the Subcommittee on Nuclear Regulation.

The surface-based testing approach would have provided for the consideration of alternatives prior to site selection and would have provided back-ups if the single site selected soon proved unsuitable.

Unfortunately, the conference substitute did not incorporate this approach. Based on the Senate Energy and Natural Resources Committee's position, this bill differs radically from current law and the Environment and Public Works Committee's position, by choosing a single candidate site prior to any characterization of any of the three sites.

Thus, today's legislation selects a single site for further study in disregard of many of the programmatic safeguards in the original act that the Environment and Public Works Committee advocated be retained. Simply put, the alternatives were not considered in any technical manner, and there are no back-ups. The Nuclear Waste Program is now like a plane flying with only one engine. We must hope that today's political decision will turn out to be safe and technically correct.

I am pleased, however, that significant provisions reported by the Environment and Public Works Committee are incorporated into the conference substitute. Other than the elimination of the consideration of three alternate sites for the repository, which as just outlined, is a major and dangerous departure from current law, the substitute does not affect the application of NEPA to the repository program. Additionally, the application of NEPA to the Monitored Retrievable Storage [MRS] Program is unaffected.

The Repository Program and the complementary MRS Program are designed to have significant impacts upon the quality of the human environment—namely the establishment of a system for the permanent isolation of highly radioactive wastes from the human environment. There should be no doubt that NEPA applies to this program.

Another significant concept reported by the Environment and Public Works Committee to the Senate that was adopted in the conference substitute was the imposition of licensing conditions upon the MRS to ensure that the MRS does not become a permanent repository. The MRS, as envisioned by this legislation, is to be a centralized facility to package wastes for transportation and later emplacement into the repository. It is to be an integral part of the operation of the repository. It is not to be a separate facility with a separate mission. It is not to be a back-up storage facility in the event that acceptance of waste by the first repository is delayed.

The licensing conditions included in the conference substitute link the development of the MRS to the development of the repository. For example, the bill does not allow construction of the MRS to begin until construction of the repository begins, and requires construction of the MRS to stop if construction on the repository stops, for whatever reason.

These licensing conditions apply to any MRS licensed by NRC—either one located at a site selected by DOE or one that is located in a host State pursuant to the efforts of the negotiator. These conditions will help prevent any lessening of the commitment to deep geologic disposal through the convenient expedient of temporary storage.

The conference substitute includes provisions permitting DOE to enter into a benefits agreement with the State of Nevada or a State willing to host an MRS facility. It also creates an Office of Nuclear Waste Negotiator to seek a State or Indian tribe willing to host a permanent repository or MRS facility at a suitable site.

I support these provisions. No one should be required to take another's waste without some compensation. It also makes sense to try to find a willing host for one of these facilities before selecting an unwilling host.

Based on experience, however, I would be extremely surprised if a willing, qualified host could be found for the repository. To date, each State in which a potential site has been identified has expressed solid and unyielding opposition to the further consideration of that site for a permanent repository.

In view of these provisions, Mr. President, it appears that once this legislation is enacted the success of this Nation's Nuclear Waste Program will depend entirely on the suitability of the Yucca Mountain site. We are taking a technical risk on one site in one State for largely political reasons. I hope that this gamble succeeds, for upon it rests the quality of the human environment surrounding nuclear powerplants in over 30 States and the future of nuclear power.

Finally, Mr. President, I would like to make a brief comment regarding the legislative process by which this programmatic redirection has been achieved. First, neither the budget process nor the appropriations process is the appropriate forum to consider major programmatic policy issues that are within the jurisdiction of the authorizing committees. I urge my colleagues to resist efforts in the future to allow legislation such as this to be considered in the budget process.

Second, there should be no dispute regarding the jurisdiction of the Committee on Environment and Public Works over the redirected program. This committee has jurisdiction over environmental policy, and the implementation of that policy. This committee fully participated in the development of this legislation, and many policies advocated by this committee have been incorporated into the legislation.

Senators BREAUX and SIMPSON, the chairman and ranking minority member of the subcommittee on Nuclear Regulation, respectively, and their staff deserve much credit for their extraordinary efforts and dedication in this respect. They have been leaders on an issue in which the rewards are undeservedly scarce.

I expect that this committee's active role will continue. I hope that this participation in the redirected program will be welcomed by all. Through cooperation all involved or interested in the success of the program can best contribute to that success.

INDIAN TRIBAL TAX EXEMPT BONDS

Mr. DECONCINI. Mr. President, a provision of the conference report which originated in the House, substantially restricts the authority of Indian tribal governments to issue tax exempt bonds which are not private activity bonds. Public bonding authority is limited to bonds in support of "essential governmental functions" which are those "customarily performed by State and local governments." While the final version of this language is an improvement over the original House language, I am still disappointed in the final outcome. Clearly if there is one area of our economy that cries out for governmentally encouraged economic development, it is Indian reservations.

However, we must now live with the conferee language. It is my understanding that the State of West Virginia, and perhaps others, have used this tax exempt bond-issuing authority to finance recreational activities available to the public, and to build all elements of a basic infrastructure supportive of subsequent private development. Nowhere are such facilities needed more urgently than in Indian country, and I am confident that it is the conferees intent to permit tribal governments to continue availing themselves of this and other economic tools in order to attract investment to their lands as expenditiously as possible.

TITLE VII—VETERANS' PROGRAMS

Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I wish to address the provisions of title VII of the conference agreement which relate to veterans' programs. These three provisions achieve savings in accordance with the Summit Agreement on Deficit Reduction.

SALES OF VENDEE LOANS WITH OR WITHOUT RECOURSE

Section 7001 of the conference agreement would, effective with respect to sales made from the date of enactment through September 30, 1989, eliminate the restriction in section 1816(d)(3) of title 38, United States Code, which prohibits the VA from selling vendee-loan notes without recourse unless the amount received is not less than the upaid balance of the loan, and instead would require the Administrator of Veterans' Affairs to make certain determinations and consider certain factors before selling such notes.

Buyers of VA-acquired properties have two options available with respect to financing such purchases. They can pay cash, which they usually will obtain through a loan from a conventional lender, or, if they qualify under the VA's credit-underwriting criteria, the VA will finance the transaction and accept the buyer's promissory note—known as a "vendee loan".

For the VA to sell a vendee-loan note "with recourse" means that the sales agreement includes the VA's promise in the event of default to buy the loan back for an amount equal to the outstanding balance. For more information regarding the background of and rationale for the current law provisions being modified, I refer my colleagues to the more extensive treatment of this subject in my statement beginning on page 34258 of the RECORD for December 4, accompanying the Senate's passage of the compromise agreement on S. 1801/H.R. 2672, the "Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987," which was approved by the House on November 17 and by the Senate on December 4 and is now awaiting the President's signature.

Under the conference agreement, the Administrator would be permitted to sell vednee-loan notes with or without recourse depending on the Administrator's determination, with respect to a proposed sale of such notes, as to which basis would be in the best interest of the loan guaranty program, taking into account the comparative cost-effectiveness of selling the notes on each of the two bases. The Administrator would be required, in making that comparison, to determine and consider, based on estimates of market conditions and other pertinent factors at the time of sale (1) the average amount by which the selling price for the notes if sold with recourse would exceed the selling price of the notes if sold without recourse and (2) the total cost of selling the notes with recourse, including various cost factors specified in the legislation.

The Administrator also would be required, within 60 days after making any sale of such notes prior to October 1, 1989, to submit to the House and Senate Veterans' Affairs Committees a report (1) describing the application of the provisions of this section and the determination made thereunder with respect to each of the specified factors, (2) comparing the actual results of the sale with the anticipated results, and (3) describing any steps taken to facilitate the marketing of the notes.

Beginning on October 1, 1989, the current-law restriction on the sale of notes without recourse would be reinstated.

The Congressional Budget Office [CBO], and the Office of Management and Budget have estimated that, as measured against the Gramm-Rudman-Hollings [GRH] sequestration baseline, this provision would achieve the same savings in fiscal years 1988 and 1989 as the Senate-passed provision proposing a permanent repeal of section 1816(d)(3).

The conferees from the House and Senate Veterans' Affairs Committee also expressed in the joint explanatory statement their concern that their ability to consider and recommend legislation with regard to the policy of selling vendee-loan notes with or without recourse has been diminished by scorekeeping policies recently adopted by the CBO and the OMB, especially since those policies were adopted without any consultation with our two Committees.

Mr. President, as I indicated, the Senate amendment to H.R. 3545 (section 7001) would have repealed the without-recourse provision. I am pleased that we have reached a compromise with the House—which had originated that provision—which will permit without-recourse sales while taking steps to allow sales to be made with or without recourse depending on which would be in the best interest of the Loan Guaranty Revolving Fund [GRF]. Although I continue to believe that an absolute prohibition of without-recourse sales is undesirable, I share the concern that the LGRF must be protected against the Administration's attempts to provide quick cash for one-time reductions of the budget deficit at the expense of the home loan program and the veterans who benefit from it and to use without-recourse sales as a means of "privatizing" the program. Hence, if the VA is not able to demonstrate to the Congress that such sales can be in the best interest of the LGRF and thus provide a basis for further legislation in the next 2 years, the absolute prohibition of without-recourse sales will automatically become the governing rule.

LOAN FEE

Mr. President, the second provision relating to veterans' programs would extend the 1-percent VA loan fee for 2 years, through September 30, 1989. The fee extension also is included as section 2(a) of H.R. 2672. For more information regarding the background of and rationale for this provision, I refer my colleagues to the more extensive treatment of this subject in the committee report on S. 1801 (S. Rept. No. 100-204, pp. 41-43).

The CBO estimates that, as measured against the GRH sequestration baseline, this provision would achieve savings in budget authority and outlays of $165 million in fiscal year 1988 and $221 million in fiscal year 1989. According to the Budget Committee staff document describing the Summit Agreement would achieve savings of $0.2 billion each year.

This provision is included as section 2(a) of H.R. 2672.

CASH SALES OF PROPERTIES ACQUIRED THROUGH FORECLOSURES

Mr. President, the third provision in the Veterans' Programs title would generally increase during fiscal years 1988, 1989, and 1990, the proportion of acquired foreclosed properties which the VA is required to sell for cash rather than by vendee loans, from a minimum of 25 percent and maximum of 40 percent to 35 percent, respectively.

This provision is included as section 6 of H.R. 2672. For more information on the background of and rationale for this provision, I refer my colleagues to the more extensive treatment of this subject in the committee report on S. 1801 (pages 30-31) and my floor statement in the Record on December 4 on the compromise agreement on H.R. 2672/S. 1801 (17385).

The CBO estimates that, as measured against the GRH sequestration baseline, this provision would achieve savings in budget authority and outlays of $42 million in fiscal year 1988 and $24 million in fiscal year 1989.

STATUTORY CONSTRUCTION

Mr. President, the conference agreement (section 7004) also contains two provisions regarding statutory construction of the provisions in title VII. First, section 7004(a) would clarify that the provisions in section 7003 of the bill (described above) satisfy section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), subsection (a) of which generally prohibits treating a law that transfers a receipt from one fiscal year to an adjacent fiscal year as altering the deficit or producing a net deficit reduction. Section 7004(a) states that, for the purposes of those provisions, title VII achieves savings made possible by changes in program requirements, namely, by requiring a greater proportion of cash sales and a reduced proportion of Government loans.

Second, section 7004(b) provides, in light of the possibility that certain provisions identical to those in sections 7002 and 7003 may be enacted in H.R. 2672, that identical provisions not be incorporated in title 38 of the United States Code twice.

H.R. 2700 PLUTONIUM AIR TRANSPORTATION SECTION

Mr. MURKOWSKI. Mr. President, included in the budget reconciliation package now before the Senate is a section on H.R. 2700 which will ensure that plutonium, a byproduct of the world's reliance on nuclear energy, is transported in a safe and sound manner.

I offered this legislation in the form of an amendment to H.R. 2700 because I was concerned about the air shipments of plutonium contemplated by the agreement between the United States and Japan concerning peaceful uses of nuclear energy now before Congress for review. This section is very simple and straightforward. It simply requires the Nuclear Regulatory Commission [NRC] to conduct actual crash tests of casks before they are certified as safe containers for the air transport of plutonium. The certification process will also require public input and be in accordance with all other laws including the National Environmental Policy Act. It is my understanding that such a certification is a significant Federal action with serious implications for the human environment and will therefore require a thorough evaluation in an environmental impact statement.

Mr. President, the need for this section is readily apparent. Although it is not now the policy of the United States to reprocess spent nuclear waste, that is the policy of certain other countries, including Japan, France and Great Britain.

The recent agreement worked out between the United States and Japan for the use of reprocessed nuclear fuel specifies air transport as a means of moving the plutonium generated by that reprocessing from Europe to Japan. The agreement requires those shipments to take a polar route or another route selected to avoid areas vulnerable to natural disasters or civil disorders. This means that air shipments of plutonium could fly over Canada and Alaska—including a possible landing for refueling in Alaska or Canada.

And, Mr. President, if Canada objects, these flights may cross over the 11 Northern tier States from Maine to Washington, possibly refueling in Washington.

Mr. President, I do want to ensure that we move with the utmost caution. The NRC has yet to certify for air transport a container capable of safely carrying the sizeable quantities of plutonium envisioned by the Japanese. Already the Japanese have launched a concerted effort to design and build a container that can be certified by the NRC.

The purpose of this section is to improve the Testing and Certification Program required by existing law for containers used in the air transport of plutonium from a foreign nation to a foreign nation through the air space of the United States. This section requires that plutonium air shipment containers be subjected to both an actual drop test and an actual airplane crash test before they may be certified as safe by the Nuclear Regulatory Commission.

However, the Commission need not require the airplane crash test if it determines that the stresses placed on the containers produced by other tests used in developing the containers exceed the stresses which would occur during a worst case plutonium air shipment accident. This determination must be verified by an independent scientific review panel. And, Mr. President, if this review panel is to be credible it must be composed of at least a majority of experts from the Federal Aviation Administration and the National Transportation Safety Board and should include experts from appropriate public interest groups.

In designing the tests requiired by this section, we expect the Commission will conduct a survey of actual aircraft accidents and replicate the most severe conditions under which such accidents have occurred. For example, on March 3, 1974 a Turkish airlines DC-10 crashed into a forest in France at a speed upon impact of 432 knots, nearly 500 miles per hour at sea level, as recorded by the flight data recorder. This data would indicate that the airplane crash test should be designed so that the speed of the airplane at the time of crash impact exceeds 423 knots.

Mr. President, it is important to note that this section also authorizes the President, in carrying out agreements for peaceful nuclear cooperation, to pursue and conclude arrangement for routes and means of shipping plutonium which do not fly over and possibly land in the United States. Frankly, Mr. President, I am not yet convinced that the administration has found the safest method of transporting this extremely dangerous material. It is not clear that air shipment is either the most safe or practical means of transporting plutonium. Commercial plutonium has been shipped by sea in the past and this should be reevaluated.

Further, the United States agreement with Japan prefers a polar route for air shipments presumably because it is one of the most direct routes for shipment. However, the fact that the polar route is the shortest route does not mean it is the safest route. A southern route which does not pass over the United States, transversing the Pacific Ocean instead, may be much more safe. And, Mr. President, if the plutonium is shipped by air, can it be transported by military planes which are refueled in midair and which do not land near the homes of American civilians?

Mr. President, it was not my intention in offering this legislation to undo the work of the NRC in certifying small containers under existing law as safe for domestic, import or export shipments of plutonium. And therefore this section specifically exempts those containers so certified. However, I fully expect that the requirements of this section will be met with respect to all future air shipments of commercial plutonium from a foreign nation to a foreign nation through the air space of the United States.

Mr. President, it would defeat the purpose of this legislation if 50 or 100 of the smaller containers certified as safe for domestic, import or export shipments of small quantities of plutonium were loaded onto a cargo airplane in order to make an international commercial shipment of a large quantity of plutonium through U.S. air space without complying with the more strict certification requirements for such shipments set out in this legislation.

Mr. President, plutonium is proposed to be used in the peaceful civil energy programs of our reliable nuclear trading partners provided our nonproliferation laws are complied with. For a country like Japan, with no naturally occurring energy fuels, plutonium is highly valued as an indigenous energy resource.

In general, I am not opposed to plutonium shipments and the use of plutonium in peaceful energy programs. Using reprocessed spent fuel in civil nuclear energy programs make good sense provided the proper controls and safeguards are in place.

As I have stated, one aspect of the agreement between the United States and Japan caused me great concern, and that is the advance consent given to Japan to ship its plutonium from Europe, where it is stockpiled, back to Japan. I intend to pursue a course of action consistent with this legislation as the Foreign Relations Committee considers this agreement. I want to be sure that this agreement is not approved unless:

First, the testing program for the shipment containers adequately ensures the safety of those containers.

Second, the routes for the air shipments of plutonium, including any landing and refueling points, are evaluated under the National Environmental Policy Act.

Third, the plutonium shipments by air are approved under Japanese law and the Japanese diet has signed off on the agreement.

Fourth, the Japanese pay for whatever costs are associated with testing of containers and otherwise ensuring that plutonium air shipments are conducted safely.

Mr. President, I want to be sure that when plutonium is shipped, those shipments will be safe. I feel strongly that this is a matter which deserves a high level of congressional and public scrutiny. I believe this legislation is a significant step in the right direction.

RECLAMATION REFORM AMENDMENTS

Mr. BRADLEY. Mr. President, in 1982 we enacted the Reclamation Reform Act. That statute accomplished many things, including a sixfold expansion of the historic acreage limitation, a repeal of the traditional residency requirement, and many other benefits sought by western agricultural interests who receive water from reclamation projects. In exchange, we insisted on a host of pricing reforms that would ensure better repayment of these costly projects and an absolute limit on the size of any farm that could receive subsidized water.

This spring, the Department of the Interior issued a new set of regulations which were supposed to implement this important statute. However, from the day they were issued, these new rules have caused tremendous concern. I don't believe they adequately enforce the tighter standards Congress intended. As chairman of the Subcommittee on Water and Power, I am particularly concerned that these rules may allow, or even encourage, the restructuring of farm operations and other devices to allow a small group of larger farm operators to receive benefits beyond those intended by Congress.

Mr. President, as my colleagues will recall, the House Energy and Water Appropriations bill contained amendments to the Reclamation Reform Act of 1982 and the Senate bill did not. The conferees have agreed upon a compromise which will amend the 1982 Act and which I strongly support.

It is a good first step to respond to the new regulations. The amendments to the Reclamation Reform Act address four key issues.

First is the requirement that if we are to effectively enforce the act, we must have the necessary information to identify any abuses. The amendment directs the Secretary of the Interior to undertake a systematic audit of individuals and entities subject to the law, in addition to compliance checks already planned. The oversight hearing conducted by the Senate Committee on Energy and Natural Resources found that insufficient information is currently being collected. The audit to be undertaken by the Secretary will help correct that; the audit will be a continuous process with an annual report submitted to the Congress. The conferees emphasized the need for the audit to focus on those legal entities and individuals, including farm management and operators, who farm more or have land holdings of more than 960 acres. This is appropriate since this is the source of the greatest potential abuse of the reclamation law. However, I remain concerned about farms and farm operations which operate under prior law and exceed the 160-acre farm size limitation. I would expect the Secretary to audit those operations as well.

I do not believe that adequate enforcement of the act will not pose a hardship to the small landholder. To the contrary, the whole history of reclamation law reflects the desire of the Congress to help the small landholder.

The second issue addressed by the conferees will bring to an end the abysmal interpretation by the Department of Interior. That interpretation permits the delivery of low-cost water for longer periods of time than Congress intended to lands under recordable contracts entered into prior to the enactment of the Reclamation Reform Act.

Mr. President, the old reclamation law allowed a landowner to receive low-cost water for up to 10 years on acreage in excess of applicable limitations if the lands were subject to a recordable contract. Generally, recordable contracts provide that within the 10-year period, the owner could sell the lands at a price approved by the Secretary of the Interior or at the end of the contract power of attorney would vest with the Secretary and he would sell the lands. The Reclamation Reform Act extended the existing contracts for certain landowners, who had been prevented from disposing of lands under recordable contract. This gave these owners additional time to sell their lands. In addition, lands covered by recordable contract also received less than full-cost water for period of up to 18 months beyond the original 10-year contract. However, the Department of the Interior published rules which provided for the delivery of water at less than full cost for the entire period of the extended recordable contract.

This distortion may have already cost the Treasury $40 million in underpayments.

While the amendments would end this practice prospectively, unfortunately the amendment prohibits the Secretary from retroactively seeking the underpayments. This was agreed to, not because of doubts about payments owned to the Government, but rather because an equitable and fair method of seeking reimbursement could not be determined. It will be appropriate for the Congress to revisit this issue in the near future.

The conference agreement also amends the Reclamation Reform Act to make it clear that, when the Secretary finds that any individual or legal entity subject to reclamation law has not paid the required amount for irrigation water, the Secretary shall collect the amount of any underpayment plus interest from the date the required payment was due. This will provide a clear incentive for recipients of irrigation water to pay their bills in full in order to avoid the interest charges.

And finally, the conference agreement addresses one of the serious issues with regards to trusts that are being used to circumvent the intent of the reclamation law. The amendment requires certain lands placed in trust to be attributable to the grantor if specific conditions are met. A trust, where land returns to the grantor upon his whim or some future event, presents obvious opportunities for abuse of the taxpayer's interest. These so-called "revocable trusts" have no place in reclamation law and Bureau contracts.

Mr. President, as I said earlier, these amendments are a good beginning, and I support them. But I would alert my colleagues, the Department of the Interior, and certain water users that this is not the end of the issue.

OPPOSITION TO LUMP-SUM PROVISIONS IN BUDGET RECONCILIATION

Ms. MIKULSKI. Mr. President, I rise in opposition to the recent change in the budget reconciliation bill, which involves the lump-sum option for Federal employees. The full lump-sum retirement option was promised to Federal employees. I object to this provision, with the full understanding of the great need to balance the budget. This reduction, however, and similar ones in the past, have far too often been on the backs of hard-working Federal employees.

Additionally, Mr. President, these targeted reductions do not have the saving power as do reductions that directly reduce cost outlays. Withholding the full lump-sum option, merely delays the inevitable outlay of those retirees' benefits. Delay does not reduce long-term costs. As we continue to find responsible and substantive ways to reduce the deficit, we must not break our promises to Federal employees and must seek real and long-term savings. Reducing the full lump-sum option is not the honorable, nor is it the wisest way to find responsible deficit reductions.

Mr. WALLOP. Mr. President, earlier today I was asked by the Budget Committee if I would like to sign the conference report on the reconciliation package which we are now finally seeing for the first time in its entirety. I was a conferee on one section of the bill for the Energy Committee which does include beneficial provisions for my State. However, by signing the report, I basically would have given consent to the entire document, a document I had not seen. We had not even so much as a summary. Needless to say, I did not sign the conference report.

Now we are preparing to vote on the two most important bills to come before the Senate this year, and we have no idea what is included in this Christmas package. The biggest and most unlikely surprise we could receive is to learn that we might actually have met our spending reduction targets. However, those of us who thought we would actually receive what we had requested are discovering that what all our good intentions have brought us are lumps of coal and switches and ashes.

The conference committee has merged mediocrity, in the guise of the Senate reconciliation bill, with disaster, as concocted by the House reconciliation bill. We have been seduced into raising taxes. A painless tax increase according to proponents, but these are the type of taxes which rocked Wall Street in October, and are neither harmless nor responsible.

On the spending side, we were required to provide real spending reductions of only $13.5 billion. Listening to the earlier debate in the House of Representatives on the conference report, it appears that the spending reductions do not meet this target. By comparison, the threatened budget sequester would have cut this year's increase in Federal spending by $23 billion.

We went to conference with a very complex package. For instance, the Senate Finance Committee conferees had to consider 134 items; and, this does not include the 23 items included in the section on nursing home standards or the 44 items in the section on the funding of private pensions. the list did however include new spending items proposed by the House.

It is not clear whether the proposal contains real spending reductions or a collection of the usual spending savings which disappear soon after we enact them. It is absolutely certain that the Congress will be authorizing new spending by passing this deficit reduction legislation. However, we will not know until well after we have voted on this package. This blind voting is sad commentary on the world's greatest deliberative body.

This tax package is being sold as a "painless" $23 billion increase, hitting the rich and corporate America, leaving the individual taxpayer relatively unscathed. Mr. President, the economy of Wyoming is still reeling from the depression in our natural resource and agricultural based economy. I am concerned that the negative impact this increase will have on Wyoming will far exceed the alleged benefits to the Nation.

Wyoming is the largest per capita small business State in America. I note with concern and alarm that 30 percent of the tax increase is made up of excise and employment taxes: areas that will hit small businesses hard. Taxes that hit small business in Wyoming will hit the individual as well.

We have the extension of the temporary 3-percent telephone excise tax for another 3 years, hitting both business and individuals. This tax was set to expire on December 31, 1987, and will raise $3.6 billion over 2 years. As an excise tax, it is regressive, hitting lower-income individuals harder than higher-income individuals.

One provision is yet another extension of a "temporary" tax. This time it is a 3-year extension of the temporary FUTA tax increase which was enacted to pay back funds drained from the system during the last recession. The fund is now healthy, back up to the proper level, but the tax remains. This little gem will cost business $1.7 billion in the next 2 years. I cannot think of any small business in Wyoming that will not be touched by this.

We also have added to the payroll costs of many Wyoming trades and businesses. This time we expanded Social Security to include all cash tips. We extended the tax to include certain agricultural workers and family members employed in the family business. We even decided to tax employee benefits by including group term-life insurance in the FICA wage base. These provisions will add nearly another $1 billion to payroll costs of small business and reduce the take-home pay of many Wyoming workers. This in the name of deficit reduction. Where has this year's chief buzzword "competitiveness" gone?

I am further dismayed over the 5-year freeze on the estate and gift tax rate. We all know what happens to rate freezes around here—they tend to be ice age in duration. I hope and pray that no ranch family or family owned business is forced to liquidate in order to pay the extra estate tax due because of this change—but we all know some will.

I cannot help but think we work in a vacuum around here. We seem to be able easily to ignore the impact of other legislation we enacted in this session and in past sessions.

We seem to have forgotten that the year 1988 ushers in another huge increase in Social Security payroll taxes. Between increases in the rate and increases in the wage base, we are looking at a $33 billion tax increase. I cannot think of a worker or small business in Wyoming that will not be affected by this increase.

We also have a catastrophic health bill that passed this Senate. This will take another $8 billion out of the pockets of Americans over the next 2 years.

So, lo and behold, we no longer have a $23 billion tax increase facing the country, but a $64 billion tax increase. Much of this falling on wage earners and their employers.

The White House would be doing us a service by playing The Grinch Who Stole Christmas and vetoing this bill. At the very least, it would give us an opportunity to read the conference report. I cannot vote for this unknown quantity despite the fact that an affirmative vote would assure adjournment of the Congress. We face a classic Hobson's choice, either to reject the conference report or to adjourn.

BUDGET PACKAGE

Mr. ROTH. Mr. President, today is December 21, 1987. I point that out because we are 3 months into the fiscal year and the Federal Government has no budget and no annual appropriation. This is not budgeting, this is chaos.

For the past few days the big news item has been that the Congress and the White House are close to an agreement. The fact that we are finally taking action—as opposed to what action we are taking—has become the central focus of all reports. It disturbs me greatly that the long overdue pressure to take action is resulting not in deficit reduction but increased taxation and spending. In reality, the budget reconciliation bill, combined with the continuing appropriations bill, will actually lead to an increase in spending of nearly $50 billion over last year's spending.

In fact, under the package, it is likely that this year's deficit will be greater than last year's deficit, and our constituents will soon see that little has been done to cut spending. They will see that Congress is merely reducing the spending level from an inflated baseline. I believe they will be justifiably incensed that these synthetic figures are being used to force them to swallow a $23 billion tax increase.

Now, I have heard suggestions that I should vote for this because the only alternative is a sequester. And my position concerning a sequester has been clearly stated. I voted against the original Gramm-Rudman law and when Congress revised Gramm-Rudman in September, I voted against that, too. On September 23, I stood on this floor and strongly opposed the changes being made. I knew then it would result in a tax increase. That very day, I said:

> The Gramm-Rudman-Hollings process * * * once again puts us firmly in a position for tax increases * * * We see that it could provide, intentionally or otherwise, the grist needed to force the White House into a tax increase.

The automatic across-the-board spending cuts are a trap for the President, a ticket to new taxes on a road to new revenues. Clearly, I do not want a sequester. I did not vote for one. I do not favor one. But neither do I favor a tax increase on the American people. This reconciliation bill will raise $9 billion in new taxes this year and $14 billion next year.

I am adamant in my support for lowering the deficit, but this is not what Congress is proposing. In fact, while those who support this package are saying that discretionary, defense, and entitlement spending will be reduced, in reality, all of these programs will receive increases above last year's levels.

Frankly, this is not the message we want to send to Main Street. What began as an effort to sooth Wall Street has resulted in a scheme to tax Main Street. Rather, the message we should be sending is that Congress is taking steps to control the Federal spending and the deficit. That message is impossible to convey as we stand here 3 months into the fiscal year to consider two pieces of legislation whose combined effect will be increased taxes and increased spending.

A few weeks ago, I stood on the Senate floor to lay out a plan of action to move the Congress in the direction of real deficit reduction. Those ideas were not accepted. Congress has not acted responsibly, and therefore, I will vote against the measures we consider today. I cannot in good conscience vote for a $600 billion spending package that simply sends the signal that it is business as usual in Washington—more taxes, more spending.

I will continue to build upon my proposals for meaningful deficit reduction. I hope the Congress will consider that again in the future. One thing is clear. The deficit is not going away, certainly not with the package before us today.

DEFICIT REDUCTION PACKAGE

Mr. KERRY. Mr. President, the recent agreement from the budget leadership summit represents a beginning in bipartisan cooperation in combating the Federal deficit. It is the first time the President has sat down with the leaders of Congress in a spirit of compromise to reach an agreement on a comprehensive approach. It is unfortunate, though, that it took a 500-point crash in the stock market to bring this administration to the table and to its senses.

The reconciliation bill we vote on today is the cornerstone in implementing that agreement. Its achievements are more modest than I hoped for, but they are a helpful beginning. The bill will reduce the Federal deficit by $80 billion within 2 years, by cutting $33.7 billion in 1988, and $46 billion in 1989. In doing so it makes a modest contribution to further reducing the Federal deficit which has accumulated so dangerously during the Reagan administration.

This is welcome relief from the distorted budgetary pattern of 1980 to 1987 which saw a 50-percent increase in military spending, an 80-percent increase in funds needed simply to pay the interest on the national debt, a combined 20-percent increase for Social Security, Medicaid, and Medicare, and a combined total of minus 30 percent for all other domestic discretionary spending.

Passage of this agreement means that we will be able to avoid a Gramm-Rudman-Hollings sequester. I supported Gramm-Rudman-Hollings because without an involuntary mechanism for reducing the deficit, it was clear that Congress and the administration, even with the best intentions, would be unable to make the tough decisions necessary to reduce the deficit. Gramm-Rudman has done just that. It has forced hard choices and has begun to reverse the direction of 7 years of deficit spending. The leadership agreement has made tough decisions on lowering the Federal deficit, without resorting to the automatic cuts of Gramm-Rudman. But without the imminent threat of sequester, and the cuts it would have entailed, this current compromise would probably not have occurred.

This is an adequate agreement considering the very difficult circumstances under which it has been negotiated. While I would have liked greater deficit reductions, this is the largest deficit reduction package in history, and it mandates serious cuts. It will mean new revenues of $9 billion in 1988, and $14 billion in 1989. Added to stiffer IRS compliance measures and additional user fees, revenues should total more than $28 billion in 2 years. We will save $13 billion in military spending, and $20 billion in domestic programs. It does this without cutting Social Security, as it should not. But it does include entitlement savings, including reductions in the farm price support program, reductions in the unused, excessive balances for guaranteed student loans, and restraint in payments to providers under Medicare. The revenues will be garnered through a variety of changes in the Tax Code, virtually all of which affect business, as opposed to individual taxpayers. I am pleased that most provisions increasing Treasury receipts are expected to have little, if any, impact on lower- and middle-income households. No new revenue is expected to be raised by increases in personal income taxes.

Without the shock of Black Monday, this agreement might never have happened. This agreement may bring some degree of stability back to financial markets though deeper cuts would have done more. It will help to restore, in part at least, confidence in our ability to face reality and deal seriously with the problems caused by the Reagan deficit, the trade deficit, and the international economic crisis. Our budget and deficit deliberations and discussions have moved to center stage of the world's economic arena. Responsible action is critical to international economic stability. This package is the signal of our intent to build a foundation, with savings, revenues, and reductions, which we can and must build upon in the future.

I believe that this agreement is better than a $23 billion sequester. It is important to note that the nature of a sequester has changed from its original intent of an even-handed, across-the-board reduction in defense and domestic programs. Congress has acted to exempt nearly 80 percent of our budget from the sequester so that 20 percent of our budget items would bear the brunt of that substantial reduction. That level of reduction for critical programs in housing, education, transportation, the handicapped, et cetera, are far too strenuous a burden for them. This balance of revenue and reductions is a far more equitable choice.

While noting that this reconciliation is less than I hoped for, we must recognize that it is all that is now politically possible. The depth of our deficit crisis calls for a bold initiative, but fully a month of difficult negotiations, was required between congressional leaders and the administration in order to produce this package.

This is a delicate balance of numerous compromises. Democrats and Republicans in both Houses have demonstrated flexibility and a willingness to yield on longstanding issues. We must, however, be clear about the very difficult limits on our choices in dealing with today's economic crisis for we now must deal with a structural deficit. As Senator Bumpers said on the floor recently, "Since 1981 the amount of nondefense, nonentitlement, noninterest, discretionary money available to us to balance the budget has gone from 26 percent of the budget to 14.9 percent." In other words, our choices are extremely limited. We can produce other options by either moving to increase revenues or additional reductions in key programs which have been previously considered off limits to major reductions: defense, Social Security, Medicaid, Medicare, civil service pensions, veterans' pensions, and, or course, the legal obligations for interest on the debt. So the choices ahead are even harder than those behind us. But we must face them. This reconciliation bill is a step in that direction.

This 2-year agreement should help us all in avoiding another acrimonious budget battle between Congress and the administration in an election year. While the national debate on a national budget strategy will be a key part of our election campaigns, as it should be, it is my hope that this agreement will free our budget process and appropriations from bipartisan wrangling.

Unfortunately, this agreement leaves too many of the toughest decisions for the future. We must still struggle with how to improve a now bogged down budget process, how to look fairly at issues like COLA's, entitlements, retirements, military spending, and new national needs. We must also look anew at the revenue side of our Federal budget ledger. I think it may be finally time that we put everything on the table. We may decide that some items must be fully protected, but we should start our review with a clean slate.

Mr. President, we have a difficult task ahead. Together with the American people we must take a new look at our options. It means reconsidering balancing needs and revenue requirements in the Federal budget. It means looking hard at competitiveness issues, trade, productivity and overall economic policy. Much will be left to a new administration. This reconciliation bill will move the budget to that election year junction in as responsible a way as is possible at this time and, therefore, I support it.

NUCLEAR WASTE PROVISIONS IN RECONCILIATION

Mr. MITCHELL. Mr. President, the troublesome issue of nuclear waste disposal is addressed in reconciliation. I am pleased that the conferees adopted the Senate language on the second round sites. This language postpones any consideration of a second site for at least 20 years. The Department of Energy is required to submit a study to the President and to Congress between January 1, 2007, and January 1, 2010, on the need for a second repository. Meanwhile, DOE is not authorized to conduct any activities related to a second site and DOE can no longer consider Maine as a potential nuclear waste site.

In addition, the conferees adopted the amendment offered by Senator Cohen and me that terminates all U.S. research funding for programs designed to evaluate the suitability of crystalline rock as a potential repository host medium. This provision suspends all work on a medium like that found in the seven second-round sites currently under consideration and does not affect any first-round research.

In the event that the Secretary at any future time considers any sites in crystalline rock, the Secretary is required to consider several new factors not currently required.

These include seasonal population fluctuations, proximity to public drinking water supplies and the impact of characterization or siting decision on lands owned or placed in trust by the Federal Government for Indian tribes.

These new factors provide additional assurances that the Sebago Lake and Bottle Lake regions in Maine will never be considered as potential sites for a high-level nuclear waste repository. It is extremely unlikely that DOE will again seek to consider any site in Maine as a nuclear waste repository, but these provisions make it clear that the Maine sites should be ineligible on their merits.

In addition, the conferees added additional safeguards for transportation of nuclear waste. Whatever site is finally constructed, waste will have to be transported to that site. We need to assure the highest possible level of safety during transportation.

I am pleased that this is the substance of the agreement on the second-round sites. As I have repeatedly stated before, there is no technical reason to have two sites. There is no economic reason for two sites. Operation of only one site will save ratepayers billions of dollars. Recognition of these facts by Congress in this legislation is a much-needed correction in our nuclear waste program.

REGARDING THE REGULATION OF PENSION TERMINATIONS AND REVERSIONS

Mr. HEINZ. Mr. President, I rise today to express my deep regret that the reconciliation bill which we are considering tonight does not contain provisions to discourage employers from terminating their defined benefit pension plans and recapturing the so-called excess assets. I believe that congressional inaction on this issue presents a serious threat to the retirement security of the working men and women of this country.

In recent years, there has been a growing pattern of employer termination of pension plans to recover assets to finance business transactions totally unrelated to the retirement income needs of their employees.

Since 1980, employers have terminated over 1,300 pension plans and recovered nearly $16 billion in pension assets. These terminations are troubling because the surpluses have often resulted not from wise investment by the plan sponsor, but from the mere act of termination and the elimination of future benefit obligations.

The termination of pension plans and reversion of surplus assets to employers is a serious threat to the retirement income of American workers and to the security of our retirees that has not been adequately addressed in the pension funding provisions of this legislation.

Federal policy provides tax benefits to encourage employers to fund ongoing plans to pay future retirement benefits to their workers. Premature plan terminations and the use of pension funds for other purposes undercut this basic policy objective.

Last February, the administration recommended a change in their current policy to discourage pension termination and reversions. Unfortunately, the Finance Committee chose not to move in this direction and the conferees have been unable to come to agreement in this area. Our inaction leads to the ratification of old administration guidelines on pension terminations that encourage employers to misuse pension assets. Under these guidelines, issued May 23, 1984, employers may terminate plans, recover surplus assets, and then reestablish identical follow-on plans.

Mr. President, the hour is late, and I am afraid that we will be unable to address this issue in 1987. In order to protect the interests of workers and retirees and encourage a stable system of ongoing pension plans and retirement benefits, I urge my colleagues move forward early in 1988 with legislation designed to discourage terminations and reversions. We have built an effective and tremendously successful private pension system in this country. As our population ages, we need to continue to do all we can to see that the private programs which supplement our Social Security System will work to meet the income needs of our seniors, today and tomorrow.

PENSION PROVISIONS

Mr. METZENBAUM. Mr. President, I rise to express strong reservations about the pension provisions in this measure. The American Association of Retired Persons, the National Council of Senior Citizens, the AFL-CIO, and the UAW agree with me that the pension provisions fail to fully protect workers and retirees.

Mr. President, current law is inadequate to protect the 38 million Americans in defined benefit pension plans. Pension funds have been turned into corporate piggy banks. Billions of dollars have been removed from pension plans by so-called reversions. And in the process workers and retirees have lost retirement security. An internal Labor Department study concluded that workers and retirees lose as much as 45 cents of every pension dollar promised.

Those who build a company deserve better.

The Senate Labor Subcommittee first conducted a hearing on this subject on April 4, 1984. At that time we heard from a panel of retirees who described in detail the suffering occasioned by these terminations.

I recall the testimony of Mr. Jean Bush. When he retired he was senior vice president and on the board of directors at Raymond International. He testified that 51 percent of Raymond's retirees were getting less than $1,800 a year. In combination with Social Security many were left with incomes below the poverty level. He testified as follows:

> I am outraged to learn that Raymond International intends to terminate its pension plan without so much as a thought about the welfare of its retirees. I see no justification for terminating the plan in the first place. But then to have them take back the [$30 million in] so-called surplus assets, caused by high interest rates and other factors, is unconscionable—especially since they intend to use the money to pay back loans borrowed for the leveraged buyout. My understanding of ERISA is that the money contributed into the fund is to be invested solely for the benefit of participants and beneficiaries, not for the benefit of a few top company executives * * * there is no question that the money in the pension fund was never intended to be used by a few top executives in the company to repay loans made for their own selfish interest. It was meant to secure our future.

Earlier this year the Senate Labor Subcommittee conducted yet another hearing on this subject. And again we heard from workers and retirees. We heard about a North Carolina company which wanted to take $20 million out of its plan to finance a merger. A company which is paying a pension benefit averaging $61 a month.

This company actually pledged its pension assets to the banks who financed the merger. But it wanted to break its pledge to provide a decent standard of living for its retirees.

Mr. President, pension terminations are a substantial and growing problem. At the first hearing in 1984, I expressed shock that $2.2 billion had been—or was in the process of being—grabbed out of pension plans. Today 3½ years later, $16 billion is gone.

If we do not act now the remaining $218 billion in surplus assets may very well disappear as well.

Mr. President, the Senate and House Labor Committees attempted to put some curbs on the practice—to deter pension terminations. The committee provisions would have allowed companies to remove excess pensions assets without terminating their pension plans, but only after leaving a 25-percent safety cushion behind. This withdrawal provision was recommended by the administration.

In the event that a company decides to terminate the plan, the safety cushion amount would increase the benefits of workers and retirees. This provision ensures that there is no financial incentive to terminate a plan to obtain a larger reversion than available by withdrawing the excess. In addition, it more fairly allocates the surplus between the company and those who worked to build it.

Finally, it prevents companies from terminating one plan to remove the surplus, while maintaining other plans which are underfunded. This provision was also recommended by the administration.

Mr. President, the conference report strikes these provisions leaving only current law—a set of rules which are totally unfair and inadequate.

But do not listen to me. Listen to the Secretary of Labor.

On March 24, the Secretary of Labor testified before the Labor Subcommittee that current law does not properly protect retirees and workers. He pointed to the fact that under current practice employers can strip every dime of excess assets from their plans.

He testified that:

> I think it has become fairly obvious that requiring employers to terminate their pension plans in order to recover assets well in excess of those needed to maintain proper funding is inconsistent with a stable and secure pension system. There is concern that the plans, having been stripped of all their assets in excess of termination liabilities, might not have sufficient assets to maintain sound funding during an economic downturn. Furthermore, without a cushion of assets plan sponsors will be less likely to increase benefits or grant cost-of-living increases to employees.

Mr. President, there are those who argue that the surplus assets all belong to employers. They say sharing the surplus bestows a gift on workers and retirees.

How absurd.

Let them tell the Raymond retiree who is living below the poverty line that a share of the $20 million in pension assets management used to finance a leveraged buyout would be a gift. Or tell that retiree in Cornelius, NC, who is living on $61 a month that another dime amounts to a gift.

Mr. President, it is not absurd, it is demeaning and degrading to the working men and women of this country.

There are those who claim employers are liable for funding shortfalls and, therefore, should have the rewards of favorable plan investment performance. They say they bear all the risks, so they should reap all the windfall. What they forget is that workers and retirees also shoulder the risks of poor plan performance. Just ask a retiree from LTV, AMI, or Wheeling-Pittsburgh Steel whether the worker bears any risks of poor performance. Many of these workers and retirees have lost substantial benefits when their pensions were terminated.

There are those who argue that a worker should get what he or she was promised but no more. But what is promised? I believe that what is promised is a standard of living at retirement, not a pension benefit based on the moment in time the employer decides to terminate a plan. In fact, the law requires plans to be established with the intention that they remain permanent. In addition, I would point out that pensions are deferred wages. Employees agree to compromise on current wages in exchange for a solid reliable pension in the future. Employers cannot be allowed to renege on their end of the bargain.

In many ways I believe that the Labor Committees should have gone further. But I believe that the Labor Committee rules struck a balance much fairer than current law. By deleting these sections we are left with current law—which the Secretary of Labor has testified does not adequately protect retirement security.

Mr. President, I believe the provisions should have been kept. But the tax writing committees insisted that they be removed—and they prevailed.

I would like to ask the chairman of the Finance Committee for his views regarding the prospects for action on this issue next year.

Mr. BENTSEN. I appreciate the concerns of the Senator from Ohio on the matter of excess assets in defined benefit retirement plans. I know that the Senator, as chairman of the Labor Subcommittee of the Labor and Human Resources Committee, has devoted considerable attention to this matter.

I know that the Senator, in his present capacity of acting in the place of the chairman of the full Labor Committee, had planned to seek further conference action regarding pension terminations. I now understand, following discussions among the two of us and others, that the Senator is willing to step back from those efforts at this time, in order to help the Senate reach a conclusion in its deliberations on the reconciliation bill.

The Senator from Ohio has made forceful arguments for the concept of sharing excess pension assets with employees when a pension plan is terminated. I agree with the Senator that, under certain circumstances, workers and retirees should share in a portion of the excess assets.

I assure the Senator from Ohio that I will be pleased to work with him through our committees to advance legislation early next year that would address the issues involved in pension terminations, including the issue of employees' sharing in the reversion of excess assets.

ERISA PENSION SECURITY

Mr. BUMPERS. Mr. President, the practice of "terminations for reversions" of healthy defined benefit employee pension plans has dramatically escalated since 1980. Over 1,000 plans have been terminated and $15 billion recaptured by employers. Mr. President, I do not believe that the drafters of the Employee Retirement Income Security Act of 1974 foresaw that the magnificant new law they were developing would be abused by the loophole that allows these terminations.

I am very concerned that we have not amended ERISA to deal with this very serious problem. I know that the issue is a complex one and that meaningful and thorough solutions may be difficult for both Houses to agree on. Nevertheless, it is clear that our inability to act is hurting hundreds of thousands of employees and retirees. I commend those Members of the Senate and House of Representatives who are searching for solutions to protect these persons, and I urge the appropriate committees to seriously consider this issue early next year. I hope we can enact correcting amendments to ERISA at the earliest opportunity next year.

CURRENT LAW REGARDING THE TERMINATION OF OVERFUNDED PENSION PLANS AND THE RECOVERY OF EXCESS ASSETS

Mr. MOYNIHAN. Mr. President, I rise today to congratulate my colleagues on the budget reconciliation conference committee for taking important steps toward securing the economic stability of the Pension Benefit Guaranty Corporation [PBGC], which insures the benefits of millions of the Nation's participants in defined benefit pension plans.

Unfortunately, the conferees could not reach an agreement on proposals to strengthen a major weakness of current law regulating pensions: the termination of overfunded pension plans and the reversion of excess assets.

Under current law, no withdrawals by employers are permitted from ongoing pension plans. However, employers may terminate plans and keep assets that remain after promised benefits to employees are taken into account, minus a 10-percent excise tax.

Until 1980, terminations of overfunded plans were rare. That year, only 9 plans involving $18 million in assets were terminated. But last year, employers terminated 577 plans with nearly $5.7 billion in assets. Since 1980, over 1 million participants of defined benefit plans have been affected by such plan terminations.

Employers have terminated defined benefit plans not for the good of their employees, but to recapture appreciated assets. These assets are used for corporate takeovers or to buy new plants. They are not used to benefit retiring employees.

Typically, once excess assets are stripped from a plan, a new defined benefit plan is established. Invariably, the new plan is not funded as well as the old one. These new plans, therefore, are less able to sustain funding during periods of economic distress.

And because the new plans do not have surplus assets, employers are less likely to grant benefit increases.

Clearly, employers should not be encouraged to terminate plans to get at excess assets—it is not conducive to the maintenance of a sound pension system. The recent stock market plunge should serve as a reminder that even overfunded plans may quickly lose a substantial portion of their value overnight. I, therefore, commend my colleagues, Senator LLOYD BENTSEN, chairman of the Senate Finance Committee, and Senator HOWARD METZENBAUM, chairman of the Senate Labor and Human Resource's Subcommittee on Labor, for making a commitment to review and revise current law regarding the termination of pension plans and the reversion of excess assets in the second session of the 100th Congress.

REDIRECTION OF THE NUCLEAR WASTE PROGRAM

Mr. JOHNSTON. Mr. President, the conferees on the budget reconciliation bill have reached an agreement that will redirect the Nation's program for the management of nuclear waste along the lines set out in S. 1668, the bill reported by the Committee on Energy and Natural Resources on September 1, 1987. Although this redirection is being enacted as part of title V of H.R. 3545, the budget reconciliation legislation for fiscal year 1988, the legislative history of the nuclear waste provisions is that of S. 1668.

This redirection will move the program forward, so that its goal of safe, permanent isolation of nuclear waste under Federal auspices can be achieved. There will be significant cost reductions—at least $4 billion.

The bulk of these savings will result from concentrating our efforts to develop a deep geologic repository on a single site, rather than on three sites as required under the Nuclear Waste Policy Act of 1982. S. 1668 provided for a selection of a preferred repository site by the Secretary of Energy by January 1, 1989, and a phasing out of site characterization activities at the remaining two sites. The conference agreement selects the Yucca Mountain site in Nevada as the preferred site and directs that siting activities in Texas and Washington State be phased out in an orderly manner and terminated within 90 days. While it is not specifically required by the agreement, it is my hope that DOE will report to Congress at the end of that 90-day period and provide an inventory of the work and contracts phased out at each of these sites and any nonsite specific activities that are planned to continue.

The House conferees insisted on the selection of the Nevada site by Congress in the compromise legislation. In the Senate, we had retained the process of selection by the Secretary of Energy based on scientific information gathered and analyzed by the Department of Energy [DOE] under the scrutiny of the Nuclear Regulatory Commission and the National Academy of Sciences. The House approach greatly simplifies this process. I believe that this simplication should render moot the litigation that currently challenges DOE's siting decisions in the repository program. S. 1668 contained a provision explicitly preserving pending litigation. This provision was dropped out by the conferees, however. Now that Congress has made the decisions to proceed with characterization of the Yucca Mountain site and to terminate the second repository program, I believe that the judicial review of the siting decisions in the first and second repository programs should no longer be necessary or appropriate.

The conference agreement also follows the policy set forth in S. 1668 in authorizing a monitored retrievable storage facility as an integral part of the Nation's Nuclear Waste Management System. The MRS can be of great value to the system as a packaging and handling facility and as a source of backup storage capacity in the event that the first-of-a-kind process of developing a deep geologic repository takes longer than DOE anticipates in current planning documents. As a packaging and handling facility, the MRS allows the collection of spent fuel in the eastern United States near the center of gravity of spent fuel production and shipment to the repository in Nevada by unit train. Spent nuclear fuel shipment miles will be reduced by about two-thirds in comparison with a no-MRS Waste Management System under which individual shipments from each reactor site in the east go directly to the repository.

As a source of backup storage capacity, the inclusion of the MRS in the National Nuclear Waste Management System will result in a much more flexible system and will permit early hands-on experience with spent fuel management. Accepting spent fuel at an MRS will also mean that staff at DOE responsible for repository development will be able to concentrate on repository work in a way that is uncomplicated by waste acceptance issues.

The House conferees, it is fair to say, do not share the Senate's view of the value of the MRS to the Nation's nuclear waste management system. House conferees expressed deep concern that an MRS could become a substitute for the deep geologic repository itself. This has never been the intent of the Senate, as we have said many, many times. The MRS is a part—a very important part—of the repository program.

At the insistence of the House conferees, the compromise legislation contains several unfortunate and unneeded restrictions on the MRS. These restrictions will necessarily reduce somewhat the contribution to the program that the MRS will be permitted to make. I expect that the effect of these restrictions will be studied and evaluated objectively by the MRS Commission that is retained in the compromise from the Senate bill. The Commission should examine how the MRS can contribute to the Waste Management System both with and without the restrictions, so Congress will more fully appreciate the value of the MRS. In determining whether an MRS should be a part of the Nation's Nuclear Waste Management System, the Commission should look at both a constrained and an unconstrained MRS. The expenditures of the MRS Commission will be paid for out of the Nuclear Waste Fund.

One of the restrictions added at the insistence of the House conferees makes it so that DOE may not formally select an MRS site until after completion of site characterization of the Nevada site, at the time at which the Secretary of Energy recommends to the President a site for development as a repository. According to DOE's current schedule, that will result in formal site selection in 1994.

It is unfortunate, in my opinion, that the House conferees insisted upon delaying formal MRS site selection until the mid-1990s. However, the provisions of the conference agreement will allow the site survey and evaluation to proceed after June 1, 1989, the date for submission of the MRS Commission report. As part of that site survey and evaluation, DOE will be able to gain access to any of the sites surveyed in order to obtain data and information sufficient to support an MRS license application to the Nuclear Regulatory Commission. This provision of the agreement will allow DOE to conduct the necessary site-specific work and to gather the essential site data prior to the formal selection and designation of an MRS site and, hence, minimize the time between the selection of a site and submission of a license application to NRC. Therefore, there should be no significant time lag between these two milestones.

One of the other restrictions added at the insistence of the House conferees, would prohibit continued construction of an MRS or acceptance of spent fuel at such a facility if a repository license is revoked by NRC or if construction of the repository is terminated. It should be understood, however, that revocation of the repository license or termination of repository construction is a high threshold. This restriction is not intended to allow suspension of MRS construction or acceptance of spent fuel simply because of a temporary interruption in repository construction. This restriction is intended to suspend MRS construction or acceptance of spent fuel only in the event that there is a serious threat to continued repository construction.

The specific statutory language of this provision is that MRS construction or acceptance of spent fuel at an MRS will be prohibited if repository construction "ceases." It is useful to note that the definition of cease is "discontinue" or "put to an end." Cease does not mean to suspend or halt temporarily. Therefore, it should be clear that this restrcition of MRS construction or operation should only be invoked in the event that there is a permanent end to repository construction.

The conference agreement also follows the policy set forth in S. 1668 relating to benefits for a State hosting a repository or MRS. S. 1668 provided a benefits agreements between DOE and a host State, by which the State would receive up to $100 million per year for hosting a repository and up to $50 million per year for hosting an MRS. In order to receive those benefits, the host State would have to waive its right to veto the siting of the facility.

The amount of money available to a host State was reduced substantially in the conference agreement at the insistence of the House conferees. The process, however, remains the same. In order to receive the benefits under such an agreement, the host State must waive its veto. The conferees agreed that benefits to a host state are appropriate, but it must be a cooperative effort if such vast resources are to be given as unrestricted benefits.

Finally, the conferees agreed to include provisions offered by the House to appoint a negotiator to negotiate the terms and conditions under which a State or Indian tribe would be willing to host a repository or MRS, in lieu of the benefits provided under a benefits agreement. The negotiator's efforts are independent of, and would proceed in parallel with, DOE's efforts to site a repository in Nevada and an MRS facility. Any agreement worked out by the negotiator would have to be enacted into law by Congress. Although it is not explicitly provided in the conference agreement, it is my belief that a negotiated agreement enacted into law by Congress would have to contain additional assurances that there would be a cooperative effort between the State and DOE toward siting a repository or MRS. I would assume that this would include the dropping of any pending litigation brought by the State against DOE.

In spite of my concerns about these unnecessary restrictions on the MRS, I am pleased that agreement has been reached. Agreement on this nuclear waste legislation is a major accomplishment. This redirection will move the nuclear waste program forward and allow significant cost reductions. This agreement is the result of an entire year's effort on the part of many people. In that regard, let me especially thank my colleague from Idaho and ranking minority member on the Energy and Natural Resources Committee, Senator McClure, for his tireless efforts toward this end.

SALE OF BUREAU OF RECLAMATION LOANS

Mr. McCLURE. Mr. President, I would like to address a few questions to the distinguished chairman of the Committee on Energy and Natural Resources.

Mr. Chairman, the Senate version of the bill before us contained language authorizing the Secretary of the Interior to sell various Bureau of Reclamation loans made pursuant to the Distribution Systems Loans Act, the Small Reclamation Projects Act, and the Rehabilitation and Betterment Act. The House bill had no such provision and the conferees agreed to a modification of the language in the Senate bill.

I think the language of the amendment and the explanatory statement on the part of the managers is clear, but I would seek further clarification.

Mr. President, subsection (b) of section 5301 of the conference agreement specifically provides that nothing in the section shall authorize the transfer of title to any federally owned facilities funded by the loans specified in section (a) of this section without a specific act of Congress. I would ask the chairman if it is the intent of the conferees to diminish in any way the authority that the Secretary of the Interior presently has under the Distribution System Loans Act to transfer title to the borrower when the loan has been repaid?

Mr. JOHNSTON. It is not the intent of the conferees that this prohibition restrict the authority of the Secretary of the Interior which he may enjoy under current law. The Distribution System Loans Act authorizes the Secretary of the Interior to require, as conditions to any such loan, that the borrower transfer certain lands or interests in lands as well as distribution works constructed in whole or in part with moneys lent under the act. The act provides that when full repayment has been made to the United States the Secretary shall retransfer to the borrower title to the works and all lands and interests in land which were transferred by it to the United States.

I would advise the distinguished ranking member of the Committee on Energy and Natural Resources that the authority of the Secretary to retransfer title pursuant to the Distribution System Loans Act is not affected by enactment of the conferee's recommendation. It is in fact a transfer of title which is authorized by a specific act of Congress as required in the conference agreement.

Mr. McCLURE. I thank the chairman.

In regard to the conference agreement and the Rehabilitation and Betterment Act, I would note for the record that the conference report on the Reclamation Reform Act of 1982 recognized that rehabilitation and betterment loans are considered as operation and maintenance costs and that the conferees did not intend to imply that either existing or future rehabilitation and betterment loans would subject districts to the extensions of the application of the acreage limitations after repayment of contruction charges. Does the conference agreement to H.R. 3545 alter in any way the determination made by the committee of conference on the Reclamation Reform Act regarding the applicability of acreage limitations and loans made pursuant to the Rehabilitation and Betterment Act?

Mr. JOHNSTON. The conference agreement does not.

Mr. McCLURE. I thank the chairman.

Mr. President, I would first like to speak to the provisions of the reconciliation package that deal with the future course of this Nation's Nuclear Waste Disposal Program. These provisions are found in subtitle A of title V of the budget reconciliation bill.

The progression of events leading to these final provisions are truly remarkable. At times, even I questioned the likelihood for survival of this piece of legislation throughout this wrenching legislative process. I would not have placed much hope in the bill's survival even as recently as the middle of last week. But thanks to the relentless staying power of the many players in this process—not the least of whom is the distinguished chairman on the Energy and Natural Resources Committee, without whose vision and determination we would have never reached this point—we can each take pride in the fact that we have produced a surprisingly good end product.

While the Committee on Energy and Natural Resources cannot claim total victory nor take total credit for this product, we can nevertheless take heart in the fact that the bulk of the legislative events that have yielded this result originated from our committee's intensive labors.

I remind my colleagues of the fact that the Committee on Energy and Natural Resources did not take the nuclear waste issues lightly over this past year. We faced the issues head on, starting very early in the session. We scheduled so many hearings on this issue that at times I thought we would be accused of overkill. And then, as the fruits of those endless hours of hearings were finally translated into legislative initiatives, I was very proud of the outcome. Then later, as we availed ourselves of every opportunity to present this legislation to the full Senate for consideration, I was grateful that the chairman had opted for a full-court press. Ultimately, our ideas prevailed in the Senate, despite the efforts of some members who would have preferred to see the whole Nuclear Waste Program brought to its knees.

Things were on no firmer ground when dialog first began with our House counterparts. Since corresponding legislation in that body was much less mature, I think only the House Interior Committee had reported a measure, the contents of which took a totally different tack than ours, there were serious doubts in many Members' minds as to whether the House was prepared to deal with this issue at all, especially on such short notice. I say that somewhat facetiously because no one who has followed this issue over the last 5 years could deny the fact that the Nuclear Waste Disposal Program is in dire need of resuscitation. No one could have ignored the labors of our committee, as well as other committees of Congress, in trying to come to grips with the problems. And certainly no one could honestly say that the program would have been able to survive another year without these attendant fixes.

All this is a very elaborate way of saying that the fate of this legislative initiative was inevitable. The Committee on Energy and Natural Resources deserves most of the kudos, but that is not to say that all the participants don't deserve a round of applause for their perseverance in this effort.

The final product has plenty of fingerprints belonging to the Energy and Natural Resource Committee. We have prevailed in our concepts of single-site characterization, authorization of a monitored retrievable storage facility, and providing incentives to the States that will ultimately host these facilities. We also had no problem convincing the conferees that decisions with respect to a second geologic repository need not be addressed until the year 2010. And finally, everyone agreed with us that independent, prospective review of the program is vital to the ultimate success of the program.

I would be remiss if I did not also address those fingerprints from the Energy Committee's bill that got smudged a little in the process. First, we forfeited our committee's concept of sequential site characterization, wherein it would have been the Department of Energy's decision as to which of the three candidate sites to characterize first. Instead, we ceded to the House conferees' proposal to designate the site at Yucca Mountain, NV, as the host to the Nation's first repository. We also forfeited any further surface-based testing at the other two sites—at Deaf Smith, TX, and at Hanford, WA. Thus, we are on a course where if problems develop in the course of characterizing the Yucca Mountain site, the Department will have no backup options under this substitute provision, other than to make recommendations to Congress on any future course of action, in the hope that Congress acts at that time.

Second, we have had to accept conditional authorization of the monitored retrievable storage [MRS] facility. These conditional provisions relate to certain milestones being met with respect to the Yucca Mountain repository in order for work to proceed at the MRS. While these linkages may be necessary to convince some Members that the MRS will not become a de facto repository, I would have preferred that the linkages be determined by joint agreement between the host MRS State and the Department, rather than by this particular Congress. Nevertheless, in the spirit of compromise, we find ourselves now legislating these linkages up front, in our typically myopic manner.

Thus, an MRS site would not be designated until the Yucca Mountain site is fully characterized, and construction of the MRS would not begin until the Nuclear Regulatory Commission has issued a license for construction at the repository. If, at any time, the repository license is revoked by the NRC, activities at the MRS would have to be suspended until such time as the repository license is reinstated. And if construction activities at the repository ceased altogether—and by that, we mean that the construction terminates through some irrevocable decision on the part of the NRC or the Department of Energy who for whatever reasons, determine that the Yucca Mountain is no longer fit to serve as a repository site—then the MRS would have to suspend its operations at that point.

It is important to reiterate and emphasize that the bill language in no way requires suspension of activities at the MRS—including the receiving of waste shipments—while unforseen, and minor, short-term occurrences such as labor strikes, weather, delayed delivery of parts, products or machinery, among others, temporarily requires suspension of work at the repository. It would be foolhardy and wasteful to maintain such a stop-start schedule, as clearly seen by the conferees in the passage of this legislation in large part to save the taxpayers from the unnecessary spending of such large amounts of funds as previously proposed for our Nation's Nuclear Waste Program.

Finally, this conference substitute has the undeniable, clearly recognizable fingerprints of my friend the distinguished chairman of the House Interior and Insular Affairs Committee, without whose support we would not have arrived at this point. In particular, his provisions with respect to the creation of the Office of Nuclear Waste Negotiator, and the establishment of a Nuclear Waste Technical Review Board, will go a long way toward assuring the survivability of this program. To Mr. UDALL, I give total credit for these farsighted provisions.

Before yielding the floor, I wish to give particular credit and thanks to my fellow colleagues, the chairman and ranking member of the Subcommittee on Nuclear Regulation of the Senate Committee on Environment and Public Works, for their often spirited participation in this process. Likewise, I would be remiss if I did not give due credit to the committee and subcommittee chairmen and ranking members of the House Energy and Commerce Committee and the House Committee on Space, Science, and Technology, whose productive input has not gone unnoticed by this Senator. Last but not least, I thank the chairman of the Senate Committee on Energy and Natural Resources for his vision and leadership in this challenging task.

I think the Nation will be well served by the fruits of our labors. The final nuclear waste package contained in the reconciliation bill will allow us to put the political issues behind us, and allow the Department of Energy to proceed with a carefully directed program in a cost effective manner, so that the ultimate disposal of this Nation's nuclear waste will be achieved within our lifetimes.

Briefly turning now to another matter, Mr. President, I would like to clarify for the RECORD one aspect of the agreement reached between the House and Senate conferees on the Federal Onshore Oil and Gas Leasing Reform Act of 1987. The statement of managers indicates that no oil and gas leases shall be issued on National Forest System lands reserved from the public domain by the Secretary of the Interior over the objection of the Secretary of Agriculture. The Bureau of Land Management of the Department of the Interior has full responsibility for mineral leasing and supervising mineral operations on 300 million acres of Federal mineral estate underlying other agency jurisdictions, including the Forest Service, and for supervising most mineral operations on Indian lands. The language which the conferees agreed to does not change this responsibility, it merely gives the Secretary of Agriculture the authority to object if he determines that it would be inappropriate for BLM to issue a lease on National Forest System land. Currently BLM and the Forest Service operate under a memorandum of understanding when making leasing decisions. As indicated in the statement of managers, the approved language is not intended to result in duplication by the Department of Agriculture of the Department of the Interior's administration of oil and gas leases, nor is it intended to preclude the current consultation process between the two Departments.

Additionally, I would like to point out that the conferees agreed to language which requires the Secretary of the Interior or the Secretary of Agriculture, as appropriate, to regulate all surface disturbing activities conducted pursuant to leasing. Again, this provision is not intended to transfer the authority of the Secretary of the Interior to manage the mineral resources on Forest Service lands to the Secretary of Agriculture. The language is intended to continue the current practice by which the Secretary of Agriculture exercises some management of the authority of the Secretary of the Interior pursuant to memorandum of understanding. Nothing in this act changes the basic authorities or responsibilities of the two Secretaries.

NUCLEAR REGULATORY COMMISSION USER FEES

Mr. SIMPSON. Mr. President, there are a couple of things that I would like to say by way of clarification about the provision in this legislation authorizing the Nuclear Regulatory Commission to increase its user fees for fiscal years 1988 and 1989. The conferees on this issue—the Senate Environment and Public Works Committee, the House Interior and Insular Affairs Committee, and the House Energy and Commerce Committee—took what appears on the face of this legislation to be an unusually contorted approach to increasing NRC's user fees because of the position that we were placed in by the House and Senate Budget Committees and by the Congressional Budget Office "scoring" process. Because of this, I think it would be helpful, particularly for those at the Commission who will be responsible for interpreting and implementing this provision, to explain why we drafted the legislative language the way we did.

First, I should explain what this provision, section 5601, actually does: This provision authorizes the Commission to collect increased user fees in an amount up to 45 percent of the agency's budget for 2 fiscal years—fiscal years 1988 and 1989. Under this provision, fees can only be assessed where the charge is reasonably related to the regulatory service provided by the Commission and fairly reflects the cost to the Commission of providing such service. After fiscal year 1989, the Commission's authority to collect fees reverts to the existing level of 33 percent of the agency's budget, as provided by the existing authority in section 7601 of the Consolidated Omnibus Budget Reconciliation Act of 1985.

However, we drafted the legislative language of section 5601 the way we did, with the reference of "an additional 6 percent" above the amount authorized by this section—33 percent—and by this year's omnibus continuing resolution—because this was the only way for this provision to be scored by the Congressional Budget Office and by the House and Senate Budget Committees. Briefly, earlier this year, both the House and Senate Appropriations Committees, included language in the energy and water development appropriations bill assuming that the Commission would collect user fees in fiscal year 1989 equal to 50 percent of its budget—an assumption that, even though it provides no legislative authority for the Commission to actually collect such fees, was scored by the Congressional Budget Office as actually generating revenues. This, in turn, assisted the Appropriations Committees in their efforts to meet their subcommittee allocations. This same approach was then picked up in the continuing resolution—House Joint Resolution 395.

Once this earlier scoring decision was made, the Congressional Budget Office and the House and Senate Budget Committees were unwilling to score the authorizing committees for any increase in user fees from the existing 33 percent up to 50 percent—because the Appropriations Committees had already been given credit for increased fees up to this level. It was a truly absurd interpretation of the scoring process, Mr. President, and a distortion of the rules in a way that I do not think was intended by the Congress when it formulated the rules governing reconciliation. I should say, at this point, Mr. President, that I view this practice to be an egregious abuse of the budget process and one of the reasons the American public is so skeptical of our ability to reduce the Federal deficit—the Congressional Budget Office and the House and Senate Budget Committees gave the Appropriations Committees credit for an assumption that NRC fees would be increased, even though the language does not authorize the Commission to collect the additional fees, and then they turn around and deny the authorizing committees the credit for increasing NRC fees from 33 percent to 50 percent, where our language would actually have the legal effect of authorizing the NRC to increase fees by this amount.

Therefore, to ensure that we were actually given "credit" for the fees authorized by section 5601, we had to include language referring to "an additional 6 percent" above the 33 percent in the existing section 7601 of the Consolidated Omnibus Budget Reconciliation Act and the continuing resolution—which, since the user fees language in the continuing resolution is simply an assumption with no legally binding effect, has the effect of increasing fees to 39 percent. This then enabled the Congressional Budget Office and the House and Senate Budget Committees to score us for achieving $25 million in additional revenues. Moreover, since the conferees had agreed to increase NRC fees to the Senate-passed level of 45 percent, we then included language stating that the fees shall be no "less than a total of 45 percent."

To the untrained eye, it would appear much simpler if we had just said that NRC was authorized to increase its fees to 45 percent of its annual budget. But that would not have been scored as generating revenues, since the appropriations language had already been credited for the assumption that fees would be increased to 50 percent. In short, the Budget Committee told us that they were unwilling to "double count" the two provisions—even though our provision, and not the appropriations assumption, had the legal effect of authorizing the NRC to increase its fees. As a consequence, Mr. President, we were forced to take the long way around this barnyard by including the reference to an "additional 6 percent" for scoring purposes, but then actually setting the limit for fiscal years 1988 and 1989 at 45 percent. In short, this contorted and convoluted approach is an authorization for the NRC to increase its fees to 45 percent of its budget for fiscal years 1988 and 1989, after which the fees will revert to the existing level of 33 percent.

GAO STUDY OF THE FEDERAL FINANCING BANK

Mr. DOMENICI. Mr. President, at my request, the Agriculture Committee conferees included a provision in this bill requiring the General Accounting Office to conduct a study of all Federal financing bank lending. I want to thank the distinguished chairman and ranking member of the Senate Agriculture Committee for including this provision in the conference agreement.

I think we are all frustrated by the complicated nature of the refinancing or prepayment issue. We have spent a great deal of time struggling with REA refinancing, FMS refinancing, and other proposals to waive FFB prepayment premiums.

My intention in adding this provision to this bill is that GAO make a complete review of all FFB lending and the conditions and procedures for prepayment. In conducting its review and developing its recommendations, I am particularly interested in GAO reviewing the terms for prepayment in private financial instruments. In addition, GAO should consult with private financial experts in reviewing and developing recommendations on this issue for the Congress.

I look forward to reviewing the results and recommendations from this study.

NUCLEAR REGULATORY COMMISSION USER FEES

Mr. SIMPSON. Mr. President, I have just a few brief remarks that I should like to make about the provision in this legislation authorizing the Nuclear Regulatory Commission to increase the amount of fees collected from its licensees. When the Senate Environment and Public Works Committee first formulated its response to the reconciliation instructions that we received from the Senate Budget Committee calling for an additional $150 million in user fees, we as a committee once again rejected the suggestion that the entire burden for collecting this amount should be imposed on the NRC and NRC licensees—an assumption that the Budget Committee had made when it formulated this instruction. Indeed, after considerable discussion of this issue in committee, we reached the conclusion that it was fundamentally unfair to single out a particular activity or a particular agency and require that activity or agency to be responsible for collecting user fees, where there were other comparable regulatory activities or agencies that were not being called upon to make similar contributions. Moreover, we felt that further increases in NRC fees would create the preception, if not the fact, of giving utilities leverage and influence over the NRC.

For these reasons, the recommendations submitted by the Environment Committee to the Budget Committee this year called for what we felt was a well-balanced package of user fee proposals—including a requirement that the NRC collect an additional $50 million in user fees and a requirement that the Environmental Protection Agency collect an additional $40 million in user fees.

The House, on the other hand, once again this year increased NRC user fees by a huge amount—increasing from 33 percent to 100 percent of the agency's budget the amount to be collected through assessments on NRC licensees. And once again, the House flatly refused to consider user fees for other comparable regulatory agencies or activities.

By way of background, Mr. President, last year, when we encountered similar opposition from our colleagues on the House side to including EPA fees as part of the package, we were simply unable to reach an agreement on any increase in NRC or EPA fees—and, as a result, wound up walking away from the negotiating table and reporting back in disagreement. But there were some positive signs in the discussions that the conferees held on the EPA and NRC fee issue last year. Indeed, our House colleagues indicated that looking to EPA for part of the fees made some sense. Unfortunately, they argued, EPA fees were not within the jurisdiction of last year's "subconference"—and could therefore not be included as part of the package.

This year, when the House and Senate Budget Committees began formulating the fiscal year 1988 budget resolution and reconciliation instructions—and presumably had the opportunity to include both EPA and NRC fees—we had an opportunity to revisit this issue, picking up on what I thought was generally favorable discussion of this approach in last year's conference. As I indicated, Mr. President, this is exactly what the Senate did—we included both EPA and NRC user fees. Unfortunately, notwithstanding the favorable comments from our House colleagues last year on the wisdom of including EPA fees, the House this year flatly refused to include any EPA fees. And what did they do instead? They turned around and increased NRC fees to 100 percent of the agency's budget—an amount that far exceeded the revenues that the reconciliation instructions directed the House authorizing committees to achieve.

It is for this reason, Mr. President, that the Senate flatly refused to budge this year on increasing NRC fees beyond the amount provided for in the Senate-passed reconciliation bill—45 percent of the agency's budget. Moreover, we limited the provision in this legislation to fiscal years 1988 and 1989—after which the NRC's authority to collect fees reverts to the existing level of 33 percent of the agency's budget.

I think it is fair to say, Mr. President, that the Senate Environment Committee has reached the limit of its willingness to consider any further increases in NRC fees unless we first see solid evidence that the Congress—and particularly the House and Senate Budget Committees and the House committees with jurisdiction over EPA fees—are willing to impose comparable regulatory fees on comparable regulatory agencies, such as EPA. Unfortunately, at this stage, we simply see no evidence of any willingness to do that, Mr. President. So I say to my colleagues in the House that the negotiations this year on the NRC fees are only a sign of more to come next year if we see no willingness to move on EPA fees—the Environment Committee, I hunch, will simply refuse to increase NRC fees at all unless we see solid evidence that the Congress is moving forward with comparable regulatory fees for other comparable regulatory agencies. In fact, I wonder if I might ask the chairman of the Environment Committee, Senator BURDICK, if he shares that view?

Mr. BURDICK. I certainly share the frustration that the Senator from Wyoming has described with regard to the unwillingness of the House to consider EPA fees—and the disproportionate increases in NRC fees that the House at the same time proposes every year. I can also say, Mr. President, that as chairman of the Environment and Public Works Committee, I do not intend to support any increase in NRC fees on any legislation until comparable fees for comparable regulatory agencies, such as EPA, are required by Congress.

Mr. BREAUX. I would add my voice to those sentiments, Mr. President. I firmly share the view that we have asked too much of the Commission by comparison to what we ask of other comparable regulatory agencies and this imbalance needs to be redressed.

Mr. SIMPSON. I thank my colleagues for those assurances. And I think the message is clear—the leadership of the Senate Environment Committee and the Subcommittee on Nuclear Regulation have reached the limit of our patience and willingness to consider any further increases in NRC fees until we see firm action by the House on fee proposals for comparable regulatory agencies such as EPA.

Mr. HEINZ. Mr. President, today I will vote, despite reservations, in favor of the conference agreement on budget reconciliation. At the outset, I would like to review our present situation. The deficit for fiscal year 1987 was a significant improvement over fiscal year 1986—down to $148 billion from the all-time high of $220 billion, a drop of 33 percent. Unfortunately, without further action, the deficit will begin its ascent once more in fiscal year 1988, rising to $163 billion.

The markets have already told us what they think of that prospect. On October 19, the stock market lost 22 percent of its value in a 508-point plunge. The world financial community has signaled very clearly that it is imperative for this Congress to act to reduce the deficit beyond the Gramm-Rudman-Hollings target levels, and begin to put our fiscal house back in order.

The conference agreement does provide for further deficit reduction. If all savings are ultimately achieved, the agreement provides $30 billion in fiscal year 1988 savings and $45 billion in fiscal year 1989 savings. These levels of saving will help to keep the deficit on the downward trend. My concern, however, is that the agreement may have relied too heavily on new taxes, $9 billion in fiscal year 1988 and $14 billion in fiscal year 1989, and not enough on spending restraint. At the same time, the conference agreement is rife with one-time savings and gimmickry that do not contribute to long-term deficit reduction. As I stated when the Senate considered the budget resolution last spring, the Government continues to fund all manner of subsidies for profitable private enterprise, from water subsidies to power marketing. It is my hope that these activities will, at some point, be asked to make their contribution to deficit reduction.

Given the recent mandates by the global markets for the United States to exercise greater fiscal responsibility, we had no options but to increase revenues, as a part of an overall package of deficit reduction. The fundamental question that the Finance Committee had to address was whether this demand for new revenue was to be met by overall rate increases or through selective modifications of the Tax Code. Increased marginal tax rates would represent an abrogation of our promise to the American people, made in the Tax Reform Act of 1986. So our sole option was the selective modifications approach.

The raising of revenues requires hard decisions. Absent flagrant abuse of the Tax Code, the decision to raise corporate or individual tax liability must be made with great caution. Further, one must assure that the tax system is equitable, market sensitive, and not the cause of competitive disadvantages. I believe that the final product of the conference committee is a responsible tax package. We exercised great care to ensure that no segment of the economy bore a disproportionate share of the burden, that competitors in similar markets were treated in an identical manner, and that essential tax benefits to sensitive segments of our economy were not eliminated.

Unlike the House bill, the Finance Committee's proposal and the final compromise package are well thought out, and will not create major disruptions of, or chaos in, the financial markets. In fact, the up market of this past Friday—immediately after the conference committee reached agreement on revenues—demonstrates the confidence that investors are placing in the agreement.

Furthermore, the House bill would penalize industry through an alternative minimum tax increase. The conference committee package wisely rejected such a provision. Similarly, the House bill would have impaired the ability of municipalities to sell their tax exempt bonds. The conference committee package contains no such provision. Again, the House bill would have prevented our troubled savings and loan industry from becoming financially sound. The conference committee package contains no such provision. These are but some of the numerous examples that I could give of the various problems with the House tax bill. Fortunately for all, these provisions are not in this conference package.

It is especially important that this conference report contains two items that I have been urging action on for some time and prepared for repeatedly during our Finance Committee caucases and during the conference: Revision of the calendar year provision and repeal of the phantom income provision. Both of these required action this year, and I am pleased that they are a part of the legislation.

Mr. President, I want to congratulate the chairman of the Finance Committee, Senator BENTSEN, on the handling of a very difficult task. It was a pleasure to be a part of the conference committee, and I look forward to future conferences.

In closing, Mr. President, despite several reservations I can support the conference agreement. It is the only broadly acceptable means of reducing the deficit beyond the Gramm-Rudman-Hollings targets, and I compliment my colleagues for their hard work on the agreement. I urge its adoption as the first step toward a sound fiscal policy.

Mr. CONRAD. Mr. President, the Congress has struggled for most of this year to produce a comprehensive plan for reducing the deficit. Inherently, this was a difficult job: for most of the year, the administration and the Congress were at a total impasse over the budget. Even once the stock market crash heightened the collective sense of urgency, negotiators had trouble—and experienced many setbacks—in their attempts to strike a deal. Our negotiators deserve praise for their perseverance and tireless efforts to obtain a compromise, which the House and Senate have worked very hard to implement. Still, it's no surprise that few are elated with the result.

I realize that the conference reports on the reconciliation bill and the continuing resolution represent the only alternative to a sequester. Without doubt, the pattern of cutbacks under a sequester would have many adverse—and arbitrary—results. Similarly, I did not expect to be enthusiastic with all major features of measures as sweeping in scope as the two now before us.

As my colleagues know, I have pressed throughout the budget process for a more ambitious approach to deficit reduction. The savings achieved through reconciliation and the continuing resolution—over $30 million—are simply not enough to demonstrate real progress in bringing the deficit down. Even with these two measures in place, the fiscal 1988 deficit will be $150 billion—above the $147 billion level achieved in fiscal year 1987. To prove to the American public, the financial markets, and the rest of the world that we're serious, I believe this country has to show that the budget deficit is declining steadily, on a year-to-year basis.

In the Senate, I supported a freeze on both discretionary spending and the income tax rate structure. Such a plan would have reduced the deficit to $138.6 billion in fiscal 1988. It is very unfortunate, in my view, that the administration and the Congress were willing to settle for substantially less.

In general, I consider the spending levels in the continuing resolution to be too high. But in certain areas, such as defense, the absence of restraint is particularly glaring. The conference report on the continuing resolution provides $291.5 billion for defense budget authority and $285.4 billion for defense outlays. Last year defense outlays were $274 billion.

The continuing resolution will not force the Defense Department to make choices. The strategic defense initiative will receive a total of $3.9 billion—a $300 million increase over fiscal year 1987. Under the resolution, development will proceed on both the rail-based MX and the Midgetman missile, even though the future need to have both is questionable. America cannot afford to continue to say yes to every weapons system. We must enact a budget which forces the Pentagon to prioritize, if we hold out real hope of bringing the budget under control.

On the reconciliation bill, I have strong objections to the agriculture component, for two reasons.

First, the cost of the Farm Program will drop over $10 billion in the next 3 years without any additional changes. It will drop because of target price and other cuts mandated in the 1985 farm bill. I ask my colleagues: how many other programs are scheduled to take that significant a reduction over the next 3 years?

Second, farmers were thrown into an economic recession because of policies designed here in Washington—not because they are poor producers. The policy of tight money combined with massive Federal deficits led to the highest real interest rates since the Great Depression. Those high real interest rates led to an overvalued dollar and a collapse in commodity prices and in exports.

As a direct consequence of those policies, average net farm income per year—adjusted for inflation—dropped 35 percent between the decade of the 1970's and the first 8 years of this decade. The farmers' share of the consumer food dollar has been cut by 50 percent in the 1980's. A recent GAO study found 10 percent of farmers in such trouble that they will go out of business. Another 48 percent are judged to be in trouble with the potential to go under if farm income falls further.

I recognize—and accept—that as part of any far-reaching agreement on the budget, farm programs will be cut. But the cuts required by this package are disproportionately large. And the composition of the cuts in the Senate version of reconciliation would have been preferable, in my view, to the provisions which emerged from conference. I will, however, vote for reconciliation because the alternative of sequester would be a disaster for farmers.

At the outset of the summit negotiations, I was hopeful that we'd seen the last of business-as-usual attitudes about the budget. I had hoped that the sense of economic emergency would make it possible to achieve a breakthrough, to put together a bold, multiyear plan for reducing the deficit. My vote against the continuing resolution reflects considerable disappointment—and firm belief that we lost a crucial opportunity to solve our leading economic problem.

Mr. DASCHLE. Mr. President, it has been a frustrating year for American farmers. Many of them particularly in my State, looked to 1987 as a year in which Congress would reform farm programs. Some of us fought hard all year for a change in policy that might offer some hope. Economic conditions in farm country may look better, but that's because Government payments disguise the effects of falling market prices. Those of us who have fought for change have been stonewalled by the mindset that what agriculture needs is more grain and lower prices.

Mr. President, American farmers have had enough of both.

Instead of reform, the proposals contained in this budget package are just more of the same. Prices for corn and wheat will continue their downward plunge. We will add to the cuts already scheduled in target prices. The result is lower income for American farmers and more economic hardship for rural America.

The 1985 farm bill made agriculture programs too expensive. Farmers and rural America must depend on Government payments, because the farm bill drives prices downward. Cuts in these payments will be felt deeply. The budget savings required of agriculture could have achieved in other ways, ways that would not have done such tremendous damage to the farm economy.

I realize that these cuts are less harmful than those under the Gramm-Rudman-Hollings sequester. On that point, I commend my colleagues for having reached compromises that will make this budget measure a reality. Nevertheless, I remain opposed to this package because, while we have a compromise, it is an unacceptable compromise for me and for the people of South Dakota.

I would remind my colleagues that even though the farm bill costs more than necessary, spending in agriculture is on a declining path, unlike most other Federal programs. Farm program spending in 1987 is now expected to be $3.3 billion less than in 1986. Spending is expected to fall another $1.5 billion next year. But the administration has demanded that agriculture be cut back even more. It was my goal and hope that budget cuts would be made in a responsible and fair way, but that is not the case in this legislation.

There are parts of the agriculture provisions that I support. The bill incorporates two pieces of legislation that I introduced this year: First, a bill mandating advance deficiency payments for feed grains and wheat; and second, a bill mandating an adjustment in the Acreage Reduction Program for oats. I also support the provisions to limit to 2 percent the adjustments in county loan rates, to protect program payment yields at 90 percent, and to clamp down on schemes to circumvent the $50,000 limit on program payments.

Nevertheless, Mr. President, we are a long way from prosperity in South Dakota and rural America. Farmers' share of the consumer dollar spent for food has been cut in half. Net farm income, adjusted for inflation, has dropped 35 percent in this decade. Ten percent of America's farmers are on the verge of bankruptcy and 49 percent are in precarious financial shape.

This legislation is a big step backward in rural America's long climb back to economic health. For that reason, I must vote against this reconciliation package.

The PRESIDING OFFICER. Who yields time?

The Senate will be in order.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The Senate will be in order.

The Senator from New Mexico.

Mr. DOMENICI. I do not think anyone else wants to speak on our side. So I would like, with the minority leader's permission, to yield 3 minutes to myself after which I yield back the remainder of our time.

The PRESIDING OFFICER. Is there objection? The Senator has the right to do this. But he was requesting whether or not there was objection from the minority leader or any others, and the Chair was asking if there was any objection. If not, then the Chair would honor the request of the Senator from New Mexico. The Senator from New Mexico will have 3 minutes and the remainder of the time will be yielded back. The Chair will protect the rights of Senators.

Mr. DOMENICI. I understand our friend from Florida will be the last to speak. He wants 10 minutes?

Mr. CHILES. Not that long.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I want to make a few points.

First of all, there has been discussion around here why did we not opt for a sequester. Actually, we could spend a better part of the evening explaining why we should do that.

Let me try to do it this way. The sequester process, the so-called across-the-board cut, was never intended as fiscal policy for the United States. It was intended as a hammer over our heads to make us do our job in lieu of it.

Since it was that, and nothing more, it is the worst fiscal policy implementation that you could imagine. Items are taken off budget because we want to do it politically. Others are given half a cut. And then you take all the rest off defense and domestic without regard to which ones are needed more than others, and you cut them all, under some strange definition that I guarantee you the authors of Gramm-Rudman-Hollings do not want to be our policy, but they want them to be so bad that we will do something else. That is my first point, and believe you me, had you let those go in, they would not have lasted more than 6 weeks and you would start taking them off with appropriations bills, even with a 60-vote requirement.

Point number two on taxes, the President of the United States sent a budget up here. It had $4.6 billion in taxes. I would hope those who opposed this would go through that item by item as they have this one. On top of it he had almost $7 billion in user fees. Those are taxes, just selective. We ought to go through those item by item tonight for those who think that this revenue package is so onerous and so ineffective. Dollar for dollar we have no more, no less than the President of the United States asked for. That is not to say to my friends who oppose this package on revenue, which I did not draft, that is not to say that they agree with the President. I merely make the point that in terms of an impact on the economy there is not an ounce of difference between the two, be it a positive or negative impact. That is point number two.

And my last point is Senator GRAMM from Texas says that we ought to live up to this and that he wants to make sure we do not have to have a sequester next year because he is worried about some of this being authentic. I can assure him with as much knowledge as I have and as much certainty as I can tell to the Senate unless there are economic changes which he is fully aware of, if the economy goes down or inflation goes up or interest rates go skyrocketing we will meet the targets in next year under Gramm-Rudman-Hollings by following the game plan provided here. He knows what I am talking about. It will not be smoke and mirrors that will break it in the second year. It will be economic changes that we surely cannot legislate here tonight.

I believe this is a bonafide bipartisan effort on the part of Congress along with the President and that ought to be pretty meaningful in terms of these times.

I close by saying to those who are skeptical we would not be in fiscal trouble if the domestic accounts appropriated grew by 2 percent nominal each year. We would not be in any trouble. That is how much they grow under this. If defense grew by 1.7 percent nominal we would not have any fiscal problems. That is what it grows in 1988 over 1987.

I think those are two pretty good success stories. When coupled with the other entitlement savings, it is a pretty good proposition for us to adopt.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, at this point, I wish to address the subject of the submission of the President's budget. We had set a date of January 25 in the Senate bill.

I have received a letter from the Director of the Office of Management and Budget advising me that the President will be unable to submit his budget to the Congress before February 16.

It is true that the existing law provides for the President to submit his budget by January 4. It is also true that the Senate passed a revision of that requirement for 1988 that would have moved the date for the President's budget to January 25.

Even so, OMB has some good reasons for why they cannot make these deadlines. First and foremost, we are very late in the year with this reconciliation bill and the coming continuing resolution. Second, the Secretary of Defense tells us that he intends to conduct a top-to-bottom review of the Pentagon in an effort to bring into line in effect the Pentagon budget request with the caps and make realistic savings and at the same time realistic decisions as to what we can actually afford and the kind of best defense that we can afford within that money. That will be a difficult task at best, but it certainly is going to require some time.

Of course, we do not want to delay the budget process any more than is absolutely necessary, but if the President's budget is delayed, we anticipate that Congress will have to adjust its schedule in response. We would anticipate that the schedule will be approximately as follows:

The President would submit his budget on or about February 16, 1988.

Committees will submit their views and estimates to the Budget Committee on or about March 15.

The Senate Budget Committee will report its budget on or about April 29.

Congress will try to complete action on the budget resolution by about May 27 and Congress will try to complete action on the reconciliation bill next year before July 1.

Mr. BYRD. Mr. President, let me say that the chairman of the Budget Committee has presented what I think is a reasonable realistic schedule for next year. I do not relish any delay in the complex budget process, but the lateness of our action on the reconciliation bill and continuing resolution leaves us with little choice. However, I will say to my colleagues that I will do my best to ensure that this schedule is met so that there will be no further delays in the budget and appropriations process next year.

Mr. CHILES. Mr. President, at this time I want to point out the good work that a number of our committees did and thank those people. I especially want to thank the chairman of the Finance Committee, who was first and foremost in trying to get his portion of the reconciliation, his portion of the savings; and certainly to Senator PACKWOOD that was on the committee. But Senator BENTSEN did a yeoman's job all the way through, taking on many, many hard tasks. Also, of course, there were other members on the Finance Committee that took on some very hard topics, Senator MITCHELL, Senator CHAFEE, and a number of others, and we certainly give our appreciation to them.

On the Agriculture Committee, Senator LEAHY and Senator LUGAR and the other members also did a good job in bringing their savings in.

Government Affairs had a very difficult task with the savings that they were asked to bring in. We are pleased with the work of Senator GLENN and the other members of the Government Affairs Committee that worked hard in that.

Mr. President, we could spend a lot of time attempting to try to answer some of the things that were said here. I want to restrain myself from doing that. I know other people would probably like that, as well.

But I want to say I wish some of the people could have been in on some of the meetings and listened and known some of the cries of pain that people gave, some of the difficulties that were raised.

They once said about the Senator from Florida that he only showed up at sundown and payday. And I think that probably was true. But it seems like, again, it is easy to show up just before the passsage of an act like this and do your number on it and make your critique. That is easy. Maybe it is kind of like the Senator from Florida when he used to show up at sundown and payday. It is another thing to kind of get in there. And it "ain't" always the trenches. Sometimes it is sort of that split that you used to make that we know about in the Army that we call something else besides the trenches. Sometimes you get into that. I think if everybody had to get in there a little while maybe they would understand a little more about the process.

With that, I think we ought to vote.

The PRESIDING OFFICER. Does the Senator from Florida yield back the balance of his time?

Mr. CHILES. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senators have yielded back their time. The question now occurs on agreeing to the conference report. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Oklahoma [Mr. BOREN], the Senator from Indiana [Mr. GORE], the Senator from Iowa [Mr. HARKIN], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Iowa [Mr. GRASSLEY], the Senator from Oregon [Mr. HATFIELD], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Vermont [Mr. STAFFORD] are necessarily absent.

On this vote, the Senator from Oregon [Mr. HATFIELD] is paired with the Senator from Utah [Mr. GARN].

If present and voting, the Senator from Oregon would vote "yea" and the Senator from Utah would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yes 61, nays 28, as follows:

[Rollcall Vote No. 419 Leg.]

YEAS—61

Adams
Baucus
Biden
Bingaman
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
DeConcini
Dixon
Dodd
Dole
Domenici
Exon
Ford
Fowler
Glenn
Graham
Heinz
Inouye
Johnston
Kassebaum
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Quayle
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Simpson
Specter
Stennis
Stevens
Thurmond
Weicker
Wirth

NAYS—28

Armstrong
Bond
Daschle
Durenberger
Evans
Gramm
Hatch
Hecht
Heflin
Helms
Hollings
Humphrey
Karnes
Kasten
McCain
McClure
McConnell
Nickles
Packwood
Pressler
Reid
Roth
Shelby
Symms
Trible
Wallop
Warner
Wilson

NOT VOTING—11

Bentsen
Boren
Garn
Gore
Grassley
Harkin
Hatfield
Kennedy
Murkowski
Simon
Stafford

So the conference report on H.R. 3545 was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BREAUX. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, the other body is not ready to move on the CR conference report, so it will be a while before the conference report is received by this body. Some Senators might wish to get themselves a bite to eat. We will send out the word when it appears that we are approaching a vote on the conference report.

I thank all Senators for their patience.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, the Senate, at 12:56 a.m., recessed subject to the call of the Chair.

Whereupon, at 1:15 a.m., the Senate reassembled when called to order by the Presiding Officer [Mr. GRAHAM].

ACTING PRESIDENT PRO TEMPORE DURING INTERSESSION RECESS

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent that I may be designated as an acting President pro tempore during the intersession recess of the Senate for the purpose of signing duly-enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALASKA NATIVE CLAIMS SETTLEMENT ACT AMENDMENTS

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 278.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 278) entitled "An Act to amend the Alaska Native Claims Settlement Act to provide Alaska Natives with certain options for the continued ownership of lands and corporate shares received pursuant to the Act, and for other purpose", with the following amendment:

In lieu of the matter inserted by the amendment of the Senate, insert:

That (a) this Act may be cited as the "Alaska Native Claims Settlement Act Amendments of 1987".

(b) Unless otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or subsection, the reference shall be considered to be made to a section or subsection of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 and following).

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 2. The Congress finds and declares that—

(1) the Alaska Native Claims Settlement Act was enacted in 1971 to achieve a fair and just settlement of all aboriginal land and hunting and fishing claims by Natives and Native groups of Alaska with maximum participation by Natives in decisions affecting their rights and property;

(2) the settlement enabled Natives to participate in the subsequent expansion of Alaska's economy, encouraged efforts to address serious health and welfare problems in Native villages, and sparked a resurgence of interest in the cultural heritage of the Native people of Alaska;

(3) despite these achievements and Congress's desire that the settlement be accomplished rapidly without litigation and in conformity with the real economic and social needs of Natives, the complexity of the land conveyance process and frequent and costly litigation have delayed implementation of the settlement and diminished its value;

(4) Natives have differing opinions as to whether the Native Corporation, as originally structured by the Alaska Native Claims Settlement Act, is well adapted to the reality of life in Native villages and to the continuation of traditional Native cultural values;

(5) to ensure the continued success of the settlement and to guarantee Natives continued participation in decisions affecting their rights and property, the Alaska Native Claims Settlement Act must be amended to enable the shareholders of each Native Corporation to structure the further implementation of the settlement in light of their particular circumstances and needs;

(6) among other things, the shareholders of each Native Corporation must be permitted to decide—

(A) when restrictions on alienation of stock issued as part of the settlement should be terminated, and

(B) whether Natives born after December 18, 1971, should participate in the settlement;

(7) by granting the shareholders of each Native Corporation options to structure the further implementation of the settlement, Congress is not expressing an opinion on the manner in which such shareholders choose to balance individual rights and communal rights;

(8) no provision of this Act shall—

(A) unless specifically provided, constitute a repeal or modification, implied or otherwise, of any provision of the Alaska Native Claims Settlement Act; or

(B) confer on, or deny to, any Native organization any degree of sovereign governmental authority over lands (including management, or regulaton of the taking, of fish and wildlife) or persons in Alaska; and

(9) the Alaska Native Claims Settlement Act and this Act are Indian legislation enacted by Congress pursuant to its plenary authority under the Constitution of the United States to regulate Indian affairs.

NEW DEFINITIONS

SEC. 3. Section 3 (43 U.S.C. 1602) is amended—

(1) by inserting "group," after "individual," in subsection (h);

(2) by striking out "and" at the end of subsection (k);

(3) by striking out the period at the end of subsection (1) and inserting in lieu thereof a semicolon;

(4) by striking out "Native Group." in subsection (m) and inserting in lieu thereof "Group Corporation;"; and

(5) by adding at the end thereof the following new subsections;

"(n) 'Group Corporation' means an Alaska Native Group Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of members of a Native group in accordance with the terms of this Act;

"(o) 'Urban Corporation' means an Alaska Native Urban Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of members of an urban community of Natives in accordance with the terms of this Act;

"(p) 'Settlement Common Stock' means stock of a Native Corporation issued pursuant to section 7(g)(1) that carries with it the rights and restrictions listed in section 7(h)(1);

"(q) 'Replacement Common Stock' means stock of a Native Corporation issued in exchange for Settlement Common Stock pursuant to section 7(h)(3);

"(r) 'Descendant of a Native' means—

"(1) a lineal descendant of a Native or of an individual who would have been a Native if such individual were alive on December 18, 1971, or

"(2) an adoptee of a Native or of a descendant of a Native, whose adoption—

"(A) occurred prior to his or her majority, and

"(B) is recognized at law or in equity;

"(s) 'Alienability restrictions' means the restrictions imposed on Settlement Common Stock by section 7(h)(1)(B);

"(t) 'Settlement Trust' means a trust—

"(1) established and registered by a Native Corporation under the laws of the State of Alaska pursuant to a resolution of its shareholders, and

"(2) operated for the sole benefit of the holders of the corporation's Settlement Common Stock in accordance with section 39 and the laws of the State of Alaska.".

ISSUANCE OF STOCK

SEC. 4. Subsection (g) of section 7 (43 U.S.C. 1606(g)) is amended to read as follows:

"(g)(1) Settlement Common Stock.—(A) The Regional Corporation shall be authorized to issue such number of shares of Settlement Common Stock (divided into such classes as may be specified in the articles of incorporation to reflect the provisions of this Act) as may be needed to issue one hundred shares of stock to each Native enrolled in the region pursuant to section 5.

"(B)(i) A Regional Corporation may amend its articles of incorporation to authorize the issuance of additional shares of Settlement Common Stock to—

"(I) Natives born after December 18, 1971,

"(II) Natives who were eligible for enrollment pursuant to section 5 but were not so enrolled, or

"(III) Natives who have attained the age of 65, for no consideration or for such consideration and upon such terms and conditions as may be specified in such amendment or in a resolution approved by the board of directors pursuant to authority expressly vested in the board by the amendment. The amendment to the articles of incorporation may specify which class of Settlement Common Stock shall be issued to the various groups of Natives.

"(ii) Not more than one hundred shares of Settlement Common Stock shall be issued to any one individual pursuant to clause (i).

"'(iii) The amendment authorized by clause (i) may provide that Settlement Common Stock issued to a Native pursuant to such amendment (or stock issued in exchange for such Settlement Common Stock pursuant to subsection (h)(3) or section 37(d)) shall be deemed cancelled upon the death of such Native. No compensation for this cancellation shall be paid to the estate of the deceased Native or to any person holding the stock.

"(iv) Settlement Common Stock issued pursuant to clause (i) shall not carry rights to share in distributions made to shareholders pursuant to subsections (j) and (m) unless prior to the issuance of such stock, a majority of the class of existing holders of Settlement Common Stock carrying such rights separately approve the granting of such rights. The articles of incorporation of the Regional Corporation shall be deemed to be amended to authorize such class vote.

"(C)(i) A Regional Corporation may amend its articles of incorporation to authorized the issuance of additional shares of Settlement Common Stock as a dividend or other distribution (without regard to surplus of the corporation under the laws of the State) upon each outstanding share of Settlement Common Stock issued pursuant to subparagraphs (A) and (B).

"(ii) The amendment authorized by clause (i) may provide that shares of Settlement Common Stock issued as a dividend or other distribution shall constitute a separate class of stock with greater per share voting power than Settlement Common Stock issued pursuant to subparagraphs (A) and (B).

"(2) Other Forms of Stock.—(A) A Regional Corporation may amend its articles of incorporation to authorize the issuance of shares of stock other than Settlement Common Stock in accordance with the provisions of this paragraph. Such amendment may provide that—

"(i) preemptive rights of shareholders under the laws of the State shall not apply to the issuance of such shares, or

"(ii) issuance of such shares shall permanently preclude the corporation from—

"(I) conveying assets to a Settlement Trust, or

"(II) issuing shares of stock without adequate consideration as required under the law of the State.

"(B) The amendment authorized by subparagraph (A) may provide that the stock to be issued shall be one or more of the following-

"(i) divided into classes and series within classes, with preferences, limitations, and relative rights, including, without limitation—

"(I) dividend rights,

"(II) voting rights, and

"(III) liquidation preferences;

"(ii) made subject to one or more of—

"(I) the restrictions on alienation described in clauses (i), (ii), and (iv) of subsection (h)(1)(B), and

"(II) the restriction described in paragraph (1)(B)(iii); and

"(iii) restricted in issuance to—

"(I) Natives who have attained the age of sixty-five;

"(II) other identifiable groups of Natives or identifiable groups of descendants of Natives defined in terms of general applicability and not in any way by reference to place of residence or family;

"(III) Settlement Trusts; or

"(IV) entities established for the sole benefit of Natives or descendants of Natives, in which the classes of beneficiaries are defined in terms of general applicability and not in any way by reference to place of residence, family, or position as an officer, director, or employee of a Native Corporation.

"(C) The amendment authorized by subparagraph (A) shall provide that the additional shares of stock shall be issued—

"(i) as a dividend or other distribution (without regard to surplus of the corporation under the laws of the State) upon all outstanding shares of stock of any class or series, or

"(ii) for such consideration as may be permitted by law (except that this requirement may be waived with respect to issuance of stock to the individuals or entities described in subparagraph (B)(iii)).

"(D) During any period in which alien ability restrictions are in effect, no stock whose issuance is authorized by subparagraph (A) shall be—

"(i) issued to, or for the benefit of, a group of individuals composed only or principally of employees, officers, and directors of the corporation; or

"(ii) issued more than thirteen months after the date on which the vote of the shareholders on the amendment authorizing the issuance of such stock occurred if, as a result of the issuance, the outstanding shares of Settlement Common Stock will represent less than a majority of the total voting power of the corporation for the purpose of electing directors.

"(3) Disclosure Requirements.—(A) An amendment to the articles of incorporation of a Regional Corporation authorized by paragraph (2) shall specify—

"(i) the maximum number of shares of any class or series of stock that may be issued, and

"(ii) the maximum number of votes that may be held by such shares.

"(B)(i) If the board of directors of a Regional Corporation intends to propose an amendment pursuant to paragraph (2) which would authorize the issuance of classes or series of stock that, singly or in combination, could cause the outstanding shares of Settlement Common Stock to represent less than a majority of the total voting power of the corporation for the purposes of electing directors, the shareholders of such corporation shall be expressly so informed.

"(ii) Such information shall be transmitted to the shareholders in a separate disclosure statement or in another informational document in writing or in recorded sound form both in English and any Native language used by a shareholder of such corporation. Such statement or informational document shall be transmitted to the shareholders at least 60 days prior to the date on which such proposal is to be submitted for a vote.

"(iii) If not later than 30 days after issuance of such disclosure statement or informational document the board of directors receives a prepared concise statement setting forth arguments in opposition to the proposed amendment together with a request for distribution thereof signed by the holders of at least 10 percent of the outstanding shares of Settlement Common Stock, the board shall either distribute such statement to the shareholders or provide to the requesting shareholders a list of all shareholder's names and addresses so that the requesting shareholders may distribute such statement.

"(4) Savings.—(A)(i) No shares of stock issued pursuant to paragraphs (1)(C) and (2) shall carry rights to share in distributions made to shareholders pursuant to subsections (j) and (m). No shares of stock issued pursuant to paragraph (1)(B) shall carry such rights unless authorized pursuant to paragraph (1)(B)(iv).

"(ii) Notwithstanding the issuance of additional shares of stock pursuant to paragraphs (1)(B), (1)(C), or (2), a Regional Corporation shall apply the ratio last computed pursuant to subsection (m) prior to the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987 for purposes of distributing funds pursuant to subsections (j) and (m).

"(B) The issuance of additional shares of stock pursuant to paragraphs (1)(B), (1)(C), or (2) shall not affect the division and distribution of revenues pursuant to subsection (i).

"(C) No provision of this Act shall limit the right of a Regional Corporation to take an action authorized by the laws of the State unless such action is inconsistent with the provisions of this Act.".

SETTLEMENT COMMON STOCK

Sec. 5. Subsection (h) of section 7 (43 U.S.C. 1606(h)) is amended to read as follows:

"(h)(1) Rights and Restrictions.—(A) Except as otherwise expressly provided in this Act, Settlement Common Stock of a Regional Corporation shall—

"(i) carry a right to vote in elections for the board of directors and on such other questions as properly may be presented to shareholders;

"(ii) permit the holder to receive dividends or other distributions from the corporation; and

"(iii) vest in the holder all rights of a shareholder in a business corporation organized under the laws of the State.

"(B) Except as otherwise provided in this subsection, Settlement Common Stock, inchoate rights thereto, and rights to dividends or distributions declared with respect thereto shall not be—

"(i) sold;

"(ii) pledged;

"(iii) subjected to a lien or judgment execution;

"(iv) assigned in present or future;

"(v) treated as an asset under—

"(I) title 11 of the United States Code or any successor statute,

"(II) any other insolvency or moratorium law, or

"(III) other laws generally affecting creditors' rights; or

"(vi) otherwise alienated.

"(C) Notwithstanding the restrictions set forth in subparagraph (B), Settlement Common Stock may be transferred to a Native or a descendent of a Native—

"(i) pursuant to a court decree of separation, divorce, or child support;

"(ii) by a holder who is a member of a professional organization, association, or board that limits his or her ability to practice his or her profession because he or she holds Settlement Common Stock; or

"(iii) as an inter vivos gift from a holder to his or her child, grandchild, great-grandchild, niece, or nephew.

"(2) Inheritance of Settlement Common Stock.—(A) Upon the death of a holder of Settlement Common Stock, ownership of such stock (unless cancelled in accordance with subsection (g)(1)(B)(iii)) shall be transferred in accordance with the lawful will of such holder or pursuant to applicable laws of intestate succession. If the holder fails to dispose of his or her stock by will and has no heirs under applicable laws of intestate succession, the stock shall escheat to the issuing Regional Corporation and be cancelled.

"(B) The issuing Regional Corporation shall have the right to purchase at fair value Settlement Common Stock transferred pursuant to applicable laws of intestate succession to a person not a Native or a descendant of a Native after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987 if—

"(i) the corporation—

"(I) amends its articles of incorporation to authorize such purchases, and

"(II) gives the person receiving such stock written notice of its intent to purchase within ninety days after the date that the corporation either determines the decedent's heirs in accordance with the law of the State or receives notice that such heirs have been determined, whichever later occurs; and

"(ii) the person receiving such stock fails to transfer the stock pursuant to paragraph (1)(C)(iii) within sixty days after receiving such written notice.

"(C) Settlement Common Stock of a Regional Corporation—

"(i) transferred by will or pursuant to applicable laws of intestate succession after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987, or

"(ii) transferred by any means prior to the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987,

to a person not a Native or a descendant of a Native shall not carry voting rights. It at a later date such stock is lawfully transferred to a Native or a descendant of a Native, voting rights shall be automatically restored.

"(3) Replacement Common Stock.—(A) On the date on which alienability restrictions terminate in accordance with the provisions of section 37, all Settlement Common Stock previously issued by a Regional Corporation shall be deemed canceled, and shares of Replacement Common Stock of the appropriate class shall be issued to each shareholder, share for share, subject only to subparagraph (B) and to such restrictions consistent with this Act as may be provided by the articles of incorporation of the corporation or in agreements between the corporation and individual shareholders.

"(B)(i) Replacement Common Stock issued in exchange for Settlement Common Stock issued subject to the restriction authorized by subsection (g)(1)(B)(iii) shall bear a legend indicating that the stock will eventually be cancelled in accordance with the requirements of that subsection.

"(ii) Prior to the termination of alienability restrictions, the board of directors of the corporation shall approve a resolution to provide that each share of Settlement Common Stock carrying the right to share in distributions made to shareholders pursuant to subsections (j) and (m) shall be exchanged either for—

"(I) a share of Replacement Common Stock that carries such right, or

"(II) a share of Replacement Common Stock that does not carry such right together with a separate, non-voting security that represents only such right.

"(iii) Replacement Common Stock issued in exchange for a class of Settlement Common Stock carrying greater per share voting power than Settlement Common Stock issued pursuant to subsections (g)(1)(A) and (g)(1)(B) shall carry such voting power and be subject to such other terms as may be provided in the amendment to the articles of incorporation authorizing the issuance of such class of Settlement Common Stock.

"(C) The articles of incorporation of the Regional Corporation shall be deemed amended to authorize the issuance of Replacement Common Stock and the security described in subparagraph (B)(ii)(II).

"(D) Prior to the date on which alienability restrictions terminate, a Regional Corporation may amend its articles of incorporation to impose upon Replacement Common Stock one or more of the following—

"(i) a restriction denying voting rights to any holder of Replacement Common Stock who is not a Native or a descendant of a Native;

"(ii) a restriction granting the Regional Corporation, or the Regional Corporation and members of the shareholder's immediate family who are Natives or descendants of Natives, the first right to purchase, on reasonable terms, the Replacement Common Stock of the shareholder prior to the sale or transfer of such stock (other than a transfer by will or intestate succession) to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance; and

"(iii) any other term, restriction, limitation, or provision authorized by the laws of the State.

"(E) Replacement Common Stock shall not be subjected to a lien or judgment execution based upon any asserted or unasserted legal obligation of the original recipient arising prior to the issuance of such stock.".

VILLAGE, URBAN, AND GROUP CORPORATIONS

Sec. 6. Subsection (c) of section 8 (43 U.S.C. 1607(c)) is amended to read as follows:

"(c) Applicability of Section 7.—The provisions of subsections (g), (h), and (o) of section 7 shall apply in all respects to Village Corporations, Urban Corporations, and Group Corporations.".

PROCEDURES FOR CONSIDERING AMENDMENTS AND RESOLUTIONS

Sec. 7. The Alaska Native Claims Settlement Act is further amended by adding the following new section:

PROCEDURES FOR CONSIDERING AMENDMENTS AND RESOLUTIONS

"Sec. 36. (a) Coverage.—Notwithstanding any provision * * *.

a vote of the shareholders at the next annual meeting or at a special meeting (if the board, at its discretion, schedules such special meeting). One or more such amendments or resolutions may be submitted to the shareholders and voted upon at one meeting.

"(2)(A) A written notice (including a proxy statement if required under applicable law), setting forth the amendment or resolution approved pursuant to paragraph (1) (and, at the discretion of the board, a summary of the changes to be effected) together with any amendment or resolution submitted pursuant to subsection (c) and the statements described therein shall be sent, not less than fifty days nor more than sixty days prior to the meeting of the shareholders, by first-class mail or hand-delivered to each shareholder of record entitled to vote at his or her address as it appears in the records of the Native Corporation. The corporation may also communicate with its shareholders at any time and in any manner authorized by the laws of the State.

"(B) The board of directors may, but shall not be required to, appraise or otherwise determine the value of—

"(i) land conveyed to the corporation pursuant to section 14(h)(1) or any other land used as a cemetery;

"(ii) the surface estate of land that is both—

"(I) exempt from real estate taxation pursuant to section 907(d)(1)(A) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 31 and following); and

"(II) used by the shareholders of the corporation for subsistence uses (as defined in section 803 of the Alaska National Interest Lands Conservation Act); or

"(iii) land or interest in land which the board of directors believes to be only of speculative value;

in connection with any communication made to the shareholders pursuant to this subsection.

"(C) If the board of directors determines, for quorum purposes or otherwise, that a previously-noticed meeting must be postponed or adjourned, it may, by giving notice to the shareholders, set a new date for such meeting not more than forty-five days later than the original date without sending the shareholders a new written notice (or a new summary of changes to be effected). If the new date is more than forty-five days later than the original date, however, a new written notice (and a new summary of changes to be effected if such a summary was originally sent pursuant to subparagraph (A)), shall be sent or delivered to shareholders not less than thirty days nor more than forty-five days prior to the new date.

"(c) Shareholder Petitions.(1)(A) With respect to an amendment authorized by section 7(g)(1)(B) or section 37(b) or an amendment authorizing the issuance of stock subject to the restrictions provided by section 7(g)(2)(B)(iii), the holders of shares representing at least 25 per centum of the total voting power of a Native Corporation may petition the board of directors to submit such amendment to a vote of the shareholders in accordance with the provisions of this section.

"(B) The requirements of the laws of the State relating to the solicitation of proxies shall govern solicitation of signatures for a petition described in subparagraph (A) except that the requirements of Federal law shall govern the solicitation of signatures for a petition that is to be submitted to a Native Corporation which at the time of such submission has issued a class of equity securities registered pursuant to the Securities Exchange Act of 1934. If a petition meets the applicable solicitation requirements and—

"(i) the board agrees with such petition, the board shall submit the amendment and either the proponents' statement or its own statement in support of the amendment to the shareholders for a vote, or

"(ii) the board disagrees with the petition for any reason, the board shall submit the amendment and the proponents' statement to the shareholders for a vote and may, at its discretion, submit an opposing statement or an alternative amendment.

"(2) Paragraph (1) shall not apply to a Native Corporation that on or before the date one year after the date of enactment of the Alaska Native Claims Settlement Act Amendments of 1987 elects application of section 37(d) in lieu of section 37(b). Until December 18, 1991, paragraph (1) shall not apply to a Native Corporation that elects application of section 37(c) in lieu of section 37(b). Insofar as they are not inconsistent with this section, the laws of the State shall govern any shareholder right of petition for Native Corporations.

"(d) VOTING STANDARDS.—(1) An amendment or resolution described in subsection (a) shall be considered to be approved by the shareholders of a Native Corporation if it receives the affirmative vote of shares representing—

"(A) a majority of the total voting power of the corporation, or

"(B) a level of the total voting power of the corporation greater than a majority (but not greater than two-thirds of the total voting power of the corporation) if the corporation establishes such a level by an amendment to its articles of incorporation.

"(2) A Native Corporation in amending its articles of incorporation pursuant to section 7(g)(2) to authorize the issuance of a new class or series of stock may provide that a majority (or more than a majority) of the shares of such class or series must vote in favor of an amendment or resolution described in subsection (a) (other than an amendment authorized by section 37) in order for such amendment or resolution to be approved.

"(e) VOTING POWER.—For the purposes of this section, the determination of total voting power of a Native Corporation shall include all outstanding shares of stock that carry voting rights except shares that are not permitted to vote on the amendment or resolution in question because of restrictions in the articles of incorporation of the corporation.".

DURATION OF ALIENABILITY RESTRICTIONS

SEC. 8. The Alaska Native Claims Settlement Act is further amended by adding the following new section after section 36:

"DURATION OF ALIENABILITY RESTRICTIONS

"SEC. 37. (a) GENERAL RULE.—Alienability restrictions shall continue until terminated in accordance with the procedures established by this section. No such termination shall take effect until after December 18, 1991.

"(b) OPT-OUT PROCEDURE.—(1)(A) A Native Corporation may amend its articles of incorporation to terminate alienability restrictions in accordance with this subsection. Only one amendment to terminate alienability restrictions shall be considered and voted on prior to December 18, 1991. Rejection of the amendment shall not preclude consideration prior to December 18, 1991, of subsequent amendments to terminate alienability restrictions.

"(B) If an amendment to terminate alienability restrictions is considered, voted on, and rejected prior to December 18, 1991, then subsequent amendments to terminate alienability restrictions after December 18, 1991, shall be considered and voted on—

"(i) in the case of an amendment submitted by the board of directors of the corporation on its own motion, not earlier than 5 years after the rejection of the most recently rejected amendment to terminate restrictions; or

"(ii) in the case of an amendment submitted by the board of directors of the corporation pursuant to a shareholder petition, not earlier than 2 years after the rejection of the most recently rejected amendment to terminate restrictions.

"(C) If no amendment to terminate alienability restrictions is considered and voted on prior to December 18, 1991, then amendments to terminate alienability restrictions after Decembver 18, 1991, shall be considered and voted on—

"(i) in the case of an amendment submitted by the board of directors of the corporation on its own motion, not more than once every 5 years; or

"(ii) in the case of an amendment submitted by the board of directors of the corporation pursuant to a shareholder petition, not more than once every 2 years.

"(2) An amendment authorized by paragraph (1) shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which alienability restrictions shall terminate.

"(3) Dissenters rights may be granted by the corporation in connection with the rejection of an amendment to terminate alienability restrictions in accordance with section 38. Once dissenters rights have been so granted, they shall not be granted again in connection with subsequent amendments to terminate alienability restrictions.

"(c) RECAPITALIZATION PROCEDURE.—(1)(A) On or prior to December 18, 1991, a Native Corporation may amend its articles of incorporation to implement a recapitalization plan in accordance with this subsection. Rejection of an amendment or amendments to implement a recapitalization plan shall not preclude consideration prior to December 18, 1991, of a subsequent amendment or amendments to implement such a plan. Subsequent amendment or amendments shall be considered and voted on not earlier than one year after the date on which the most recent previous recapitalization plan was rejected. No recapitalization plan shall provide for the termination of alienability restrictions prior to December 18, 1991.

"(B) An amendment or amendments submitted pursuant to subparagraph (A) (and any subsequent amendment submitted pursuant to subparagraph (C)) may provide for the maintenance or extension of alienability restrictions for—

"(i) an indefinite period of time;

"(ii) a specified period of time not to exceed fifty years; or

"(iii) a period of time that shall end upon the occurrence of a specified event.

"(C) If an amendment or amendments approved pursuant to subparagraph (A) or this subparagraph maintains or extends alienability restrictions for a specified period of time, termination of the restrictions at the close of such period may be postponed if a further amendment to the articles of incorporation of the corporation is approved to extend the restrictions. There shall be no limit on the number of such amendments that can be approved. Such amendments shall not be effective to extend the restrictions unless approved prior to the expiration of the period of maintenance or extension then in force.

"(D) The board of directors may ask the shareholders to approve en bloc pursuant to a single vote a series of amendments (including an amendment to authorize the issuance of stock pursuant to section 7(g)) to implement a recapitalization plan that includes a provision maintaining alienability restrictions.

"(2)(A) If an amendment to the articles of incorporation of a Native Corporation maintaining or extending alienability restrictions for a specified period of time is approved pursuant to paragraph (1), the restrictions shall automatically terminate at the end of such period unless the restrictions are extended in accordance with the provisions of paragraph (1)(C).

"(B)(i) A Native Corporation that approves an amendment to its articles of incorporation pursuant to paragraph (1)(B) to maintain or extend alienability restrictions for an indefinite period may later amend its articles to terminate such restrictions. Such amendment shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which the restrictions shall terminate.

"(ii) Rejection of an amendment described in clause (i) by the shareholders shall not preclude consideration of subsequent amendments to terminate alienability restrictions.

"(3) If a recapitalization plan approved pursuant to paragraph (1) distributes voting alienable common stock to each holder of shares of Settlement Common Stock (issued pursuant to section 7(g)(1)(A)) that carries aggregate dividend and liquidation rights equivalent to those carried by such shares of Settlement Common Stock (except for rights to distributions made pursuant to sections 7(j) and 7(m)) upon completion of the recapitalization plan, then such holder shall have no right under section 38 and any other provision of law to further compensation from the corporation with respect to action taken pursuant to this subsection.

"(d) OPT-IN PROCEDURE.—(1)(A) Subsection (b) shall not apply to a Native Corporation whose board of directors approves, no later than one year after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987, a resolution electing the application of this subsection.

"(B) This subsection shall not apply to Village Corporations, Urban Corporations, and Group Corporations located outside of the Bristol Bay and Aleut regions.

"(2)(A) Alienability restrictions imposed on Settlement Common Stock issued by a Native Corporation electing application of this subsection shall terminate on December 18, 1991, unless extended in accordance with the provisions of this subsection.

"(B) The board of directors of a Native Corporation electing application of this subsection shall, at least once prior to January

1, 1991, approve, and submit to a vote of the shareholders, an amendment to the articles of incorporation of the corporation to extend alienability restrictions. If the amendment is not approved by the shareholders, the board of directors may submit another such amendment to the shareholders once or more a year until December 18, 1991.

"(C) An amendment submitted pursuant to subparagraph (B) and any amendment submitted pursuant to subparagraph (D) may provide for an extension of alienability restrictions for—

"(i) an indefinite period of time, or

"(ii) a specified period of time of not less than 1 year and not more than 50 years.

"(D) If an amendment approved by the shareholders of a Native Corporation pursuant to subparagraph (B) or this subparagraph extends alienability restrictions for a specified period of time, termination of the restrictions at the close of such period may be postponed if a further amendment to the articles of incorporation of the corporation is approved to extend the restrictions. There shall be no limit on the number of such amendments that can be approved. Such amendments shall not be effective to extend the restrictions unless approved prior to the expiration of the period of extension then in force.

"(3)(A) If an amendment to the articles of incorporation of a Native Corporation extending alienability restrictions for a specified period of time is approved pursuant to paragraph (2), the restrictions shall automatically terminate at the end of such period unless the restrictions are extended in accordance with the provisions of paragraph (2)(D).

"(B) If the board of directors of a Native Corporation electing application of this subsection does not submit for a shareholder vote an amendment to the articles of incorporation of the corporation in accordance with paragraph (2)(B), or if the amendment submitted does not comply with paragraph (2)(C), alienability restrictions shall not terminate and shall instead remain in effect until such time as a court of competent jurisdiction, upon petition of one or more shareholders of the corporation, orders that a shareholder vote be taken on an amendment which complies with paragraph (2)(C) and such vote is conducted. Following the vote, the status of alienability restrictions shall be determined in accordance with the other provisions of this subsection and the amendment, if approved.

"(4)(A) A Native Corporation that approves an amendment to its articles of incorporation pursuant to paragraph (2) to extend alienability restrictions for an indefinite period of time may later amend its articles of incorporation to terminate the restrictions. Such amendment shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which the restrictions shall terminate.

"(B) The rejection of an amendment described in subparagraph (A) by the shareholders shall not preclude consideration of subsequent amendments to terminate alienability restrictions.

"(5)(A) If a Native Corporation amends its articles of incorporation pursuant to paragraph (2) to extend alienability restrictions, a shareholder who—

"(i) voted against such amendment, and

"(ii) desires to relinquish his or her Settlement Common Stock in exchange for the stock or payment authorized by the board of directors pursuant to subparagraph (B), shall notify the Corporation within 90 days of the date of the vote of the shareholders on the amendment of his or her desire.

"(B) Within 120 days after the date of the vote described in subparagraph (A), the board of directors shall approve a resolution to provide that each shareholder who has notified the corporation pursuant to subparagraph (A) shall receive either—

"(i) alienable common stock in exchange for his or her Settlement Common Stock pursuant to paragraph (6), or

"(ii) an opportunity to request payment for his or her Settlement Common Stock pursuant to section 38(a)(1)(B).

"(C) This paragraph shall apply only to the first extension of alienability restrictions approved by the shareholders. No dissenters rights of any sort shall be permitted in connection with subsequent extensions of such restrictions.

"(6)(A) If the board of directors of a Native Corporation approves a resolution providing for the issuance of alienable common stock pursuant to paragraph (5)(B), then on December 18, 1991, or sixty days after the approval of the resolution, whichever later occurs, the Settlement Common Stock of each shareholder who has notified the corporation pursuant to paragraph (5)(A) shall be deemed cancelled, and shares of alienable common stock of the appropriate class shall be issued to such shareholder, share for share, subject only to subparagraph (B) and to such restrictions consistent with this Act as may be provided by the articles of incorporation of the corporation or in agreements between the corporation and individual shareholders.

"(B)(i) Alienable common stock issued in exchange for Settlement Common Stock issued subject to the restriction authorized by section 7(g)(1)(B)(iii) shall bear a legend indicating that the stock will eventually be cancelled in accordance with the requirements of that section.

"(ii) Alienable common stock issued in exchange for a class of Settlement Common Stock carrying greater per share voting power than Settlement Common Stock issued pursuant to subsections (g)(1)(A) and (g)(1)(B) shall carry such voting power and be subject to such other terms as may be provided in the amendment to the articles of incorporation authorizing the issuance of such class of Settlement Common Stock.

"(iii) In the resolution authorized by paragraph (5)(B), the board of directors shall provide that each share of Settlement Common Stock carrying the right to share in distributions made to shareholders pursuant to subsections (j) and (m) of section 7 shall be exchanged either for—

"(I) a share of alienable common stock carrying such right, or

"(II) a share of alienable common stock that does not carry such right together with a separate, non-voting security that represents only such right.

"(iv) In the resolution authorized by paragraph (5)(B), the board of directors may impose upon the alienable common stock to be issued in exchange for Settlement Common Stock one or more of the following—

"(I) a restriction granting the corporation, or the corporation and members of the shareholder's immediate family who are Natives or descendants of Natives the first right to purchase, on reasonable terms, the alienable common stock of the shareholder prior to the sale or transfer of such stock (other than a transfer by will or intestate succession) to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance; or

"(II) any other term, restriction, limitation, or other provision permitted under the laws of the State.

"(C) The articles of incorporation of the Native Corporation shall be deemed amended to implement the provisions of the resolution authorized by paragraph (5)(B).

"(D) Alienable common stock issued pursuant to this subparagraph shall not be subjected to a lien or judgment execution based upon any asserted or unasserted legal obligation of the original recipient arising prior to the issuance of such stock.

"(7)(A) No share of alienable common stock issued pursuant to paragraph (6) shall carry voting rights if it is owned, legally or beneficially, by a person not a Native or a descendant of a Native.

"(B)(i) A purchaser or other transferee of shares of alienable common stock shall, as a condition of the obligation of the issuing Native Corporation to transfer such shares on the books of the corporation, deliver to the corporation or transfer agent, as the case may be, a statement on a form prescribed by the corporation identifying the number of such shares to be transferred to such transferee and certifying—

"(I) that such transferee is or is not a Native or a descendant of a Native;

"(II) that such transferee, if not a Native or a descendant of a Native, understands that shares of such alienable common stock shall not carry voting rights so long as such shares are held by the transferee or any subsequent transferee not a Native or a descendant of a Native;

"(III) that such transferee, if a purchaser, understands that such acquisition may be subject to section 13(d) of the Securities Exchange Act of 1934, as amended, and the regulations of the Securities and Exchange Commission promulgated thereunder; and

"(IV) whether such transferee will be the sole beneficial owner of such shares (if not, the transferee must certify as to the identities of all beneficial owners of such shares and whether such owners are Natives or descendants of Natives).

"(ii) The statement required by clause (i) shall be prima facie evidence of the matters certified therein and may be relied upon by the corporation in effecting a transfer on its books.

"(iii) For purposes of this subparagraph, a beneficial owner of a security includes any person (including a corporation, partnership, trust, association, or other entity) who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares—

"(I) voting power, which includes the power to vote, or to direct the voting of, such security; or

"(II) investment power, which includes the power to dispose of, or to direct the disposition of, such security.

"(iv) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose of effect of divesting such person of beneficial ownership of a security or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the requirements imposed by this section or section 13(d) of the Securities Exchange Act of 1934, as amended, shall be deemed for purposes of such sections to be the beneficial owner of such security.

"(C) The statement required by subparagraph (B) shall be verified by the transferee before a notary public or other official authorized to administer oaths in accordance with the laws of the jurisdiction of the transferee or in which the transfer is made.".

DISSENTERS RIGHTS

SEC. 9. The Alaska Native Claims Settlement Act is further amended by adding the following new section after section 37:

"DISSENTERS RIGHTS

"SEC. 38. (a) COVERAGE.—(1) Notwithstanding the laws of the State, if the shareholders of a Native Corporation—

"(A) fail to approve an amendment authorized by section 37(b) to terminate alienability restrictions, a shareholder who voted for the amendment may demand payment from the corporation for all of his or her shares of Settlement Common Stock; or

"(B) approve an amendment authorized by section 37(d) to continue alienability restrictions without issuing alienable common stock pursuant to section 37(d)(6), a shareholder who voted against the amendment may demand payment from the corporation for all of his or her shares of Settlement Common Stock.

"(2)(A) A demand for payment made pursuant to paragraph (1)(A) shall be honored only if at the same time as the vote giving rise to the demand, the shareholders of the corporation approved a resolution providing for the purchase of Settlement Common Stock from dissenting shareholders.

"(B) A demand for payment made pursuant to paragraph (1)(B) shall be honored.

"(b) RELATIONSHIP TO STATE PROCEDURE.—Except as otherwise provided in this section, the laws of the State governing the right of a dissenting shareholder to demand and receive payment for his or her shares shall apply to demands for payment honored pursuant to subsection (a)(2).

"(2) The board of directors of a Native Corporation may approve a resolution to provide a dissenting shareholder periods of time longer than those provided under the laws of the State to take actions required to demand and receive payment for his or her shares.

"(c) VALUATION OF STOCK.—(1) Prior to a vote described in subsection (a)(1), the board of directors of a Native Corporation may approve a resolution to provide that one or more of the following conditions will apply in the event a demand for payment is honored pursuant to subsection (a)(2)—

"(A) the Settlement Common Stock shall be valued as restricted stock; and

"(B) the value of—

"(i) any land conveyed to the corporation pursuant to section 14(h)(1) or any other land used as a cemetery; and

"(ii) the surface estate of any land that is both—

"(I) exempt from real estate taxation pursuant to section 907(d)(1)(A) of the Alaska National Interest Lands Conservation Act, and

"(II) used by the shareholders of the corporation for subsistence uses (as defined in section 803 of the Alaska National Interest Lands Conservation Act); or

"(iii) any land or interest in land which the board of directors believes to be only of speculative value;

shall be excluded by the shareholder making the demand for payment, the corporation purchasing the Settlement Common Stock of the shareholder, and any court determining the fair value of the shares of Settlement Common Stock to be purchased.

"(2) No person shall have a claim against a Native Corporation or its board of directors based upon the failure of the board to approve a resolution authorized by this subsection.

"(d) FORM OF PAYMENT.—(1) Prior to a vote described in subsection (a)(1), the board of directors of a Native Corporation may approve a resolution to provide that in the event a demand for payment is honored pursuant to subsection (a)(2) payments to each dissenting shareholder shall be made by the corporation through the issuance of a negotiable note in the principal amount of the payment due, which shall be secured by—

"(A) a payment bond issued by an insurance company or financial institution;

"(B) the deposit in escrow of securities or property having a fair market value equal to at least 125 per centum of the face value of the note; or

"(C) a lien upon real property interests of the corporation valued at 125 percent or more of the face amount of the note, except that no such lien shall be applicable to—

"(i) land conveyed to the corporation pursuant to section 14(h)(1), or any other land used as a cemetery;

"(ii) the percentage interest in the corporation's timber resources and subsurface estate that exceeds its percentage interest in revenues from such property under section 7(i); or

"(iii) the surface estate of land that is both—

"(I) exempt from real estate taxation pursuant to section 907(d)(1)(A) of the Alaska National Interest Lands Conservation Act; and

"(II) use by the shareholders of the corporation for subsistence uses (as defined in section 803 of the Alaska National Interest Lands Conservation Act),

unless the Board of Directors of the corporation acts so as to make such lien applicable to such surface estate.

"(2) A note issued pursuant to paragraph (1) shall provide that—

"(A) interest shall be paid semi-annually, beginning as of the date on which the vote described in subsection (a)(1) ocurred, at the rate applicable on such date to obligations of the United States having a maturity date of one year, and

"(B) the principal amount and accrued interest on such note shall be payable to the holder at a time specified by the corporation but in no event later than the date that is five years after the date of the vote described in subsection (a)(1).

"(e) DIVIDEND ADJUSTMENT.—(1) The cash payment made pursuant to subsection (a) or the principal amount of a note issued pursuant to subsection (d) to a dissenting shareholder shall be reduced by the amount of dividends paid to such shareholder with respect to his or her Settlement Common Stock after the date of the vote described in subsection (a)(1).

"(2) Upon receipt of a cash payment pursuant to subsection (a) or a note pursuant to subsection (d), a dissenting shareholder shall no longer have an interest in the shares of Settlement Common Stock or in the Native Corporation.".

SETTLEMENT TRUST OPTION

SEC. 10. The Alaska Native Claims Settlement Act is further amended by adding the following new section:

"SETTLEMENT TRUST OPTION

"SEC. 39. (a) CONVEYANCE OF CORPORATE ASSETS.—(1)(A) A Native Corporation may convey assets (including stock or beneficial interests therein) to a Settlement Trust in accordance with the laws of the State (except to the extent that such laws are inconsistent with this section and section 36).

"(B) The approval of the shareholders of the corporation in the form of a resolution shall be required to convey all or substantially all of the assets of the corporation to a Settlement Trust. A conveyance in violation of this clause shall be void ab initio and shall not be given effect by any court.

"(2) No subsurface estate in land shall be conveyed to a Settlement Trust. A conveyance of title to, or any other interest in, subsurface estate in violation of this subparagraph shall be void ab initio and shall not be given effect by any court.

"(3) Conveyances made pursuant to this subsection—

"(A) shall be subject to applicable laws representing fraudulent conveyance and creditors rights; and

"(B) shall give rise to dissenters rights to the extent provided under the laws of the State only if the rights of beneficiaries in the Settlement Trust receiving a conveyance are inalienable.

"(4) The provisions of this subsection shall not prohibit a Native Corporation from engaging in any conveyance, reorganization, or transaction not otherwise prohibited under the laws of the State or the United States.

"(b) AUTHORITY AND LIMITATIONS OF A SETTLEMENT TRUST.—(1) The purpose of a Settlement Trust shall be to promote the health, education, and welfare of its beneficiaries and preserve the heritage and culture of Natives. A Settlement Trust shall not—

"(A) operate as a business;

"(B) alienate land or any interest in land received from the settlor Native Corporation (except if the recipient of the land is the settlor corporation); or

"(C) discriminate in favor of a group of individuals composed only or principally of employees, officers, or directors of the settlor Native Corporation.

An alienation of land or an interest in land in violation of this paragraph shall be void ab initio and shall not be given effect by any court.

"(2) A Native Corporation that has established a Settlement Trust shall have exclusive authority to—

"(A) appoint the trustees of the trust, and

"(B) remove the trustees of the trust for cause.

Only a natural person shall be appointed a trustee of a * * *.

* * * * *

"(3) The conveyance of assets (including stock or beneficial interests) pursuant to subsection (a) shall not affect the applicability or enforcement (including specific performance) of a valid contract, judgment, lien, or other obligation (including an obligation arising under section 7(i) to which such assets, stock, or beneficial interests were subject immediately prior to such conveyance.

"(4) A claim based upon paragraph (1), (2), or (3) shall be enforceable against the transferee Settlement Trust holding the land, interest in land, or other assets (including stock or beneficial interests) in question to the same extent as such claim would have been enforceable against the transferor Native Corporation, and valid obligations arising under section 7(i) as well as claims with respect to a conveyance in violation of a valid contract, judgment, lien, or other obligation shall also be enforceable against the transferor corporation.

"(5) Except as provided in paragraphs (1), (2), (3), and (4), once a Native Corporation has made, pursuant to subsection (a), a conveyance to a Settlement Trust that does not—

"(A) render it—

"(i) unable to satisfy claims based upon paragraph (1), (2), or (3); or

"(ii) insolvent; or

"(B) occur when the Native Corporation is insolvent; the assets so conveyed to the Settlement Trust shall not be subject to conveyed to the Settlement Trust shall not be subject to attachment, distraint, or sale on execution of judgment or other process or order of any court, except with respect to the lawful debts or obligations of the Settlement Trust.

"(6) No transferee Settlement Trust shall make a distribution or conveyance of assets (including cash, stock, or beneficial interests) that would render it unable to satisfy a claim made pursuant to paragraph (1), (2), or (3). A distribution or conveyance made in violation of this paragraph shall be void ab initio and shall not be given effect by any court.

"(7) Except where otherwise expressly provided, no provision of this section shall be construed to require shareholder approval of an action where shareholder approval would not be required under the laws of the State.

ALASKA LAND BANK

SEC. 11. Section 907 of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1636) is amended—

(1) by striking out "subsection (c)(2)" throughout the section and inserting in lieu thereof "subsection (d)(1)";

(2) in the proviso of subsection (a), by striking out "lands not owned by landowners described in subsection (c)(2) shall not" and inserting in lieu thereof "no lands shall";

(3) by amending subsections (c), (d), and (e) to read as follows:

"(c) BENEFITS TO PRIVATE LANDOWNERS.—(1) In additon to any requirement of applicable law, the appropriate Secretary is authorized to provide technical and other assistance with respect to fire control, trespass control, resource and land use planning, and the protection, maintenance, and enhancement of any special values of the land subject to the agreement, all with or without reimbursement as agreed upon by the parties, so long as the landowner is in compliance with the agreement.

"(2) The provision of section 21(e) of the Alaska Native Claims Settlement Act shall apply to all lands which are subject to an agreement made pursuant to this section so long as the parties to the agreement are in compliance therewith.

"(d) AUTOMATIC PROTECTIONS FOR LANDS CONVEYED PURSUANT TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT.—(1)(A) Notwithstanding any other provision of law or doctrine of equity, all land and interests in land in Alaska conveyed by the Federal Government pursuant to the Alaska Native Claims Settlement Act to a Native individual or Native Corporation or subsequently reconveyed by a Native Corporation pursuant to section 39 of that Act to a Settlement Trust shall be exempt, so long as such land and interests are not developed or leased or sold to third parties from—

"(i) adverse possession and similar claims based upon estoppel;

"(ii) real property taxes by any governmental entity;

"(iii) judgments resulting from a claim based upon or arising under—

"(I) title 11 of the United States Code or any successor statute,

"(II) other insolvency or moratorium laws, or

"(III) other laws generally affecting creditors' rights;

"(iv) judgments in any action at law or in equity to recover sums owed or penalties incurred by a Native Corporation or Settlement Trust or any employee, officer, director, or shareholder of such corporation or trust, unless this exemption is contractually waived prior to the commencement of such action; and

"(v) involuntary distributions or conveyances related to the involuntary dissolution of a Native Corporation or Settlement Trust.

"(B) Except as otherwise provided specifically, the exemptions described in subparagraph (A) shall apply to any claim or judgment existing on or arising after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987.

"(2) DEFINITIONS.—(A) For purposes of this subsection, the term—

"(i) 'Developed' means a purposeful modification of land, or an interest in land, from its original state that effectuates a condition of gainful and productive present use without further substantial modification. Surveying, construction of roads, providing utilities, or other similar actions, which are normally considered to be component parts of the development process but do not create the condition described in the preceding sentence, shall not constitute a developed state within the meaning of this clause. In order to terminate the exemptions listed in paragraph (1), land, or an interest in land, must be developed for purposes other than exploration, and the exemptions will be terminated only with respect to the smallest practicable tract actually used in the developed state;

"(ii) 'Exploration' means the examination and investigation of undeveloped land to determine the existence of subsurface nonrenewable resources; and

"(iii) 'Leased' means subjected to a grant of primary possession entered into for a gainful purpose with a determinable fee remaining in the hands of the grantor. With respect to a lease that conveys rights of exploration and development, the exemptions listed in paragraph (1) shall continue with respect to that portion of the leased tract that is used solely for the purposes of exploration.

"(B) For purpose of this subsection—

"(i) land shall not be considered developed solely as a result of—

"(I) the construction, installation, or placement upon such land of any structure, fixture, device, or other improvement intended to enable, assist, or otherwise further subsistence uses or other customary or traditional uses of such land, or

"(II) the receipt of fees related to hunting, fishing, and guiding activities conducted on such land;

"(ii) land upon which timber resources are being harvested shall be considered developed only during the period of such harvest and only to the extent that such land is integrally related to the timber harvesting operation; and

"(iii) land subdivided by a State or local platting authority on the basis of a subdivision plat submitted by the holder of the land or its agent, shall be considered developed on the date an approved subdivision plat is recorded by such holder or agent unless the subdivided property is a remainder parcel.

"(3) ACTION BY A TRUSTEE.—(A) Except as provided in this paragraph and in section 14(c)(3) of the Alaska Native Claims Settlement Act no trustee, receiver, or custodian vested pursuant to applicable Federal or State law with a right, title, or interest of a Native individual or Native Corporation shall—

"(i) assign or lease to a third party,

"(ii) commence development or use of, or

"(iii) convey to a third party,

any right, title, or interest in any land, or interests in land, subject to the exemptions described in paragraph (1).

"(B) The prohibitions of subparagraph (A) shall not apply—

"(i) when the actions of such trustee, receiver, or custodian are for purposes of exploration or pursuant to a judgment in law or in equity (or arbitration award) arising out of any claim made pursuant to section 7(i) or section 14(c) of the Alaska Native Claims Settlement Act; or

"(ii) to any land, or interest in land, which has been—

"(I) developed or leased prior to the vesting of the trustee, receiver, or custodian with the right, title, or interest of the Native Corporation; or

"(II) expressly pledged as security for any loan or expressly committed to any commercial transaction in a valid agreement.

"(4) EXCLUSIONS, REATTACHMENT OF EXEMPTIONS.—(A) The exemptions listed in paragraph (1) shall not apply to any land, or interest in land, which is—

"(i) developed or leased or sold to a third party;

"(ii) held by a Native Corporation in which neither—

"(I) the Settlement Common Stock of the corporation,

"(II) the Settlement Common Stock of the corporation and other stock of the corporation held by the holders of Settlement Common Stock, nor

"(III) the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock and by Natives and descendants of Natives,

represents a majority of either the total equity of the corporation or the total voting power of the corporation for the purposes of electing directors; or

"(iii) held by a Settlement Trust with respect to which any of the conditions set forth in section 39 of * * *.

* * * * *

submitted by, or on behalf of, a Native individual, Native Corporation, or Settlement Trust with respect to land described in paragraph (1), such individual, corporation, or trust shall pay in accordance with this paragraph all State and local property taxes on the smallest practicable tract integrally related to the subdivision project that would have been incurred by the individual, corporation, or trust on such land (excluding the value of subsurface resources and timber) in the absence of the exemption described in paragraph (1)(A)(ii) during the 30 months prior to the date of the recordation of the plat.

"(B) State and local property taxes specified in subparagraph (A) of this paragraph (together with interest at the rate of 5 per centum per annum commencing on the date of recordation of the subdivision plat) shall be paid in equal semi-annual installments over a 2-year period commencing on the date 6 months after the date of recordation of the subdivision plat.

"(C) At least 30 days prior to final approval of a plat of the type described in subparagraph (A), the government entity with jurisdiction over the plat shall notify the submitting individual, corporation, or trust of the estimated tax liability that would be incurred as a result of the recordation of the plat at the time of final approval.

"(6) SAVINGS.—(A) No provision of this subsection shall be construed to impair, or otherwise affect, any valid contract or other obligation that was entered into prior to the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987.

"(B) Enactment of this subsection shall not affect any real property tax claim in litigation on the date of enactment of the Alaska Native Claims Settlement Act Amendments of 1987.

"(e) CONDEMNATION.—All land subject to an agreement made pursuant to subsection (a) and all land, and interests in land, conveyed or subsequently reconveyed pursuant to the Alaska Native Claims Settlement Act to a Native individual, Native Corporation, or Settlement Trust shall be subject to condemnation for public purposes in accordance with the provisions of this Act and other applicable law."; and

(4) by adding at the end thereof the following new subsection:

"(g) STATE JURISDICTION.—Except as expressly provided in subsection (d), no provision of this section shall be construed as affecting the civil or criminal jurisdiction of the State of Alaska.".

CONFORMING AMENDMENTS

SEC. 12. (a) SECTION 7.—Subsection (o) of section 7 (43 U.S.C. 1606) is amended to strike everything following the word "stockholder" except the period at the end of the subsection.

(b) SECTION 21.—Section 21 (43 U.S.C. 1620) is amended—

(1) by inserting after "distributions" in subsection (a) "(even if the Regional Corporation or Village Corporation distributing the dividend has not segregated revenue received from the Alaska Native Fund from revenue received form other sources)";

(2) by striking out "Village Corporation" in subsection (j); and

(3) by striking out everything after "one and one-half acres:" in subsection (j) and inserting in lieu thereof: "Provided further, That if the shareholder receiving the homesite subdivides such homesite, he or she shall pay all Federal, State, and local taxes that would have been incurred but for this subsection together with simple interest at 6 per centum per annum calculated from the date of receipt of the homesite, including taxes or assessments for the provision of road access and water and sewage facilities by the conveying corporation or the shareholder.".

(c) SECTION 30.—Subsection (b) of section 30 (43 U.S.C. 1627(b)) is amended by striking out "prior to December 19, 1991" and inserting in lieu thereof "prior to December 19, 1991" and inserting in lieu thereof "while the Settlement Common Stock of all corporations subject to merger or consolidation remains subject to alienability restrictions.".

(d) SECURITIES EXCHANGE ACT OF 1934.—Section 13(d)(1) of the Securities Exchange Act of 1934 is amended by inserting "or any equity security issued by a Native Corporation pursuant to section 37(d)(6) of the Alaska Native Claims Settlement Act" after "Investment Company Act of 1940".

SEVERABILITY

SEC. 13. Section 27 (85 Stat. 688) is amended to read as follows:

"SEVERABILITY

"SEC. 27. The provisions of this Act, as amended, and the Alaska Native Claims Settlement Act Amendments of 1987 are severable. If any provision of either Act is determined by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of any other provision of either Act.".

SECURITY LAWS EXEMPTION

SEC. 14. Section 28 (43 U.S.C. 1625) is amended to read as follows:

"SECURITIES LAWS EXEMPTION

"SEC. 28. (a) A Native Corporation shall be exempt from the provisions, as amended, of the Investment Company Act of 1940 (54 Stat. 789), the Securities Act of 1933 (48 Stat. 74), and the Securities Exchange Act of 1934 (48 Stat. 881) until earlier of the day after—

"(1) the date on which the corporation issues shares of stock other than Settlement Common Stock in a transaction where—

"(A) the transaction or the shares are not otherwise exempt from Federal securities laws; and

"(B) the shares are issued to persons or entities other than—

"(i) individuals who held shares in the corporation on the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987;

"(ii) Natives;

"(iii) descendants of Natives;

"(iv) individuals who have received shares of Settlement Common Stock by inheritance pursuant to section 7(h)(2);

"(v) Settlement Trusts; or

"(vi) entities established for the sole benefit of Natives or descendants of Natives; or

"(2) the date on which alienability restrictions are terminated; or

"(3) the date on which the corporation files a registration statement with the Securities and Exchange Commission pursuant to either the Securities Act of 1933 or the Securities Exchange Act of 1934.

"(b) No provision of this section shall be construed to require or imply that a Native Corporation shall, or shall not, be subject to provisions of the Acts listed in subsection (a) after any of the dates described in subsection (a).

"(c)(1) A Native Corporation that, but for this section, would be subject to the provisions of the Securities Exchange Act of 1934 shall annually prepare and transmit to its shareholders a report that contains substantially all the information required to be included in an annual report to shareholders by a corporation subject to that Act.

"(2) For purposes of determining the applicability of the registration requirements of the Securities Exchange Act of 1934 on or after the date described in subsection (a), holders of Settlement Common Stock shall be excluded from the calculation of the number of shareholders of record pursuant to section 12(g) of that Act.

"(d)(1) Notwithstanding any other provision of law, prior to January 1, 2001, the provisions of the Investment Company Act of 1940 shall not apply to any Native Corporation or any subsidiary of such corporation if such subsidiary is wholly owned (as that term is defined in the Investment Company Act of 1940) by the corporation and the corporation owns at least 95 percent of the equity of the subsidiary.

"(2) The Investment Company Act of 1940 shall not apply to any Settlement Trust.

"(3) If, but for this section, a Native Corporation would qualify as an Investment Company under the Investment Company Act of 1940, it shall be entitled to voluntary register pursuant to such Act and any such corporation which so registered shall thereafter comply with the provisions of such Act.".

ELIGIBILITY FOR NEEDS-BASED FEDERAL PROGRAMS; MINORITY STATUS

SEC. 15. Section 29 (43 U.S.C. 1626) is amended by adding the following new subsections:

"(c) In determining the eligibility of a household, an individual Native, or a descendant of a Native (as defined in section 3(r)) to—

"(1) participate in the Food Stamp program,

"(2) receive aid, assistance, or benefits, based on need, under the Social Security Act, or

"(3) receive financial assistance or benefits, based on need, under any other Federal program or federally-assisted program,

none of the following, received from a Native Corporation, shall be considered or taken into account as an asset or resource:

"(A) cash (including cash dividends on stock received from a Native Corporation) to the extent that it does not, in the aggregate, exceed $2,000 per individual per annum;

"(B) stock (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock);

"(C) a partnership interest;

"(D) land or an interest in land (including land or an interest in land received from a Native Corporation as a dividend or distribution on stock); and

"(E) an interest in a settlement trust.

"(d) Notwithstanding any other provision of law, Alaska Natives shall remain eligible for all Federal Indian programs on the same basis as other Native Americans.

"(e)(1) For all purposes of Federal law, a Native Corporation shall be considered to be a corporation owned and * * *

* * * * *

paragraph (1) shall be considered to be entities owned and controlled by Natives and a minority business enterprise if the shares of stock or other units of ownership interest in any such entity held by such Native Corporation and by the holders of its Settlement Common Stock represent a majority of both—

"(A) the total equity of the subsidiary corporation, joint venture, or partnership; and

"(B) the total voting power of the subsidiary corporation, joint venture, or partnership for the purpose of electing directors, the general partner, or principal officers. * * *

* * * * *

"(2) The amendment made by paragraph (1) shall be effective as if originally included in section 3 of Public Law 97-451.

"(g) For the purposes of implementation of the Civil Rights Act of 1964, a Native

Corporation and corporations, partnerships, joint ventures, trusts, or affiliates in which the Native Corporation owns not less than 25 per centum of the equity shall be within the class defined in section 701(b) of Public Law 88-352 (78 Stat. 253), as amended, or successor statutes.".

JUDICIAL REVIEW

SEC. 16. (a) Statute of Limitation.—(1) Notwithstanding any other provision of law, a civil action that challenges the constitutionality of an amendment may by, or other provisions of this Act (the Alaska Native Claims Settlement Act Amendments of 1987) shall be barred unless filed within the periods specified in this subsection.

(2) If a civil action described in paragraph (1) challenges—

(A) the issuance or distribution of settlement Common Stock for less than fair market value consideration pursuant to section 7(g)(1)(B) or 7(g)(2)(C)(ii) of the Alaska Native Claim Settlement Act; or

(B) an extension of alienability restrictions that involves the issuance of stock pursuant to subsection * * *

* * * * *

(2) No money judgment shall be entered against the United States in a civil action subject to this section.

(c) STATEMENT OF PURPOSE.—The purpose of the limitation on civil actions established by this section is—

(1) to ensure that after the expiration of a reasonable period of time, Native shareholders, Native Corporations, the United States, and the State of Alaska and its political subdivisions will be able to plan their affairs with certainty in full reliance on the provisions of this Act, and

(2) to eliminate the possibility that the United States will incur a monetary liability as a result of the enactment of this Act.

DISCLAIMER

SEC. 17. (a) No provision of this Act (the Alaska Native Claims Settlement Act Amendments of 1987), exercise of authority pursuant to this Act, or change made by, or pursuant to, this Act in the status of land shall be construed to validate or invalidate or in any way affect—

(1) any assertion that a Native organization (including a federally-recognized tribe, traditional Native council, or Native council organized pursuant to the Act of June 18, 1934 (48 Stat. 987), as amended) has or does not have governmental authority over lands (including management of, or regulation of the taking of, fish and wildlife) or persons within the boundaries of the State of Alaska, or

(2) any assertion that Indian country (as defined by 18 U.S.C. 1151 or any other authority) exists or does not exist within the boundaries of the State of Alaska.

(b) Nothing in the Alaska Native Claims Settlement Act Amendments of 1987 (or any amendment made thereby) shall be construed—

(1) to diminish or enlarge the ability of the Federal Government to assess, collect, or otherwise enforce any Federal tax, or

(2) to affect, for Federal tax purposes, the valuation of any stock issued by a Native Corporation.

Mr. STEVENS. Mr. President, I want to thank the majority leader for calling up this bill at this time. The distinguished chairman of the House Interior and Insular Affairs Committee, Congressman UDALL, has just visited the Chamber. I thank him personally for the work that he and his staff, particularly Frank Ducheneaux, have done on this bill. I also thank Congressman GEORGE MILLER and his staff, particularly Jeff Petrich; Congressman BRUCE VENTO and his staff, particularly Stan Sloss; and of course, Congressman DON YOUNG, my colleague, from Alaska and his staff, particularly Rick Agnew.

On this side of the Capitol, Senator JOHNSTON and his staff, Mike Harvey and Tom Williams; Senator MCCLURE and his staff, Gary Ellsworth and Tony Bevinetto; Senator MURKOWSKI and his staff, Tom Roberts in particular; and my chief of staff, Greg Chapados have spent a lot of time preparing this bill for our consideration tonight. I thank them for their efforts.

This bill, Mr. President, is the culmination of work that began in 1971.

These amendments to the Alaska Native Claims Settlement Act (ANCSA) are essential to the continued viability of the 1971 Native land settlement. It is with great pride that I report that we are able to proceed with this bill now. Only Congressman UDALL and I remain of the members of the 1971 conference that produced ANCSA, we both are committed to ensuring the success of the land settlement, and we are pleased that so many other members share that sense of commitment.

Mr. MURKOWSKI. Mr. President, I am extremely grateful for the Senate's action in passing H.R. 278 tonight. This legislation amends the Alaska Native Claims Settlement Act [ANCSA] in order to ensure continued native ownership of lands received in settlement of Alaska Natives aboriginal claims.

Senator STEVENS and I have worked for 2 long years to enact these amendments. With Senate passage, we have achieved that goal. Over the last several weeks, we have worked very hard to reach an agreement between the House and the Senate on the final version of this critical legislation. That agreement is reflected in this bill which we have just passed and which the House passed earlier today.

Mr. President, later in my statement I will provide a detailed section by section analysis and statement of legislative history of the final version of the bill. The analysis and statement has been generally agreed to by the principal sponsors of the legislation—Congressmen UDALL and YOUNG in the House and Senator STEVENS and me in the Senate.

However, before that statement, I would like to express some additional views of these "1991" amendments. These views are not detailed interpretations of particular provisions of the legislation. Rather, they are more general in nature, expressing this Senator's overall views on how these amendments should be interpreted and applied.

Mr. President, I cannot overemphasize the importance of this legislation to Alaska's Native people. The Alaska Native Claims Settlement Act of 1971 marked an historic experiment in this country's dealings with Native Americans. The essence of that experiment was to make business corporations the recipients and holders of the proceeds of the settlement. All Alaska Natives were then made shareholders of these corporations.

To ensure that Alaska's Native received the full benefits of the settlement, Congress imposed a 20 year restriction on the ability of individual natives to sell or otherwise transfer their stock. That 20 year period will expire in 1991. There is grave concern in the native community that expiration of alienability restrictions on stock in 1991 will lead to loss of Native ownership and control of settlement lands.

As a result, this legislation provides a menu of options designed to maintain Native ownership of settlement lands and to ensure that future generations of Natives share in the proceeds of the settlement. The shareholders of each corporation will be able to select the options which best meet their needs.

The bill establishes a general rule that restrictions on the alienability of stock will continue indefinitely, or until a majority of the shareholders of the corporation elect to terminate those restrictions. The shareholders of some regional and village corporations believe it to be in their best interests to hold an immediate vote of the shareholders to determine whether stock restrictions should be maintained. These corporations will utilize the "opt-in" alternative. Shareholders of other corporations believe that such a vote should only be taken when a significant percentage of the shareholders demand such a vote through the exercise of petition rights. These corporations will elect to use the "opt-out" alternative provided by the bill. Finally, the shareholders of a few corporations desire to maintain alienability restrictions on their original stock, yet have the ability to sell other stock in their corporation. These shareholders' corporations will elect to use the "recapitalization" alternative in the legislation.

The options for addressing alienability restrictions constitute only a portion of this legislation, albeit a very important portion. There are also options allowing the corporations, by majority shareholder vote, to issue stock to Natives born after 1971, to issue additional stock to Native elders, and to create States trusts for the benefit of the shareholders.

Although this is a consensus bill—supported by an overwhelming majority of the Alaska Native population—it was possible to achieve a consensus only by providing this extensive array of options for corporate action. This situation is reflective of the diverse points of view within the Alaska Native community regarding the most appropriate way to ensure that future generations of Alaska Natives continue to benefit from the settlement of their aboriginal land claims.

It is my hope that all who interpret and implement this legislation—whether they be shareholders, corporate directors and officers, lawyers or judges—will keep in mind the optional nature of the legislation. It has been stated many times that ANCSA is a "living" settlement. It is not a fixed formula which is cast in stone and incapable of adopting to changing reality. Rather, it is a flexible framework designed to provide Alaska Natives with a maximum amount of self-determination as they strive to balance the needs of their present and future generations. And balance is essential if ANCSA is to be a success story.

Mr. President, I could cite numerous examples of how this Nation's traditional Native American policy has failed. In 1971 the Congress rejected that policy in favor of the settlement structured in ANCSA. The people of Alaska have now had 16 years of experience with the settlement. Based on that experience the people of Alaska—Native and non-Native—have recommended changes to the original act and have worked very hard to enact those changes. Why? Because we do not want this settlement to be another failure. Because we want ANCSA to be a success.

I take pride in the legislation before us. It is the final product of the efforts of many Alaskans concerned about this issue. I believe I represent the views of all of those people when I say that the key to making ANCSA succeed is flexibility—flexibility that recognizes the different desires and needs of every corporation, every region and every village in the State—flexibility that permits Native shareholders to adapt their corporations to ever changing reality. The "1991" amendments provide that flexibility.

I must also briefly address the issue of sovereignty. There is a great deal of controversy in Alaska over the issue of whether Alaska Native organizations may exercise some degree of governmental authority over lands or individuals. The controversy involves several complex questions—which Native groups might qualify as tribal organizations, what powers such organizations might possess, and whether there is Indian country in Alaska over which such organizaton might exercise governmental jurisdiction. The "1991" amendments are scrupulously neutral on this controversy. It is an issue which should be left to the courts in interpreting applicable law. This legislation should play no substantive or procedural role in such court decisions. It was and is my intent that this legislation leave all parties to the sovereignty controversy in exactly the same statute as if the amendments were not enacted.

Mr. President, we would not have been able to pass this legislation without the extraordinary efforts of several people. First, I want to thank the staff members of the Committee on Energy and Natural Resources—Mike Harvey, Tom Williams, Gary Ellsworth, and Tony Bevinetto—who contributed so much to this bill. Their efforts and guidance are always appreciated.

Janie Leask, Morris Thompson, Oliver Leavitt, Glenn Fredericks, Roy Huhndorf, Byron Mallot, Chris McNeil, Sam Kito, Roy Ewan, Don Nielsen, Ralph Eluska, Ed Thomas, Al Kookesh, Rose Mahre, Mike Irwin, Willie Hensley, John Schaeffer, John Shively, the late Ivan Gamble, and many other members of the Alaska Federation of Natives devoted considerable time and resources to this endeavor. In particular, I want to recognize the contribution made by Julie Kitka of the Alaska Federation of Natives. Julie's unwavering devotion to this project has been above and beyond the call of duty. It is safe to say that without Julie's able assistance we would not be passing this bill today. We all owe her a huge debt of gratitude.

I also want to extend a special thank you to Greg Chapados of Senator STEVENS' staff and Tom Roberts and John Moseman of my staff. Their remarkable dedication of time, energy, and thought to this legislation is reflected in the provisions of the bill.

Mr. President, before beginning the section-by-section analysis, I must thank Congressman MO UDALL and my Alaska colleagues, Congressman DON YOUNG and Senator TED STEVENS. Congressman YOUNG's skill in moving this legislation through the House with Chairman UDALL's assistance was nothing short of extraordinary. Alaska Natives could not have a better representative in Congress than DON YOUNG. And finally, as one of the original authors of ANCSA, Senator STEVENS' historical perspective was invaluable to all of our efforts.

Mr. President, I submit the following section-by-section explanation of the final version of this legislation on behalf of myself and Senator STEVENS.

The House passed H.R. 278 on March 31, 1987, without opposition. On October 29, 1987, the Senate passed an amendment in the nature of a substitute for H.R. 278, once again without opposition. Rather than requesting a conference to reconcile, the differences between the Senate amendment and the House bill, Congressman UDALL, Congressman YOUNG, Senator STEVENS and I have developed a further amendment in the nature of a substitute to the Senate amendment. In large measure that amendment, hereafter referred to as the House amendment, is drawn from the text of the Senate amendment and provides for certain technical changes in the Senate bill. Significant differences between the House and Senate amendments are as follows:

SECTION 2. FINDINGS

A major issue which has complicated the consideration of this bill has been its potential impact upon the question of whether or not tribal entities with self-governing powers continue to exist in the State of Alaska. It was generally agreed that that issue should be decided under existing law and that these amendments to the Alaska Native Claims Settlement Act (ANCSA) should be scrupulously neutral on that question. Paragraph (8) of Section 2 of the Senate amendment made a Congressional finding that these amendments should not supercede or rescind certain specific provisions of ANCSA or to confer upon any Native organization sovereign powers. It was felt, upon the House side, that the language tended to upset the neutrality approach. The House amendment modifies the finding to provide that nothing in the amendment is intended to work an implied repeal or modification of *any* provision of ANCSA. In addition, paragraph (8)(C) was modified to provide that nothing in the amendment would confer on, *or deny to*, a Native organization sovereign powers.

SECTION 3. DEFINITIONS

The Senate amendment includes most of the definitions from the House bill and adds a number of new definitions including those for "group corporation," "urban corporation", "settlement common stock", instead of the House named "native common stock", "replacement common stock", "alienability restrictions", and "state chartered settlement trust".

The proposed substitute utilizes the Senate definitions for the most part, although a technical change is made in the name of the "state chartered settlement trust" to "state registered settlement trust". This clarifies that such a trust established by a native corporation shall be done so under the existing laws of the State of Alaska, which presently permit the establishment and registration of such trusts.

SECTION 4. ISSUANCE OF STOCK

House bill—The House bill amends Section 7(g) of ANCSA to establish two types of stock: Native Common Stock and other unnamed additional stock. The section provides that up to 100 shares of additional native common stock could be issued for no consideration, if authorized by an amendment to the articles of incorporation, to natives born after 1971, native elders age 65 or older, and certain natives who missed the original enrollment under ANCSA. The additional stock, which is also subject to issuance pursuant to an amendment to the articles of incorporation of the corporation, may be subject to a variety of technical rules including division into classes, preferences and other specific rights and can be restricted in issuance to native elders or specific groups of natives so long as the groups do not discriminate in favor of natives by place or residence, family, or position as an officer, director, or employee of a native corporation or a stockholder of another native corporation. The stock can also be issued as a dividend or distribution. This section also contains a variety of procedural sections regarding the issuance of the stock and its effect on existing stockholder rights.

Senate Amendment—The Senate amendment contains a similar provision. The amendment defines the House-named "native common stock" as "settlement common stock" and also limits issuance of such stock for no consideration or less than fair market value to natives born after December 18, 1971, natives who missed the original enrollment, or native elders 65 years or older. As with the House bill, no more than 100 shares of settlement common stock can be issued under (g)(1) to any one individual. Section 7(g)(2) provides for the issuance of other forms of stock similar to the House bill and with similar, specific provisions concerning the division of such stock into classes, rights, and preferences and other limitations. A variety of other specific provisions including provisions regarding disclosure to the shareholders on the amendment to the articles of incorporation are included. The provision also permits a vote by the at-large shareholders at to whether to permit sharing of Section 7(j) and (m) distributions which at-large shareholders have a right to receive.

The House amendment adds additional disclosure requirements that would apply in certain cases in which a Native Corporation decides to exercise the option (set out in the revised Section 7(g)(2) of the Settlement Act as it would be amended by the bill) to issue additional classes of stock that might be acquired by persons other than the present shareholders. In such a case, under the new Section 7(g)(3), the board of directors would have to inform shareholders at least 60 days in advance of any vote on an amendment that would authorize issuance of such "(g)(2)" stock. This advance notice would have to be in a statement separate from any other information the board might distribute, and would have to be in both English and Native languages used by the shareholders. In recognition of the varying degrees of literacy among Alaska Natives, the amendment authorizes the board to provide the information in recorded sound form (E.G., a cassette or a recorded announcement for use by rural radio stations) as well as in writing. To ensure that a shareholder vote about possible issuance of "(g)(2)" stock in some cases be on an informed basis, the House amendment further provides that if at least 10% of the shareholders request the board assist in distributing materials in opposition to such a proposal, the board must comply. It should be noted that these special notification requirements of the revised Section 7(g)(3) are supplementary to any other notification requirements of law.

Section 7(g)(3) thus provides additional assurance for shareholders to inform them, in their own language, of the possibility that the authorization of classes or series of stock could cause the outstanding shares of Settlement Common Stock to represent less than a majority of the total voting power of the corporation. A Native Corporation subject to this provision must inform its shareholders in the primary Alaska Native languages used by the shareholders of Corporation. The information required to be provided in the Native language shall be the disclosure that the authorization of the additional stock could cause the change in the majority of the total voting power.

The proposed amendment adopts the provisions of the Senate version of Section 4 with a change which clarifies that a corporation may present a series of decisions regarding issuance of stock to shareholders en block by a single vote.

The phrase "Notwithstanding any other provision of law" which appears in section 4 and throughout the Senate amendment has, with one exception, been deleted from the House amendment not only in the Section 4 rewrite of Section 7(g) of the Alaska Native Claims Settlement Act, but also from other Sections of the amendment. The deletion of the phrase is intended to indicate that the amendment does not preempt the application of State law to Native corporations except to the extent a particular provision of State law is inconsistent with a particular Section of the House amendment.

SECTION 5. SETTLEMENT COMMON STOCK

House Bill—This section amends Section 7(h) of ANCSA to provide specific rights and restrictions on native common stock, the origianal stock issued under ANCSA. Many of the provisions are from the original sections of ANCSA and are included in this complete substitute for the Current Section 7(h) of ANCSA.

The House bill contains a new provision regarding inheritance of native common stock. This provision provides that ownership of native common stock may be transferred in accordance with the last will and testament of the holder of such stock or under applicable laws of intestacy. It the owner fails to dispose of it by will and has no heirs under the laws of intestacy, the stock shall escheat to the appropriate corporation. This provision also provides the corporation a right of repurchase for fair market value of such stock if it is transferred by devise or inheritance to a person not a Native or descendant of a native. The provision also provides that any common stock transferred through inheritance to a person not a Native or a descendant of a Native shall not carry voting rights and for the restoration of such voting rights if the stock is later held be a native or a descendant of a Native.

The House bill also provides a general authority to Native corporations to amend their articles of incorporation to permit repurchase of Native common stock from individual shareholders.

Subsection 7(h)(1)(D) provides for Congressional extension of restrictions on alienation on all Native corporation stock unless and until a vote is taken by the shareholders of any specific native corporation to terminate such restrictions or in the case of certain named corporations, unless such restrictions are terminated under Section 6 of the House bill.

Subsection 7(h)(2) describes how a vote to terminate restrictions is to be taken.

Subsection 7(h)(6) provides specific authority under which an amendment to the articles of corporation for the issuance of new stock, transfer of assets to a qualified transferee entity, or a resolution to terminate restrictions is adopted. These include requirements for proxy solicitation, certain petition rights by which shareholders may submit certain questions directly to the corporation, and dissenters' rights.

Senate amendment—The Senate amendment also rewrites Section 7(h) and contains similar provisions regarding settlement common stock. A new provision permitting inter vivos transfers by gifts of settlement common stock to certain relatives is contained in Section 5. Provisions regarding termination of restrictions are not contained in this section.

Inheritance of settlement common stock is similar to the House bill except that the Senate amendment provides that stock which escheats to a corporation shall be canceled. A detailed provision regarding the right of a native corporation to purchase, for fair value, settlement common stock transferred to a person not a native or descendant of a native is also included. The Senate amendment does not include the general right to repurchase stock by a corporation included in the House bill.

The Senate amendment names the stock which replaces the original stock issued under ANCSA if alienability restrictions terminate as replacement common stock. The Senate bill also includes a provision regarding the effect of replacement common stock in other affected stockholders.

The proposed amendment adopts the Senate bill provisions for section 5 with several technical changes.

SECTION 6. VILLAGE AND URBAN GROUP CORPORATIONS

House bill—This section is Section 10 of the House bill entitled "Village and Urban Corporations: Native Groups". This section contains technical amendments conforming the provisions of ANCSA regarding village, urban and group corporations to the provisions of these amendments. This relates to the drafting style of ANCSA, which dealt with regional corporations and then provided which general sections applied to village and urban corporations and groups.

Senate amendment—The Senate amendment provides one section regarding the applicability section of 7 (g), (h), and (o) to village corporations, urban corporations, and group corporations.

The proposed amendment adopts the provisions of the Senate version of Section 6.

SECTION 7. PROCEDURES FOR CONSIDERING AMENDMENTS AND RESOLUTIONS

House bill—House provisions regarding this section were contained in Sections 5 and 6 of the House bill. These provisions include new subsections 7(h)(6) (A) through (E). In these provisions, the House bill provides that an amendment to the articles of incorporation to terminate restrictions must be approved by an affirmative vote of at least a majority of outstanding shares of native common stock entitled to vote on such amendment. Other amendments including issuance of new stock or transfer of assets shall be approved by a vote of at least the majority of a quorum representing at least 51% of the votes represented by the capital stock of the corporation which are entitled to vote on such action.

The House bill also provides in Section 5 for the use of shareholder petitions in certain circumstances. These petitions would permit 15% of the holders of Native common stock, ⅓ of the outstanding shares of Native Common Stock, in the case of termination of restrictions on Native common Stock, to petition the board of directors for a vote on such action. A variety of procedural provisions regarding the petitions are included in Section 5.

Senate amendment—The Senate amendment includes the procedures for considering amendments and resolutions including basic procedures regarding shareholder petitions, and the determination of voting power of a Native corporation in relation to such votes in a separate new section 36 of ANCSA. The new section establishes a basic procedure by which the board approves an amendment or resolution concerning issues such as the issuance of additional stock, a vote on termination of alienation restrictions, or creation of dissenters' rights. The provision also includes standards regarding shareholder petitions and establishes a general voting standard for passage of an amendment or resolution of a majority of the total voting power of the corporation or a level of total voting power greater than a majority but less than ⅔ of the total voting power if such a higher voting standard is established by an amendment to the articles of incorporation. In this section, total voting power is defined as all outstanding shares of stock that carry voting rights except shares not permitted to vote on the specific amendment or resolution in question because of restrictions in the articles of incorporation.

The Senate amendment authorizes the board of directors of a Native corporation to exclude the value of land, and interests therein, from the written notice required by the new Section 36 of ANCSA to the extent particular lands, or interests therein, are "committed by the corporation to traditional or cultural uses" or are of "speculative value" on the date the notice was prepared. These standards are similar to the standards set forth in the same sections of H.R. 278 as passed by the House of Representatives.

The proposed amendment adopts most provisions of the Senate bill. Pursuant to the House amendment, for the purposes set forth in Section 36 and 38 of ANCSA the board of directors of a Native corporation is authorized not to appraise or otherwise determine the value of land, and interests therein, if the corporation received conveyance of the land pursuant to Section 14(H)(1) of the ANCSA or if the land is used as a cemetery. With respect to the surface estate of land owned by a Native corporation, the board is authorized not to appraise or otherwise determine the value of surface estate which is not "developed", as is defined in Section 907 of the Alaska National Interest Lands Conservation Act (ANILCA), is not otherwise subject to real property taxes and is used by shareholders of the corporation for the taking of fish, game, timber, plants or other wild, renewable resources for "subsistence uses" as is defined in Section 803 of ANILCA. Lastly, with respect to both the surface and subsurface estate of land, the board is authorized not to appraise or otherwise determine the value of surface or subsurface estate which the board believes is of speculative economic value. In reviewing a board decision in this regard, the standard of judicial review should be whether the board acted in good faith when it determined that a particular parcel of surface or subsurface estate was of speculative economic value.

SECTION 8. DURATION OF ALIENABILITY RESTRICTIONS

House bill—The House bill contains general provisions regarding duration of alienability restrictions in Section 5 and special provisions regarding the Bristol Bay Native Corporation and village corporations in that region in Section 6. The general rule contained in Section 5 provides for Congressional extension of alienability restrictions of Native corporation stock until a vote is taken by the corporation shareholders to remove such restrictions. The special provisions regarding the Bristol Bay Native Corporation and any village corporation located in the Bristol Bay region provide that the board of directors of any eligible corporation may adopt within one year of the date of enactment of this Act, a resolution under Section 7(h)(2)(f) providing for use of these special provisions. These provisions provide that a vote must be taken on a resolution regarding the continuation of alienability restrictions. If the resolution to extend alienability restrictions did not pass, these restrictions terminate within a certain time. If a resolution to extend restrictions passes, extension of restrictions would be in force for a period of not less than twenty but not more than fifty years as specified by the resolution.

This section also provides for the mandatory payment of dissenters' rights to shareholders dissenting from the resolution and establishes voting standards for the passage of such resolutions. Additionally, Section 7(a)(f)(1) provides the terms and conditions under which dissenters rights would be paid, including valuation of any common stock as restricted stock and the exclusion of certain land values for the purposes of valuating of such stock. The provision also provides for the payment of dissenters' rights though the use of a non-negotiable note payable under certain terms and conditions.

Senate amendment—The Senate amendment combines various alternatives for decision-making on alienability restrictions into one section. The provision, the new Section 37 of ANCSA, establishes a general rule that alienability restrictions shall continue until terminated under one of three procedures. The opt-out procedure is similar to the procedure in Section 5 of the House bill in which a Native corporation may amend its articles of incorporation to terminate alienability restrictions on a shareholder vote. The so-called opt-out vote specifies the time of termination and may be voted on upon not more than once prior to 1991 and not more than once annually thereafter.

A recapitalization procedure is included in the Senate amendment. This procedure permits a corporation to amend its articles of incorporation to implement a recapitalization plan. The plan may be used by shareholders to approve a variety of recapitalization issues in one vote, including the decision on the maintenance of extension of alienability restrictions. The Senate bill also includes approval of additional issuance of common stock or other new stock including in the case of Cook Inlet Region, Inc., the approval of a plan for stock options as incentives to officers and employees. The recapitalization procedure is authorized until December 18, 1991 at which point the authority terminates.

The Senate amendment included provisions that had the effect of allowing corporations electing to use the so-called "recapitalization option" of the revised Section 37(c) to forthwith terminate alienability restrictions even in those cases in which the same corporation had previously acted to extend alienability restrictions for a specified period of time. This ability to prematurely end an otherwise-established period for alienability restrictions was not available, under the Senate amendment, to a corporation that instead elected to utilize the "opt-in" procedure in the revised Section 37(d). The House amendment eliminates this disparity by revising Section 37(c) so that if a corporation utilizing this option should act to continue alienability restrictions for a specified time, those restrictions could not be revoked prior to the expiration of such specified period.

The third procedure is the opt-in procedure. This is similar to the Bristol Bay provisions of Section 6 of the House bill but applies not only to the Bristol Bay regional and village corporations and other named regional and village corporations in section 8 of the House bill but to all regional corporations and the village corporations in the Bristol Bay and Aleut regions. This provision permits corporations to require a mandatory vote on continuation of alienability restrictions and the mandatory payment of dissenters rights to dissenting shareholders on such vote. In addition to provisions in Section 9 regarding dissenters' rights similar to those contained in the House bill, the Senate amendment includes an option for payment of dissenters rights by the issuance of alienable common stock in lieu of cash payments.

The proposed amendment generally adopts the provisions of the Senate verion of Section 8. A number of changes were made including deletion of authority for a stock incentive plan by Cook Inlet Region, Inc. under the recapitalization procedure and the limitation of the authority for recapitalization to regional corporations. The proposed amendment also contains a change clarifying that no restrictions may be lifted under any procedure prior to December 18, 1991. A change in the opt-out procedure provides for periods of 2 or 5 years respectively as the minimum time period by which a corporation may vote to terminate restrictions if it has previously voted not to terminate restrictions.

The proposed amendment also makes clear that the automatic termination of restrictions under the opt-in procedure shall not take effect if the board of directors fails to submit for a shareholder vote an amendment to the articles of incorporation regarding termination which complies with the requirements of the opt-in section.

The amendment provides that restrictions on alienation attached to ANCSA settlement stock cannot be removed until December 18, 1991. This does not mean, however, that the authority to issue additional classes of stock under Section 7(g)(2) or as part of a recapitalization plan cannot be exercised prior to that date so long as stock restrictions are not removed prior to December 18, 1991.

SECTION 9. DISSENTERS' RIGHTS

House bill—This section contains the House provisions regarding dissenters' rights in Section 6. Under that section, the stock holders of a corporation may adopt a resolution authorizing dissenters' rights. If such a resolution is adopted, the dissenters' rights valuation procedure is governed by the provisions of section 6 in which dissenters' rights are defined in the special provisions applicable to the Bristol Bay Native Corporation and certain other named corporations.

Senate amendment—The Senate amendment includes a new section 38 of ANCSA concerning dissenters' rights. That section provides the specific terms and conditions under which dissenters' rights may be exercised. Under the opt-out procedure, dissenters will be paid for their stock only if the Native corporation had adopted a resolution granting such rights contemporaneous with the vote on whether alienability restrictions should be terminated. Under the opt-in procedure, the grant of dissenters' rights is mandatory if alienability restrictions are continued, but the native corporation can choose either to pay in cash or a short-term note or to issue alienable stock to dissenters. The new section also includes provisions regarding the application of existing state law governing dissenters' rights, the valuation of common stock for purposes of making payment to dissenters, and the use of a negotiable note (adjusted in face amount to reflect post-vote dividends) to make payment in lieu of cash. Except for the use of a negotiable note, the valuation and payment procedure is similar to that contained in the House bill.

The proposed amendment contains the provisions of the Senate version of Section 9. As with the House bill, dissenters' rights are not to be valued based on liquidation value of the corporation since dissenters as a minority cannot liquidate the corporation. Instead, the value of the restricted stock would represent the discounted cash flow of expected dividends, the only cash benefit attributable to restricted stock.

A matter of great concern to the Native corporations has been the possibility that if they are required to make payments to claimants under the dissenters' rights provisions, it might be necessary to undertake the onerous and expensive task of formally appraising the putative market value of large tracts of land that in fact are not developed and are not used for commercial purposes. The Senate amendments addressed this by authorizing the board of directors to withhold information concerning the values of such lands. The proposed amendment rejects this approach. Instead, the proposed amendment (in the revised Section 38(c) of the Settlement Act as it would be amended by the bill) would allow the board of directors to act so as to exclude from valuation three categories of land held by the corporation.

The three categories are: (1) any land that was conveyed to the corporation by the United States under Section 14 (h)(1) of the Settlement Act (which deals with historic areas and cemetery sites and provides for conveyance of such to regional corporations) and any other land used as a cemetery (including cemeteries owned by corporations other than regional corporations);

(2) surface estate in land that is both exempt from real estate taxation under the Land Bank provisions of the Alaska National Interest Lands Conservation Act (as it would be amended by this bill) and is also used by the corporation's shareholders for subsistence uses (as defined in the Alaska National Interest Lands Conservation Act); and

(3) any land or interest therein that the board of directors believes in good faith to be only of speculative value.

These categories take on an added importance because the proposed amendment would also allow the exclusion of the same types of land from any lien upon a corporation's real property interest that might be established to secure a note issued pursuant to the revised Section 38(d) of the Settlement Act as it would be amended by the bill.

SECTION 10. SETTLEMENT TRUST OPTION

House bill—There is no similar provision to this Section in the House bill. The House bill did include in section 7 a provision authorizing the transfer of assets to a qualified transferee entity under certain terms or conditions.

Senate amendment—The Senate amendment did not include the authorization for transfer of assets to a qualified transferee entity. Instead, the authorization for a Native corporation to convey certain assets to a settlement trust established under existing Alaska State law is included. Under the terms of this section, a new Section 39, the Native corporation utilizing Alaska state law may establish a trust for the benefit of its shareholders. The general purpose of the trust will be to preserve the heritage and culture of natives and to promote the health, education, and welfare of its beneficiaries. The trust may not operate as a business or convey land or an interest in land received from a Native corporation creating it or discriminate in favor of a group of individuals composed only or principally of employees, officers, or directors of the corporation. A variety of provisions regarding the management of the trust are included in this new section.

The proposed amendment adopts the provisions of Section 10, except that the name of the trust is changed to "Settlement Trust" to make clear that existing State of Alaska law regarding the establishment of trusts shall be utilized and that no additional State of Alaska law authority is required for the establishment of such trusts.

This section represents a compromise between Section 7 of the House bill and Section 10 of the Senate bill. It honors the recent vote taken on this subject at the most recent Alaska Federation of Natives convention.

The Settlement Trust section is intended to enable Native Corporations to convey assets to Settlement Trusts in which the assets may be better managed for the benefit of the Alaska Natives. The provision is in recognition of the fact that the corporate form of ownership, as mandated by the Act, has not always served the best interests of the Alaska Natives, and that in many cases the purposes of the Act may be carried out better by allowing Alaska Natives to alter their form of ownership.

Settlement Trusts are expected to serve two principal functions. They are intended to be permanent, Native-oriented institutions which shall hold and manage, in perpetuity, any historic or culturally significant surface lands, sites, cemeteries, traditional use areas, or monuments, for the benefit of the beneficiary population. It shall manage any other surface lands conveyed or culturally significant assets in like fashion. The Trusts will require income generated from assets conveyed to it, or other sources, to carry out these responsibilities.

The other prime function relates to the health, education and economic welfare of its beneficiaries. Trusts may receive conveyances of securities, cash, or other assets which it must manage prudently, and passively, in the interests of its beneficiaries, and in conformance with the terms and conditions set forth in the trust instrument and this Act. At the discretion of the trustees, the income generated from these assets, and, if permitted, Trust assets themselves can be used to provide scholarships and other educational benefits. Assets can be used to improve health care delivery or facilities, pay for needed health care and otherwise be devoted to bettering the health of the beneficiary Native community. Finally, the Trust assets may be used to bolster the economic well-being of the beneficiaries. Trust distributions may be used to fight poverty, provide food, shelter and clothing, and serve comparable economic welfare purposes. Additionally, cash distributions of trust income may be made on an across-the-board basis to the beneficiary population as part of the economic welfare function.

Subsection (a)(1)(A) sets out the conveyances to be covered by this section. As such, it limits the applicability of this section to conveyances that meet the requirements set forth herein. Existing law limits the use of Net Operating Losses to a Native Corporation. Therefore a transfer of such Net Operating Losses to a Settlement Trust would not permit the realization of an NOL tax benefit. Section 39 does not in any way alter that limitation. As indicated in subsection (a)(4), it also does not deny Native Corporations the ability to make other types of transactions currently permitted under state law and the laws of the United States.

Subsection (a)(1)(B) requires shareholder approval of any resolution to convey all or substantially all of the assets of the Native Corporation to the Trust. When read with the protections provided in Section 36, this subsection evidences clear Congressional intent to provide shareholders with sufficient protection and disclosure rights with respect to the crucial decisions involving Native Corporation conveyances to Settlement Trusts.

Subsection (a)(2) is an absolute prohibition against conveyance of subsurface estate to a Settlement Trust, with the exception of timber resources. In the event timber resources are conveyed to a Settlement Trust, they can be harvested only in accordance with the conditions set out in subsection (c)(2).

Subsection (a)(3) is intended to ensure that valid creditors' rights are not interdicted by the conveyances authorized by this section. It also clarifies the issue of dissenters' rights with respect to conveyances to Settlement Trusts. Even in the applicable situations, dissenters' rights arise only to the extent they exist under State law.

Subsection (4) has been included to make sure that the Settlement Trust authorities provided herein are not viewed as a substitute for any other rights held by Native Corporations to create or administer trusts, or to engage in any other transaction permissible under the laws of the State or the United States.

Subsection (b)(1) establishes certain requirements and characteristics of the Settlement Trust. By doing so, Congress expressly intends to preempt State law with regard to these elements of Settlement Trusts. By requiring that these trusts be registered with the State of Alaska, Congress seeks to establish that the laws of the State of Alaska, rather than any other state, apply and that the State is the proper venue and jurisdiction. Congress does not, however, intend to prohibit diversity jurisdiction in the federal courts.

While setting forth Settlement Trust characteristics, Congress intentionally left discretion in the Native Corporations to formulate and state the terms and conditions governing the Trust through the trust instrument, consistent with the provisions of this Act and State law. Specifically, the settlor Native corporation shall have the authority to set forth the terms and conditions contained in the trust instrument, including but not limited to the employment of agents or professionals, investment standards, bonding requirements, indemnities, accumulations, distributions, or restrictions on alienation of beneficial interests. State courts will retain their traditional authority to determine question as to trust validity, administration, and construction. Enforcement of trust terms, application of prudent man requirements, and other conventional trust oversight functions will remain within the purview of State courts, to the extent timber harvest, the tract is "developed" only during the period of time the harvest is actually being conducted. With respect to a tract of land which has been subdivided, at the time the plat which effectuated the subdivision is resubdivided to return the tract to its original configuration, the tract is no longer "developed" and the land protection immunities afforded by this section again automatically apply.

Regardless of its prior undeveloped state, upon the recordation of a plat, land identified or described on the plat shall be subject to payment of state and local property taxes, if any, which, but for the land * * *

However, during the period of time the land is subject to such pledge or commitment it shall continue to receive the immunities afforded by Subsection (d)(1)(4)(iii)-(v) with respect to claims made by persons or entities to whom the land or interest has not been expressly pledged or committed. Land is "expressly committed" if it is described with sufficient clarity for the agreement to be enforceable, as regards the land, under State law. At the time a parcel or tract of land is no longer expressly pledged or committed, the land protection immunities afforded by this section shall again automatically apply to the land within the parcel or tract.

The determination as to which timber resources are developed and when they revert to undeveloped status shall be made on the basis of notifications filed with the State of Alaska by the Native landholder, pursuant to requirements of the State Forest Resources and Practices Act, AS 41.17.010 et seq., and regulations promulgated thereunto. Once an operator, after giving notice to the Commission of Natural Resources of its Proposed operations, commences operations, the lands designated by the operator in the notification will be deemed developed. The period of harvest will end and protection immunities afforded by this section, would have been assessed against the land during the thirty months preceding the final approval.

For the purposes of this section "final approval" means the final approval of the plat by the last state or local authority with authority to pass upon such plat. The tax due as a result of the final approval may be paid over a two-year period, shall apply only to the smallest practicable tract integrally related to the subdivision project and may not be assessed against "remainder parcels" or against the value of subsurface resources or timber.

Even though land has not been "developed", the land protection immunities provided by this section do not apply during the period of time the land is leased to a third party. In addition, the land protection immunities described in subsection (d)(1)(A)(iii)-(v) also do not apply with respect to a claim arising from a loan or commercial transaction involving a person or entity who or which has been given a security interest in the land in exchange for the loan or to whom the land has been expressly committed in a commercial transaction in a valid agreement.

The developed land revert to undeveloped status when the Native landowner, or its designated operator, has completed harvest operations and notifies the Commissioner that it has ended operations in the notification area.

As enacted in 1980, Section 907 of the ANILCA established the Congressional policy that Native and Native corporation land should not be involuntarily lost as a result of the execution of judgments based on claims or creditors which arose either before or after December 2, 1980, or of insolvency or bankruptcy proceedings.

For that reason, Section 907 authorized Natives and Native corporations to protect undeveloped land from creditors by executing a land bank agreement without regard to whether executing the agreement might render the Native or Native corporation insolvent. In that regard, to the extent the execution of a land bank agreement might otherwise have violated 11 U.S.C. 548, A.S. 34.40.010 or other laws generally affecting creditors' rights, Section 907, as originally enacted, superceded such statutes insofar as they might otherwise have applied to void the execution of such an agreement.

The automatic extension of the land protection immunities afforded by this section reaffirms this important Congressional policy. As a matter of law, the section automatically protects Native and Native corporation land from claims of creditors which arose either before or after December 2, 1980, from the execution of judgments based on such claims, and supersedes title 11 of the United States Code, other State and federal insolvency and moratorium laws and all other State and federal laws generally affecting creditors' rights.

With respect to the power of the State and Federal Governments to condemn Native and Native corporation land which is automatically afforded the land protection immunities set forth in this Section, such lands are subject to condemnation to the same extent they would have been subject to condemnation if the landowner had entered into a land bank agreement authorized by Section 907 of the ANILCA as originally enacted.

SECTION 12. CONFORMING AMENDMENTS

House bill—The House bill contains conforming amendment to Section 21 of ANCSA in Section 14.

Senate amendment—The Senate amendment contains a variety of conforming amendments.

The proposed House amendment deletes a Senate amendment to Section 21(c) of ANCSA. The Senate amendment had added a new sentence at the end of Section 21(c) as previously amended. The new sentence clarified that, for purposes of establishing the tax basis of ANCSA lands, the receipt of advance payments, including bonuses and advance royalties, does not constitute "first commercial development" and therefore does not require the establishment of the tax basis of these lands at that time.

The proposed House amendment deletes a Senate amendment to Section 21(c) of ANCSA. The Senate amendment had added a new sentence at the end of Section 21(c) as previously amended. The new sentence clarified that, for purposes of establishing the tax basis of ANSCA lands, the receipt of advance payments, including bonuses and advance royalties, does not constitute "First commercial Development" and Therefore Does not require the establishment of the tax basis of these lands at that time.

Section 21(c) of ANCSA was substantially modified in 1980 by Section 1408 of ANILCA. The ANILCA amendment established the method for determining the tax basis of lands conveyed to Native Corporations under ANCSA. This provision set the tax basis of ANCSA lands at the fair market value of the lands at the time of receipt but also permitted the Native Corporation, in the alternative, to set the basis at the fair market value of the lands at the time of "first commercial development.

At the time of the passage of the ANILCA amendment to Section 21(c), Native corporations received assurances from the Internal Revenue Service and the Department of the Treasury that the term "first commercial development" did not include the receipt of advance payments, such as bonuses or advance royalties, under the terms of an exploration agreement, lease option agreement, or oil and gas lease, even through depletion deductions were subsequently taken by the Native Corporation. Indeed, any other interpretation would run directly counter to both the explicit language and the intent of the amendment contained in Section 1408 of ANILCA. Receipt of advance payments clearly do not constitute "commercial development" of the property; rather, such payments are made as part of an exploratory program.

The Internal Revenue Service recently reconfirmed that the language of the 1980 amendment permits the receipt of advance payments and the claim of depletion deductions without establishing the tax basis under the "First commerical development" standard.

Since the IRS has now confirmed that this interpretation of the statutory directive of ANILCA's Section 1408 amendment, the proposed Senate amendment is now no longer necessary. The deletion of the proposed amendment is made in recognition of the IRS' interpretation of the "first commercial development" standard and no other inference should be taken from its deletion from this legislation.

The proposed amendment adopts the Senate version of Section 12, with the deletion of proposed amendments to Section 21(c) of ANCSA.

SECTION 13. SEVERABILITY

House bill—The House Bill contains a severability provision.

Senate Amendment—The Senate bill contains a similar severability provision.

The proposed amendment to the Senate version of Section 13.

SECTION 14. SECURITY LAWS EXEMPTION

House bill—The House bill contains amendments to Section 28 of ANCSA regarding the existing exemption of Native corporations from securities laws. These amendments generally provided that the existing provisions continue so long as the limitation on alienation is not removed or unless a corporation issues stock to individuals other than natives or descendants of natives. A variety of other technical amendments regarding the securities laws exemptions are included in this section.

Section amendment—The Senate amendment contains several provisions similar to the House bill in this section.

The proposed amendment adopts provisions of the Senate version of Section 14 and provides for technical changes concerning the application of the Investment Company Act of 1940 to subsidiaries of native corporations and the settlement trust.

SECTION 15. ELIGIBILITY FOR FEDERAL PROGRAMS—MINORITY PROGRAMS

House bill—Section 17 of the House bill amends Section 29 of ANCSA to make clear that ANCSA benefits including compensation, revenue, stock, land, or other benefits should not be used as a basis to disqualify an individual or household from participation in food stamp programs, social security assistance, or other programs otherwise available to Alaska Natives. Section 17 also provides that any corporation with 50 percent or more voting power represented by outstanding Native common stock or other securities held by native or descendants of natives entitled to vote shall be considered a corporation owned and controlled by Alaska Natives for the purpose of federal law.

Senate amendment—Section 29 of ANCSA is amended by the Senate amendment to provide that any compensation including cash dividends stock distributions, partnership, or land interests not in excess of $2,000 per individual may not be used to disqualify an individual or descendant of a native from the food stamp program, social security assistance, or of benefits from any other federal program or federally assisted program. The Senate amendment also contains a provision stating that Alaska Natives shall remain eligible for all federal programs on the same basis as other Native Americans. The section also contains provisions regarding the definition of Native Corporations as minority business enterprises and for purposes of implementation of the Civil Rights Act of 1964.

The proposed House amendment adopts provisions of the Senate version of Section 15 with a technical amendment.

SECTION 16. JUDICIAL REVIEW

House bill—Section 11 of the House bill provides exclusive original jurisdiction over any action challenging the constitutionality of these amendments to ANCSA to be heard in the U.S. District Court for the District of Alaska. The provision also contains a section expressly stating that a monetary judgment may not be entered against the United States as part of any relief pursuant to a court action concerning these amendments.

Senate amendment—The Senate amendment contains a specific statute of limitations for challenging provisions of these amendments. The amendment also contains provisions regarding jurisdiction and procedure and a prohibition against any judgment being entered against the United States similar to the House bill.

The proposed House amendment adopts the provisions of the Senate version of Section 16 with two changes. The statute of limitations for specifically listed challenges is increased from six months to one year, and a challenge to denial of dissenters' rights on an opt-out vote is added to that specific list.

SECTION 17. DISCLAIMER

House bill—section 8 of the House bill provides a disclaimer concerning the effect of these amendments on the scope of Governmental powers, if any, for an Alaska native village entity including those organized under the Act of June 18, 1934 or traditional councils. The disclaimer provides that these amendments shall not be construed as enlarging or diminishing in any way the scope of powers of any of such entities.

Senate amendment—The disclaimer contained in the Senate amendment provides that no provision of these amendments, nor change made by or pursuant to this Act in the status of land can be construed to validate or invalidate or in any way affect any assertion that a native organization (including federal recognized tribe, traditional native council or native council) does not have governmental authority over lands (including management or the regulation of the taking of fish and wildlife) or persons within the boundaries of the State of Alaska or the assumption that Indian Country as defined by 18 USC 1151 and any other authority exists or does not exist within the boundaries of the State of Alaska.

The proposed amendment adopts the Senate version.

Section 17 of the Senate amendments contains a disclaimer to the effect that nothing in the legislation shall be deemed to affect the issue of whether or not there continues to be tribal governing entities in Alaska or Indian country. Included in the section is the statement that:

"No provision of this Act * * * shall be construed to validate or invalidate or in any way affect * * * any assertion that a Native organization (including a federally-recognized tribe, traditional Native council, or Native council organized pursuant to the Act of June 18, 1934 * * *) has or does not have governmental authority * * *

The House would have preferred to retain the disclaimer language contained in Section 8 of H.R. 278 as passed by the House. However, it has been agreed that the Senate language would be retained with the understanding that the inclusion of the three defined entities within the parenthetical phrase would not be taken as a congressional determination that a traditional council or 1934 council was or was not a federally-recognized Indian Tribe.

Additionally, the proposed amendment clarifies the impact of this Act on federal tax collections and enforcement efforts.

In 1971 Congress determined that, pursuant to Section 7(h) of ANCSA, Native corporation stock could not be subjected to judgment executions (including the execution of federal tax judgments obtained by the United States) prior to January 1, 1992, when Native corporation stock previously issued would have been deemed to be cancelled. Section 5 of this Act rewrites Section 7(h) of the Alaska Native Claims Settlement Act to continue this important policy after January 2, 1992, with respect to Settlement Common Stock. Pursuant to Section 5, Settlement Common Stock may not be subjected to execution to satisfy federal tax, or any other, judgments. However, other stock issued by a Native corporation such as stock issued pursuant to Section 7(g)(2) of ANCSA, as amended by this Act, may be subjected to judgment execution.

Similarly, in 1980 Congress determined that land, and interests therein, conveyed to Natives and Native corporations pursuant to ANCSA may not be subjected to judgment executions, including, but not limited to, the execution of federal tax judgments obtained by the United States, during periods of time during which such land, and interests therein, are not developed. Section 11 of this Act rewrites Section 907 of the ANILCA to continue this important policy during periods of time during which land, and interests therein, are not developed, regardless of whether the Native, Native corporation or Settlement Trust who or which owns the land or interest has signed a land bank agreement which includes the land or interest.

Section 17 is intended to clarify that nothing in the Alaska Native Claims Settlement Act Amendments of 1987 is intended to diminish or enlarge the authority of the United States government to assess, collect or otherwise enforce federal tax judgments against Natives, Native corporations and Settlement Trusts by executing upon property other than Settlement Common Stock and land which has not been developed.

The Alaska Native Claims Settlement Act Amendments of 1987 extends the existing exemptions from federal tax judgments for Settlement Common Stock and undeveloped Native land, and the disclaimer in Section 17 is not intended to limit in any way the continued application of these exemptions. The disclaimer does, however, assure that this legislation does not establish any new exemptions from federal tax judgments for property other than Settlement Common Stock and undeveloped Native lands and interests therein.

Section 17 is also intended to clarify that nothing in the Alaska Native Claims Settlement Act Amendments of 1987 is intended to affect, for federal tax purposes, the valuation of any stock issued by a Native corporation.

OTHER PROVISIONS OF THE HOUSE OR SENATE BILL

Section 12 of the House bill contains an authority for regional corporations to convey subsurface estate to village entities which acquired or currently own the overlying surface estate. This provision is not contained in the Senate bill and is not included in the proposed amendment.

Section 8 of the House bill provides that the provisions of Section 7, the Bristol bay region special provisions, may also be utilized by the Aleut Corporation, Cook Inlet Region, Inc., Koniag Inc., and any village within the Aleut and Cook Inlet regions by a vote of the corporation's board of directors within one year of the passage of this act. This provision was not included in the proposed amendment because its provisions are contained within the terms of the opt-in procedure in Section 8 of the conference report.

Both the House and Senate considered including Native Corporations as "state development companies," pursuant to the Small Business Act of 1956 and regulations issued thereto. The House deemed it unnecessary after reviewing the decision of the Small Business Administration in *Appeal of Doyon Construction Co.*, Docket No. SAB-83-9-7-258, November 1, 1983.

Section 7 of the House bill and Section 10 of the Senate bill contain provisions dealing with transfers of corporate assets to subsidiary corporations or trusts. While an Asset Reorganization section is not included in the proposed amendment, such an amendment may be proposed in the future and would receive expeditious consideration by the Committee on Interior and Insular Affairs.

Mr. STEVENS. Mr. President, as I said, it is a matter of great pride for me to stand here with my good friend, the distinguished majority leader, to finish this task.

I move that the Senate concur in the amendment of the House to the Senate amendment to H.R. 278.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ONSHORE OIL AND GAS LEASES—H.R. 3479

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate recede from its amendment to the title to H.R. 3479, a message from the House dealing with onshore oil and gas leases on which the Senate acted earlier this evening.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR FILINGS BY COMMITTEES

Mr. BYRD. Mr. President, I ask unanimous consent that committees may file reported bills, resolutions, and other matters on Wednesday, January 20, between the hours of 10 a.m. and 4 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

EARTHQUAKES HAZARD REDUCTION ACT AUTHORIZATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 466.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 1612) to authorize appropriations under the Earthquakes Hazards Reduction Act of 1977 for fiscal years 1988, 1989, and 1990.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

That (a) section 7(a) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(a)) is amended by adding at the end the following:

"(7) There are authorized to be appropriated to the Director, to carry out the provisions of sections 5 and 6 of this Act, $5,778,000 for the fiscal year ending September 30, 1988, and $5,788,000 for the fiscal year ending September 30, 1989.".

(b) Section 7(b) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(b)) is amended—

(1) by striking "and" after "1986;"; and

(2) by inserting immediately before the period the following: "; $40,540,000 for the fiscal year ending September 30, 1988; and $41,819,000 for the fiscal year ending September 30, 1989".

(c) Section 7(c) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(c)) is amended—

(1) by striking "and" after "1986;"; and

(2) by inserting immediately before the period the following: "; $28,700,000 for the fiscal year ending September 30, 1988; and $32,100,000 for the fiscal year ending September 30, 1989".

(d) Section 7(d) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(d)) is amended—

(1) by striking "and" after "1986;"; and

(2) by inserting immediately before the period the following: "; $525,000 for the fiscal year ending September 30, 1988; and $525,000 for the fiscal year ending September 30, 1989".

Sec. 2. Section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704) is amended by adding at the end the following:

"(j) Cost Sharing.—(1) In the case of any State which has voluntarily engaged in cost sharing by matching Federal grants from the Federal Emergency Management Agency for activities under this Act over the three-fiscal-year period ending September 30, 1987, any such cost sharing that may be required for the fiscal year ending September 30, 1988, or the fiscal year ending September 30, 1989, shall be at a level no higher than the State's average level of such cost sharing over such 3-year period.

"(2) In the case of any State which has not engaged in cost sharing by matching Federal grants from the Federal Emergency Management Agency for activities under this Act over such 3-fiscal-year period—

"(A) no such cost sharing may be required for the fiscal year ending September 30, 1988; and

"(B) any such cost sharing that may be required for the fiscal year ending September 30, 1989, shall be at a level no higher than 25 percent of the cost of the activities involved.

"(3) Nothing in this subsection shall be construed to prevent a State, voluntarily and at its option, from engaging in cost sharing at a level higher than the maximum level which may be required of it under paragraph (1) or (2).".

AMENDMENT NO. 1379

(Purpose: To make an amendment in the nature of a substitute)

Mr. BYRD. Mr. President, on behalf of Mr. Hollings, I send to the desk a substitute amendment for the committee reported substitute.

The PRESIDING OFFICER. The substitute amendment for the committee reported substitute will be stated.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. Byrd], for Mr. Hollings, proposes an amendment numbered 1379.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause, including the amendment to the title of the bill, and insert in lieu thereof the following:

That (a) section 7(a) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(a)) is amended by adding at the end the following:

"(7) There are authorized to be appropriated to the Director, to carry out the provisions of sections 5 and 6 of this Act, $5,778,000 for the fiscal year ending September 30, 1988, $5,788,000 for the fiscal year ending September 30, 1989, and $5,798,000 for the fiscal year ending September 30, 1990.".

(b) Section 7(b) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(b)) is amended—

(1) by striking "and" after "1986;"; and

(2) by inserting immediately before the period the following: "; $38,540,000 for the fiscal year ending September 30, 1988; $41,819,000 for the fiscal year ending September 30, 1989; and $43,283,000 for the fiscal year ending September 30, 1990".

(c) Section 7(c) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(c)) is amended—

(1) by striking "and" after "1986;"; and

(2) by inserting immediately before the period the following: "; $28,235,000 for the fiscal year ending September 30, 1988; $31,634,000 for the fiscal year ending September 30, 1989; and $35,454,000 for the fiscal year ending September 30, 1990".

(d) Section 7(d) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(d)) is amended—

(1) by striking "and" after "1986;"; and

(2) by inserting immediately before the period the following: "; $525,000 of the fiscal year ending September 30, 1988, $525,000 for the fiscal year ending September 30, 1989; and $525,000 for the fiscal year ending September 30, 1990".

Sec. 2. Section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704) is amended by adding at the end the following:

"(j) Cost Sharing.—(1) In the case of any State which has voluntarily engaged in cost sharing by matching Federal grants from the Federal Emergency Management Agency for activities under this Act over the three-fiscal-year period ending September 30, 1987, any such cost sharing that may be required for the fiscal year ending September 30, 1988, or the fiscal year ending September 30, 1989, shall be at a level no higher than the State's average level of such cost sharing over such three-year period.

"(2) In the case of any State which has not engaged in cost sharing by matching Federal grants from the Federal Emergency Management Agency for activities under this Act over such three-fiscal-year period—

"(A) no such cost sharing may be required for the fiscal year ending Septemer 30, 1988; and

"(B) any such cost sharing that may be required for the fiscal year ending September 30, 1989, shall be at a level no higher than 25 percent of the cost of the activities involved.

"(3) Nothing in this subsection shall be construed to prevent a State, voluntarily and at its option, from engaging in cost sharing at a level higher than the maximum level which may be required of its under paragraph (1) or (2).".

Mr. HOLLINGS. Mr. President, I am pleased that the Senate is now considering H.R. 1612, the Commerce Committee's bill to reauthorize the Earthquake Hazards Reduction Act of 1977.

This year we have once again been reminded of the great threat earthquakes pose to much of the United States. The September earthquake near Whittier, CA, was only moderate in magnitude, but it nonetheless killed several people and caused over $100,000,000 in property damage. Far stronger and deadlier earthquakes are possible not just in California but also in other parts of the West, the Central States, and the east coast.

Congress passed the Earthquake Hazards Reduction Act in 1977 to provide a coordinated, multiagency program for conducting research and, equally important, helping States and localities plan for earthquakes in ways that can minimize the death and destruction they cause. The program has accomplished much, but much remains to be done. For that reason, I and the Commerce Committee believe the National Earthquake Hazards Reduction Program created under the act should be continued.

In recent days, the Commerce Committee and the two House authorizing committees—Science, Space, and Technology and Interior and Insular Affairs—have discussed the differences which exist between the House-passed version of the bill and the version reported by the Commerce Committee.

As a result of those discussions, we are today offering an amendment in the nature of a substitute which I believe will be acceptable to both the Senate and the House. The proposed amendment provides, as did the original House version, for 3-years authorizations for the earthquake hazard reduction activities of the four principal Federal agencies—the Federal Emergency Management Agency, the U.S. Geological Survey, the National Science Foundation, and the National Bureau of Standards. At the same time, the proposed amendment includes small, targeted authorization increases for Geological Survey programs which the Commerce Committee believes will be of great value. It is my hope that after we pass the bill, amended by the substitute, the House will accept this language and send it to the President for his signature.

Mr. President, I want to thank my colleagues who have worked on this legislation, particularly our committee's distinguished ranking member, Senator DANFORTH. The earthquake program is needed and valuable, and I urge my colleagues to support both the amendment and the bill itself.

Mr. STEVENS. Mr. President, I am happy to be here at this time. My State being most prone to earthquakes, I am happy to see this bill disposed of. I applaud the majority leader for bringing it up, even though it is late in the session.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the substitute amendment to the committee amendment.

The amendment (No. 1379) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ACTION WITH RESPECT TO NOMINATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that all nominations received by the Senate remain in status quo, notwithstanding the provisions of rule 31, paragraph 6, with the following exceptions:

Department of Defense: Kenneth P. Bergquist.

Army: Charles W. Bagnal.

Air Force: James A. Abrahamson.

Department of Energy: Robert O. Hunter, Jr.

Department of Housing and Urban Development: Deborah Gore Dean.

Federal Labor Relations Authority: J. Joseph Lydon.

All pending nominations from Department of State and Foreign Service Officer lists.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 99-624, appoints the following Senators to the Eisenhower Centennial Commission: the Senator from Alabama [Mr. HEFLIN], the Senator from Nebraska [Mr. EXON], and the Senator from Kansas [Mr. DOLE].

The Chair, on behalf of the Vice President, in accordance with Public Law 81-754, as amended by Public Law 93-536, appoints the Senator from Maryland [Mr. SARBANES] to the National Historical Publications and Records Commission.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, the Senate recessed at 1:25 a.m., subject to the call of the Chair.

The Senate reassembled at 1:28 a.m., when called to order by the Presiding Officer [Mr. GRAHAM].

APPRECIATION FOR OUR STAFFS

Mr. BYRD. Mr. President, every Member of this Chamber well knows that it is more than the 100 Members of this Chamber who contribute to the effective workings of the U.S. Senate. The Chamber functions successfully only through the dedicated and often strenuous efforts of hundreds of people who operate behind the scenes. On this, the final day of the 1st session of the 100th Congress, I want to take a few minutes to recognize some of these individuals who work in the shadow of history and to thank them for the invaluable services they provide.

The Senate pages, as usual—the Democratic pages, the Republican pages—represent a fine group of young Americans interested in the workings of their Government and seeing how it operates. They have done everything they could to assist the Members of this Chamber, and I want to personally extend my deepest thanks, my heartfelt thanks, to all these fine young people.

They are making a great contribution to the Senate and to its work and, therefore, the Nation.

I also thank my good friend, the Reverend Dr. Halverson for his spiritual guidance and human kindness. I have always found his opening prayers to be inspirational and thoughtful. While we generally are unable to perform the miracles for which the good reverend prays, I at least commend him for making the request.

May I thank him too always for his kindness to those of us who from time to time have loved ones in the hospital or for whom we have to conduct memorial services. He is always faithful in his attendance and so helpful in our hours of need.

The Secretary of the Senate, Walter (Joe) Stewart, is a long time friend and associate. I take this opportunity to thank him for returning to work in the U.S. Senate in his present position and for the valuable service he has performed over the past year.

Let me also express my deep appreciation to the Secretary for the Majority, Abby Saffold. Abby, along with her assistants Sue Spatz and Jerri Davis, faithfully perform their many duties with consummate ability and grace. Robert Bean, Assistant Secretary for the Majority, is an outstanding individual. Bob performs his duties with diligence, enthusiasm and professional competence.

I also want to express my appreciation to Howard O. Greene, Secretary for the Minority, and his assistant, John L. Doney, who perform valuable services for Republican Senators and for Democratic Senators.

I am sure that all of my Democratic colleagues join with me in appreciation of the Democratic floor staff, Charles Kinney, Marty Paone, and Bill Norton. They are well known to every Member of this body and have developed a reputation for fulfilling their difficult and demanding job with competence, courtesy, and good humor. Working with their equally dedicated and professional Republican counterpart, Elizabeth Greene, they facilitate the important work of the Senate floor.

May I comment again on Elizabeth's fine disposition. She is always so very easy to work with, so cooperative, so courteous and so understanding, and my staff people on this side are just so proud of the friendship that exists between these two fine staffs on the floor.

The staff of the Democratic cloakroom—Joe Hart, Bailey Izard—by the way, Bailey Izard's distant relative, a great, great grandfather was a U.S. Senator in the First Congress; I am not sure my memory serves me correctly on that; but, in any event, he was a U.S. Senator and I have spoken of him in my speeches on the history of the Senate—who knows, Bailey may be a Senator also one day—Gary Heimberg, Lenny Oursler, and Patrick Hynes—are diligent in the performance of their duties and are responsive to numerous requests for assistance from Democratic Senators throughout the long hours of Senate sessions.

The Republican Cloakroom also has a fine staff consisting of George Cartagena, Mary Arnold, Dave Schiappa, Brad Holsclaw and Laura Dove.

I reserve a special word of commendation and appreciation for the excellent work of my chief of staff in the majority leader's office, Mrs. Barbara Videnieks. She handles a broad range of responsibilities with professional skill, grace, equanimity, and patience, is always very understanding, extremely capable, bright and able. She works closely with me, with the policy staff and with my State office staff every day. With outstanding ability and dedication, she makes an important contribution to the daily work of the Senate. She is ably assisted by Patty Kirschner, Gigi Naar, and Becki Roberts. Becki, by the way, is attending law school at night like I used to do.

I express my appreciation for the very fine work of Dick D'Amato, the staff director of the Policy Committee for Defense and Foreign Policy, and Tom Sliter, the staff director of the Policy Committee for Domestic Policy. They both bring to their responsibilities sharp minds and years of legislative experience. I thank also their capable assistants Alice Aughtry and Lula Davis. Through their competence and dedication, they make a major contribution to the smooth running of the Democratic Policy Committee.

I extend a special thanks to an outstanding issues staff on the Policy Committee. They are among the finest in their respective fields and have given unstintingly of themselves to the work of this body. I include here Sally Mernissi, Dave Corbin, Rusty Mathews, Jon Wood, Kent Hughes, Scott Harris, Janet Heininger, and Ed King along with our congressional fellow, Judi Greenwald. This staff is ably assisted in its work by Wendy Deker, Duvoria Ford, Paul Jentel, Nancy Scribner, Susan Sherk and Julia Thomas.

Linda Peek is also deserving of special praise. She is the extremely capable director of communications on the Democratic policy staff. Linda's daily assistance to me and other Democratic Senators in conducting our relations with the fourth estate are deeply appreciated, as are the efforts of her fine staff—Robert Barnes, Marsha Berry, Kim Camp, Mary Helen Fuller, Kevin Sullivan, and Kevin McManus.

One of the most important tasks of the policy committee is to keep the Members on our side of the aisle supplied with information on the Senate's work through our legislative bulletins, special reports, vote compilations and other committee publications. The staff members who perform this vital and demanding task are ably led by the committee's chief clerk, Elizabeth Shotwell, whose excellent and diligent service in providing timely information to Democratic Members is widely known and greatly appreciated. I also commend the work of her assistants—Claire Amoruso, Marian Bertram, Doug Connolly, Brenda Corbin, Mike Alion, Patti Schmid, and Lynn Terpstra.

My very able representative on the Judiciary Committee staff, George Carenbauer, works closely with me and with the policy committee staff. I deeply value his wise and able counsel.

I also commend the faithful and diligent efforts of my West Virginia office staff, led by Joan Drummond. They endeavor to provide my constituents with first rate services throughout the year and I am in their debt.

And I include with them those fine members who helped me on appropriations, Terry Sauvain, Charley Estes, Don Knowles, Carol Mitchell, and Melissa Wolford.

With great pleasure I call attention to the work of the Senate Parliamentarian Alan Frumin and his very able assistants, Gail Cowper and Kevin Kayes. Sally Goffinet in the Parliamentarian's office is always cheerful and helpful to all.

Their knowledge of the Senate's complex rules and precedents is essential to the effective working of this institution. They have my deepest appreciation.

They are most, most able, and I want to compliment them very highly.

With great pleasure I call the attention of the Members of this Chamber to the highly specialized work of the Official Reporters of Debates. It would be difficult to survive without editor-in-chief Russell Walker, assistant editor Scott Sanborn, and their staffs, as well as morning business editor Mark Lacovara.

William Farmer and Scott Bates somehow manage to find the time to accomplish the many and various tasks associated with the position of legislative clerk. They not only find the time, they perform these chores efficiently and successfully.

Bill clerk Vincent Del Balzo and his assistants Kathie Alvarez and Elizabeth Meyer, and journal clerks William Lackey, Dave Tinsley and Jim Thorndike, if seldom seen, are always appreciated.

Enrolling clerk Brian Hallen and his assistant, Maxine Snowden, are no strangers to long, hard hours and loads of paper work. I compliment them and thank them for their work.

Barry Wolk and his printing services staff constantly work under the burden of time meeting the printing needs of this institution. They accomplish their assignments not only successfully but pleasantly.

The superintendent of the document room, Jeanie Bowles, and her staff perform admirably in making sure that legislative documents and publications are distributed to the Senate chamber and Senate offices and available to the general public.

From the executive clerk, Gerry Hackett, to the daily digest editor, Jim Timberlake, to Director of the Office of Senate Security, Michael Disilvestro, we constantly receive the best of service.

I commend Abraham McPhail and his able clerks and special assistants in office services for effectively meeting the rigorous demands of that office.

The Sergeant at Arms Henry Giugni, his deputies, Jeanine Drysdale Lowe and Brian Nakamura, and minority representative Loretta Fuller do an outstanding job. Among the many important duties this office performs, the Sergeant of Arms provides for the security that is, regrettably, an even greater necessity in this dangerous world.

Chief Kerrigan and the U.S. Capitol Police get a special word of thanks for protecting this historic building—this important symbol of democratic government—and the Members of the Senate. They must provide this protection while at the same time ensuring the right of the people to observe their Government in action and to petition it. Theirs is a most difficult task; they perform it in a most professional way.

Postmaster Jay Woodall and his staff, and the Director of Telecommunications, Robert McCormick, and his deputy, Joan Ansheles, do an outstanding job in providing their valuable services. The service department, headed by Russell Jackson and Ron Ledlow, likewise, do outstanding work.

The hard working staff of the Senate computer center labor mightily to bring this body improved technological assistance.

Lyndon Johnson was fond of saying that "information is power." The former majority leader was a wise man—that is how he got to be majority leader as well as President. The Congressional Research Service and the Senate library are among the important support offices that ensure the Members of this Chamber and their staffs are appropriately and fully informed on any issues or topic. I give a special thanks to Senate Historian Dr. Richard Baker and his fine staff. Dr. Baker is a gentleman and a scholar in the truest meaning of the phrase; I value the personal as well as professional relationship we have established over the past several years.

Vitae Bergman, Vividell Holmes, Shirley Felix, and others in the Senate restaurant provide high quality service and high quality meals. There is no way to thank them enough.

I also thank the Capitol physician, Dr. William Narva and his staff, and Alan Porter of the Photographic Studio and his staff.

Mr. "Tinker" St. Clair from way, way down in McDowell County, southern West Virginia, and all the doorkeepers, and Arthur Curran, their supervisor, are with us each hour we are in session. Their dedication to their work is well known and highly regarded.

I thank those in the Senate press galleries who follow our efforts and help to keep us accountable to our constituents.

Among the people who are always here as long as the Senate is in session are the dedicated staff of T.V. control offices. Through their efforts the citizens of our Nation are able to follow the deliberations of the Senate.

And then there are those in the Reception Room—"Irish" McLain, Christine Catucci, and Ruby Paone, and all the doorkeepers who work so hard for the Senate and for all of us.

Dozens of other people contribute to the workings of the Senate. While time and energy does not permit me to thank everyone by name, each has my most profound and sincere appreciation.

Last, but by no means least, I must express my deepest gratitude and thanks to my good friend and colleague, the able and talented Republican leader. The senior Senator from Kansas, Mr. DOLE, previously held the position of majority leader. I am certainly well aware of the difficulties and problems of moving from the position of majority to minority leader. I must say that Senator DOLE has made the transition remarkably well. He has done it so well that I hope we can keep him in this position, not only for the remainder of the 100th Congress, but for many years to come. As minority leader, a Senator must possess the ability to cooperate while at the same time representing the loyal opposition. This he has done. At times he is so effective in his loyal opposition that I wish he would place more emphasis on cooperation.

But I have to say, for the most part, I have enjoyed the cooperation of ROBERT DOLE and ALAN SIMPSON and others in the leadership of the Republican side of the aisle. I think we can see the evidence of that cooperation as we have watched in these last several weeks. We passed 10 out of the 13 appropriations bills. We passed the Department of Defense authorization bill; a very complicated bill.

We passed the reconciliation bill, which included the joint leadership package. We did it on a voice vote and then passed the bill on a voice vote. We passed the continuing resolution and we acted on circa 70 amendments. Yet we had only six rollcall votes on all those amendments and then one rollcall vote on passage. No, six in total. We had only five rollcall votes on 70 amendments. That was the kind of cooperation that was demonstrated here by the Republicans and Democrats. It is a marvelous, marvelous thing to watch how this Senate can operate when the leadership on the Republican side joins with the leadership on the Democratic side and we work together.

The people of the great State of Kansas are well served by this distinguished and capable Senator as are the Senate, the Republican party, and the people of the United States. I cherish his friendship as well as the valuable assistance he provides me in his role as minority leader.

Mr. President, there are other Senators to whom I owe a great debt of gratitude for their understanding and cooperation, their courtesies extended to me during this first session of the 100th Congress. I am grateful for all the help that I have been given by all Senators on both sides. This is an extremely difficult job, it is a very frustrating job; in many ways more difficult than the job of the President of the United States, I am sure. But, in many ways, it is rewarding.

And on the floor at this time I have one of the best friends I have ever had in the world seated right across the aisle from me, Senator TED STEVENS of Alaska. For many years, we worked together on the Appropriations Committee. He and I have worked as the chairman and ranking member on the subcommittee on Interior and related agencies. He helps me to fight many of the battles that I win in the Appropriations Committee.

He is an extremely knowledgeable, talented, capable, and courageous Senator. He has got a spark of fire in him. But what man is worth a shilling if he does not have some fire in him? This man STEVENS has it.

He has courage. He is bright. He is fair. He is courteous. He is reasonable. I will always cherish my friendship with him.

Mr. President, I have taken the time of the Senate, but I thought this was a good moment when the Senate was not doing other business and when we did not have anything ready from the other body for me to express these feeble words of thanks to all of these wonderful people whose help is so valuable. We do not thank them enough.

Mr. STEVENS. Will the Senator yield?

Mr. BYRD. Yes, I am happy to yield.

Mr. STEVENS. Mr. President, with the exception of the gracious remarks my good friend has made concerning our friendship, I know that he speaks well of the Senate when he commends those who work so hard for the Senate and I thank him for all Senators for extending this gratitude to the individuals and for naming them and letting them know how much we appreciate their service to the Senate. I am particularly grateful to the Senator for his kind words and his continued friendship. That is all I can say about that.

Mr. BYRD. I thank the distinguished Senator.

END OF SESSION WRAP-UP

Mr. DOLE. Mr. President, it may have seemed like a long time coming, but we're finally here at the end of the first session.

Before addressing the issues, I'd like to offer my thanks to some of the many, many people who help lighten the workload, and make my job a lot easier.

First, let me offer my sincere thanks to the distinguished majority leader, Senator BYRD. Having been there, I know how difficult, and sometimes frustrating it is to keep the Senate going. But Senator BYRD has not only managed to make the Senate work, but does so in a way that was sensitive to the needs of all Senators—Republican and Democrat alike.

ALAN SIMPSON, the assistant Republican leader, whose ready sense of humor and canny insights bring a special wisdom and candor to the Senate; and whose willingness to step in for me, when necessary, has been of enormous help.

All of the Republican leadership: JOHN CHAFEE, the chairman of the Republican conference; BILL ARMSTRONG, the chairman of the Republican policy committee; and RUDY BOSCHWITZ, the chairman of the senatorial committee, have provided valued advice and assistance throughout the session.

Thanks also to the Secretary of the Senate and Sergeant at Arms offices;

to Howard O. Greene, the secretary to the minority and Abby Saffold, the secretary to the majority; to the floor staff, Elizabeth Greene; and to both the Cloakroom staffs, as well as the pages, Parliamentarians, police, doorkeepers and restaurant staff. And a special thanks to Dick Baker in the historian's office who has provided me with the "Bicentennial Minute" series.

Rev. Richard Halverson, the Senate Chaplain, provides solace and inspiration to us day after day, and for this I offer my sincere appreciation.

THE 100TH CONGRESS

This 100th Congress began with a great deal of promise. And in many ways, we've kept those promises—or at least tried to keep them. There is still much work yet to be done in areas like the deficit. And we have yet to complete action on some of the more important pieces of legislation passed by one or both Houses—trade, catastrophic health insurance, welfare reform, to name a few. But hopefully, by the end of the 2d session of the 100th Congress these initiatives will come to fruition.

I will not present an exhaustive list of what I consider this session's accomplishments. But I do want to touch on a few of, what I consider, the highlights of this last year.

ECONOMIC ISSUES

Clearly, the budget reconciliation agreement we finally voted on leaves a great deal to be desired. As I've said on many occasions, we had a golden opportunity in mid-October to come up with a budget plan that would have called for the kind of long-term savings that put the deficit of a steep downward trend and eventually in balance. But we didn't.

But we didn't walk away from the problem either. The tax and spending cut package will reduce the deficit by $33.3 billion next year. And there are some, though far from enough, programmatic changes that will continue to yield savings in the future. On the tax side, we lived up to our commitment to hold the line, not to raise tax rates.

Before leaving the budget, I want to express my real displeasure with the rut we have fallen into—a rut that gets deeper and deeper every year. Passing one appropriations bill, that contains more than $600 billion, all sorts of authorization language, and literally, Heaven knows what else, hours before adjournment for Christmas is a disastrous, reckless fiscal policy.

Everybody, except for those lucky enough to sneak a few goodies in the pot, everybody loses in this process. The Senators and Congressmen and women who are not members of the appropriations conference, and therefore have little or no say in the final product; the President, who is faced with a Hobson's choice of shutting down the Government or accepting a monster spending bill; and the American people, who are denied the kind of thoughtful, discriminating, decisions they deserve.

There has to be a way out of this mess. Certainly, giving the President line-item veto authority would be a big step in the right direction. But we have to attack the problem from the congressional end as well. Budget process reform is long overdue, and I hope it will be a priority next session.

TRADE

Trade is another complex issue that we began to address this session. The conference on the two versions of the bill was never really able to get off the ground. But with trade deficit figures remaining very high, there's little question that there will be a great deal of interest in working out a compromise between the House and Senate versions. And I sincerely hope that we will be able to come up with a final agreement that expands our trade horizons without erecting barriers here at home.

FOREIGN POLICY

In foreign policy, the two preeminent issues were aid to the Nicaraguan Contras, and our Persian Gulf policy, manifested in the war powers debate. In both instances, I'm proud to say, the Republicans can take credit for preventing what I consider would have been disastrous changes in policy.

We all hope that the Central American peace plan, the so-called Guatemela plan will work. But until we are convinced that it is working, we must continue to provide humanitarian aid to the Contras. I, for one, do not believe that we have done nearly enough. But, at the very least, we have kept the pipeline open.

Repeated attempts to invoke the War Powers Act in connection with the U.S. reflagging operation failed. It became clear, while there may have been some questions about the policy, once the commitment was made to take part in ensuring the safety of the Persian Gulf, the majority of Senators were unwilling to back away from that commitment. We will, however, have the opportunity to revisit the issue early in 1988.

ARMS CONTROL NATIONAL SECURITY

Republicans were able to hold back attempts to tie the administration's hands on arms control policy. And as one result, believe, the administration was able to successfully negotiate an INF agreement.

We thwarted efforts to have the Senate ratify the TTBT Treaty, the provisions of which could not be verified. We ultimately defeated attempts to force a narrow interpretation of the ABM Treaty, thus allowing President Reagan to restructure his SDI Program in fiscal 1989. We beat back a move to impose sublimits on the unratified SALT II Treaty and finally refused to agree to a moratorium on nuclear testing.

AGRICULTURE

The Farm Credit restructuring legislation approved just this week, will place the Federal Farm Credit System on sound financial footing. It also helps prop up many of the small banks that are so important to the rural economy. So it provides a much-needed confidence booster for rural America.

Farmers who need to restructure their distressed loans are provided help. And for the first time, all commercial lenders will benefit from a new source of credit through a secondary market.

HEALTH, EDUCATION AND WELFARE

After years of discussion and debate, both Houses have approved catastrophic health insurance plans. Hopefully, the legislation, expanding Medicare to cover unlimited hospital stays, will be finalized in the second session. Welfare reform is also working its way through the process. Both Houses have approved a major education authorization bill, which should be resolved early next year.

TENDERING THE THANKS OF THE SENATE TO THE VICE PRESIDENT

Mr. STEVENS. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 349) tendering the thanks of the Senate to the Vice President for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. STEVENS. Mr. President, I am happy to present this in behalf of the Senate and I thank, again, my good friend for permitting me to do this and extending our appreciation to the Vice President for his attention to the Senate. He has been present quite often and has conducted himself as a Member of the Senate in accordance with the traditions and sense of our body.

I am pleased to sponsor this resolution.

Mr. BYRD. Mr. President, I share the sentiments that have been expressed by our friend and I join in support of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 349) was agreed to as follows:

S. Res. 349

Tendering the thanks of the Senate to the Vice President for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate.

Resolved, That the thanks of the Senate are hereby tendered to the Honorable George H. W. Bush, Vice President of the United States and President of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the One Hundredth Congress.

AUSTRALIAN SENATE HONORS AMERICAN CONSTITUTION

Mr. BYRD. Mr. President, the Ambassador of Australia to the United States, the Honorable F. Rawdon Dalrymple, has brought to my attention an action by the Australian Senate honoring the United States Constitution. The Australian Senate passed a resolution on October 7, 1987, the text of which is as follows:

"That the Senate

(A) Notes the 200th Anniversary of the United States Constitution and conveys its congratulations to the people of the United States on the 200 year existence of this dynamic document which has been the foundation of efforts to protect and maintain some of the most important fundamental rights in a democratic country: and

(B) Applauds the United States Constitution as a splendid example of commitment to liberty and wishes the people of the United States well for their celebrations and the continuing vitality of their Constitution."

Mr. President, as we complete our work in this first session of the 100th Congress—the legislature which was created 200 years ago by the document the anniversary of which we have celebrated this year—it is valuable to pause and reflect on the wisdom and foresight of those who wrote the great document, and on its continued relevance and power in the world today. The Australian Senate's action draws our attention to these issues, and I am pleased to share it with my colleagues by publishing the text in the RECORD.

A RESOLUTION TENDERING THE THANKS OF THE SENATE TO THE DEPUTY PRESIDENT PRO TEMPORE

Mr. BYRD. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 350) tendering the thanks of the Senate to the Deputy President Pro Tempore for the courteous, dignified and impartial manner in which he has presided over the deliberations of the Senate.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 350) was agreed to as follows:

S. Res. 350

Tendering the thanks of the Senate to the Deputy President pro tempore for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate.

Resolved, That the thanks of the Senate are hereby tendered to the Honorable George J. Mitchell, Deputy President pro tempore of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the One Hundredth Congress.

RECESS UNTIL 2:28 A.M.

Mr. BYRD. Mr. President, it is estimated that the Senate will receive the continuing resolution conference report at around 2:25, 2:30 a.m.

Does the distinguished Senator from Alaska have anything further at this moment?

Mr. STEVENS. No, I do not, Mr. President. I thank the distinguished leader.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 1:58 a.m., recessed until 2:28 a.m., when called to order by the Presiding Officer [Ms. MIKULSKI].

Mr. MELCHER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CONTINUING RESOLUTION

Mr. ARMSTRONG. Madam President, it is my understanding that the conference report on the continuing resolution will soon be here. In the interest of time I thought I would just share a thought or two about it with my colleagues and put a couple of matters in the RECORD so as to save time when the bill actually arrives.

I do not know how many saw it but the Washington Times of last Friday contained a very perceptive article which summed up, I think, a point that Senators would well reflect on, not only in the middle of the night as we prepare to adopt or at least to act upon the continuing resolution but for a long time to come. The article begins with these words:

> The shadow of Italian dictator Benito Mussolini darkened the floor of the U.S. Senate in the early hours of Dec. 12, 1987.

The article, the perceptive piece by Bruce Fein, goes on to relate something which I never knew. It is that Mussolini's favorite tactic was to bundle together thousands of laws which he then forced the Italian parliament to vote on en bloc, exactly the tactic which is becoming increasingly prevalent in this Chamber. In a few minutes we are going to be asked to vote on a bill which I guess is 2,000 pages more or less, which contains hundreds of billions of dollars in appropriations, and which in fact is a matter of only the most general knowledge by any person on Earth so far as I am aware. There may be somebody who could come before us and say I understand in detail what is in this bill. Certainly there will be a handful of Senators who will manage the legislation who will have a good general outline of it, but I cannot imagine that any Senator or any staffer really knows in detail what is in it.

I am advised that the administration will be unable to send us a definitive signal as to whether they intend to sign or veto this legislation for the simple reason they have not had it long enough to be able to read it and even know what is in there. But the suspicion, indeed the conviction which many of us have, is that it is per se bad business for us to be legislating in this way. Nor is this an inevitable consequence. We did not have to get ourselves into this fix and for that matter we do not have to get ourselves into this fix even now. We could adopt the suggestion of our friend from Washington, Senator EVANS, who said that even if we have to end up a session with a continuing resolution, itself a confession we do not know how to manage our business, at least we could submit by concurrent resolution these titles individually to the President so that they would be subject not to an item veto, but to be considered as individual pieces of legislation, at least 13 separate bills. But instead of that, we roll everything into one piece of legislation, and it is a very, very bad practice.

The point which Mr. Fein makes so well is that by forcing ourselves and permitting ourselves to vote on everything en bloc, we diffuse the responsibility. We can go home and say to our constituents, well, we voted for this because it had such-and-such provision in it that we thought was good, even though it had other things we thought were bad, or we can easily justify a vote against such a piece of legislation on the same kind of grounds in the reverse. What it really does is removes one of the last, not the last, but one of the last important aspects of accountability in a representative system of Government.

Madam President, I ask unanimous consent that this article by Mr. Fein be reproduced in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

THE CONTINUING RESOLUTION

The shadow of Italian dictator Benito Mussolini darkened the floor of the U.S. Senate in the early hours of Dec. 12, 1987.

Mussolini initiated the practice of presenting Parliament thousands of laws to be approved or disapproved en bloc. Emulating that aggrandizing legislative tactic, the Senate, on Dec. 12, passed a bloated $606 billion omnibus appropriations bill, amalgamating 13 separate appropriations bills for various unrelated agencies and programs, in addition to extraneous special interest laws.

The House of Representatives passed a less corpulent spending bill on Dec. 4, appropriating $576 billion. That bill was also married to a phalanx of unrelated laws, including a "fairness doctrine" for broadcasters and deferring the Clean Air Act deadline, both incorporating distinct policies of no concern to appropriations authority.

Congress labels such legislative monstrosities with the anodyne term "Continuing Resolution." But that term wrongly suggests a legislative and community consensus to maintain the status quo. A CR wraps together countless distinct policies, each with only minority support but which when aggregated amount to a legislative majority. Thus, multi-billion-dollar CRs foster the enactment of laws that could not elicit majority consent if they received separate votes.

But if, as President Thomas Jefferson admonished, "[g]reat innovations should not be forced on slender majorities," much less should they be forced on slender minorities. CRs, however, invite the enactment of a farrago of narrow-interest legislation applauded by discrete handfuls of legislators anxious to serve their parochial constituencies.

The broad national interest becomes lost in the legislative equation. Too many laws, unwise laws and laws unwanted by a majority of Americans are the consequences.

CRs violate the spirit of the Constitution and its prescriptions for legislation. The Founding Fathers acutely apprehended an excess of lawmaking and mutability of statutes. James Madison, in The Federalist Papers, defended a bicameral legislature representing varied constituencies for varied terms of office as a safeguard against governmental propensity for lawmaking. And Alexander Hamilton extolled the president's veto power as a salutary check against bad laws and "the mischiefs of that inconstancy and mutability . . . which forms the greatest blemish in the character and genius of our governments."

The pending CR in Congress seeks subversion of the president's veto power. It presents him the daunting choice of vetoing many praiseworthy bills to prevent enactment of a few ill-conceived ones. A veto further may halt government operations, to the dismay of citizens inclined to look to the president for responsibility.

Congressman hide from any adversity caused constituents by legislation through collective anonymity and pointing the finger of blame at others.

The House version attempts an undisguised end run around the veto by inclusion of a provision requiring broadcasters to ventilate conflicting viewpoints when addressing controversial public issues. Congress was unable to override a veto of the identical provision when it was presented to the president as a single bill.

Several state constitutions tacitly acknowledge the infirmities of multipurposes laws that are smuggled through the lawmaking process through a collection of minority coalitions. Thus, the Florida constitution requires that initiatives proposing constitutional amendments address only a single subject.

Historically, Congress has generally declined Mussolini-style tactics of requiring the president to veto or approve *en bloc* a long train of bills collected under a single legislative umbrella. Presidents Rutherford B. Hays, William H. Taft and Woodrow Wilson inveighed against the employment of the congressional appropriations power to achieve unrelated policy goals, such as exempting farmers or labor unions from antitrust laws. But these complaints were the exception, whereas today congressional irresponsibility is the norm.

The reason is the dominance of congressmen who view their perpetuation in office as the *summum bonum*.

They believe avoiding responsibility for anything secures incumbancy, and CRs are ideally suited by their length, incomprehensability and relative inaccessibility to this purpose. CRs provide individual members of Congress a host of targets to blame for provisions that may disturb any of their constituents.

A starting point for reform is the single-subject rule, as obtains in the Florida constitution, for any bill enacted by Congress for presentation to the president.

Mr. ARMSTRONG. Madam President, It is not very often I think that the Washington Times and the New York Times agree on such a matter. But it is interesting that a few days later the New York Times on the 19th of December wrote an editorial entitled "A Crazy Way to Govern America."

The Times said:

Congress is about to send the President one gigantic, take-it-or-leave-it appropriations bill for fiscal 1988. It's bad enough that the bill isn't even arriving until the fiscal year is almost three months gone. Worse, it's loaded with trivia, fakery and irrelevant controversy, and forces on President Reagan a $600 billion choice: He must accept every detail of this bill, or, if he wants to block a single one, must veto the whole thing.

This editorial goes on to refer in complimentary terms to the suggestion that Senator Evans made that these be split into separate pieces so the President could at least veto the defense portion of the bill or the interior portion of the bill or the legislative branch appropriation or something.

I must say that the editorial is not entirely complimentary to either party. It levels some criticism at both. I think that is fair. But the final conclusion which the Times reaches in my opinion is absolutely correct. This is a crazy way to govern America.

I ask unanimous consent that this editorial also appear in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

A CRAZY WAY TO GOVERN AMERICA

Congress is about to send the President one gigantic, take-it-or-leave-it appropriations bill for fiscal 1988. It's bad enough that the bill isn't even arriving until the fiscal year is almost three months gone. Worse, it's loaded with trivia, fakery and irrelevant controversy, and forces on President Reagan a $600 billion choice: He must accept every detail of this bill, or, if he wants to block a single one, must veto the whole thing.

It's a crazy way to govern the country.

Normally there are 13 different annual appropriations bills, approved separately, which the President can pass on one by one before the fiscal year starts each October 1. Because Congress has developed bad habits, this omnibus measure lumps them all together.

The trouble began with the "continuing resolution," invented some years ago as a convenient device to allow more time to work on one or two unfinished bills beyond the fiscal new year deadline. As years passed, more bills got stalled, and the omnibus bill was born. An all-or-nothing package became a device to insulate programs that would surely be vetoed if they stood alone.

Last year, all 13 bills were welded together for the first time. This year, Congress has compounded its recklessness by rushing two omnibus money bills to completion at the last minute. In addition to the $600 billion appropriations monster, it is offering a companion "reconciliation" bill that covers Federal revenues and programs that don't get annual appropriations, like Medicare. As soon as they dump both measures on Mr. Reagan's desk, all 535 lawmakers will hurry home for Christmas. If a veto shortens their holiday, they asked for it. The President could well reject the whole bill because of one extraneous amendment, like one to incorporate the broadcast "fairness doctrine" into statute, an idea he has already vetoed once.

Congress is not entirely to blame. Year after year, the President has sent up confrontational budgets and then refused to compromise. Not until last month was there even a rough outline of mutually acceptable spending cuts and revenue increases for fiscal 1988.

Republicans have done the most obstructing in Congress this year, but a Republican Senator, Dan Evans of Washington, deserves credit for trying to save the Senate from itself. He proposed that the omnibus bill be divided into its 13 component parts by the conference committee. He lost, 51 to 44, but it's mildly encouraging that so many senators voted for sensible reform.

In the end, no procedure can make the members of Congress behave responsibly. They have shown that they can outmaneuver any rules they write to keep themselves honest. Nor is there any salvation in giving the President authority to veto items line by line. That would only increase his already formidable power to twist arms.

As long as the White House and Congress are controlled by different parties, there may be no remedy. Neither party will cede power over the purse to the other. But if there's any doubt that an answer is needed, just listen for the thump! when this year's omnibus bill hits the President's desk.

Mr. ARMSTRONG. Madam President, I have said my piece. I am going to vote against it because I think it is bad government, I think it is bad procedure because I think the bill itself is extravagant and because, were my point of view to prevail in this Chamber, I think we would be better off even though it would be a great inconvenience. I think we would be better off to split this bill into its component parts and have 13 bills, not one, and if that meant we have to come back in tomorrow, stay a day or two, or even come back after Christmas, I think that would be a small price to pay. I do not realistically entertain the hope that is going to happen although I note with approval that the bill passed in the House by a very, very narrow margin. In fact, someone could correct me, but I understand it passed by a margin of only 209 to 208 or some such.

So if lightning should strike, and if a majority of Senators should decide to turn this bill down, it would not be the end of the world. In fact, it would be a good precedent and the start of a reform movement which is long overdue.

Madam President, unless someone else is seeking recognition, I suggest the absence of a quorum.

I withhold that, Madam President.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington State.

Mr. EVANS. Madam President, I commend my colleague from Colorado on his remarks, and I associate myself with them in every respect including the Fein editorial and article which appeared in papers just recently.

Madam President, I too will vote against this continuing resolution as I voted against the reconciliation bill. We are going to be asked very shortly to vote on what I understand is a 2,000 or 2,300 page bill, but where is it?

What do we have on our desks? What even remotely small summary of this bill do we have? The best I see on my desk right now is a 2- or 3-page summary, which is certainly better than nothing. It comes from the Republican Policy Committee, but it is a scam suggestion, a whisper, of what is in this massive continuing resolution.

Madam President, this is more than just a bad way to govern; it is an absurdity. We simply are not doing the job we were all elected to come and do, when we are willing to sit still and vote for abomination like this.

Not that the bill does not contain some good ideas; not that it does not contain some things which are good for my own State of Washington as well as each of the other States of the Union; but because we simply will have no opportunity to examine it in any detail at all. We will have no opportunity to deal with it in its individual pieces. The President, most of all, will have no opportunity to exercise his constitutional right of veto.

Oh, yes, he could if he wished to simply stop the Government. But that is no way to govern. It is no way to follow the traditional constitutional balance between the President and the Congress.

Madam President, I hope that at least we will start the new year with a resolve that we will not allow this to occur in October, November, or December of 1988. But rather we will in fact bring forth these appropriation bills early. We will deal with them separately and we will send them to the President separately, and I certainly intend, as far as this Senator is concerned, to bring back the proposal that we do this by law and hope that the Senate and the Congress will adopt such a proposal.

Now, Madam President, I see that the continuing resolution, I suspect, has arrived and since it has arrived, I think that I should sit down. But before I do, I shall just note that I am not sure how many pages there are, but the continuing resolution is in a box approximately 1 foot by 1 foot by 1 foot, so we have 1 cubic foot of appropriations. I do not know how many dollars per cubic inch that represents, but it certainly makes the point that we are going to buy off on 1 cubic foot of appropriation without having the foggiest notion of the details which lie within that large cardboard box.

Mr. BYRD. Madam President, I ask unanimous consent that there be not to exceed 30 minutes to be equally divided in accordance with the usual form on the conference report on House Joint Resolution 395.

The PRESIDING OFFICER. Without objection it is so ordered.

The Senate will receive a message from the House of Representatives.

At 2:43 a.m. (December 22, 1987), a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 395) making further continuing appropriations for fiscal year 1988, and for other purposes.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1988—CONFERENCE REPORT

Mr. PROXMIRE. Madam President, I submit a report of the committee of conference on House Joint Resolution 395 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill joint resolution (H.J. Res. 395) making further continuing appropriations for fiscal year 1988, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 21, 1987.)

The PRESIDING OFFICER. The time for debate is limited to 30 minutes equally divided.

Mr. PROXMIRE. Madam President, I yield myself such time as I may require. I will be very brief.

Madam President, I am happy to be here this evening to present before the Senate the conference agreement on the continuing resolution for fiscal year 1988, House Joint Resolution 395. This resolution was initially passed by the House on Thursday, December 3, and was passed by the Senate on Saturday, December 11, 1987.

The conference committee was convened on Monday, December 14 and concluded its work earlier this evening, after six full sessions.

Madam President, the conference agreement provides the levels of funding for the 13 appropriation bills totaling $603.8 billion in budget authority and $593.9 billion in outlays

Ten of the thirteen appropriation bills in this resolution have been acted on and passed this body overwhelmingly. We have debated them, discussed them, and acted on them favorably. The other three bills, including the defense appropriation bill, were approved by subcommittees in the House and Senate and were approved in the Senate and the House conference with virtually no dissent.

There are two highly controversial provisions in this CR. One was the provision for Contra aid that was discussed, debated, and compromised, and in subconferences which lasted many hours, including strong advocates for those who opposed Contra aid and those who favored Contra aid.

The leadership, Democratic and Republican, and the White House greatly assisted the conferees in coming to a compromise that no one supports all the way but is undoubtedly the best or very close to the best we can do without a certain veto.

Everyone gives up and gives up substantially. No one wins. We simply cannot realistically expect to do better.

The second controversial issue was the decision to drop the codification of the fairness doctrine. Here the conferees in the Senate very narrowly approved dropping the fairness codification. The House conferees at first narrowly disapproved dropping the fairness codification. It became clear, however, to the conferees and the Senate and House leadership that if the House prevailed, if the Congress insisted on codifying the fairness doctrine, the President would definitely veto the bill. In the final meeting of the conference a few hours ago tonight, the House receded to the Senate on the fairness doctrine.

So we have a continuing resolution that, according to the CBO and the OMB, complies fully with the reconciliation bill that we enacted a few hours ago.

This continuing resolution obviously has its serious weaknesses, but on balance it does represent a reasonable compromise. It is undoubtedly the best we can do.

I reserve the remainder of my time.

Mr. STEVENS. Madam President, I yield myself such time as I may use if my good friend from Wisconsin has completed.

Mr. PROXMIRE. Yes.

Mr. STEVENS. Madam President, I want to state my complete concurrence with the statement of the Senator from Wisconsin, who is acting on behalf of our distinguished chairman, Senator STENNIS, from Mississippi, as I am acting for the ranking member, Senator HATFIELD.

The resolution is in full compliance with the budget summit agreement. It meets all targets for defense, international affairs, nondefense domestic spending, as specified in the summit agreement reported to us reached by the leaders and the President on November 20.

This is the second part of that request that the President made to the summit, that the agreement be embodied in two bills, a continuing resolution and the reconciliation bill.

I might state this continuing resolution represents significant cuts in all areas of discretionary outlays. Defense spending is $5 billion below the baseline of the budget and more than $13 billion below the President's request which at that time was a modest 3-percent real growth. This defense level represents a 6-percent real cut, the largest reduction in defense levels in the last 7 years.

The domestic bills are reduced by more than $4.6 billion below the Senate-passed levels. The bills that the Senator from Wisconsin mentioned that had been passed have been cut now $4.6 billion below the levels they passed the Senate. Incidentally, Congress has also taken its share of its cut because we reduced the legislative branch operations by more than $58 million. This will meet the targets in the CR and will avert the sequester ordered in our opinion.

I might state to my good friend from Washington that every page—there are more than 2,300 pages here—every page of this has been checked by at least one majority member and one minority member and competent staff working with each one of us. Subcommittee chairmen and the ranking member of each subcommittee have vouched to the Senate for the accuracy of these bills.

So this is not something that has not been read. It is not something that has not been gone over with a fine-tooth comb during the last week and a half as we debated and looked at the continuing resolution. I, without hesitancy, recommend that the Senate approve this conference report.

I am prepared to yield time if anyone seeks the time.

Mr. PROXMIRE. Madam President, I understand a Senator is very anxious to speak on this.

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. PROXMIRE. Madam President, I yield whatever time the chairman of the committee would request.

(Mr. LEAHY assumed the chair.)

Mr. STENNIS. Mr. President, I want to commend all the way up the line from the newest staff all the way through for the work that has been done this year by them. It has successfully passed muster before it got here to this Chamber and it passed by a token vote in the other Chamber.

Another thing I want to point out is the enormous amount of work involved in this bill for this year. That is indicated by the amount of money it carries, of course. But, the repetitious work, the monstrous amount that is involved at every turn.

If I am permitted to say—no one is to blame for this, particularly; I am not trying to assess blame—but, it just takes too much of a Senator's time to thoroughly master even the elemental facts in order to make a judgment, a worthy judgment.

I am serious and I am concerned about it. I am talking in a broad sense now, not in terms of an individual, not pointing out anyone that I think is responsible or any lack of application. In fact, there was tremendous application by a great number of talented Members of this body. But, like everything else, it is growing, and it strikes at the efficiency and the effectiveness of the Membership, considering the daily demands on every turn. This is not a complaint and they are not complaining. No one suggested I make these remarks.

I am in a position not to pass on it with any great intelligence, but when it comes to day-to-day work over a long period of time, I do have the facts before me, the things that I observed from day-to-day over a period of years. By way of comparison, it makes me know something about how serious is it.

Something more must be done to have a plan that is effective but, at the same time, does not require so much time. And I make that statement now in my responsibility. I would be glad to try to help out to a small degree in any way, in any kind of planning that could be done, because it will take not weeks but years to get back I think on the track that can be sounder and more effective than we have now where the Congress as a whole, especially the Senate, is called upon, having only 100 Members, is called upon to give their utmost, thorough, exhausted personal attention.

So I mention that not in criticism, I emphasize, of any individual, but it is a growing problem that we have and I am satisfied in my mind that something has got to be done about it.

Mr. President, I thank the Senator for yielding to me.

Mr. STEVENS. Mr. President, if I might just comment, the Senator from Mississippi has been with us—I myself have been down here, I think, before 8:30 every morning and have not left before midnight in the last 9 days—I think the Senator from Mississippi, despite the fact that I am pleased to have him call me "son," has been with us every hour that I can remember. So I congratulate him on his attention to this business. We should take heed of what he said.

I am prepared to lend some time so the distinguished Senator from Connecticut might speak.

Mr. PROXMIRE. Mr. President, how much time does the Senator from Connecticut require?

Mr. DODD. Mr. President, I would think I might not require any more than about 10 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin has 7 minutes and 41 seconds remaining.

Mr. PROXMIRE. I yield 7 minutes to the Senator from Connecticut and I understand the Senator from Alaska is yielding 3 minutes. So the Senator from Connecticut has 10 minutes.

Mr. DODD. I thank my colleague from Wisconsin.

Mr. President, I wonder if I might inquire of my good friend from Alaska several questions that I would like to have addressed, if I may.

I realize the hour is late, Mr. President, but this is the last opportunity we will have to address this particular question and there are a couple of concerns that I have and I think they are shared by other colleagues here.

First of all, let me inquire of my good friend and colleague from Alaska, the Senator will recall, during the debate almost a week ago on this amendment affecting the assistance to the Contras, the issue was raised as to how much military lethal assistance was yet in the pipeline, yet to be delivered to the Contra forces. My good friend from Alaska, if I may quote from the page S17933, at that particular time in the midst of that debate, Mr. STEVENS says:

> My understanding is about a million and a half dollars worth of lethal assistance has already been purchased and is already there out of over $100 million that still has to be delivered along with this humanitarian assistance or separately in a separate plan at considerable increased cost.

The notion being there was about a million and a half dollars left in the pipeline. Two reports this morning, both in the New York Times and the Washington Post, refer to a million and a half pounds of lethal equipment remaining in the pipeline.

The Senator from Connecticut would like to inquire which is the accurate figure. Are we talking dollars, a million and a half dollars, in the pipeline or a million and a half pounds of lethal equipment left in the pipeline? Which is the accurate description?

Mr. STEVENS. Mr. President, on the Senator's time, because we do not have much time left, the statement I made, and I still stand by, was we were told there was a million and a half dollars left to be obligated, of which $500,000 was the limit for lethal aid to be purchased. There is a stockpile of equipment and lethal aid that is blended that has yet to be delivered.

It is not in the level that the Senator mentioned, to my knowledge. Someone else might have that knowledge, but I never heard tonnage that high.

But the Senator is correct. I did make that statement and stand by it. There is still $500,000 to be expended for lethal aid. This amendment, which is a provision of my amendment that I offered last week, does not authorize any new lethal aid. No moneys can be spent in the new money for any lethal aid. It is only for humanitarian aid, plus the transportation of that, which has already been authorized.

Mr. DODD. In other words, if I may clarify further, the reference in both the Washington Post and New York Times this morning—and I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

CONGRESS APPROVES 1-DAY FUNDING BILL: VOTE ON DEFICIT-CUTTING PACKAGE DUE TODAY

(By Tom Kenworthy and Anne Swardson)

Congress last night voted funds to keep the government operating today as negotiators put all but the finishing touches on two bills needed to implement a budget pact that calls for reducing the deficit this year by at least $30.2 billion.

The one-day emergency spending bill approved by Congress funds the government through midnight tonight, and should give lawmakers sufficient time today to enact the two measures that will complete the November 20 deficit-cutting accord with the Reagan administration.

The short-term bill was passed by the House 207 to 178, and a short time later by the Senate on a voice vote, during a rare Sunday session in both houses. President Reagan signed the legislation late last night.

Congressional and White House negotiators cleared the way for today's expected floor votes on the deficit-reduction package when they resolved a relatively minor dispute over an agreement to provide another $8.1 million in funds to the Nicaraguan contras through the end of February.

"We have an agreement, we shook hands on it," said House Majority Whip Tony Coelho (D-Calif.) of the contra aid pact that will permit deliveries of previously authorized military equipment but which is designed to pressure both the rebels and Nicaragua's Marxist Sandinista government to reach a cease-fire in mid-January.

However, substantial numbers of liberal Democrats oppose the contra aid arrangement, and House Democratic leaders estimate they will need as many as 80 Republican votes to overcome defections and pass the deficit-reduction package today.

"We took a pig and dressed it up in a tuxedo, but it's still a pig," said Rep. Robert J. Mrazek (D-N.Y.), reflecting the bitterness of liberal Democrats.

The first bill needed to implement the budget agreement is a $600 billion appropriations measure that funds most government operations through the end of the fiscal year and cuts the deficit by $7.6 billion through reductions in military and domestic spending. The second combines a $9 billion tax increase with additional cuts in permanent federal programs such as Medicare and farm subsidies to yield further cuts in the deficit of about $24 billion.

Congressional negotiators spent much of yesterday scurrying throughout the Capitol to attend a series of private meetings where the few outstanding disagreements in the two bills were being worked out. By nightfall, conferees had agreed on increases in Medicaid, which provides health care to lower-income Americans, and were close to final agreement on cuts in Medicare, the health insurance program for the elderly and disabled.

A dispute over reductions in the Postal Service budget was resolved with an agreement that saves $860 million this year and $1.7 billion over two years, some of it by stretching out lump-sum payments to all federal workers who retire this year and next.

Now, federal workers can receive all their retirement benefits at once upon retirement if they choose. Under the plan, they could receive only 60 percent in the first year of retirement and 40 percent the second. The limitation would be effective only for those retiring in fiscal 1988 and 1989, and congressional aides said they anticipated that it would go into effect the day the deficit package becomes law.

The lump-sum provision accounts for $469 million of the $1.7 billion in two-year Postal Service savings. The rest would come from reductions in future capital expenditures and a requirement that the semi-private service absorb some health costs of retirees.

The $600 billion spending bill still includes language enacting into law the Fairness Doctrine that requires broadcasters to treat controversial issues evenhandedly. Reagan has threatened to veto the measure over the issue, a position a senior White House aide reiterated last night.

But House Speaker Jim Wright (D-Tex.) said yesterday he "can't imagine" Reagan letting the government "come to a crashing halt" over the issue.

White House and congressional leaders spent much of the day haggling over the final language needed to resolve the contra aid issue, which had been the main stumbling block to a deficit package.

One potentially serious snag developed yesterday as the negotiators disagreed over the timetable for when the Reagan administration would be granted a final congressional vote on additional military aid to the contras should the Central American peace process collapse in January.

Democrats insisted that the tentative agreement reached Saturday called for that vote between July and September, during the height of next year's election campaigns. Republicans were demanding that Reagan have the flexibilty to exercise his option at any time to maximize the chance of passage.

The issue was settled by setting the vote for the July to September period, but permitting Reagan to request the additional aid at any time.

Under the complex arrangement agreed to Saturday night:

The Nicaraguan contras would get another $8.1 million through February in food, medicine, shelter, clothing, and the transportation funding to deliver it.

For the first 12 days of 1988, that aid could also be used to ship about 1.5 million pounds in previously authorized military equipment. Such commingling of military aid and new nonlethal aid would not be permitted between January 13 and January 20, during the period when the five Central American presidents will meet to certify whether a cease-fire has been achieved between the contras and the Sandinista government.

Following that hiatus, if Reagan finds by the end of January that there is no cease-fire, that the fault lies with the Sandinistas and that the contras have acted in good faith, he can request new military aid from Congress, which must vote on the request on February 3 and February 4.

If Congress rejects that new request, the Reagan administration will not be granted another opportunity for a vote on further aid under expedited congressional procedures guaranteeing quick action. However, the contras would still get sufficient aid to leave Nicaragua, and the president could still seek further aid through normal legislative procedures that would not necessarily guarantee a vote.

If Congress approves the president's request for new military aid, he would also be guaranteed a second vote under expedited procedures if he wants more aid later in the year.

The complexity of the agreement underscores the intensity of the long battle between the Democratic-controlled Congress and the Reagan White House over funding for the contras. Both sides appeared willing at times to jeopardize a $600 billion bill over a relative pittance that nonetheless carried heavy political and symbolic importance.

For the White House and many Republican lawmakers, the issue was framing an agreement that would not appear to abandon the contras. For Democrats, particularly the House leadership, which had to back off from its previous position of providing no funding, the issue was linking further aid to the peace process.

"The priorities of the administration are right there very blatantly," Coelho said. "They were prepared to shut down the government. * * * The president's priorities in his closing days are contras, contras, contras."

"I don't think there is any victory for either side," said Senator Ted Stevens (Alaska), a key GOP negotiator on the issue. "It is just a continuation [of aid] until the Guatemala accords play out. * * * It is fraught with danger for [the contras'] future and for Central America."

For Rep. David R. Obey (D-Wis.), a fervent opponent of further aid, the limited attractiveness of the deal is that it might encourage the search for peace and end installment-plan funding of the rebels. "It puts pressure on both the Sandinistas and contras to perform," said Obey. "I don't want to see [the aid] continue dribbing and drabbing. You want one last play, even if it is a Hail Mary for both sides."

On other issues, negotiators reached a compromise over an expansion in Medicaid, which covers health care for low-income Americans. The compromise retained House provisions increasing care for pregnant women and revising rules governing nursing-home care. The cost of the increases in the Medicaid program would be $597 million over three years, according to the Congressional Budget Office, which had estimated that the original Waxman bill would cost an additional $2.3 billion.

Conferees also were close to a deal that would save about $2 billion in Medicare. House Ways and Means Committee Chairman Dan Rostenkowski (D-Ill.) and Senate Finance Committee Chairman Lloyd Bentsen (D-Tex.) defused a conflict over how to increase Medicare reimbursements to Illinois hospitals without depriving those in Texas.

Their method was a common one this time of year: they added $50 million in new funding to the reimbursement program for 1988, keeping rural hospitals even while increasing funds to urban hospitals. The compromise would cost an additional $250 million over three years, money Bentsen said would be made up from reductions in other Medicare programs.

The chairmen also agreed to drop a proposed $10 increase in the deductible paid by Medicare patients. The only remaining disagreement concerned whether to continue linking the amount of Medicare premiums paid by beneficiaries to the cost of the program.

[From the New York Times Dec. 21, 1987]

Contra Aid Accord Set by Congress and White House: $8 Million but no Arms—'Was the Best We Could Do,' Wright Says as Showdown on Policy Is Deferred

(By Jonathan Fuerbringer)

Washington, Dec. 20—The White House and Congressional leaders reached final agreement tonight on a compromise that would give $8.1 million in aid to the Nicaraguan rebels and sets up a possible showdown vote on American policy toward the contras in early February.

Democrats and Republicans who worked on the compromise expressed reservations about it, unsure about its impact on the peace process and American policy in Central America.

"You do the best you can do under the circumstances," said House Speaker Jim Wright, who had opposed any new aid to the contras. Asked if the Democrats had "caved in," the Texas Democrat replied, "You can be dissatisfied with it but given the options and what you had to deal with it was the best we could do."

BALANCES POLITICAL DEMANDS

Representative Tony Coelho, Democrat of California, said the White House chief of staff, Howard H. Baker Jr. told the negotiators "that this is the President's last year and he isn't willing to lose the contras on his last vote and he is willing to stay here through Christmas."

The contra aid proposal is designed to balance the President's demand for more aid with the strong opposition, especially among House Democrats, to giving any more assistance to the contras while the process begun by the Central American peace agreement continues.

The issue is complicated by the political difficulty of many moderate Democrats and Republicans who don't want to appear to be promoting the overthrow of Nicaraguan Government but who also do not want to seem to be undermining the contras.

NO WEAPONS OR AMMUNITION

The final details of the plan were worked out by top Democratic and Republican leaders and White House officials. The leaders said they would review the exact legislative language Monday morning, but they expect no problems. Representative Thomas S. Foley of Washington, the House majority leader, said

The authorization for military aid expired when the $100 million appropriation for 1987 ended Sept. 30. Under today's agreement, the aid would include food, clothing, shelter and medical supplies, but the money could not be used to buy arms or ammunition through Feb. 29. The proposal does allow the delivery of previously military equipment with the new aid. The Senate had approved $16 million in aid and the House leadership had approved $5.5 million.

The flurry of negotiating today also produced approval of a one-day, stop-gap spending bill designed to avoid a politically embarrassing shutdown of the Federal Government Monday. It was the fourth emergency spending bill that Congress has had to pass since Oct. 1, prompting Representative John E. Porter, Republican of Illinois, to tell his colleagues, "In other societies you would be held in disgrace and forced to resign for such mismanagement." [Page A17.]

Of the $8.1 million, $3.6 million provides aid at the level the contras have been receiving since Oct. 1. In addition, it provides $4.5 million to cover the cost of transportation of the supplies and new electronic equipment to combat antiaircraft missiles.

But the proposal also sets in motion a process that could result in a cutoff of American aid to the contras after years of conflict between the Congress and the Administration.

POLICY IS CONDITIONAL

The effect of the proposal on American policy will depend on how the Sandinistas and contras behave in the peace process between now and Jan. 15, the date of a meeting of the five Central American presidents who signed the regional peace accord. Democrats and Republicans said that if the peace process fails, it is likely that the President can win approval for more assistance, including military aid. But if the peace process is working, the House will have the opportunity to end the aid in a vote scheduled for Feb. 3.

While the House Democratic leadership has backed down from its initial opposition to more aid, members of the leadership argued that they won a major concession in getting a sure date for an up-or-down vote on continued aid and they say they can defeat the President.

DELIVERIES AFFECTED

The mixed deliveries of previously purchased military equipment and the new aid, which the House had strenuously opposed, would be suspended Jan. 13 for a week during the meeting of the five Central American presidents to review the peace process. The mixed deliveries would allow about 1.5 million pounds of previously purchased equipment and ammunition to be delivered to contra bases in Nicaragua.

The mixed deliveries could resume if Mr. Reagan certifies before the February vote that there is no crease-fire in Nicaragua, the Sandinistas are at fault and the contras have acted in good faith. Then on Feb. 3 and Feb. 4 the House and the Senate would vote on whatever contra aid, including arms and ammunition, the President requests for the rest of the year. Administration officials had discussed a request of $270 million in military aid for 18 months, starting Oct. 1.

If the President loses, the rest of the $8.1 million in aid, and the mixed deliveries, would be made available to the contras until Feb. 29, according to the Democrats.

SECOND CHANCE ON REQUEST

If the President wins, he gets a second chance to request further aid, but the vote on the request would not take place before July 1, the beginning on the last quarter of the fiscal year. This opportunity could mean Mr. Reagan might scale down his February request as much as possible so that he can win and get a second opportunity. In both votes, there are so-called expedited procedures that prevent the vote from being blocked. In either case, Mr. Reagan could seek more aid through the regular legislative processes.

Democrats say it will be difficult to pass the proposal in the House as part of the catch-all appropriations bill. Leaders said they could lose as many as 100 Democrats and they told the White House that the Republicans would have to produce 80 or 90 votes in favor for the measure to be approved. Republican leaders said this could be difficult but that they were working with members today to explain the proposal.

CONFERENCE TO VOTE

The proposal must be approved by the full conference of House and Senate negotiators on the $600 billion catch-all appropriations bills. Then it would go to the House and the Senate.

The House Democratic leadership, which had been relatively confident that it would block new aid to the contras had to scramble for this compromise because of several factors. One was the President's insistence on continuing the aid. The second was the addition of an aid package in the Democratic-controlled Senate. And third was the report just over a week ago of Sandinista plans for a military buildup up a 600,000-man army and other revelations by Roger Miranda Bengoechea, a former Nicaraguan Defense Military official who defected to the United States.

"The President's priorities in his closing days are contras, contras, and contras," said

Mr. Coelho, who is the House Democratic whip and chief vote counter.

DRIVE TO ADJOURN

Referring the drive to adjourn for the year, Representative Leon E. Panetta, Democrat of California and an opponent of the aid, said, "That pressure produces a lot of give."

Representative David R. Obey, a Democrat of Wisconsin who negotiated the compromise and is unhappy with it, said its attraction was that there will be a single vote in February on continuing aid and the suspension of mixed deliveries of previously purchased military equipment and the new aid.

"I detest the idea of any continued mixing of these cargoes," he said. "But if you can have a vote up or down on Feb. 4 it gives you a chance to cut it off."

Senator Ted Stevens, Republican of Alasaka and sponsor of the contra aid proposal in the Senate, expressed the reservations of many Republicans: "We are playing Russian roulette with the contras future," he said.

"I don't think anyone can claim victory on it, none on either side," he said. "What this really is is a continuation until we see how the Guatemala accord plays out."

Mr. DODD. They include statements that "For the first 12 days of 1988, that aid could also be used to ship about 1.5 million pounds in previously authorized military equipment." That "1.5 million pounds" is mistaken. That, in fact, is $1.5 million?

Mr. STEVENS. No, I am not saying that, Mr. President.

I am saying the money left to be expended is $1.5 million, of which $500,000 is for lethal aid. That is lethal material that has already been purchased and stockpiled along with equipment that is not lethal. And the two have to be delivered. I mean, some of it is humanitarian, some of it is military-type of equipment that is not lethal, but others are—ammunition and supplies, lethal supplies, that have been purchased or stockpiled. This is a vast amount. I do not know what the total tonnage is.

Mr. DODD. If my good friend and colleague would yield, in other words you are suggesting that $1.5 million and 1.5 million tons may actually just coincide? That we may have $1.5 million remaining but it would represent 1.5 million pounds of equipment?

Mr. STEVENS. Mr. President, let me just take a couple of minutes of my time to answer the Senator as succinctly as I can.

I stated there was $1.5 million of the amount that was previously authorized left; of which $500,000 is for the purchase of lethal aid.

I am informed that there is a substantial quantity of supplies that are on the ground that have to be moved incidentally to the movement of the humanitarian aid that is being authorized here. That includes lethal aid, nonlethal military aid, and humanitarian supplies that have previously been purchased. The total tonnage I have never mentioned because I do not know.

Mr. DODD. So it would merely be coincidental, the $1.5 million and the 1.5 million tons happen to coincide?

Mr. STEVENS. I cannot vouch for the accuracy of the newspaper report in terms of tonnage.

Mr. DODD. I thank my colleague for that response. Let me ask something else. I read the amendment that was agreed to by the conferees, but I am a little confused what the total dollar amount is. If I could ask my good friend and colleague from Alaska, how much money is in this continuing resolution for Contra assistance?

Mr. STEVENS. The amendment I offered and passed the Senate was for $9 million in humanitarian aid plus the authorization for transportation of that aid and previously authorized aid, both lethal and nonlethal.

This amendment now has substituted for that the figures of $3.6 million for humanitarian assistance through February 29 of next year, $4.5 million for the transportation of that humanitarian assistance and the aid that has previously been authorized that we have mentioned, and it also authorizes the issue of equipment from the Department of Defense to assure the safe transportation of that equipment and aid. And it also authorizes ECM for the aircraft and indemnification of the aircraft in the event that there is any loss.

But I would say that this figure is less than the amount that was authorized by my amendment. It has been compromised but it has really been brought down to where it is strictly identified. There would be two classified letters delivered to the Appropriations Committee and the Intelligence Committee spelling out in detail what that equipment that is to be transported is.

Mr. DODD. Could my good friend and colleague give me a ball park figure, $8.1, $3.6 million——

Mr. STEVENS. The ball park figure I would say in the original amendment the Senate passed was somewhat in excess of $16 million; this would be somewhat near $15 million.

Mr. DODD. So the total package of Contra aid here is roughly $15 million?

Mr. STEVENS. That includes the indemnification that may never come into effect. The authorization here is for the expenditure of a maximum of about $15 million of which somewhere in excess of $8 million is expected to be spent.

Mr. DODD. The $8.1 million would cover the 3.6 million dollars' worth of humanitarian assistance, $4.5 million for transportation costs. That gets you $8.1 million. The additional costs would be for the passive air defense equipment and for the indemnification cost for leased aircraft?

Mr. STEVENS. That would be a maximum. I think the figure sticks in my mind of $2.8 million. If you take that off, because of course that has not occurred yet, it would be paid only in the event of the loss of the aircraft, it is somewhere around $13 million.

Mr. DODD. Rather than 8.1, what we are really talking about is something in excess—between $13 million and $14 million.

Mr. STEVENS. It is hard to say what kind of air defense equipment they are going to finally agree upon. When they finally purchase the aircraft they will find out what they are going to do with it and there is also negotiation on the lease of the aircraft and it, in my judgment, without the indemnification, it is somewhere around $13 million.

Mr. DODD. Roughly $13 million. I thank my colleague.

Mr. President, let me must say, and I appreciate my colleague's response, those very candid answers; and he will appreciate, when I read the press reports this morning when I read about 1.5 million pounds of lethal equipment as opposed to $1.5 million, I was somewhat confused as to exactly what we were talking about in terms of lethal assistance.

My colleague has made an effort to clarify that and I think I understand what he was saying about the confusion of those two items; and second, what we are talking about here, even though the amendment only talks about $8.1 million, what we are talking about in Contra assistance here is something in the neighborhood of $13 million to $14 million over the next 2 months in Contra assistance.

Mr. STEVENS. Two months.

Mr. DODD. Through February, into January and February.

And I appreciate that answer as well since there was some confusion, since the amendment only talks about the $8.1 million and the other two parts of the bill are left without any costs associated with them. So I think for the purposes of clarification we all ought to understand exactly what we are dealing with here.

The Senate amendment the other night, as the Senator from Alaska pointed out, was something in excess of $15 million humanitarian assistance, delivery of lethal assistance, transportation costs roughly $15 million. What we are basically settling on here is a compromise that gets us somewhere around $14 million if you take in the costs all together. I happen to think that is excessive considering the interests of the peace accords and what is at stake in Central America. But, nonetheless, I appreciate the effort of the conferees.

This is not easy to deal with these issues. I realize that. They have worked long and hard over this weekend to try to reach some agreement. It is not easy but the Senator from Connecticut has to share with his colleagues at this late hour that that is a disappointment in terms of compromise and, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Alaska has 8 minutes left and the Senator from Wisconsin has 40 seconds left.

Mr. STEVENS. I yield to the Senator from Mississippi.

Mr. STENNIS. The conference report on this continuing resolution contains appropriations for the Department of Defense for fiscal year 1988. The Budget Summit Agreement allocated $292 billion for national defense, a decrease of $20 billion from the President's budget request.

The Defense subcommittee's share of the summit agreement is $276 billion in budget authority with outlays of $270.4 billion. The conference report before you provides $275.6 billion in budget authority and $270.4 billion in outlays. This amount is $1 billion in budget authority above the level recommended by the Senate and $12.6 billion above the House. It is consistent with the level agreed to in the budget summit.

The conferees worked hard in fashioning an agreement which meets the mandated targets and provides for a strong national defense. Like any compromise it is not a perfect bill, but it adequately protects readiness while providing sufficient funds to maintain vital modernization programs.

There are a few recommendations I would like to highlight in particular:

The sum of $3.6 billion is provided for the strategic defense initiative, in accordance with the authorization agreement.

Both the small ICBM and the MX missile are funded to keep all options open for our negotiators in the upcoming strategic arms reductions talks.

Conventional forces are protected as army equipment modernization levels are increased above the budget for tanks and helicopters.

More than $80 billion is provided to operate and maintain our military forces.

Active military strength levels are supported at the requested levels, while Guard and Reserve Forces are increased by 18,734 from 1987 levels.

Included within the bill for a 2-percent military pay raise is $875 million.

Added to budgeted levels for equipment for our National Guard and Reserve forces, $1.2 billion.

Two replacement nuclear aircraft carriers are fully funded, saving nearly $700 million over the planned acquisition strategy.

Mr. President, I believe this is a good conference agreement which accurately reflects congressional priorities and the requirements of a strong national defense. I urge the support of all my colleagues for this agreement.

Mr. STEVENS. Mr. President, I want to add to what the Senator from Connecticut had said. This amended provision in this continuing resolution with the Contras provides for suspension of all lethal aid during the period between January 12 and January 18 in order to try and see to it that the cease-fire will be observed if one is reached. The whole direction of the modification of the amendment is intended to support the peace process and to try and encourage the parties in Nicaragua to come together and reach an agreement. It is our hope that that will happen.

If that does not happen the matter will be back before the Senate on February 4 for a determination upon the President's request, if he decides to make one, for further aid.

Again, I emphasize, this new amendment authorizes the purchase of no additional lethal aid. It is strictly humanitarian assistance plus the transportation of such aid that was previously authorized.

NOT ENOUGH FOR SDI

Mr. HEFLIN. Mr. President, I rise to express strong reservations relative to a funding level we are about to approve for a program which I believe is vitally important to our national defense and that of our allies—the strategic defense initiative [SDI].

Now, Mr. President, over the years, I have made no secret of my support for a strong national defense and a strong and viable Strategic Defense Initiative Program. However, the Congress is about to agree to a funding level of $3.9 billion for the SDI Program for fiscal year 1988. In my judgment, a funding level this low is ill-advised at a time when the United States is embarking on a vigorous and comprehensive research program to analyze and design defenses that enhance the security of our Nation and our allies, provide a hedge against a Soviet breakout of the ABM Treaty, and ultimately, if feasible, provide options on whether to develop and deploy advanced defensive systems. As I have said many times before this body, SDI represents a welcome shift in our strategic policy from one which relies upon the doctrine of mutual assured destruction for deterrence to one based upon a commitment to self-defense.

I am afraid that the effect of a funding level as low as $3.9 billion would be to gut many of the existing programs now ongoing within the SDI organization, threaten critical elements of the program, and undermine the promising arms control negotiations on reduction of strategic offensive arms.

Mr. President, I wonder what could be more stabilizing than the ability to defend one's homeland against nuclear attack, intentional or, certainly, accidental?

On March 23, 1983, when President Reagan made his historic announcement initiating the SDI Program, I was one of the first in Congress to officially congratulate him on his initiative and foresight. It was the right decision at the right time and placed us on a track of building a more balanced strategic force which would no longer rely entirely on the threat of retaliation to ensure nuclear deterrence. In the more than 4 years since its inception, the SDI Program has made significant technological progress and has provided strong incentives to the Soviets to enter into serious arms control talks.

Mr. President, this is no time to cripple or defeat the program that has shown such excellent and rapid progress and brought the Soviets back to the negotiating table. I feel very strongly about this point, and believe the Congress is making a mistake by not allowing SDI to continue at a more vigorous and robust rate.

Regrettably, Congress has seen fit to make deep cuts in the President's SDI budget every year since its inception. For fiscal year 1988, the President requested $5.68 billion for the Departments of Defense and Energy SDI funding. Now, this year, Congress is going to cut that back to $3.9 billion.

Now, Mr. President, I do not want any of my colleagues to misunderstand me. I am not saying that $3.9 billion is going to kill the SDI Program. A funding of $3.9 billion will not kill the SDI Program. I realize that this is more than the program received last year. However, what will happen with this funding level is that it would no longer be possible for the SDI Program to keep many of its major programs going at the currently reduced rate. This funding level will force even more severe cuts in major programs and elimination of a great many others. In my judgment, this is not the time to force such far-reaching decisions—decisions which will preclude future options for defending our Nation and tie the hands of our arms control negotiators.

In particular, I am concerned that some of the ground-based elements of the SDI Program, which provide us with high confidence and survivable hedge options for our future security will be endangered by severe budget reductions. These elements can be based securely on our own soil should the need arise, and can preferentially defend high valued targets to preserve deterrence. It is not wise to sever the ground-based legs of a multitiered SDI concept for ultimately protecting this Nation against any nuclear missile attack, nor is it prudent to force the elimination of the more mature ground-based elements before we have perfected the long-term technologies, such as directed energy weapons.

Mr. President, the Soviet threat is real. The Soviets are moving much more rapidly than the United States in developing their own SDI system. This fact alone should make Congress rethink its appropriation level.

With a funding level of only $3.9 billion, SDI may be required to make a major reappraisal of the program. This is regrettable since the SDI Program has shown such outstanding progress and promise in the last 4½ years. To reduce the program beyond the viability needed to protect our defense options would send the wrong signal to the Soviet Union, severely injuring the SDI Program, and setting its development and an informed decision on a possible deployment of a strategic defense system back several years.

Mr. President, I appreciate this opportunity to address the Senate in order to express my strong reservations relative to what Congress may be doing to the SDI Program this year. I am hopeful that a funding level of $3.9 billion will allow the program to continue its major elements. This is absolutely the minimum acceptable level for this program. I am very hopeful that in the coming years, Congress will not so severely cut this program back. We simply cannot afford to cut so deeply into a defense program will such far-reaching promise.

I would like to conclude with a question which I asked previously. Mr. President, what could be more stabilizing than the ability to defend one's homeland against nuclear attack either intentional or, certainly, accidental?

Thank you, Mr. President.

LEGISLATION IN THE CR ON PANAMA

Mr. D'AMATO. Mr. President, I rise to commend the members of the Senate and House Appropriations Committees who have worked hard to hammer out this final bill. Although it is universally agreed that the use of the continuing resolution is detrimental to the budget process, it does not diminish the herculean task my colleagues have accomplished these past few difficult days.

I want to bring to the attention of my colleagues a foreign policy provision in this continuing resolution that I believe will encourage democratic change in Panama. This provision bans all economic and military aid to the Government of Panama as well as eliminates that nation's sugar export quota program unless the Government establishes certain democratic reforms.

This provision, unanimously approved on November 19 by the Senate Foreign Relations Committee, was subsequently incorporated into the foreign operations section of the continuing resolution. I want to commend my good friends, Senators INOUYE and KASTEN, for their commitment to this issue. Without their assistance and leadership, it is likely that no legislation would have passed during this session of Congress.

Mr. President, seldom have we seen a foreign policy issue with such bipartisan support. This unanimity has not been without impact. The Government of Panama recently announced that opposition newspapers will be allowed to reopen and the President of Panama will suspend arrest warrants in connection with the political unrest in Panama. This provision allows the administration to restore the sugar quota for Panama if freedom of the press, due process of law and other constitutional guarantees are restored. It appears that, so far, we are being heard.

Restoration of the freedom of the press and recission of arrest warrants are not insignificant steps. Yet, Mr. President, there is a long way to go. Time will tell whether the press will stay free and the political opposition at liberty.

The principal remaining obstacle to democracy in Panama is General Noriega. It is widely believed that honest elections cannot occur while Noriega remains in control. Curtailed military control over the levers of government is necessary for the advent of democracy. Until military influence is diminished, there can be little movement toward democracy.

As recently reported in the Washington Post, General Noriega is now making contact with the Soviet Union and with Libya in a desperate move to bolster his rapidly deteriorating dictatorship. I ask unanimous consent that a copy of that article be included in the RECORD in its entirety at the end of my statement.

It is my hope, Mr. President, that General Noriega will decide to do what is right for Panama. The United States has no better friends in Latin America than the people of Panama. General Noriega's attempts to drive a wedge between Panamanians and Americans have thus far been futile. This provision demonstrates to the Panamanians that Americans stand by democracy.

It is to be hoped that this will send a clear and unmistakable signal to General Noriega that they are being held to the promise to move toward a civilian-run democracy. As long as the United States stands firm in this commitment, the nation of Panama will know who its true friends are.

Thank you, Mr. President.

RESERVATIONS ON SPACE FUNDING

Mr. HEFLIN. Mr. President, I rise in order to express my strong concern over what the Congress may be doing to the space program, particularly the space station, in terms of funding, or the lack thereof. I am not sure that all of my colleagues in the Senate are fully aware of the serious financial troubles the space program is in. In that regard, it may be time to discuss with the Senate the benefits of the space program, and the detrimental effects that fiscal year 1988 NASA appropriations level will have on the America's progress in space.

For fiscal year 1988, NASA requested slightly more than $9.5 billion. However, their approved funding level for next fiscal year will only be a little more than $8.8 billion. Mr. President, NASA had cut their budget to the bone before they ever made a request to Congress. Now, they will have to cut more. These severe budget cuts will force cancellation of many important space science programs and the delay of many others. I would welcome the opportunity to learn of a single NASA program which will not suffer in terms of progress and output in the next year due to congressional funding. This week, I was troubled to learn that because of congressional funding troubles, the first shuttle launch date may have to be delayed once again.

Mr. President, I am particularly concerned over the approved level of funding for the space station program. NASA requested $767 million for the space station for 1988. In the continuing appropriations bill under consideration today, Congress will fund the space station at only $425 million. If you add the approximate $90 million that is reprogrammed from leftover NASA funds, the space station program will only have a total of a little more than $515 million for the next year. While this level will allow the program to continue, it will only allow it to slowly move forward and most assuredly cause program delays as much as a year or more which will add significantly to the total program cost.

I truly believe that space is the greatest adventure of our time, and any nation that sees itself as a world leader cannot, and must not, ignore it. There are so many great benefits that space offers to our Nation, that it is impossible to count them. Every dollar that we put into our space station program is an investment in the future of our Nation. In my judgment, the space station, and space program in general, is too important to America's future and to science and technology research to stand idly by and let this program become severely crippled or killed.

This is a critical time for our Nation's space program. We have experienced nearly 2 years of down time with the shuttle and have fallen far behind the Soviets in manned space technology research. While the United States may still be preeminent in space research on the whole, if we allow the space station of the United States to be killed, it will not be long before the entire space program of the United States will fall also.

Mr. President, the scientific, material, and medical spinoffs of current programs and the potential future spinoffs of the space station are reasons to throw full support behind this all important program. I would encourage my colleagues to get a copy of NASA's recently published 1987 "Spinoff Book" and read it. I am sure anyone who takes a look at the book will be pleasantly surprised by the wide range of areas in which the space program touches our everyday lives.

Other nations of this world have recognized the importance to their economies, national securities, and to their future that space technology offers. They will not stand idly by and wait for the United States to build back its space program. The Europeans, the Japanese, and particularly the Soviets will push ahead. Mr. President, we cannot be left behind or relegated to a position of simply tagging along other nations in space.

I do not mean to stand here and simply say that we should keep up with the Joneses. In my judgment, it is more important to have a strong and robust space program because of the unlimited benefits that it offers to our Nation as a whole. The simple fact is the merits far outweigh the costs.

Mr. President, deeply embedded in our national history and a true part of an American spirit is the need to be pioneers, adventurers, and entrepreneurs. We did not invent the industrial revolution, but we exploited and improved upon it until we became a world power. Likewise, we may not have been the first in space; but once sputnik raised our national conscience, we became the world's leading space pioneer. Mr. President, we have the opportunity, by way of the space station, our next logical step in space, to recapture the American preeminence in space on every realm of space technology.

As the first Senator to call for the development of a permanently manned space station, I have followed its progress very closely. As I have often said, I believe the manned space station is the most exciting and promising program undertaken by NASA since we went to the Moon, and it is vitally important that we keep its development on schedule.

Not only will a space station enhance our country's science and scientific applications programs, it will also encourage development of capabilities for further commercialization of space and stimulate advanced technologies. In essence, it will be a research center in space. Potential applications of a space station include new and novel products, as well as research to improve processes in the fields of biology, metallurgy, crystal growth, amorphous materials, chemistry, and vacuum processes.

As you can see, Mr. President, the benefits of the space station program are immeasurable. It is simply hard for me to believe that in a trillion-dollar budget, Congress cannot find adequate funding for this vitally important project.

Mr. President, the Congress is not alone to blame for the financial troubles of the space station program. The administration has been less than helpful since the President initiated the program in his State of the Union Address in 1984. Many in Congress support the space station. However, those same supporters have become disappointed and discouraged by the President's recent lack of support for the program. In that regard, I seriously question the President's commitment and the commitment of this administration to the space station. In my judgment, it is critical that the President personally intervene in the appropriations process in the coming years to secure the space station's future.

There is little question about the ultimate importance of such an endeavor. The space station program is tied to our economy, to our national security and to advances in science and scientific applications. The space station will be used for maintaining technological leadership, for international prestige, and, of course, for stimulating the human spirit.

As the Bible says, "Where there is no vision, the people perish." Mr. President, this is not a matter of not being able to afford the space station. This is a matter of not being able to afford not having a space station.

Thank you, Mr. President.

(By request of Mr. DOLE the following statement was ordered to be printed in the RECORD:)

● Mr. MURKOWSKI. Mr. President, the continuing resolution contains essential legislation to address the inability of our construction industry to gain access to public works markets overseas.

In the energy and water, military construction, and Department of Transportation appropriations bills, the conferees adopted construction service reciprocity provisions that this body had unanimously adopted when those measures were debated separately earlier in the session.

These provisions simply mandate market access. No architecture, engineering, or construction firm of a foreign country that has a closed market for AEC services for Government-funded projects may bid or receive a Federal contract for construction associated with transportation, domestic, military, or energy and water development projects. These measures rely on the U.S. Trade Representative to determine which country or countries deny market access for public works projects.

In addition, the conferees adopted a reciprocity provision for all construction AEC services and supplies which are an integral part of the construction projects. This provision will apply across the board to all Government-funded public projects. This amendment was a compromise between the language which I introduced, and was passed by the Senate; and a provision authored by Congressman JACK BROOKS of Texas, which was adopted in the House, by an overwhelming vote.

The Murkowski-Brooks compromise combines the best elements of both bills. It ensures reciprocity in bidding for construction services and supplies on Government contracts. Exclusion of bidders would be based on findings by the USTR that the bidders home country maintains barriers to U.S. construction services and supplies in bidding and procurement for major projects. The compromise also contains provisions by which a country, which is excluded from Government-funded projects, can become eligible to participate upon providing verifiable evidence to the President and USTR that positive action has been taken to remove their barriers to U.S. services and products in major projects.

We view the Murkowski-Brooks compromise language contained in this bill as a solid foundation for ensuring reciprocity in bidding for Government projects well beyond fiscal year 1988. I want to commend my colleague Congressman BROOKS for his diligence and cooperation in forging this compromise. It sends a clear message to trading partners who maintain barriers to U.S. construction products and services that we will use the leverage of our market to see these barriers removed.

Mr. President, I call attention to the fact that direction given to an agency in a committee report remains binding unless specifically contradicted in a conference committee report.

I have for some time been deeply concerned that the Department of State and the Immigration and Naturalization Service have failed to implement the Visa Waiver Pilot Program mandated by the Immigration and Naturalization Reform Act of 1986. As my distinguished colleagues know, the 3-year pilot program would allow the entry of eligible tourists from several countries chosen from among those which met two basic criteria: Low rejection rates for U.S. visa applications, and a reciprocal arrangement allowing the entry of U.S. citizens without visas.

In this regard, the Senate Committee on Appropriations report on appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies directs the two involved agencies to proceed with this important program in a timely manner.

This language remains binding on the agencies, as it was not withdrawn or contradicted in any way by the report of the conference committee on the continuing resolution. As a result, the agencies in question should consider themselves on notice that they will be held accountable for any further failure to implement this section of the 1986 law●

Mr. HECHT. I would like to ask the distinguished acting chairman of the Appropriations Subcommittee on Interior and Related Agencies about the conference committee's treatment of the Fish and Wildlife Service's budget for endangered species work in fiscal year 1988. I had previously contacted the subcommittee urging a $120,000 increase for research on the population dynamics and flow/temperature requirements of the endangered cui-ui fish of Pyramid Lake. This $120,000 would be for the first year of a 5-year line of research on this subject. I note that the conference committee chose not to earmark funds for specific endangered species activities. My question is this: Is there any reason to assume that the committee would not approve of this research being funded by the Service in fiscal year 1988?

Mr. JOHNSTON. I would assure the Senator that there would be no reason at all to come to that conclusion. In fact, the committee would not have any objection at all for some of the funds in the endangered species program to be spent on research on endangered species of the sort the senior Senator from Nevada is suggesting. The committee is mindful of the importance of the cui-ui population in its affect on water management in northern Nevada, and understands the value and need for the research on the cui-ui which is supported by the Senator.

Mr. HECHT. I thank the distinguished acting chairman for his interest and assistance in this matter.

INTERIOR CHAPTER OF HOUSE JOINT RESOLUTION 395

Mr. JOHNSTON. Mr. President, the Interior chapter of this joint resolution totals $9,287,523,000 in budget authority and $9,644,178,000 in outlays. As I'm certain we all fully realize, this has been a long and difficult year. The House of Representatives passed its version of the Department of the Interior and Related Agencies appropriations bill, H.R. 2712, on June 25, 1987; and the Senate completed its action on September 30. As is true for many other appropriations bills, final action on Interior matters has been delayed for the last 2½ months pending completion of the budget summit agreement with the President. With those negotiations now behind us, we have completed conference action on H.R. 2712, reducing it some $750,000,000 below the budget authority level approved by the Senate earlier this fall.

These have been painful reductions. They were sacrifices made out of economic necessity; but the choices were no less difficult. I, for one, am particularly concerned about the cuts that had to be made in the strategic petroleum reserve which was reduced by some $368,000,000 from the original Senate allowance for petroleum acquisition. This action reduces the reserve's fill rate from 100,000 barrels per day for most of fiscal year 1988 to approximately 50,000 barrels per day for the entire year. Frankly, I was not satisfied even with the earlier rate of 100,000 barrels a day; and I think the situation we now find ourselves in underscores the need to move the petroleum acquisition account off budget, as it was several years ago.

Another major reduction from the earlier Senate figure was made in the Clean Coal Program which is included in the conference agreement at $575,000,000 over 2 years. This amount is some $275,000,000 less than the Senate-passed level of $850,000,000. While we have not fully funded the President's budget request for clean coal technology in support of his agreement with Canadian Prime Minister Mulroney, the action taken by the managers on this conference agreement makes no assumptions about reduced funding levels for subsequent years of this $2.5 billion agreement. The Appropriations Committee will address additional funding for this program in the future.

The remaining reductions, Mr. President, were taken from specific programs throughout the bill. I'm pleased to say that the committee was able to avoid an across-the-board percentage reduction to all programs in this bill and still was able to achieve its budgetary targets.

The final conference agreement includes a number of items which I would like to highlight at this point. First, land acquisition funding totals $40.7 million in the Park Service, $51.8 million for the Fish and Wildlife Service, $49.1 million in the Forest Service and $8.9 million in the Bureau of Land Management. Additionally, $20 million has been provided for State grants from the land and water conservation fund. Another item that received considerable attention is the Forest Road Construction Program which is included at $141.5 million, down some $38.5 million from the fiscal year 1987 appropriation for this purpose. We were able to make considerable savings in this program this year due to the lower cost of timber salvage sales.

I could go on at some length, Mr. President, but in the interest of time, I will insert in the RECORD a detailed table which outlines all of the final agreements related to the conference on H.R. 2712, the Interior bill.

The table follows:

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to			
						Enacted	Estimates	House	Senate
TITLE I - DEPARTMENT OF THE INTERIOR									
BUREAU OF LAND MANAGEMENT									
Management of Lands and Resources									
Onshore Energy and Minerals Management									
Energy Resources									
Coal Leasing	13,695	14,580	14,580	13,695	13,695	---	-885	-885	---
Oil & Gas Leasing	46,019	49,742	49,742	46,019	47,519	+1,500	-2,223	-2,223	+1,500
Geothermal leasing	2,475	2,649	2,649	2,475	2,475	---	-174	-174	---
Subtotal, Energy Resources	62,189	66,971	66,971	62,189	63,689	+1,500	-3,282	-3,282	+1,500
Non-Energy Minerals									
Mineral Material Sales	2,184	2,354	2,354	2,354	2,354	+170	---	---	---
Mining Law Administration	9,010	9,940	9,940	10,340	10,340	+1,330	+400	+400	---
Mineral Leasing	3,868	4,114	4,114	4,114	4,114	+246	---	---	---
Uranium operations	621	659	659	659	659	+38	---	---	---
Subtotal, Non-Energy Minerals	15,683	17,067	17,067	17,467	17,467	+1,784	+400	+400	---
Subtotal, Energy and Minerals Management	77,872	84,038	84,038	79,656	81,156	+3,284	-2,882	-2,882	+1,500
Lands and Realty Management									
Realty Operations									
Energy Realty	8,063	7,955	7,955	7,955	7,955	-108	---	---	---
Non-Energy Realty	16,725	22,224	22,224	22,224	22,224	+5,499	---	---	---
Alaska Lands program	13,684	11,844	12,093	14,093	14,093	+409	+2,249	+2,000	---
Subtotal, Realty operations	38,472	42,023	42,272	44,272	44,272	+5,800	+2,249	+2,000	---
Withdrawal Processing and Review	3,732	3,491	3,491	3,491	3,491	-241	---	---	---
Subtotal, Lands and Realty Management	42,204	45,514	45,763	47,763	47,763	+5,559	+2,249	+2,000	---
Renewable Resources Management									
Forest Management									
Public Domain	6,106	5,507	6,507	6,507	6,507	+401	+1,000	---	---
Western Oregon	914	---	914	914	914	---	+914	---	---
Subtotal, Forest Management	7,020	5,507	7,421	7,421	7,421	+401	+1,914	---	---
Range Management									
Wild Horse & Burro Management	17,777	14,774	14,774	14,774	14,774	-3,003	---	---	---
Grazing Management	36,360	33,333	33,833	34,883	34,123	-2,237	+790	+290	-760
Subtotal, Range Management	54,137	48,107	48,607	49,657	48,897	-5,240	+790	+290	-760
Soil, Water, & Air Management	17,230	15,256	17,606	20,006	20,006	+2,776	+4,650	+2,400	---
Wildlife Habitat Management	16,126	14,747	17,057	20,417	18,357	+2,231	+3,610	+1,300	-2,060
Recreation Management									
Cultural Resources Management	6,618	5,469	7,009	6,409	6,484	-134	+1,015	-525	+75
Wilderness Management	7,254	7,411	7,411	9,556	7,411	+157	---	---	-2,145
Recreation Resources Management	9,092	8,188	9,682	9,282	10,732	+1,640	+2,544	+1,050	+1,450
Subtotal, Recreation Management	22,964	21,068	24,102	25,247	24,627	+1,663	+3,559	+525	-620
Fire Management	8,847	9,305	9,555	9,305	9,555	+708	+250	---	+250
Subtotal, Renewable Resources Management	126,324	114,090	124,348	132,053	128,863	+2,539	+14,773	+4,515	-3,190

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Planning and Data Management									
Planning	9,525	9,680	9,680	9,680	9,680	+155	---	---	---
Data Management	14,888	21,078	21,078	21,078	21,078	+6,190	---	---	---
Subtotal, Planning and Data Management	24,413	30,758	20,758	30,758	30,758	+6,345	---	---	---
Cadastral Survey									
Alaska	15,059	11,483	11,483	15,483	15,483	+424	+4,000	+4,000	---
Other States	11,622	12,538	12,538	12,538	12,538	+916	---	---	---
Subtotal, Cadastral Survey	26,681	24,021	24,021	28,021	28,021	+1,340	+4,000	+4,000	---
Fire control									
Firefighting & Presuppression	86,492	3,492	78,492	78,492	78,492	-8,000	+75,000	---	---
Rehabilitation	584	584	584	584	584	---	---	---	---
Subtotal, Fire Control	87,076	4,076	79,076	79,076	79,076	-8,000	+75,000	---	---
Technical Services									
Resource Protection	3,320	3,431	3,431	3,431	3,431	+111	---	---	---
Maintenance and engineeering services									
Buildings	3,421	3,990	3,990	3,990	3,990	+569	---	---	---
Recreation	3,681	4,832	4,832	4,832	4,832	+1,151	---	---	---
Transportation	3,483	4,268	4,268	4,268	4,268	+785	---	---	---
Maintenance improvement	1,000	---	---	---	---	-1,000	---	---	---
Engineering services	1,160	1,353	1,353	1,353	1,353	+193	---	---	---
Subtotal, Maintenance and engineering services	12,745	14,443	14,443	14,443	14,443	+1,698	---	---	---
Subtotal, Technical Services	16,065	17,874	17,874	17,874	17,874	+1,809	---	---	---
General Administration									
Executive and managerial direction	5,525	5,831	5,831	5,831	5,831	+306	---	---	---
Equal employment opportunity	2,056	2,246	2,246	2,246	2,246	+190	---	---	---
Administrative services support	30,680	33,195	33,195	33,195	33,195	+2,515	---	---	---
Bureauwide fixed costs	46,840	46,309	46,499	46,499	46,499	-341	+190	---	---
Subtotal, General Administration	85,101	87,581	87,771	87,771	87,771	+2,670	+190	---	---
Pay and retirement supplemental	9,402	---	---	---	---	-9,402	---	---	---
FERS reestimate	---	---	---	---	-2,299	-2,299	-2,299	-2,299	-2,299
Total, Management of Lands and Resources	495,138	407,952	493,649	502,972	498,983	+3,845	+91,031	+5,334	-3,989
Construction and Access									
Access	1,200	1,281	1,281	1,281	1,281	+81	---	---	---
Construction	1,600	---	700	1,455	2,155	+555	+2,155	+1,455	+700
FERS reestimate	---	---	---	---	-6	-6	-6	-6	-6
Total, Construction and Access	2,800	1,281	1,981	2,736	3,430	+630	+2,149	+1,449	+694
Payments in Lieu of Taxes									
Payments to Local Governments	105,000	105,000	105,000	105,000	105,000	---	---	---	---
Land Acquisition									
Bureau of Land Management:									
Acquisitions	5,920	10	3,670	9,485	8,285	+2,365	+8,275	+4,615	-1,200

	FY 1987	FY 1988				Conference compared to			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House	Senate
Acquisition Management	300	---	500	750	600	+300	+600	+100	-150
Subtotal, Land Acquisition	6,220	10	4,170	10,235	8,885	+2,665	+8,875	+4,715	-1,350
Rescission	-3,200	---	---	---	---	+3,200	---	---	---
Total, Land Acquisition	3,020	10	4,170	10,235	8,885	+5,865	+8,875	+4,715	-1,350
Oregon & California Grant Lands									
Construction and Acquisition	528	556	886	556	856	+328	+300	-30	+300
Maintenance	4,120	3,758	3,758	4,258	3,905	-215	+147	+147	-353
Renewable Resource Management	48,931	48,678	51,478	52,375	52,278	+3,347	+3,600	+800	-97
Planning and Data Management	945	945	1,695	945	1,695	+750	+750	---	+750
Pay and retirement supplemental	1,294	---	---	---	---	-1,294	---	---	---
FERS reestimate	---	---	---	---	-259	-259	-259	-259	-259
Total, Oregon & California Grant Lands	55,818	53,937	57,817	58,134	58,475	+2,657	+4,538	+658	+341
Range Improvement Fund									
Improvement to Public Lands	7,703	6,956	6,956	6,956	6,956	-747	---	---	---
Farm Tenant Act Lands	950	950	950	950	950	---	---	---	---
Administrative expenses	600	600	600	600	600	---	---	---	---
Total, Range Improvements	9,253	8,506	8,506	8,506	8,506	-747	---	---	---
Service Charges, Deposits, and Forfeitures									
Rights-of-way Processing	2,695	2,695	2,695	2,695	2,695	---	---	---	---
Adopt-a-horse program	500	500	500	500	500	---	---	---	---
Repair of Damaged Lands	1,850	650	650	650	650	-1,200	---	---	---
Cost recoverable realty cases	150	150	150	150	150	---	---	---	---
Timber purchaser expenses	---	1,200	1,200	1,200	1,200	+1,200	---	---	---
Copy fees	---	2,000	2,000	2,000	2,000	+2,000	---	---	---
Total, Service Charges, Deposits, and Forfeitures	5,195	7,195	7,195	7,195	7,195	+2,000	---	---	---
Miscellaneous Trust Funds									
Base Program	100	100	100	100	100	---	---	---	---
Total, Bureau of Land Management	676,324	583,981	678,418	694,878	690,574	+14,250	+106,593	+12,156	-4,304
U.S. FISH AND WILDLIFE SERVICE									
Resource Management									
Fish and Wildlife Enhancement									
Endangered species									
Listing	3,567	3,222	3,472	3,472	3,472	-95	+250	---	---
Consultation	3,115	3,022	3,172	3,172	3,172	+57	+150	---	---
Permits	842	859	859	859	859	+17	---	---	---
Recovery	6,391	5,819	6,819	8,319	7,319	+928	+1,500	+500	-1,000
Grants to States	4,300	---	4,300	4,300	4,300	---	+4,300	---	---
Subtotal, Endangered species	18,215	12,922	18,622	20,122	19,122	+907	+6,200	+500	-1,000

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to			
						Enacted	Estimates	House	Senate
Ecological services	17,924	18,413	19,913	19,413	19,713	+1,789	+1,300	-200	+300
Environmental contaminants	4,947	5,002	6,002	6,002	6,002	+1,055	+1,000	---	---
National wetlands inventory	5,254	5,328	4,263	5,328	5,128	-126	-200	+865	-200
Subtotal, Fish and Wildlife Enhancement	46,340	41,665	48,800	50,865	49,965	+3,625	+8,300	+1,165	-900
Refuges and Wildlife									
Refuge operations and maintenance	109,368	96,189	113,508	116,099	117,249	+7,881	+21,060	+3,741	+1,150
Law enforcement operations	17,933	18,140	21,140	20,720	20,840	+2,907	+2,700	-300	+120
Migratory bird management	8,010	7,800	7,909	8,709	8,609	+599	+809	+700	-100
Subtotal, Refuges and Wildlife	135,311	122,129	142,557	145,528	146,698	+11,387	+24,569	+4,141	+1,170
Fisheries									
Hatchery operations and maintenance	23,949	24,742	25,242	26,053	26,334	+2,385	+1,592	+1,092	+281
Lower Snake River Compensation Fund	6,380	7,623	6,409	6,528	6,528	+148	-1,095	+119	---
Fish and wildlife management	4,977	5,143	5,393	5,519	5,835	+858	+692	+442	+316
Subtotal, Fisheries	35,306	37,508	37,044	38,100	38,697	+3,391	+1,189	+1,653	+597
Research and Development									
Fish and wildlife research center O & M	43,417	41,148	47,163	46,963	48,119	+4,702	+6,971	+956	+1,156
Technical development	5,458	5,371	5,371	5,771	5,771	+313	+400	+400	---
Cooperative research units	4,564	4,941	5,441	5,941	5,741	+1,177	+800	+300	-200
Subtotal, Research and Development	53,439	51,460	57,975	58,675	59,631	+6,192	+8,171	+1,656	+956
General Administration									
Fish and Wildlife Foundation Matching grants	---	---	250	750	500	+500	+500	+250	-250
Central office administration	11,144	11,597	11,420	11,597	11,420	+276	-177	---	-177
Regional office administration	12,378	13,145	13,145	13,145	13,145	+767	---	---	---
Servicewide administrative support	20,453	21,056	20,690	20,556	20,556	+103	-500	-134	---
Engineering services	3,421	3,643	3,643	3,643	3,643	+222	---	---	---
Subtotal, General Administration	47,396	49,441	49,148	49,691	49,264	+1,868	-177	+116	-427
Pay and retirement supplemental	5,846	---	---	---	---	-5,846	---	---	---
FERS reestimate	---	---	---	---	-1,661	-1,661	-1,661	-1,661	-1,661
Total, Resource Management	323,638	302,203	335,524	342,859	342,594	+18,956	+40,391	+7,070	-265
Construction and Anadromous Fish									
Construction and rehabilitation									
Line item construction	---	8,610	18,407	17,390	22,620	+22,620	+14,010	+4,213	+4,690
Anadromous fish grants	2,000	---	1,500	1,500	1,500	-500	+1,500	---	---
Striped bass study	---	---	500	500	500	+500	+500	---	---
Capital development & maintenance management	600	47	647	47	447	-153	+400	-200	+400
FERS reestimate	---	---	---	---	-5	-5	-5	-5	-5
Total, Construction and Anadromous Fish	2,600	8,657	21,054	19,427	25,062	+22,462	+16,405	+4,008	+5,085
Migratory Bird Conservation Account									
Advance Appropriation	7,000	---	1,000	3,561	1,000	-6,000	+1,000	---	-2,561
Land Acquisition									
Fish and Wildlife Service:									
Acquisitions - Federal refuge lands	46,490	---	37,435	70,860	49,880	+3,390	+49,880	+12,445	-20,980
Acquisition Management	1,750	1,639	1,639	2,000	1,889	+139	+250	+250	-111
FERS reestimate	---	---	---	---	-15	-15	-15	-15	-15
Total, Land Acquisition	48,240	1,639	39,074	72,860	51,754	+3,514	+50,115	+12,680	-21,106

	FY 1987	FY 1988				Conference compared to			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House	Senate
National Wildlife Refuge Fund									
Payments in Lieu of Taxes	5,645	5,645	5,645	5,645	5,645	---	---	---	---
Total, Fish and Wildlife Service	387,123	318,144	402,297	444,362	426,055	+38,932	+107,911	+23,758	-18,847
NATIONAL PARK SERVICE									
Operation of the National Park System									
Park Management									
Management of park areas	62,685	65,522	66,263	69,199	68,950	+6,265	+3,428	+2,687	-249
Concessions management	3,548	5,112	5,112	5,112	5,112	+1,564	---	---	---
Interpretation and Visitor Services	68,054	73,039	73,103	73,059	73,123	+5,069	+84	+20	+64
Visitor protection and safety	60,365	66,983	65,483	67,068	66,568	+6,203	-415	+1,085	-500
United States Park Police	32,073	35,968	34,493	35,968	35,243	+3,170	-725	+750	-725
Maintenance	243,360	254,910	257,350	258,910	258,350	+14,990	+3,440	+1,000	-560
Resources management	100,908	106,825	109,813	107,200	109,813	+8,905	+2,988	---	+2,613
Information publications	3,400	3,954	3,454	3,954	3,704	+304	-250	+250	-250
International Park Affairs	791	446	814	695	695	-96	+249	-119	---
Volunteers-in-parks	500	1,000	500	1,000	750	+250	-250	+250	-250
Enhanced park operation	15,000	18,500	15,000	18,500	15,000	---	-3,500	---	-3,500
Subtotal, Park Management	590,684	632,259	631,385	640,665	637,308	+46,624	+5,049	+5,923	-3,357
Forest Fire Suppression and Presuppression	14,319	1,319	11,319	11,319	11,319	-3,000	+10,000	---	---
Park Recreation and Wilderness Planning									
Water resources	2,909	2,936	2,936	3,036	3,036	+127	+100	+100	---
General management plans	2,332	1,673	1,673	1,993	1,673	-659	---	---	-320
Subtotal, Park Recreation & Wilderness Planning	5,241	4,609	4,609	5,029	4,709	-532	+100	+100	-320
Statutory or Contractual Aid for Other Activities									
Roosevelt Campobello International Park Commission	408	408	424	424	424	+16	+16	---	---
Ice Age National Scientific Reserve	573	573	573	573	573	---	---	---	---
Lowell Historic Preservation Canal Commission	537	569	569	569	569	+32	---	---	---
Mary McLeod Bethune NHS	199	199	199	199	199	---	---	---	---
Martin Luther King, Jr. Center	199	199	199	2,550	2,550	+2,351	+2,351	+2,351	---
Fisk University, Jubilee Hall	168	---	168	168	168	---	+168	---	---
James Garfield NHS	468	---	---	---	---	-468	---	---	---
Johnstown Flood Museum	398	---	---	---	---	-398	---	---	---
Harding Home and Tomb State Memorial	538	---	---	---	---	-538	---	---	---
Steamtown USA NHS	8,000	---	---	---	---	-8,000	---	---	---
Blackstone River Corridor	---	---	350	350	350	+350	+350	---	---
William McKinley Monument	---	---	925	---	925	+925	+925	---	+925
Balboa Park	---	---	200	---	200	+200	+200	---	+200
William Howard Taft home	419	---	---	---	---	-419	---	---	---
Native Hawaiian Culture and Arts Department	200	---	---	---	---	-200	---	---	---
Subtotal, Statutory or Contractual Aid	12,107	1,948	3,607	4,833	5,958	-6,149	+4,010	+2,351	+1,125
General Administration									
Central office	5,820	6,173	6,173	6,173	6,173	+353	---	---	---
Regional offices	14,993	17,640	17,640	17,640	17,640	+2,647	---	---	---
Automatic data processing	5,443	5,742	5,742	5,742	5,742	+299	---	---	---
Service wide administrative support	7,954	8,408	8,408	8,408	8,408	+454	---	---	---
General services	390	390	390	390	390	---	---	---	---
Employee compensation payment	5,381	5,720	5,720	5,720	5,720	+339	---	---	---

	FY 1987	FY 1988				Conference compared to			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House	Senate
Unemployment compensation for federal employees	7,892	7,892	7,892	7,892	7,892	---	---	---	---
GSA space rental	13,500	14,000	14,000	14,000	14,000	+500	---	---	---
Executive direction	6,544	6,883	6,383	6,883	6,543	-1	-340	+160	-340
Public Affairs	1,753	1,861	1,861	1,861	1,861	+108	---	---	---
FERS reestimate	---	---	---	-2,449	-2,864	-2,864	-2,864	-2,864	-415
Subtotal, General Administration	69,670	74,709	74,209	72,260	71,505	+1,835	-3,204	-2,704	-755
Pay and retirement supplemental	13,960	---	---	---	---	-13,960	---	---	---
Temporary Fee Legislation	-54,000	---	---	-34,000	-35,000	+19,000	-35,000	-35,000	-1,000
Transfer from Planning, Development and Operation of Facilities	-15,158	---	---	---	---	+15,158	---	---	---
(Rescission)	---	---	---	-5,500	---	---	---	---	+5,500
Total, Operation of the National Park System	636,823	714,844	725,129	694,606	695,799	+58,976	-19,045	-29,330	+1,193
National Recreation and Preservation									
Recreation Programs	600	301	617	617	617	+17	+316	---	---
Natural Programs	1,582	571	2,471	2,471	2,471	+889	+1,900	---	---
National Register	6,584	7,425	7,695	7,925	7,945	+1,361	+520	+250	+20
Environmental and Compliance Review	383	427	427	427	427	+44	---	---	---
Grant administration	1,479	1,593	1,543	1,543	1,543	+64	-50	---	---
FERS reestimate	---	---	---	---	-68	-68	-68	-68	-68
Pay and retirement supplemental	300	---	---	---	---	-300	---	---	---
Total, National Recreation and Preservation	10,928	10,317	12,753	12,983	12,935	+2,007	+2,618	+182	-48
Historic Preservation Fund									
Grants-in-aid	20,000	---	20,750	28,750	23,750	+3,750	+23,750	+3,000	-5,000
National Trust for Historic Preservation	4,250	---	4,250	5,300	4,500	+250	+4,500	+250	-800
Total, Historic Preservation Fund	24,250	---	25,000	34,050	28,250	+4,000	+28,250	+3,250	-5,800
Urban Park Recreation Fund									
Base program (rescission)	---	---	---	-2,800	-1,900	-1,900	-1,900	-1,900	+900
Construction									
Buildings and Utilities									
Emergency and Unscheduled (Lump Sum) Projects	3,000	2,000	3,000	3,000	2,000	-1,000	---	-1,000	-1,000
Advance Planning	4,600	3,464	4,600	4,839	4,600	---	+1,136	---	-239
Project Planning	8,500	6,208	8,325	8,261	9,325	+825	+3,117	+1,000	+1,064
Line Item Construction Projects	71,995	19,318	70,131	65,231	77,284	+5,289	+57,966	+7,153	+12,053
Visitors facilities fund	---	(4,700)	(4,700)	(4,700)	(4,700)	(+4,700)	---	---	---
FERS reestimate	---	---	---	---	-192	-192	-192	-192	-192
Total, Construction	88,095	30,990	86,056	81,331	93,017	+4,922	+62,027	+6,961	+11,686
Federal Highway Administration									
Federal-aid highways (liquidation of contract authority) (trust fund)	(12,500)	---	(31,000)	(31,000)	(31,000)	(+18,500)	(+31,000)	---	---
Land Acquisition and State Assistance									
Assistance to States									
Matching grants	32,700	---	---	31,567	16,567	-16,133	+16,567	+16,567	-15,000
Administrative expenses	2,270	3,433	3,433	3,433	3,433	+1,163	---	---	---

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Estimates	House	Senate
National Park Service									
Acquisitions	70,160	6,100	38,500	34,725	34,325	-35,835	+28,225	-4,175	-400
Acquisition management	5,000	6,498	6,498	6,598	6,498	+1,498	---	---	-100
FERS reestimate	---	---	---	---	-74	-74	-74	-74	-74
Total, Land acquisition and state assistance	110,130	16,031	48,431	76,323	60,749	-49,381	+44,718	+12,318	-15,574
Land and Water Conservation Fund									
(Rescission of contract authority)	-30,000	---	-30,000	-30,000	-30,000	---	-30,000	---	---
John F. Kennedy Center for the Performing Arts									
Base program	4,771	4,920	4,920	4,920	4,920	+149	---	---	---
FERS reestimate	---	---	---	---	-16	-16	-16	-16	-16
Total, JFK Center for the Performing Arts	4,771	4,920	4,920	4,920	4,904	+133	-16	-16	-16
Illinois and Michigan Canal National Heritage Corridor Commission									
Base program	250	---	250	250	250	---	+250	---	---
Jefferson National Expansion Memorial Commission									
Base program	75	---	---	---	---	-75	---	---	---
GEOLOGICAL SURVEY									
Surveys, Investigations, and Research									
National Mapping, Geography and Surveys									
Primary mapping and revision	33,266	36,582	36,582	36,582	36,582	+3,316	---	---	---
Digital cartography	13,499	13,220	14,220	13,220	13,970	+471	+750	-250	+750
Small intermediate and special mapping	13,798	13,218	13,968	14,568	13,593	-205	+375	-375	-975
Advanced cartographic systems	12,206	13,396	13,396	13,396	13,396	+1,190	---	---	---
Earth resources observation system	8,888	7,148	8,148	9,148	8,648	-240	+1,500	+500	-500
Cartographic and geographic Information	3,371	3,851	3,851	3,851	3,851	+480	---	---	---
Side looking airborne radar	1,500	---	1,500	1,500	1,500	---	+1,500	---	---
Subtotal, National Mapping, Geography & Surveys	86,528	87,415	91,665	92,265	91,540	+5,012	+4,125	-125	-725
Geologic and Mineral Resource Surveys and Mapping									
Earthquake hazards reduction	35,059	32,540	35,040	34,540	35,040	-19	+2,500	---	+500
Volcano Hazards	10,667	11,098	11,098	11,848	11,598	+931	+500	+500	-250
Landslide hazards	2,058	2,225	2,225	2,225	2,225	+167	---	---	---
National geologic mapping	16,362	17,084	18,084	17,584	17,834	+1,472	+750	-250	+250
Deep continental studies	3,000	3,085	3,085	3,085	3,085	+85	---	---	---
Geomagnetism	2,129	1,763	1,763	2,263	1,763	-366	---	---	-500
Climate change	992	1,046	1,046	1,046	1,046	+54	---	---	---
Coastal erosion	1,500	---	3,000	2,000	3,500	+2,000	+3,500	+500	+1,500
Offshore geologic surveys	24,428	24,204	25,704	24,204	25,204	+776	+1,000	-500	+1,000
Mineral resource surveys	44,033	45,104	47,104	47,104	47,104	+3,071	+2,000	---	---
Energy geologic surveys	25,772	26,675	28,375	28,425	28,925	+3,153	+2,250	+550	+500
Subtotal, Geologic & Mineral Surveys & Mapping	166,000	164,824	176,524	174,324	177,324	+11,324	+12,500	+800	+3,000
Water Resources Investigations									
Federal Program	66,078	67,690	69,940	73,640	72,590	+6,512	+4,900	+2,650	-1,050
Water resources research institutes	11,258	7,242	10,852	11,336	10,852	-406	+3,610	---	-484
Federal-State program	52,835	58,028	60,364	60,364	60,664	+7,829	+2,636	+300	+300
National water quality assessment	7,000	4,249	7,249	7,249	7,249	+249	+3,000	---	---
Subtotal, Water Resources Investigations	137,171	137,209	148,405	152,589	151,355	+14,184	+14,146	+2,950	-1,234

	FY 1987	FY 1988				Conference compared to			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House	Senate
General Administration	16,540	14,514	14,514	14,514	14,514	-2,026	---	---	---
Facilities	15,023	16,216	16,216	16,216	16,216	+1,193	---	---	---
Pay and retirement supplemental	10,278	---	---	---	---	-10,278	---	---	---
FERS reestimate	---	---	---	---	-3,202	-3,202	-3,202	-3,202	-3,202
Total, Geological Survey	431,540	420,178	447,324	449,908	447,747	+16,207	+27,569	+423	-2,161
MINERALS MANAGEMENT SERVICE									
Leasing and Royalty Management									
OCS Lands									
Leasing and environmental program	38,632	39,319	39,319	42,023	40,219	+1,587	+900	+900	-1,804
Resource evaluation	26,212	23,846	23,846	23,846	23,846	-2,366	---	---	---
Regulatory program	27,952	29,623	29,623	29,623	29,623	+1,671	---	---	---
Subtotal, OCS Lands	92,796	92,788	92,788	95,492	93,688	+892	+900	+900	-1,804
Royalty Management									
Mineral Revenue Collection (onshore royalty)	14,652	15,931	15,931	15,931	15,931	+1,279	---	---	---
Mineral Revenue Compliance (offshore royalty)	13,626	15,020	15,770	15,020	15,020	+1,394	---	-750	---
Systems development and maintenance	17,426	19,228	19,228	19,228	19,228	+1,802	---	---	---
Subtotal, Royalty Management	45,704	50,179	50,929	50,179	50,179	+4,475	---	-750	---
General administration									
Executive direction	3,153	3,545	3,545	3,545	3,545	+392	---	---	---
Administration operations	9,107	10,057	10,057	10,057	10,057	+950	---	---	---
General support services	10,737	11,994	11,994	11,994	11,994	+1,257	---	---	---
Subtotal, General administration	22,997	25,596	25,596	25,596	25,596	+2,599	---	---	---
FERS reestimate	---	---	---	---	-746	-746	-746	-746	-746
Total, Leasing and Royalty Management	161,497	168,563	169,313	171,267	168,717	+7,220	+154	-596	-2,550
Payments to States from receipts under Mineral Leasing	---	750	---	---	---	---	-750	---	---
Total, Minerals Management Service	161,497	169,313	169,313	171,267	168,717	+7,220	-596	-596	-2,550
BUREAU OF MINES									
Mines and Minerals									
Minerals Information and Analysis									
Minerals information	9,856	11,021	10,521	11,021	10,871	+1,015	-150	+350	-150
Mineral data analysis	18,214	18,031	18,031	19,531	19,281	+1,067	+1,250	+1,250	-250
Subtotal, Minerals Information and Analysis	28,070	29,052	28,552	30,552	30,152	+2,082	+1,100	+1,600	-400
Minerals Research									
Health and safety technology	34,921	29,315	36,615	39,315	37,465	+2,544	+8,150	+850	-1,850
Mining technology	17,544	12,733	16,883	26,783	20,433	+2,889	+7,700	+3,550	-6,350
Minerals and materials technology	30,665	28,761	29,361	31,361	30,361	-304	+1,600	+1,000	-1,000
Subtotal, Minerals Research	83,130	70,809	82,859	97,459	88,259	+5,129	+17,450	+5,400	-9,200
Mineral institutes	7,612	---	3,004	8,812	8,812	+1,200	+8,812	+5,808	---
General administration	19,350	18,769	18,312	18,769	19,262	-88	+493	+950	+493
Facilities	---	---	---	2,800	700	+700	+700	+700	-2,100

	FY 1987	FY 1988				Conference compared to			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House	Senate
Substance abuse/alcohol programs	5,400	2,400	2,400	2,400	2,400	-3,000	---	---	---
Subtotal, Education	272,180	236,031	239,670	240,024	239,270	-32,910	+3,239	-400	-754
Indian Services									
Tribal government services	32,656	5,692	8,992	9,192	8,992	-23,664	+3,300	---	-200
Social services	114,301	90,516	93,016	93,216	93,216	-21,085	+2,700	+200	---
Law enforcement	53,413	3,177	4,427	4,542	4,292	-49,121	+1,115	-135	-250
Self-determination services	21,624	50,682	49,682	57,357	52,682	+31,058	+2,000	+3,000	-4,675
Employment development	26,182	2,436	2,276	3,170	2,476	-23,706	+40	+200	-694
Tribe/Agency operations	---	146,901	151,626	158,460	153,781	+153,781	+6,880	+2,155	-4,679
Subtotal, Indian Services	248,176	299,404	310,019	325,937	315,439	+67,263	+16,035	+5,420	-10,498
Navajo-Hopi settlement program	2,431	1,971	1,971	1,971	1,971	-460	---	---	---
Economic Development and Employment Programs									
Business enterprise development	14,296	13,146	10,071	11,771	10,571	-3,725	-2,575	+500	-1,200
Road maintenance	23,157	767	1,767	767	1,267	-21,890	+500	-500	+500
Tribe/Agency operations	---	25,797	27,797	27,797	27,797	+27,797	+2,000	---	---
Subtotal, Economic Development & Employment	37,453	39,710	39,635	40,335	39,635	+2,182	-75	---	-700
Natural Resources Development									
Natural resources, general	2,630	1,888	1,888	1,888	1,888	-742	---	---	---
Agriculture	22,820	3,506	3,856	4,471	4,361	-18,459	+855	+505	-110
Forestry	33,304	6,631	12,498	9,181	12,498	-20,806	+5,867	---	+3,317
Water resources	11,012	467	9,467	9,467	9,467	-1,545	+9,000	---	---
Wildlife and parks	29,582	10,301	14,832	13,324	14,540	-15,042	+4,239	-292	+1,216
Fire suppression	25,200	---	25,000	25,000	25,000	-200	+25,000	---	---
Minerals and mining	10,485	6,836	7,886	7,119	7,886	-2,599	+1,050	---	+767
Irrigation and power	7,587	7,618	8,018	7,618	8,018	+431	+400	---	+400
Tribe/Agency operations	---	57,062	62,200	63,002	62,575	+62,575	+5,513	+375	-427
Subtotal, Natural Resources Development	142,620	94,309	145,645	141,070	146,233	+3,613	+51,924	+588	+5,163
Trust Responsibilities									
Rights protection	17,815	18,849	11,349	13,499	12,749	-5,066	-6,100	+1,400	-750
Real estate and financial trust services	32,312	19,513	17,923	18,226	17,848	-14,464	-1,665	-75	-378
Tribe/Agency operations	---	24,978	24,978	24,978	24,978	+24,978	---	---	---
Subtotal, Trust Responsibilities	50,127	63,340	54,250	56,703	55,575	+5,448	-7,765	+1,325	-1,128
Facilities Management	89,845	80,907	82,367	80,907	82,367	-7,478	+1,460	---	+1,460
General administration									
Management and administration	49,726	38,194	37,580	37,427	37,603	-12,123	-591	+23	+176
ADP services	17,551	17,731	16,931	16,393	16,831	-720	-900	-100	+438
Program management	5,848	6,127	5,927	6,047	6,047	+199	-80	+120	---
Employee compensation payments	7,538	12,131	12,131	12,131	12,131	+4,593	---	---	---
Consolidated training program	840	840	840	840	840	---	---	---	---
Tribe/Agency operations	---	19,486	19,486	19,686	19,486	+19,486	---	---	-200
Subtotal, General administration	81,503	94,509	92,895	92,524	92,938	+11,435	-1,571	+43	+414
Pay and retirement supplemental	14,265	---	---	---	---	-14,265	---	---	---
FERS reestimate	---	---	---	---	-2,672	-2,672	-2,672	-2,672	-2,672
Total, Operation of Indian Programs	938,600	910,181	966,452	979,471	970,756	+32,156	+60,575	+4,304	-8,715

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to			
						Enacted	Estimates	House	Senate
Construction									
Buildings and utilities	48,110	32,360	33,884	38,996	41,160	-6,950	+8,800	+7,276	+2,164
Fish hatcheries	---	---	2,800	---	1,500	+1,500	+1,500	-1,300	+1,500
Irrigation systems	17,885	8,194	14,429	13,534	15,524	-2,361	+7,330	+1,095	+1,990
Housing	22,606	17,340	22,854	10,000	22,854	+248	+5,514	---	+12,854
Land Acquisition	---	---	---	3,250	2,250	+2,250	+2,250	+2,250	-1,000
FERS reestimate	---	---	---	---	-63	-63	-63	-63	-63
Total, Construction	88,601	57,894	73,967	65,780	83,225	-5,376	+25,331	+9,258	+17,445
Road Construction									
Base Program	---	---	1,000	---	1,000	+1,000	+1,000	---	+1,000
White Earth Trust Fund	6,600	---	---	---	---	-6,600	---	---	---
Miscellaneous Payments to Indians									
White Earth Land Settlement Act (Admin)	---	788	500	500	500	+500	-288	---	---
Old Age Assistance	---	2,140	2,140	2,140	2,140	+2,140	---	---	---
Payment of income from Chilcco Indian Reserve	---	---	---	994	---	---	---	---	-994
Payment to Tohono O'Odham Nation	---	10,700	10,700	10,700	10,700	+10,700	---	---	---
Total, Miscellaneous Payments to Indians	---	13,628	13,340	14,334	13,340	+13,340	-288	---	-994
Trust Funds									
Definite	1,000	1,000	1,000	1,000	1,000	---	---	---	---
Revolving Fund for Loans									
Indian direct loan subsidies	---	2,912	---	---	---	---	-2,912	---	---
Limitation on direct loans	(16,320)	(13,000)	---	---	---	(-16,320)	(-13,000)	---	---
Indian Loan Guaranty and Insurance Fund									
Base program	2,452	2,727	3,085	3,085	3,085	+633	+358	---	---
Indian guaranteed loan subsidies	---	9,367	---	---	---	---	-9,367	---	---
Limitation on guaranteed loans	---	(33,500)	---	---	---	---	(-33,500)	---	---
Total, Indian Loan Guaranty and Insurance Fund	2,452	12,094	3,085	3,085	3,085	+633	-9,009	---	---
Total, Bureau of Indian Affairs	1,037,253	997,709	1,058,844	1,063,670	1,072,406	+35,153	+74,697	+13,562	+8,736
TERRITORIAL AFFAIRS									
Administration of Territories									
Guam									
Construction grants	5,500	1,100	1,100	6,500	4,500	-1,000	+3,400	+3,400	-2,000
American Samca									
Operations grants	20,776	15,400	20,776	20,776	20,776	---	+5,376	---	---
Construction grants	4,313	1,950	4,450	3,200	3,450	-863	+1,500	-1,000	+250
Subtotal, American Samoa	25,089	17,350	25,226	23,976	24,226	-863	+6,876	-1,000	+250
Northern Marianas									
Covenant grants	35,344	34,360	34,360	34,360	34,360	-984	---	---	---
Subtotal, Northern Marianas	35,344	34,360	34,360	34,360	34,360	-984	---	---	---
Virgin Islands									
Grants	---	---	2,500	2,500	2,500	+2,500	+2,500	---	---
Construction grants	2,900	2,400	2,400	2,400	2,400	-500	---	---	---
Subtotal, Virgin Islands	2,900	2,400	4,900	4,900	4,900	+2,000	+2,500	---	---

	FY 1987	FY 1988				Conference compared to			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House	Senate
A/S Territorial and International Affairs	508	547	547	547	547	+39	---	---	---
A/S Policy, Budget & Administration	825	760	760	760	760	-65	---	---	---
Subtotal, Program Direction and Coordination	3,998	4,581	4,192	4,192	4,192	+194	-389	---	---
Administration									
Environmental Project Review	1,404	2,269	1,523	2,023	2,023	+619	-246	+500	---
Acquisition & Property Management	1,264	1,372	1,372	1,372	1,372	+108	---	---	---
Office of personnel	1,617	1,652	1,652	1,652	1,652	+35	---	---	---
Administrative Services	1,032	1,332	1,114	1,114	1,114	+82	-218	---	---
Library	---	1,641	1,364	1,392	1,364	+1,364	-277	---	-28
Information Resources Management	4,450	3,107	2,910	2,959	2,910	-1,540	-197	---	-49
Management Analysis	---	416	336	336	336	+336	-80	---	---
Policy Analysis	1,950	2,115	1,637	2,115	1,876	-74	-239	+239	-239
Office of Budget	1,404	1,637	1,520	1,450	1,520	+116	-117	---	+70
Budget Execution	---	379	---	---	---	---	-379	---	---
Financial management	954	1,125	1,037	1,125	1,125	+171	---	+88	---
Subtotal, Administration	14,075	17,045	14,465	15,538	15,292	+1,217	-1,753	+827	-246
Hearings and Appeals	5,200	5,983	5,633	5,866	5,866	+666	-117	+233	---
Aircraft Services	1,658	1,774	1,774	1,774	1,774	+116	---	---	---
Central Services	12,440	15,337	14,105	14,902	14,902	+2,462	-435	+797	---
Pay and retirement supplemental	375	---	---	---	---	-375	---	---	---
FERS reestimate	---	---	---	---	-241	-241	-241	-241	-241
Total, Office of the Secretary	43,191	50,976	45,849	48,237	47,519	+4,328	-3,457	+1,670	-718
Office of the Solicitor									
Legal Services	17,572	21,360	19,675	19,848	19,748	+2,176	-1,612	+73	-100
General Administration	3,308	3,434	3,434	3,434	3,434	+126	---	---	---
Pay and retirement supplemental	400	---	---	---	---	-400	---	---	---
FERS reestimate	---	---	---	---	-129	-129	-129	-129	-129
Total, Office of the Solicitor	21,280	24,794	23,109	23,282	23,053	+1,773	-1,741	-56	-229
Office of the Inspector General									
Audit	10,736	12,120	11,803	11,961	11,961	+1,225	-159	+158	---
Investigations	2,430	2,714	2,641	2,641	2,641	+211	-73	---	---
Administration	3,134	3,256	3,256	3,256	3,256	+122	---	---	---
Pay and retirement supplemental	425	---	---	---	---	-425	---	---	---
FERS reestimate	---	---	---	---	-101	-101	-101	-101	-101
Total, Office of the Inspector General	16,725	18,090	17,700	17,858	17,757	+1,032	-333	+57	-101
Construction Management									
Salaries and Expenses	684	---	2,500	718	1,800	+1,116	+1,800	-700	+1,082
Total, Secretarial Offices	81,880	93,860	89,158	90,095	90,129	+8,249	-3,731	+971	+34
Grand Total, Department of the Interior	4,212,935	3,875,994	4,315,243	4,391,113	4,361,330	+148,395	+485,336	+46,087	-29,783

	FY 1987	FY 1988				Conference compared to			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House	Senate
Territorial Administration									
Office of Territorial Affairs	2,723	2,962	2,962	2,962	2,962	+239	---	---	---
Technical Assistance	4,700	2,200	4,700	5,240	5,240	+540	+3,040	+540	---
Disaster contingency fund	---	---	---	500	500	+500	+500	+500	---
Guam Power Authority Loan Assistance	1,968	1,561	1,561	1,561	1,561	-407	---	---	---
FERS reestimate	---	---	---	---	-14	-14	-14	-14	-14
Subtotal, Territorial Administration	9,391	6,723	9,223	10,263	10,249	+858	+3,526	+1,026	-14
Total, Administration of Territories	78,224	61,933	74,809	79,999	78,235	+11	+16,302	+3,426	-1,764
Trust Territory of the Pacific Islands									
Trust Territory operations	5,200	1,433	14,433	1,433	9,433	+4,233	+8,000	-5,000	+8,000
Federated States of Micronesia	38,763	---	---	---	---	-38,763	---	---	---
Republic of the Marshall Islands	10,940	---	---	---	---	-10,940	---	---	---
Republic of Palau Operations	10,084	10,787	11,157	11,157	11,157	+1,073	+370	---	---
Subtotal, Operations	64,987	12,220	25,590	12,590	20,590	-44,397	+8,370	-5,000	+8,000
Construction									
Capital Improvements	---	---	5,850	5,400	5,400	+5,400	+5,400	-450	---
Capitol Relocations	---	2,600	2,600	2,600	2,600	+2,600	---	---	---
Subtotal, Construction	---	2,600	8,450	8,000	8,000	+8,000	+5,400	-450	---
Enewetak support	900	---	---	---	---	-900	---	---	---
Bikini Atoll Rehabilitation Committee	1,500	---	1,000	1,000	1,000	-500	+1,000	---	---
Micronesian War Claims	---	---	24,350	---	12,350	+12,350	+12,350	-12,000	+12,350
Total, Trust Territory of the Pacific Islands	67,387	14,820	59,390	21,590	41,940	-25,447	+27,120	-17,450	+20,350
Compact of Free Association									
Compact of Free Association	---	27,920	27,320	27,320	27,320	+27,320	-600	---	---
Enewetak support	---	---	1,100	1,100	1,100	+1,100	+1,100	---	---
Enjebi Trust Fund	2,250	---	2,500	2,500	2,500	+250	+2,500	---	---
Bikini resettlement	---	---	2,300	2,300	2,300	+2,300	+2,300	---	---
Jaluit Atoll	---	---	---	400	400	+400	+400	+400	---
Subtotal, Compact of Free Association	2,250	27,920	33,220	33,620	33,620	+31,370	+5,700	+400	---
Total, Territorial Affairs	147,861	104,673	167,419	135,209	153,795	+5,934	+49,122	-13,624	+18,586
DEPARTMENTAL OFFICES									
Office of the Secretary									
Departmental Direction									
Secretary's immediate Office	1,586	2,136	1,722	1,899	1,722	+136	-414	---	-177
Executive Secretariat	374	515	407	515	461	+87	-54	+54	-54
Cong. & Legis. Affairs	1,046	1,188	1,134	1,134	1,134	+88	-54	---	---
Equal Opportunity	1,274	1,155	1,155	1,155	1,155	-119	---	---	---
Public Affairs	784	848	848	848	848	+64	---	---	---
Small & Disadvantaged Business Utilization	381	414	414	414	414	+33	---	---	---
Subtotal, Departmental Direction	5,445	6,256	5,680	5,965	5,734	+289	-522	+54	-231
Program Direction and Coordination									
A/S Water and Science	625	801	676	676	676	+51	-125	---	---
A/S Land and Minerals Management	840	939	911	911	911	+71	-28	---	---
A/S Fish and Wildlife and Parks	600	762	651	651	651	+51	-111	---	---
A/S Indian Affairs	600	772	647	647	647	+47	-125	---	---

	FY 1987	FY 1988				Conference compared to			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House	Senate
TITLE II - RELATED AGENCIES									
DEPARTMENT OF AGRICULTURE									
FOREST SERVICE									
Forest Research									
Fire and atmospheric science	8,046	8,336	9,196	8,131	8,981	+935	+645	-215	+850
Forest insect and disease	22,495	21,028	22,907	23,146	22,636	+141	+1,608	-271	-510
Forest inventory and analysis	17,322	16,805	17,863	17,392	17,741	+419	+936	-122	+349
Renewable resource economics	4,370	4,648	5,048	5,098	4,998	+628	+350	-50	-100
Trees and timber management	23,302	23,681	26,208	26,546	26,658	+3,356	+2,977	+450	+112
Forest watershed managment and rehabilitation	16,110	15,628	17,070	16,303	16,745	+635	+1,117	-325	+442
Wildlife, range and fish habitat	11,491	11,459	12,986	13,150	12,615	+1,124	+1,156	-371	-535
Forest recreation	2,377	2,427	2,814	2,652	2,721	+344	+294	-93	+69
Forest products and harvesting	18,364	18,200	19,578	20,192	19,942	+1,578	+1,742	+364	-250
Competitive grants	6,000	---	4,000	4,000	3,000	-3,000	+3,000	-1,000	-1,000
Pay and retirement supplemental	2,844	---	---	---	---	-2,844	---	---	---
FERS reestimate	---	---	---	---	-527	-527	-527	-527	-527
Total, Forest Research	132,721	122,212	137,670	136,610	135,510	+2,789	+13,298	-2,160	-1,100
State and Private Forestry									
Forest Pest Management									
Federal lands	27,650	25,779	30,779	30,039	28,539	+1,889	+3,760	-1,240	-500
Cooperative lands	10,376	2,077	8,577	12,077	12,577	+1,201	+9,500	+3,000	-500
Subtotal, Forest pest management	38,026	27,856	39,356	42,116	41,116	+3,090	+13,260	+1,760	-1,000
Fire protection	13,600	4,778	13,778	13,778	13,778	+178	+9,000	---	---
Forest Management and Utilization									
Forest resource management	5,200	---	5,000	5,000	5,000	-200	+5,000	---	---
Wood utilization	1,000	---	1,000	5,000	2,000	+1,000	+2,000	+1,000	-3,000
Seedlings, nursery and tree improvement	1,800	---	2,000	1,800	1,800	---	+1,800	-200	---
Urban forestry	1,925	---	2,000	1,925	2,000	+75	+2,000	---	+75
Subtotal, Forest Management and Utilization	9,925	---	10,000	13,725	10,800	+875	+10,800	+800	-2,925
Special Projects									
Boundary Waters Canoe Area	2,800	2,800	3,000	2,800	2,800	---	---	-200	---
Gifford Pinchot Institute	200	---	200	---	200	---	+200	---	+200
Lake Tahoe	1,400	---	1,400	1,400	1,400	---	+1,400	---	---
Cache La Poudre River	---	---	---	75	75	+75	+75	+75	---
Grant to Kellogg, ID	---	---	---	---	6,400	+6,400	+6,400	+6,400	+6,400
Pay and retirement supplemental	603	---	---	---	---	-603	---	---	---
Subtotal, Special Projects	5,003	2,800	4,600	4,275	10,875	+5,872	+8,075	+6,275	+6,600
FERS reestimate	---	---	---	---	-100	-100	-100	-100	-100
Total, State and Private Forestry	66,554	35,434	67,734	73,894	76,469	+9,915	+41,035	+8,735	+2,575
National Forest System									
Minerals and General Land Activities									
Minerals	26,319	28,519	25,868	27,519	26,837	+518	-1,682	+969	-682
Real estate management	19,845	22,443	21,948	22,443	21,948	+2,103	-495	---	-495
Land Line Location	26,363	27,383	21,785	27,383	26,785	+422	-598	+5,000	-598
Maintenance of Facilities	14,735	16,005	17,625	16,005	16,625	+1,890	+620	-1,000	+620
Subtotal, Minerals & General Land Activities	87,262	94,350	87,226	93,350	92,195	+4,933	-2,155	+4,969	-1,155

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to			
						Enacted	Estimates	House	Senate
Resource Protection and Maintenance									
Fire protection	154,796	151.616	162,151	151.616	165,942	+11,146	+14.326	+3,791	+14,326
Fighting forest fires	125,000	1,000	125.000	125,000	125,000	---	+124,000	---	---
Cooperative law enforcement	6,660	5.696	9.669	9,907	9,669	+3,009	+3,973	---	-238
Road maintenance	61,770	65,792	54,657	97,875	83,740	+21,970	+17,948	+29,083	-14,135
Trail maintenance	11,000	11,526	20,026	25,026	20,026	+9,026	+8,500	---	-5,000
Subtotal, Resource Protection & Maintenance	359,226	235,630	371,503	409,424	404,377	+45,151	+168,747	+32,874	-5,047
Timber Sales									
Timber resource inventory	13,280	17,277	15,277	17,277	16,277	+2,997	-1,000	+1,000	-1,000
Silvicultural examination	20,870	28.200	25,800	28,200	26,800	+5,930	-1.400	+1,000	-1,400
Sales preparation	99,409	106,260	136,428	85,860	85,662	-13,747	-20,598	-50,766	-198
Harvest administration	50,580	59,459	57,112	59,459	58,112	+7,532	-1,347	+1.000	-1,347
Subtotal, Timber Sales	184,139	211,196	234,617	190,796	186,851	+2,712	-24,345	-47,766	-3,945
Reforestation and Stand Improvement									
Reforestation	47,511	30,337	30,321	53,037	47,021	-490	+16,684	+16,700	-6,016
Stand improvement	26,833	24,635	28,635	24,635	26,635	-198	+2,000	-2,000	+2,000
Nurseries	14,549	14,667	14,667	14,667	14,667	+118	---	---	---
Subtotal, Reforestation & Stand Improvement	88,893	69,639	73,623	92,339	88,323	-570	+18,684	+14,700	-4,016
Recreation Use									
Recreation management	90,824	42,360	91,263	95,193	97,478	+6,654	+55,118	+6,215	+2,285
Wilderness	10,030	9,637	12,637	12,637	12,637	+2,607	+3,000	---	---
Cultural resources	9,368	12,292	15,292	12,292	14,292	+4,924	+2,000	-1,000	+2,000
Subtotal, Recreation Use	110,222	64,289	119,192	120,122	124,407	+14,185	+60,118	+5,215	+4,285
Wildlife and Fish Habitat Management									
Wildlife and fisheries support	25,272	28,622	17,292	28,622	25,882	+610	-2,740	+8,590	-2,740
Habitat improvement	16,265	9,302	19,702	21,495	21,767	+5,502	+12,465	+2,065	+272
Subtotal, Wildlife & Fish Habitat Management	41,537	37,924	36,994	50,117	47,649	+6,112	+9,725	+10,655	-2,468
Range Management									
Grazing	24,355	24,822	24,858	24,822	25,822	+1,467	+1,000	+964	+1,000
Range improvements	769	738	1,738	1,738	1,738	+969	+1,000	---	---
Wild horse and burro management	275	261	287	287	287	+12	+26	---	---
Noxious weed control	1,400	1,058	1,058	1,558	1,558	+158	+500	+500	---
Subtotal, Range Management	26,799	26,879	27,941	28,405	29,405	+2,606	+2,526	+1,464	+1,000
Soil, Water and Air Management									
Soil, water and air operations	24,030	27,104	17,741	27,104	25,811	+1,781	-1,293	+8,070	-1,293
Soil and water resource improvements	3,125	2,000	3,300	3,336	3,300	+175	+1,300	---	-36
Soil and water resource inventories	6,065	4,825	6,325	6,225	6,325	+260	+1,500	---	+100
Subtotal, Soil, Water and Air Management	33,220	33,929	27,366	36,665	35,436	+2,216	+1,507	+8,070	-1,229
General Administration	256,996	272,581	269,944	272,581	269,944	+12,948	-2,637	---	-2,637
Reforestation trust fund transfer	-30,000	-30,000	-30,000	-30,000	-30,000	---	---	---	---
Pay and retirement supplemental	26,874	---	---	---	---	-26,874	---	---	---
FERS reestimate	---	---	---	---	-5,196	-5,196	-5,196	-5.196	-5,196
Total, National Forest System	1,185,168	1,016,417	1,218,406	1,263,799	1,243,391	+58,223	+226,974	+24,985	-20,408

	FY 1987	FY 1988				Conference compared to			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House	Senate
Construction									
Facilities	26,502	15,894	42,143	23,410	27,669	+1,167	+11,775	-14,474	+4,259
Roads and trails									
Direct road construction	228,803	198,625	144,543	178,085	172,503	-56,300	-26,122	+27,960	-5,582
Base Program, 1989	---	---	---	(166,000)	---	---	---	---	(-166,000)
Trail construction	7,431	7,024	14,228	14,024	14,698	+7,267	+7,674	+470	+674
Subtotal, Construction	262,736	221,543	200,914	215,519	214,870	-47,866	-6,673	+13,956	-649
Timber Receipts Transfer (transfer to General Fund)	(-78,029)	(-75,023)	(-75,023)	---	(-75,023)	(+3,006)	---	---	(-75,023)
Timber Purchaser Credits	---	(117,799)	---	(117,799)	---	---	(-117,799)	---	(-117,799)
(Rescission)	-30,000	---	---	---	---	+30,000	---	---	---
Pay and retirement supplemental	4,459	---	---	---	---	-4,459	---	---	---
FERS reestimate	---	---	---	---	-792	-792	-792	-792	-792
Total, Construction	237,195	221,543	200,914	215,519	214,078	-23,117	-7,465	+13,164	-1,441
Land Acquisition									
Forest Service									
Acquisitions	49,030	---	32,420	47,313	44,895	-4,135	+44,895	+12,475	-2,418
Acquisition Management	3,206	3,907	3,907	4,000	4,200	+994	+293	+293	+200
FERS reestimate	---	---	---	---	-19	-19	-19	-19	-19
Total, Land Acquisition	52,236	3,907	36,327	51,313	49,076	-3,160	+45,169	+12,749	-2,237
Timber Roads, Purchaser Election, Forest Service									
Base program (rescission)	---	---	---	-75,000	-75,000	-75,000	-75,000	-75,000	---
Timber Salvage Sales									
Base program	---	---	---	40,000	37,000	+37,000	+37,000	+37,000	-3,000
Operation and Maintenance of Recreation Facilities									
Base program	---	52,000	---	---	---	---	-52,000	---	---
Acquisition of Lands for National Forests, Special Acts									
Base Program	966	966	966	966	966	---	---	---	---
Acquisition of Lands to Complete Land Exchanges									
Base Program	895	990	990	990	990	+95	---	---	---
Range Betterment									
Base program	3,644	3,750	3,750	3,750	3,750	+106	---	---	---
Miscellaneous Trust Funds									
Miscellaneous trust fund	90	90	90	90	90	---	---	---	---
Total, Forest Service	1,679,469	1,457,309	1,666,847	1,711,931	1,686,320	+6,851	+229,011	+19,473	-25,611

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to			
						Enacted	Estimates	House	Senate
DEPARTMENT OF ENERGY									
Clean Coal Technology Reserve									
Base program FY 1988	---	350,000	50,000	350,000	50,000	+50,000	-300,000	---	-300,000
Base program FY 1989	---	(500,000)	(200,000)	(500,000)	(525,000)	(+525,000)	(+25,000)	(+325,000)	(+25,000)
Base program FY 1990	---	(500,000)	(100,000)	---	---	---	(-500,000)	(-100,000)	---
Base program FY 1991	---	(500,000)	---	---	---	---	(-500,000)	---	---
Base program FY 1992	---	(500,000)	---	---	---	---	(-500,000)	---	---
Total, Clean Coal Technology Reserve	---	350,000	50,000	350,000	50,000	+50,000	-300,000	---	-300,000
Fossil Energy Research and Development									
Coal									
Control Technology and Coal Preparation									
Coal preparation and analysis	10,953	10,482	16,395	14,470	15,695	+4,742	+5,213	-700	+1,225
Flue gas cleanup	12,897	11,830	15,230	13,430	14,430	+1,533	+2,600	-800	+1,000
Gas stream cleanup	13,126	4,905	9,705	10,005	9,705	-3,421	+4,800	---	-300
Waste management technology	850	1,383	1,383	1,508	1,383	+533	---	---	-125
Subtotal, Control Technology & Coal Preparation	37,826	28,600	42,713	39,413	41,213	+3,387	+12,613	-1,500	+1,800
Advanced Research & Technology Development	32,387	25,300	31,810	41,650	31,960	-427	+6,660	+150	-9,690
Coal Liquefaction									
Advanced research	4,541	2,990	4,490	6,990	5,690	+1,149	+2,700	+1,200	-1,300
Direct Liquefaction	11,910	2,990	13,090	12,410	13,190	+1,280	+10,200	+100	+780
Indirect liquefaction	6,264	2,530	5,830	2,530	6,330	+66	+3,800	+500	+3,800
Support studies and engineering evaluations	1,392	990	990	990	990	-402	---	---	---
Subtotal, Coal Liquefaction	24,107	9,500	24,400	22,920	26,200	+2,093	+16,700	+1,800	+3,280
Combustion Systems									
Atmospheric fluidized beds	3,309	1,600	3,000	2,500	2,500	-809	+900	-500	---
Pressurized fluidized beds	5,837	6,626	7,326	7,826	7,326	+1,489	+700	---	-500
Advanced combustion technology	2,758	2,474	4,174	2,474	3,474	+716	+1,000	-700	+1,000
Alternate fuel utilization	3,238	3,300	3,682	3,682	3,682	+444	+382	---	---
EPA LIMB demonstration	---	5,000	5,000	5,000	5,000	+5,000	---	---	---
Subtotal, Combustion Systems	15,142	19,000	23,182	21,482	21,982	+6,840	+2,982	-1,200	+500
Fuel Cells									
Phosphoric acid systems	15,500	---	17,000	4,300	13,200	-2,300	+13,200	-3,800	+8,900
Molten carbonate systems	7,621	3,200	15,900	9,300	11,100	+3,479	+7,900	-4,800	+1,800
Advanced concepts	4,963	2,000	8,500	7,000	8,353	+3,390	+6,353	-147	+1,353
Subtotal, Fuel Cells	28,084	5,200	41,400	20,600	32,653	+4,569	+27,453	-8,747	+12,053
Heat engines	12,146	8,300	18,050	21,050	18,050	+5,904	+9,750	---	-3,000
Underground coal gasification	2,370	---	2,325	2,825	2,825	+455	+2,825	+500	---
Magnetohydrodynamics	26,500	---	35,000	35,000	35,000	+8,500	+35,000	---	---
Surface Coal Gasification									
Advanced research	2,806	640	2,740	2,840	2,740	-66	+2,100	---	-100
Systems for power production	14,382	1,500	11,930	10,630	11,230	-3,152	+9,730	-700	+600
Systems for industrial fuel gas production	1,235	1,000	1,400	1,400	1,400	+165	+400	---	---
Systems for synthesis gas production	1,742	1,160	2,005	2,005	2,005	+263	+845	---	---
Systems for co-products production	4,053	1,000	3,500	6,000	5,300	+1,247	+4,300	+1,800	-700
Great Plains coal gasification project	437	500	500	500	500	+63	---	---	---
Subtotal, Surface Coal Gasification	24,655	5,800	22,075	23,375	23,175	-1,480	+17,375	+1,100	-200
Subtotal, Coal	203,217	101,700	240,955	228,315	233,058	+29,841	+131,358	-7,897	+4,743

	FY 1987	FY 1988				Conference compared to			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House	Senate
Petroleum									
Advanced Process Technology									
Advanced exploratory research	3,290	1,583	3,066	3,416	3,066	-224	+1,483	---	-350
Arctic and offshore research	495	417	417	417	417	-78	---	---	---
Subtotal, Advanced Process Technology	3,785	2,000	3,483	3,833	3,483	-302	+1,483	---	-350
Enhanced Oil Recovery									
Heavy oil	2,350	2,100	3,700	3,700	3,700	+1,350	+1,600	---	---
Light oil	7,211	7,200	9,600	9,850	9,850	+2,639	+2,650	+250	---
Tar sands	1,650	---	1,100	2,700	2,000	+350	+2,000	+900	-700
Pilot Venture program	---	---	---	2,500	1,000	+1,000	+1,000	+1,000	-1,500
Subtotal, Enhanced Oil Recovery	11,211	9,300	14,400	18,750	16,550	+5,339	+7,250	+2,150	-2,200
Oil shale	10,967	955	8,380	11,455	9,500	-1,467	+8,545	+1,120	-1,955
Subtotal, Petroleum	25,963	12,255	26,263	34,038	29,533	+3,570	+17,278	+3,270	-4,505
Gas									
Unconventional gas recovery	8,009	1,600	10,100	12,350	10,400	+2,391	+8,800	+300	-1,950
Equipment not related to construction	1,500	480	480	480	480	-1,020	---	---	---
Fossil Energy Construction									
General plant projects	1,750	---	1,750	1,750	2,250	+500	+2,250	+500	+500
Headquarters program direction	14,283	9,835	13,765	13,765	13,765	-518	+3,930	---	---
Energy Technology Center program direction	46,952	25,400	42,096	42,096	42,096	-4,856	+16,696	---	---
Use of prior year funds	-3,107	-5,600	-6,205	-1,700	-6,205	-3,098	-605	---	-4,505
By transfer	-2,485	---	---	---	---	+2,485	---	---	---
Transfer from Energy Security Reserve	-437	-500	-500	-83,394	-20,894	-20,457	-20,394	-20,394	+62,500
Federal Inspector for the Alaska Gas Pipeline	221	230	230	230	230	+9	---	---	---
Cooperative R&D venture pool	---	4,500	---	(5,000)	---	---	-4,500	---	---
Employment floors	---	---	7,460	7,460	7,460	+7,460	+7,460	---	---
Facilities	---	---	9,000	36,000	15,500	+15,500	+15,500	+6,500	-20,500
FERS reestimate	---	---	---	---	-248	-248	-248	-248	-248
General reduction	---	---	---	---	-450	-450	-450	-450	-450
Total, Fossil Energy Research and Development	295,866	149,900	345,394	291,390	326,975	+31,109	+177,075	-18,419	+35,585
Naval Petroleum and Oil Shale Reserves									
Oil Reserves									
Naval petroleum reserves Nos. 1 & 2	130,340	150,255	150,255	150,255	150,255	+19,915	---	---	---
Naval petroleum reserve No. 3	22,614	21,740	21,740	21,740	21,740	-874	---	---	---
Program direction (headquarters)	5,374	5,495	5,495	5,495	5,495	+121	---	---	---
Subtotal, Oil Reserves	158,328	177,490	177,490	177,490	177,490	+19,162	---	---	---
Shale oil development program									
Shale reserves development	310	210	210	210	210	-100	---	---	---
Use of prior year balance	-36,461	-18,000	-18,000	-18,000	-18,000	+18,461	---	---	---
FERS reestimate	---	---	---	---	-37	-37	-37	-37	-37
Total, Naval Petroleum and Oil Shale Reserves	122,177	159,700	159,700	159,700	159,663	+37,486	-37	-37	-37
Energy Conservation									
Buildings & Community Systems									
Building systems	8,950	3,600	9,300	12,700	10,500	+1,550	+6,900	+1,200	-2,200
Community systems	2,900	---	2,900	4,200	3,700	+800	+3,700	+800	-500
Technology and consumer products	9,250	4,400	9,450	11,500	10,800	+1,550	+6,400	+1,350	-700
Analysis & technology transfer	2,000	1,000	2,000	4,600	3,000	+1,000	+2,000	+1,000	-1,600

	FY 1987	FY 1988				Conference compared to			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House	Senate
Appliance standards	2,000	1,800	1,800	1,800	1,800	-200	---	---	---
Federal energy management program	950	1,000	1,000	1,000	1,000	+50	---	---	---
Capital equipment	750	278	500	1,028	750	---	+472	+250	-278
Program direction	3,650	2,500	3,096	3,096	3,096	-554	+596	---	---
Subtotal, Buildings & Community Systems	30,450	14,578	30,046	39,924	34,646	+4,196	+20,068	+4,600	-5,278
Industrial									
Waste energy reduction	12,256	7,821	11,184	10,719	10,924	-1,332	+3,103	-260	+205
Process efficiency	13,300	4,600	11,000	16,200	13,600	+300	+9,000	+2,600	-2,600
Cogeneration	5,000	1,500	5,000	4,200	4,200	-800	+2,700	-800	---
Implementation and deployment	2,400	500	2,400	2,300	2,300	-100	+1,800	-100	---
Program direction	2,070	1,614	2,070	2,070	2,070	---	+456	---	---
Subtotal, Industrial	35,026	16,035	31,654	35,489	33,094	-1,932	+17,059	+1,440	-2,395
Transportation									
Vehicle Propulsion R&D	23,500	7,370	17,500	20,000	17,500	-6,000	+10,130	---	-2,500
Alternative fuels utilization	1,260	1,100	1,100	1,600	1,200	-60	+100	+100	-400
Electric/hybrid vehicle program	13,400	3,400	14,100	14,650	14,100	+700	+10,700	---	-550
Transportation systems utilization	700	400	1,100	1,100	1,100	+400	+700	---	---
Advanced materials development	13,000	6,657	13,000	14,157	13,500	+500	+6,843	+500	-657
High temperature materials lab	1,000	2,000	2,000	2,000	2,000	+1,000	---	---	---
Capital equipment	1,000	---	---	250	250	-750	+250	+250	---
Program direction	2,195	1,482	2,195	2,195	2,195	---	+713	---	---
Subtotal, Transportation	56,055	22,409	50,995	55,952	51,845	-4,210	+29,436	+850	-4,107
State/Local Programs									
Energy policy and conservation grants (EPCA)	9,519	---	9,519	9,519	9,519	---	+9,519	---	---
Energy extension service	3,968	---	3,968	3,968	3,968	---	+3,968	---	---
Schools & hospitals	25,156	---	25,156	25,156	25,156	---	+25,156	---	---
Weatherization	161,357	---	161,357	161,357	161,357	---	+161,357	---	---
Program Direction	13,500	6,000	12,140	12,215	12,140	-1,360	+6,140	---	-75
Subtotal, State/Local Programs	213,500	6,000	212,140	212,215	212,140	-1,360	+206,140	---	-75
Multi Sector									
Energy Conversion and Utilization Technology	20,358	15,800	21,000	20,475	20,825	+467	+5,025	-175	+350
Inventors program	5,000	3,290	5,250	4,640	4,890	-110	+1,600	-360	+250
National Appropriate Technology Assistance Service	1,400	700	1,400	1,500	1,400	---	+700	---	-100
Energy and Natural Resources Development Center	---	---	---	3,000	---	---	---	---	-3,000
Capital equipment	1,000	127	800	1,000	800	-200	+673	---	-200
Program direction	546	489	1,100	1,100	1,100	+554	+611	---	---
Subtotal, Multi Sector	28,304	20,406	29,550	31,715	29,015	+711	+8,609	-535	-2,700
Policy and management	1,862	1,662	1,862	1,662	1,662	-200	---	-200	---
Facilities	10,000	---	6,000	---	6,000	-4,000	+6,000	---	+6,000
Cooperative venture R & D pool	---	5,000	---	---	---	---	-5,000	---	---
Total, Energy Conservation	375,197	86,090	362,247	376,957	368,402	-6,795	+282,312	+6,155	-8,555
Offsetting Reductions									
Use of nonappropriated escrow funds	-134,067	---	-36,133	-36,133	-56,780	+77,287	-56,780	-20,647	-20,647
(Use of prior year balances)	-7,518	---	---	-2,000	-2,000	+5,518	-2,000	-2,000	---
FERS reestimate	---	---	---	---	-105	-105	-105	-105	-105
Total, Energy Conservation	233,612	86,090	326,114	338,824	309,517	+75,905	+223,427	-16,597	-29,307
Economic Regulation									
Compliance	13,685	13,105	13,105	13,105	13,105	-580	---	---	---
Fuels Conversion	2,000	587	587	587	587	-1,413	---	---	---
Natural gas and electricity operations	2,060	2,092	2,092	2,153	2,092	+32	---	---	-61

	FY 1987	FY 1988				Conference compared to			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House	Senate
Program administration	655	701	701	701	701	+46	---	---	---
Office of Hearings and Appeals	5,000	5,195	5,195	5,195	5,195	+195	---	---	---
FERS reestimate	---	---	---	---	-115	-115	-115	-115	-115
Total, Economic Regulation	23,400	21,680	21,680	21,741	21,565	-1,835	-115	-115	-176
Emergency Preparedness									
Emergency preparedness	6,044	6,206	6,206	6,206	6,206	+162	---	---	---
FERS reestimate	---	---	---	---	-34	-34	-34	-34	-34
Total, Emergency Preparedness	6,044	6,206	6,206	6,206	6,172	+128	-34	-34	-34
Strategic Petroleum Reserve									
Storage facilities development and operations	134,021	151,886	151,886	151,886	151,886	+17,865	---	---	---
Management	13,412	12,339	12,339	12,339	12,339	-1,073	---	---	---
FERS reestimate	---	---	---	---	-63	-63	-63	-63	-63
Total, Strategic Petroleum Reserve	147,433	164,225	164,225	164,225	164,162	+16,729	-63	-63	-63
SPR Petroleum Account									
Petroleum acquisition and transportation	---	842,934	603,744	806,934	438,744	+438,744	-404,190	-165,000	-368,190
Energy Information Administration									
National Energy Information System	49,978	51,374	51,374	51,374	51,374	+1,396	---	---	---
Policy and management	10,323	10,225	10,225	10,225	10,225	-98	---	---	---
FERS reestimate	---	---	---	---	-201	-201	-201	-201	-201
Total, Energy Information Administration	60,301	61,599	61,599	61,599	61,398	+1,097	-201	-201	-201
Total, Department of Energy	888,833	1,842,334	1,738,662	2,200,619	1,538,196	+649,363	-304,138	-200,466	-662,423
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
HEALTH RESOURCES AND SERVICES ADMINISTRATION									
Indian Health Services									
Clinical services									
IHS and tribal health delivery									
Hospital and health clinic programs	479,767	461,142	531,452	537,636	534,602	+54,835	+73,460	+3,150	-3,034
Dental health program	25,849	26,684	29,481	28,355	28,995	+3,146	+2,311	-486	+640
Mental health program	11,362	11,738	12,469	12,469	12,469	+1,107	+731	---	---
Alcoholism program	27,705	26,414	29,175	29,335	29,335	+1,630	+2,921	+160	---
Maintenance and repair	9,025	9,025	14,025	10,359	11,359	+2,334	+2,334	-2,666	+1,000
Contract care	183,713	146,090	198,482	198,482	198,482	+14,769	+52,392	---	---
Subtotal, Clinical services	737,421	681,093	815,084	816,636	815,242	+77,821	+134,149	+158	-1,394
Preventive health									
Sanitation	22,307	23,307	23,863	23,863	23,863	+1,556	+556	---	---
Public health nursing	12,887	13,659	14,129	14,129	14,129	+1,242	+470	---	---
Health education	3,883	4,008	4,288	4,500	4,400	+517	+392	+112	-100
Community health representative program	26,000	24,191	26,473	27,282	27,282	+1,282	+3,091	+809	---
Immunization	395	395	395	395	395	---	---	---	---
Subtotal, Preventative health	65,472	65,560	69,148	70,169	70,069	+4,597	+4,509	+921	-100
Urban health projects	9,000	8,000	9,424	9,674	9,624	+624	+1,624	+200	-50
Indian health manpower	7,018	4,646	7,646	7,646	7,646	+628	+3,000	---	---
Tribal management	2,688	749	2,749	3,329	3,104	+416	+2,355	+355	-225

	FY 1987	FY 1988				Conference compared to			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House	Senate
Direct operations	36,410	34,337	39,337	39,781	39,581	+3,171	+5,244	+244	-200
Indian health facilities	---	2,450	---	---	---	---	-2,450	---	---
FERS reestimate	---	---	---	---	-1,969	-1,969	-1,969	-1,969	-1,969
Medicare/Medicaid Reimbursements									
Hospital and clinic accreditation	(43,860)	(60,000)	(60,000)	(60,000)	(60,000)	(+16,140)	---	---	---
Subtotal	(43,860)	(60,000)	(60,000)	(60,000)	(60,000)	(+16,140)	---	---	---
Pay and retirement supplemental	11,686	---	---	---	---	-11,686	---	---	---
Total, Indian Health Services	869,695	796,835	943,388	947,235	943,297	+73,602	+146,462	-91	-3,938
Indian Health Facilities									
Hospitals									
New and Replacement	34,560	---	3,064	8,064	8,064	-26,496	+8,064	+5,000	---
Modernization and repair	2,450	---	7,450	7,625	7,625	+5,175	+7,625	+175	---
Subtotal, Hospitals	37,010	---	10,514	15,689	15,689	-21,321	+15,689	+5,175	---
Outpatient Care Facilities	7,585	---	10,316	10,416	10,416	+2,831	+10,416	+100	---
Sanitation Facilities	20,000	---	40,000	25,000	30,000	+10,000	+30,000	-10,000	+5,000
Hospital and health clinic programs									
Personnel Quarters	6,460	---	6,762	6,406	6,406	-54	+6,406	-356	---
Total, Indian Health Facilities	71,055	---	67,592	57,511	62,511	-8,544	+62,511	-5,081	+5,000
Total, Health Services Administration	940,750	796,835	1,010,980	1,004,746	1,005,808	+65,058	+208,973	-5,172	+1,062
DEPARTMENT OF EDUCATION									
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION									
Indian Education									
Part A-Payments to School Districts	47,200	47,200	49,170	49,170	49,170	+1,970	+1,970	---	---
Part B-Special Projects for Indian Students	11,568	11,568	11,707	11,707	11,707	+139	+139	---	---
Part C-Special Projects for Indian Adults	3,000	3,000	3,000	3,000	3,000	---	---	---	---
Administration	2,268	2,466	2,466	2,466	2,466	+198	---	---	---
FERS reestimate	---	---	---	---	-17	-17	-17	-17	-17
Total, Indian Education	64,036	64,234	66,343	66,343	66,326	+2,290	+2,092	-17	-17
OTHER RELATED AGENCIES									
NAVAJO/HOPI INDIAN RELOCATION COMMISSION									
Salaries and Expenses									
Operation of the Commission	22,335	21,490	25,270	25,270	25,270	+2,935	+3,780	---	---
SMITHSONIAN INSTITUTION									
Salaries and Expenses									
Research									
Assistant Secretary for Research	1,215	1,263	1,263	1,263	1,263	+48	---	---	---
Astrophysical Observatory	9,652	10,217	10,717	10,217	10,467	+815	+250	-250	+250
Tropical Research Institute	4,063	5,711	5,586	5,236	5,286	+1,223	-425	-300	+50

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to			
						Enacted	Estimates	House	Senate
Environmental Research Center	2,068	1,376	1,376	514	1,376	-692	---	---	+862
National Zoological Park	12,025	13,176	13,142	13,068	13,068	+1,043	-108	-74	---
Smithsonian Institution Archives	549	579	579	579	579	+30	---	---	---
Smithsonian Institution Libraries	4,764	5,039	5,039	5,139	5,089	+325	+50	+50	-50
Subtotal, Research	34,336	37,361	37,702	36,016	37,128	+2,792	-233	-574	+1,112
Museums									
Assistant Secretary for Museums	1,039	1,086	1,086	1,086	1,086	+47	---	---	---
National Museum of Natural History	22,036	23,919	24,174	23,674	23,968	+1,932	+49	-206	+294
National Air and Space Museum	8,652	9,037	9,109	9,037	9,037	+385	---	-72	---
National Museum of American History	13,109	13,648	13,648	13,648	13,648	+539	---	---	---
National Museum of American Art	4,851	5,050	5,050	5,050	5,050	+199	---	---	---
National Portrait Gallery	3,739	4,069	4,069	4,069	4,069	+330	---	---	---
Hirshhorn Museum and Sculpture Garden	3,204	3,351	3,351	3,351	3,351	+147	---	---	---
Center for Asian Art	3,891	3,961	3,961	3,936	3,936	+45	-25	-25	---
Archives of American Art	996	1,041	1,041	1,041	1,041	+45	---	---	---
Cooper-Hewitt Museum	1,031	1,076	1,126	1,076	1,076	+45	---	-50	---
National Museum of African Art	3,093	3,401	3,401	3,401	3,401	+308	---	---	---
Anacostia Neighborhood Museum	900	931	931	931	931	+31	---	---	---
Conservation Analytical Laboratory	2,342	2,418	2,418	2,418	2,418	+76	---	---	---
Office of Exhibits Central	1,723	1,841	1,841	1,841	1,841	+118	---	---	---
Traveling Exhibition Service	558	719	699	671	691	+133	-28	-8	+20
Museum of American Indian feasibility study	200	---	---	---	---	-200	---	---	---
Subtotal, Museums	71,364	75,548	75,905	75,230	75,544	+4,180	-4	-361	+314
Public Service									
Assistant Secretary for Public Service	1,269	1,305	1,305	1,305	1,305	+36	---	---	---
Smithsonian Institution Press	1,144	1,197	1,197	1,197	1,197	+53	---	---	---
Subtotal, Public Service	2,413	2,502	2,502	2,502	2,502	+89	---	---	---
Directorate of International Activities	625	908	818	818	818	+193	-90	---	---
Special Programs									
American Studies and Folklife Programs	736	806	806	806	806	+70	---	---	---
International Environmental Science Program	738	750	750	750	750	+12	---	---	---
Academic and Educational Programs	823	971	946	1,021	896	+73	-75	-50	-125
Collections Management Inventory	---	---	---	---	---	---	---	---	---
Museum Support Center	4,426	4,475	4,475	4,475	4,475	+49	---	---	---
Subtotal, Special Programs	6,723	7,002	6,977	7,052	6,927	+204	-75	-50	-125
Administration	13,493	22,356	22,271	22,042	22,206	+8,713	-150	-65	+164
Facilities Services									
Office of Design and Construction	2,100	2,261	2,186	2,261	2,261	+161	---	+75	---
Office of Protection Services	18,255	19,419	19,419	19,419	19,419	+1,164	---	---	---
Office of Plant Services	35,311	37,505	36,455	36,455	36,455	+1,144	-1,050	---	---
Subtotal, Facilities Services	55,666	59,185	58,060	58,135	58,135	+2,469	-1,050	+75	---
Columbus Quincentenary	---	---	---	-249	-164	-164	-164	-164	+85
New staffing	---	---	-600	-600	-600	-600	-600	---	---
Pay and retirement supplemental	4,354	---	---	---	---	-4,354	---	---	---
FERS reestimate	---	---	---	---	-1,064	-1,064	-1,064	-1,064	-1,064
Total, Salaries and Expenses	188,974	204,862	203,635	200,946	201,432	+12,458	-3,430	-2,203	+486

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Construction and Improvements National Zoological Park									
Base Program	2,500	5,150	7,650	8,150	8,150	+5,650	+3,000	+500	---
Restoration and Renovation of Buildings									
Base Program	12,975	14,254	19,254	17,669	19,254	+6,279	+5,000	---	+1,585
Construction									
South Quadrangle Development	3,315	---	---	---	---	-3,315	---	---	---
Smithsonian Tropical Research Institute	2,780	---	---	610	---	-2,780	---	---	-610
Fred Lawrence Whipple Observatory	---	4,470	1,315	1,800	1,315	+1,315	-3,155	---	-485
Smithsonian Environmental Research Center	---	---	---	175	---	---	---	---	-175
Total, Construction	6,095	4,470	1,315	2,585	1,315	-4,780	-3,155	---	-1,270
Total, Smithsonian Institution	210,544	228,736	231,854	229,350	230,151	+19,607	+1,415	-1,703	+801
NATIONAL GALLERY OF ART									
Salaries and Expenses									
Care and Utilization of Art Collections	12,173	13,242	13,442	13,488	13,488	+1,315	+246	+46	---
Operation and Maintenance of Buildings and Grounds	11,451	11,894	11,748	11,894	11,894	+443	---	+146	---
Protection of Buildings, Grounds, and Contents	6,638	7,520	7,520	7,520	7,520	+882	---	---	---
General Administration	4,345	4,603	4,691	4,645	4,645	+300	+42	-46	---
Pay and retirement supplemental	820	---	---	---	---	-820	---	---	---
FERS reestimate	---	---	---	---	-195	-195	-195	-195	-195
Total, Salaries and expenses	35,427	37,259	37,401	37,547	37,352	+1,925	+93	-49	-195
Repair, Restoration and Renovation of Buildings									
Base program	2,400	400	400	---	---	-2,400	-400	-400	---
Total, National Gallery of Art	37,827	37,659	37,801	37,547	37,352	-475	-307	-449	-195
WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS									
Salaries and Expenses									
Fellowship Program	1,316	1,355	1,355	1,355	1,355	+39	---	---	---
Scholar Support	266	294	294	294	294	+28	---	---	---
Public Service	759	1,072	934	1,072	1,039	+280	-33	+105	-33
General Administration	706	804	794	894	894	+188	+90	+100	---
Building Requirements	75	75	75	75	75	---	---	---	---
Conference Planning	200	398	375	445	375	+175	-23	---	-70
Pdy and retirement supplemental	40	---	---	---	---	-40	---	---	---
FERS reestimate	---	---	---	---	-4	-4	-4	-4	-4
Total, Salaries and expenses	3,362	3,998	3,827	4,135	4,028	+666	+30	+201	-107
Endowment Challenge Fund									
Base program	---	---	---	500	---	---	---	---	-500
Total, Woodrow Wilson Center	3,362	3,998	3,827	4,635	4,028	+666	+30	+201	-607

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to			
						Enacted	Estimates	House	Senate
NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES									
National Endowment for the Arts									
Grants and Administration									
Grants									
Program Grants									
Art-in-Schools	5,300	5,100	5,300	5,300	5,300	---	+200	---	---
Dance	8,847	7,150	8,847	8,847	8,847	---	+1,697	---	---
Design Arts	4,276	3,700	4,276	4,276	4,276	---	+576	---	---
Expansion Arts	6,655	5,550	6,655	6,655	6,655	---	+1,105	---	---
Folk Arts	2,982	2,900	2,900	2,982	2,982	---	+82	+82	---
Inter Arts	3,885	3,500	3,885	3,885	3,885	---	+385	---	---
Literature	5,100	4,400	5,100	5,100	5,100	---	+700	---	---
Media Arts	12,000	8,800	12,000	12,000	12,000	---	+3,200	---	---
Museums	11,400	8,900	11,400	11,400	11,400	---	+2,500	---	---
Music	12,236	9,200	12,236	12,236	12,236	---	+3,036	---	---
Opera / Musical Theatre	4,200	3,100	4,200	4,200	4,200	---	+1,100	---	---
Local Program	2,180	2,500	2,180	2,500	2,340	+160	-160	+160	-160
Theatre	10,800	8,900	10,800	10,800	10,800	---	+1,900	---	---
Visual Arts	6,200	5,300	6,200	6,200	6,200	---	+900	---	---
Advancement	200	1,200	292	1,200	1,000	+800	-200	+708	-200
Challenge	---	250	---	250	250	+250	---	+250	---
Subtotal, Program Grants	96,261	80,450	96,271	97,831	97,471	+1,210	+17,021	+1,200	-360
State Programs	24,500	21,500	24,540	24,930	24,700	+200	+3,200	+160	-230
Subtotal, Grants	120,761	101,950	120,811	122,761	122,171	+1,410	+20,221	+1,360	-590
Administrative Areas									
Policy Planning & Research	1,000	1,050	1,000	1,050	1,000	---	-50	---	-50
Administration	14,900	16,300	16,300	16,245	16,245	+1,345	-55	-55	---
FERS reestimate	---	---	---	---	-105	-105	-105	-105	-105
Subtotal, Administrative Areas	15,900	17,350	17,300	17,295	17,140	+1,240	-210	-160	-155
Pay and retirement supplemental	200	---	---	---	---	-200	---	---	---
Total, Grants and Administration	136,861	119,300	138,111	140,056	139,311	+2,450	+20,011	+1,200	-745
Matching Grants									
Matching Grants	8,420	9,000	8,420	9,700	9,000	+580	---	+580	-700
Challenge Grants	20,000	16,900	20,000	16,200	19,420	-580	+2,520	-580	+3,220
Total, Matching Grants	28,420	25,900	28,420	25,900	28,420	---	+2,520	---	+2,520
Total, Arts	165,281	145,200	166,531	165,956	167,731	+2,450	+22,531	+1,200	+1,775
National Endowment for the Humanities									
Grants and Administration									
Grants									
Program Grants									
Public Programs									
Media Grants	8,900	8,512	8,900	8,900	8,900	---	+388	---	---
Museums and Historical Organizations	8,780	6,715	8,780	8,780	8,780	---	+2,065	---	---
Humanities programs for adults	2,000	2,128	2,000	2,000	2,000	---	-128	---	---
Humanities projects in libraries	2,900	1,892	2,400	2,900	2,900	---	+1,008	+500	---
Subtotal, Public Programs	22,580	19,247	22,080	22,580	22,580	---	+3,333	+500	---

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Education Programs									
Education programs	16,350	14,329	16,350	16,350	16,350	---	+2,021	---	---
Fellowships									
Fellowships and seminars	15,460	14,551	15,460	15,560	15,560	+100	+1,009	+100	---
Research Grants	16,400	14,897	16,400	16,400	16,400	---	+1,503	---	---
Subtotal, Program Grants	70,790	63,024	70,290	70,890	70,890	+100	+7,866	+600	---
State Programs	21,000	17,871	21,000	21,500	21,300	+300	+3,429	+300	-200
Office of Preservation	4,000	3,594	4,500	4,500	4,500	+500	+906	---	---
Subtotal, Grants	95,790	84,489	95,790	96,890	96,690	+900	+12,201	+900	-200
Administrative Areas									
Administration	14,200	15,350	15,350	15,350	15,350	+1,150	---	---	---
Pay and retirement supplemental	400	---	---	---	---	-400	---	---	---
FERS reestimate	---	---	---	---	-105	-105	-105	-105	-105
Total, Grants and administration	110,390	99,839	111,140	112,240	111,935	+1,545	+12,096	+795	-305
Matching Grants									
Matching Grants	12,000	11,114	12,000	12,000	12,000	---	+886	---	---
Challenge Grants	16,500	15,937	16,500	15,051	16,500	---	+563	---	+1,449
Total, Matching Grants	28,500	27,051	28,500	27,051	28,500	---	+1,449	---	+1,449
Total, Humanities	138,890	126,890	139,640	139,291	140,435	+1,545	+13,545	+795	+1,144
National Capital Arts and Cultural Affairs									
Grants	4,000	---	4,000	4,500	4,500	+500	+4,500	+500	---
Martha Graham Center of Contemporary Dance									
Base program	---	---	---	4,125	---	---	---	---	-4,125
Institute of Museum Services									
Grants to Museums									
Operating Support Grants	16,962	15,300	17,445	17,445	17,445	+483	+2,145	---	---
Conservation Grants	3,400	2,947	3,500	3,500	3,448	+48	+501	-52	-52
Museum Services Board	58	55	55	55	55	-3	---	---	---
Subtotal, Grants to Museums	20,420	18,302	21,000	21,000	20,948	+528	+2,646	-52	-52
Program Administration	830	948	1,000	948	1,000	+170	+52	---	+52
FERS reestimate	---	---	---	---	-4	-4	-4	-4	-4
Total, Institute of Museum Services	21,250	19,250	22,000	21,948	21,944	+694	+2,694	-56	-4
Total, National Foundation on the Arts and Humanities	329,421	291,340	332,171	335,820	334,610	+5,189	+43,270	+2,439	-1,210
COMMISSION OF FINE ARTS									
Salaries and Expenses									
Base Programs	450	446	446	446	446	-4	---	---	---
FERS reestimate	---	---	---	---	-3	-3	-3	-3	-3
Total, Commission of Fine Arts	450	446	446	446	443	-7	-3	-3	-3

	FY 1987	FY 1988				Conference compared to			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House	Senate
ADVISORY COUNCIL ON HISTORIC PRESERVATION									
Salaries and Expenses									
Advisory Services	1,533	1,734	1,719	1,719	1,719	+186	-15	---	---
NATIONAL CAPITAL PLANNING COMMISSION									
Salaries and Expenses									
Base Program	2,684	2,967	2,967	3,013	2,967	+283	---	---	-46
FERS reestimate	---	---	---	---	-19	-19	-19	-19	-19
Total, National Capital Planning Commission	2,684	2,967	2,967	3,013	2,948	+264	-19	-19	-65
FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION									
Salaries and Expenses									
Base Program	5	28	28	28	28	+23	---	---	---
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION									
Salaries and Expenses									
Salaries and Expenses	2,397	2,531	2,531	2,531	2,531	+134	---	---	---
FERS reestimate	---	---	---	---	-15	-15	-15	-15	-15
Subtotal, Salaries and expenses	2,397	2,531	2,531	2,531	2,516	+119	-15	-15	-15
Public Development									
Public Improvements	3,924	3,000	3,000	3,000	3,000	-924	---	---	---
Total, Pennsylvania Avenue Development Corporation	6,321	5,531	5,531	5,531	5,516	-805	-15	-15	-15
UNITED STATES HOLOCAUST MEMORIAL COUNCIL									
Holocaust Memorial Council	2,040	2,183	2,145	2,183	2,180	+140	-3	+35	-3
Pay and retirement supplemental	35	---	---	---	---	-35	---	---	---
FERS reestimate	---	---	---	---	-9	-9	-9	-9	-9
Total, Holocaust Memorial Council	2,075	2,183	2,145	2,183	2,171	+96	-12	+26	-12
Total, Title II, Related Agencies	4,189,645	4,756,824	5,126,591	5,629,181	4,940,886	+751,241	+184,062	-185,705	-688,295
TITLE I - DEPARTMENT OF THE INTERIOR									
Bureau of Land Management	676,324	583,981	678,418	694,878	690,574	+14,250	+106,593	+12,156	-4,304
Fish and Wildlife Service	387,123	318,144	402,297	444,902	426,055	+38,932	+107,911	+23,758	-18,847
National Park Service	845,322	777,102	872,539	871,663	864,004	+18,682	+86,902	-8,535	-7,659
Geological Survey	431,540	420,178	447,324	449,908	447,747	+16,207	+27,569	+423	-2,161
Minerals Management Service	161,497	169,313	169,313	171,267	168,717	+7,220	-596	-596	-2,550
Bureau of Mines	140,412	118,630	132,727	158,392	146,398	+5,986	+27,768	+13,671	-11,994
Office of Surface Mining Reclamation and Enforcement	303,723	292,404	297,204	311,129	301,505	-2,218	+9,101	+4,301	-9,624
Bureau of Indian Affairs	1,037,253	997,709	1,058,844	1,063,670	1,072,406	+35,153	+74,697	+13,562	+8,736
Territorial Affairs	147,861	104,673	167,419	135,209	153,795	+5,934	+49,122	-13,624	+18,586
Secretarial Offices	81,880	93,860	89,158	90,095	90,129	+8,249	-3,731	+971	+34
Total, Title I - Department of the Interior	4,212,935	3,875,994	4,315,243	4,391,113	4,361,330	+148,395	+485,336	+46,087	-29,783

	FY 1987	FY 1988				Conference compared to			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House	Senate
TITLE II - RELATED AGENCIES									
Forest Service	1,679,469	1,457,309	1,666,847	1,711,931	1,686,320	+6,851	+229,011	+19,473	-25,611
Department of the Treasury	---	---	---	---	---	---	---	---	---
Department of Energy	(888,833)	(1,842,334)	(1,738,662)	(2,200,619)	(1,538,196)	(+649,363)	(-304,138)	(-200,466)	(-662,423)
Clean Coal Technology	---	350,000	50,000	350,000	50,000	+50,000	-300,000	---	-300,000
Fossil Energy	295,866	149,900	345,394	291,390	326,975	+31,109	+177,075	-18,419	+35,585
Naval Petroleum and Oil Shale Reserves	122,177	159,700	159,700	159,700	159,663	+37,486	-37	-37	-37
Energy Conservation	233,612	86,090	326,114	338,824	309,517	+75,905	+223,427	-16,597	-29,307
Economic Regulation	23,400	21,680	21,680	21,741	21,565	-1,835	-115	-115	-176
Emergency Preparedness	6,044	6,206	6,206	6,206	6,206	+162	---	---	---
Strategic Petroleum Reserve	147,433	164,225	164,225	164,225	164,162	+16,729	-63	-63	-63
SPR Petroleum Account	---	842,934	603,744	806,934	438,744	+438,744	-404,190	-165,000	-368,190
Energy Information Administration	60,301	61,599	61,599	61,599	61,398	+1,097	-201	-201	-201
Indian Health	940,750	796,835	1,010,980	1,004,746	1,005,808	+65,058	+208,973	-5,172	+1,062
Indian Education	64,036	64,234	66,343	66,343	66,326	+2,290	+2,092	-17	-17
Navajo and Hopi Indian Relocation Commission	22,335	21,490	25,270	25,270	25,270	+2,935	+3,780	---	---
Smithsonian	210,544	228,736	231,854	229,350	230,151	+19,607	+1,415	-1,703	+801
National Gallery of Art	37,827	37,659	37,801	37,547	37,352	-475	-307	-449	-195
Woodrow Wilson International Center for Scholars	3,362	3,998	3,827	4,635	4,028	+666	+30	+201	-607
National Endowment for the Arts	165,281	145,200	166,531	165,956	167,731	+2,450	+22,531	+1,200	+1,775
Arts and Artifacts Indemnity Fund	---	---	---	---	---	---	---	---	---
National Endowment for the Humanities	138,890	126,890	139,640	139,291	140,435	+1,545	+13,545	+795	+1,144
Martha Graham Center of Contemporary Dance	---	---	---	4,125	---	---	---	---	-4,125
National Capital Arts and Cultural Affairs	4,000	---	4,000	4,500	4,500	+500	+4,500	+500	---
Institute of Museum Services	21,250	19,250	22,000	21,948	21,944	+694	+2,694	-56	-4
Commission of Fine Arts	450	446	446	446	443	-7	-3	-3	-3
Advisory Council on Historic Preservation	1,533	1,734	1,719	1,719	1,719	+186	-15	---	---
National Capital Planning Commission	2,684	2,967	2,967	3,013	2,948	+264	-19	-19	-65
Franklin Delano Roosevelt Memorial Commission	5	28	28	28	28	+23	---	---	---
Pennsylvania Avenue Development Corporation	6,321	5,531	5,531	5,531	5,516	-805	-15	-15	-15
Holocaust Memorial Council	2,075	2,183	2,145	2,183	2,171	+96	-12	+26	-12
Total, Title II - Related Agencies	4,189,645	4,756,824	5,126,591	5,629,181	4,940,886	+751,241	+184,062	-185,705	-688,295
Grand total	8,402,580	8,632,818	9,441,834	10,020,294	9,302,216	+899,636	+669,398	-139,618	-718,078
Grand total	8,402,580	8,632,818	9,441,834	10,020,294	9,302,216	+899,636	+669,398	-139,618	-718,078
Advance appropriation-FY 1989 (by transfer).	---	(500,000)	(200,000)	(500,000)	(525,000)	(+525,000)	(+25,000)	(+325,000)	(+25,000)
Advance appropriation-FY 1990 (by transfer).	---	(500,000)	(100,000)	---	---	---	(-500,000)	(-100,000)	---
Advance appropriation-FY 1991 (by transfer).	---	(500,000)	---	---	---	---	(-500,000)	---	---
Advance appropriation-FY 1992 (by transfer).	---	(500,000)	---	---	---	---	(-500,000)	---	---

shortage of decent, safe, and sanitary dwellings for families of lower income and, consistent with the objectives of this title, to vest Indian housing authorities the maximum amount of responsibility in the administration of their housing programs. No person may be barred from serving on the board of directors or similar governing body of an Indian housing authority because of his or her tenancy in a lower income housing project.

"RENTAL PAYMENTS; DEFINITIONS

"SEC. 202. (a)(1) Dwelling units assisted under this title shall be rented only to families who are lower income families at the time of their initial occupancy of such units. Reviews of family income shall be made at least annually.

"(2) A family shall pay as rent for a dwelling unit assisted under this title (other than a family assisted under the Mutual Help Homeownership Program) the highest of the following amounts, rounded to the nearest dollar:

"(A) 20 per centum of the family's monthly adjusted income;

"(B) 10 per centum of the family's monthly income; or

"(C) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

"(3) Any Indian housing authority may provide that each family residing in an Indian housing project owned and operated by such authority shall pay as monthly rent an amount determined by such authority to be appropriate that does not exceed a maximum amount that—

"(A) is established by such authority and approved by the Secretary;

"(B) is not more than the amount payable as rent by such family under paragraph (1); and

"(C) is not less than whichever of the following is lower:

"(i) The average monthly amount of debt service and operating expenses attributable to dwelling units of similar size in Indian housing projects owned and operated by such authority.

"(ii) The fair market rentals established in the housing area for dwelling units under section 8(b)(1).

"(4) A family participating under a Mutual Help Homeownership Program that contributes labor, land, materials or cash to the development of such projects shall make monthly payments for its units in an amount established by the Indian housing authority and approved by the Secretary.

"(b) When used in this title:

"(1) The term 'lower income housing' means decent, safe, and sanitary dwellings assisted under this title. The term 'Indian housing' means lower income housing, and all necessary appurtenances thereto, assisted under this title. When used in reference to Indian housing, the term 'lower income housing project' or 'project' means (A) housing developed, acquired, or assisted by an Indian housing authority under this title, and (B) the improvement of any such housing.

"(2) The term 'lower income families' means those families whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes. The term 'very low-income families' means lower income families whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's finding that such variations are necessary because of unusually high or low family incomes.

"(3) The term 'families' includes families consisting of a single person in the case of (A) a person who is at least sixty-two years of age or is under a disability as defined in section 223 of the Social Security Act, has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001), or is handicapped, (B) a displaced person, (C) the remaining member of a tenant family, and (D) other single persons in circumstances described in regulations issued by the Secretary. In no event shall more than 15 per centum of the units under the jurisdiction of any Indian housing authority be occupied by single persons under clause (D). In determining priority for admission to housing under this title, the Secretary shall give preference to those single persons who are elderly, handicapped, or displaced before those eligible under clause (D). The term 'elderly families' means families whose heads (or their spouses), or whose sole members, are persons described in clause (A). A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which is expected to be of long-continued and indefinite duration, substantially impedes such person's ability to live independently, and is of such a nature that such ability could be improved by more suitable housing conditions. The term 'displaced person' means a person displaced by governmental actions, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws. Notwithstanding the preceding provisions of this subsection, the term 'elderly families' includes two or more elderly, disabled, or handicapped individuals living together, or one or more such individuals living with one or more persons determined under regulations issued by the Secretary to be essential to their care or well-being. The Secretary may increase the limitation described in the second sentence of this paragraph to not more than 30 per centum if, following consultation with the Indian housing authority involved, the Secretary determines that the dwelling units involved are neither being occupied nor are likely to be occupied within the next twelve months by families or persons described in clauses (A), (B), and (C), due to the condition or location of such dwelling units, and that such dwelling units may be occupied if made available to single persons described in clause (D).

"(4) The term 'income' means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary.

"(5) The term 'adjusted income' means the income which remains after excluding—

"(A) four hundred and eighty dollars for each member of the family residing in the household (other than the head of the household or his spouse) who is under eighteen years or older and is disabled or handicapped or a full-time student;

"(B) four hundred dollars for an elderly family;

"(C) the amount by which the aggregate of the following expenses of the family exceeds 3 per centum of annual family income: (i) medical expenses for an elderly family; and (ii) reasonable attendant care and auxiliary apparatus expenses for each handicapped member of any family, to the extent necessary to enable any member of such family (including such handicapped member) to be employed; and

(D) (i) child care expenses to the extent necessary to enable another member of the family to be employed or to further his or her education or (ii) excessive travel expenses, not to exceed twenty-five dollars per family per week for employment or education related travel.

"(6) The term 'Indian housing authority' means an Indian housing authority, which services an Indian tribe as defined in paragraph (7), established (A) by exercise or tribal power of self-government independent of State law, or (B) by operation of State law providing specifically for housing authorities for Indians.

"(7) The term 'Indian tribe' includes any Indian tribes, bands, groups, or Nations, including Alaska Indians, Aleuts, and Eskimos of the United States.

"(8) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(c) When used in reference to Indian housing:

"(1) The term 'development' means any or all undertakings necessary for planning, land acquisition, demolition, construction, or equipment, in connection with a lower income housing project. The term 'development cost' comprises the costs incurred by an Indian housing authority in such undertakings and their necessary financing (including the payment of carrying charges), and in otherwise carrying out the development of such project. Construction activity in connection with a lower income housing project may be confined to the reconstruction, remodeling, or repair of existing buildings.

"(2) The term 'operation' means any or all undertakings appropriate for management, operation, services, maintenance, security (including the cost of security personnel), or refinancing in connection with a lower income housing project. The term also means the financing of tenant programs and services for families residing in lower income housing projects, particularly where there is maximum feasible participation of the tenants in the development and operation of such tenant programs and services. As used in this paragraph, the term 'tenant programs and services' includes the development and maintenance of tenant organizations which participate in the management of lower income housing projects, the training of tenants to manage and operate such projects and the utilization of their services in project management and operation; counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and replacement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies in the community when necessary for the provision of such services. To the maximum extent available and appropriate, existing public and private agencies in the community shall be used for the provision of such services.

"(3) The term 'acquisition cost' means the amount prudently required to be expended by an Indian housing authority in acquiring property for a lower income housing project.

"LOANS FOR LOWER INCOME HOUSING PROJECTS

"SEC. 203. (a) The Secretary may make loans or commitments to make loans to Indian housing authorities to help finance or refinance the development, acquisition, or operation of lower income housing projects by such authorities. Any contract for such loans and any amendment to a contract for such loans shall provide that such loans shall bear interest at a rate specified by the Secretary which shall not be less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus one-eighth of 1 per centum. Such loans shall be secured in such manner and shall be repaid within such period not exceeding forty years, or not exceeding forty years from the date of the bonds evidencing the loan, as the Secretary may determine. The Secretary may require loans or commitments to make loans under this section to be pledged as security for obligations issued by a Indian housing authority in connection with a lower income housing project.

"(b) The Secretary may issue and have outstanding at any one time notes and other obligations for purchase by the Secretary of the Treasury in an amount necessary to carry out the functions of this section. For purpose of determining obligations incurred to make loans pursuant to this Act against any limitation otherwise applicable with respect to such loans, the Secretary shall estimate the maximum amount to be loaned at any one time pursuant to loan agreements then outstanding with Indian housing authority. Such notes or other obligations shall be in such forms and denominations and shall be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. The notes or other obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any notes or other obligations of the Secretary issued hereunder and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchases of such obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him or her under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(c)(1) At such times as the Secretary may determine, and in accordance with such accounting and other procedures as the Secretary may prescribe, each loan made by the Secretary under sections 4(a) or 203(a) of this Act to an Indian housing authority that has any principal amount outstanding or any interest amount outstanding or accrued shall be forgiven; and the terms and conditions of any contract, or any amendment to a contract, for such loans with respect to any promise to repay such principal and interest shall be canceled. Such cancellation shall not affect any other terms and conditions of such contract which shall remain in effect as if the cancellation had not occurred. This paragraph shall not apply to any loan the repayment of which was not to be made using annual contributions, or to any loan all or part of the proceeds of which are due an Indian housing authority from contractors or others.

"(2)(A) Each note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to sections 4(b) or 203(b) of this Act for the benefit of Indian housing authorities, together with any promise to repay the principal and interest that has accrued on each note or obligation, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.

"(B) On September 30, 1987, and on any subsequent September 30, each such note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant sections 4(b) or 203(b) of this Act for the benefit of an Indian housing authority during the fiscal year ending on such date, together with any promise to repay the principal and interest that has accrued on each note or obligation, shall be forgiven, and any other term or condition specified by each such obligation shall be canceled.

"(3) Any amount of budget authority (and contract authority) that becomes available during any fiscal year as a result of the forgiveness of any loan, note, or obligation under this subsection shall be rescinded.

"CONTRIBUTIONS FOR LOWER INCOME HOUSING PROJECTS

"SEC. 204. (a)(1) The Secretary may make annual contributions to Indian housing authorities to assist in achieving and maintaining the lower income character of their projects. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payment. The contribution payable annually under this section shall in no case exceed a sum equal to the annual amount of principal and interest payable on obligations issued by the Indian housing authority to finance the development or acquisition cost of the lower income project involved. Annual contributions payable under this section shall be pledged, if the Secretary so requires, as security for obligations issued by an Indian housing authority to assist the development or acquisition of the project to which annual contributions relate and shall be paid over a period not to exceed forty years. The Secretary shall not enter into a contract guaranteeing the payment of annual contributions under this section with respect to Indian housing projects, except with respect to a project for which funding has been reserved before October 1, 1987.

"(2) On and after October 1, 1987, the Secretary may only make one-time capital contributions to Indian housing authorities to cover the development cost of Indian housing projects. The contract under which such contributions shall be made shall specify the amount of capital contributions required for each project to which the contract pertains and the period (not to exceed forty years) during which the terms and conditions of such contract shall remain in effect.

"(3) The amount of contributions which would be established for a newly constructed project by an Indian housing authority designed to accommodate a number of families of a given size and kind may be established under this section for a project by such Indian housing authority which would provide housing for the comparable number, sizes, and kinds of families through the acquisition and rehabilitation, or use under lease, of structures which are suitable for lower income housing use and obtained in the local market.

"(b) The Secretary may prescribe regulations fixing the maximum contributions available under different circumstances, giving consideration to cost, location, size, rent-paying ability of prospective tenants, or other factors bearing upon the amounts and periods of assistance needed to achieve and maintain low rentals. Such regulations may provide for rates of contribution based upon development, acquisition, or operation costs, number of dwelling units, number of persons housed, interest charges, or other appropriate factors.

"(c)(1) The Secretary may enter into contracts for annual contributions. The authority to enter into such contracts shall be effective only in such amounts as may be approved in appropriation Acts.

"(2) The Secretary shall enter into only such new contracts for preliminary loans as are consistent with the number of dwelling units for which contracts for annual contributions may be entered into.

"(3) The full faith and credit of the United States is solemnly pledged to the payment of all annual contributions contracted for pursuant to this section, and there are hereby authorized to be appropriated in each fiscal year, out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such payments.

"(4) All payments of annual contributions pursuant to this section shall be made out of any funds available for purposes of this title when such payments are due, except that funds obtained through the issuance of obligations pursuant to section 203(b) (including repayments or other realizations of the principal of loans made out of such funds) shall not be available for the payment of such annual contributions.

"(5) During such period as the Secretary may prescribe for starting construction, the Secretary may approve the conversion of Indian housing development authority for use under section 209 or for use for the acquisition and rehabilitation of property to be used in Indian housing, if the Indian housing agency, after consultation with the tribe, certifies that such assistance would be more effectively used for such purpose, and if the total number of units assisted will not be less than 90 per centum of the units covered by the original reservation.

"(d) Any contract for loans or annual contributions, or both, entered into by the Secretary with an Indian housing authority, may cover one or more than one lower income housing project owned by such Indian housing authority; in the event the contract covers two or more projects, such projects may, for any of the purposes of this title and of such contract (including, but not limited to, the determination of the amount of the loan, annual contributions, or payments in lieu of taxes, specified in such contract), be treated collectively as one project.

"(e) In recognition that there should be local determination of the need for lower income housing—

"(1) the Secretary shall not make any contract with an Indian housing authority for preliminary loans (all of which shall be repaid out of moneys which become available to such agency for the development of the projects involved) for surveys and planning in respect to any lower income housing projects (i) unless the tribe involved by resolution approved the application of the Indian housing authority for such preliminary loan, and (ii) unless the Indian housing authority has demonstrated to the satisfaction of the Secretary that there is need for such lower income housing; and

"(2) the Secretary shall not make any contract for loans (other than preliminary loans) or for contributions pursuant to this title unless the tribe involved has entered into an agreement with the Indian housing authority providing for the local cooperation required by the Secretary pursuant to this Act.

"(f) Subject to the specific limitations or standards in this Act governing the terms of sales, rentals, leases, loans, contracts for annual contributions, or other agreements, the Secretary may, whenever the Secretary deems it necessary or desirable in the fulfillment of the purposes of this Act, consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, amount of annual contribution, or any other term, of any contract or agreement of any kind to which the Secretary is a party. When the Secretary finds that it would promote economy or be in the financial interest of the Federal Government or is necessary to assure or maintain the lower income character of the project or projects involved, any contract heretofore or hereafter made for annual contributions, loans, or both, may be amended or superseded by a contract entered into by mutual agreement between the Indian housing authority and the Secretary. Contracts may not be amended or superseded in a manner which would impair the rights of the holders of any outstanding obligations of the Indian Housing authority involved for which annual contributions have been pledged. Any rule of law contrary to this provision shall be deemed inapplicable.

"(g) In addition to the authority of the Secretary under subsection (a) to pledge annual contributions as security for obligations issued by an Indian housing authority, the Secretary is authorized to pledge annual contributions as a guarantee of payment by an Indian housing authority of all principal and interest on obligations issued by it to assist the development or acquisition of the project to which the annual contributions relate, except that no obligation shall be guaranteed under this subsection if the income thereon is exempt from Federal taxation.

"(h) Notwithstanding any other provision of law, an Indian housing authority may sell a lower income housing project to its lower income tenants, on such terms and conditions as the authority may determine, without affecting the Secretary's commitment to pay annual contributions with respect to that project, but such contributions shall not exceed the maximum contributions authorized under subsection (a) of this section.

"(i) In entering into contracts for assistance with respect to newly constructed or substantially rehabilitated projects under this section, the Secretary shall require the installation of a passive or active solar energy system in any such project where the Secretary determines that such installation would be cost effective over the estimated life of the system.

"CONTRACT PROVISIONS AND REQUIREMENTS

"SEC. 205. (a) The Secretary may include in any contract for loans, capital contributions, sale, lease, mortgage, or any other agreement or instrument made pursuant to this title, such covenants, conditions, or provisions as the Secretary may deem necessary in order to insure the lower income character of the project involved. Any such contract may contain a condition requiring the maintenance of an open space or playground in connection with the housing project involved if deemed necessary by the Secretary for the safety or health of children. Any such contract shall require that, except in the case of housing predominantly for the elderly, high-rise elevator projects shall not be provided for families with children unless the Secretary makes a determination that there is no practical alternative.

"(b) Every contract for contributions shall provide that—

"(1) the Secretary may require the Indian housing authority to review and revise its maximum income limits if the Secretary determines that changed conditions in the locality make such revision necessary in achieving the purposes of this title;

"(2) the Indian housing authority shall determine, and so certify to the Secretary, that each family in the project was admitted in accordance with duly adopted regulations and approved income limits; and the Indian housing authority shall review the incomes of families living in the project no less frequently than annually;

"(3) the Indian housing authority shall promptly notify (A) any applicant determined to be ineligible for admission to the project of the basis for such determination and provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination, and (B) any applicant determined to be eligible for admission to the project of the approximate date of occupancy insofar as such date can be reasonably determined; and

"(4) the Indian housing authority shall comply with such procedures and requirements as the Secretary may prescribe to assure that sound management practices will be followed in the operation of the project, including requirements pertaining to—

"(A) except for projects or portions of projects specifically designated for elderly families with respect to which the Secretary has determined that application of this clause would result in excessive delays in meeting the housing need of such families, the establishment of tenant selection criteria which gives preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking assistance under this title or are paying more than 50 per centum of family income for rent and which is designated to assure that, within a reasonable period of time, the project will include families with a broad range of incomes and will avoid concentrations of lower income and deprived families with serious social problems, but this shall not permit maintenance of vacancies to await higher income tenants where lower income tenants are available;

"(B) the establishment of satisfactory procedures designed to assure the prompt payment and collection of rents and the prompt processing of evictions in the case of nonpayment of rent;

"(C) the establishment of effective tenant-management relationships designated to assure that satisfactory standards of tenant security and project maintenance are formulated and that the Indian housing authority (together with tenant councils where they exist) enforces those standards fully and effectively; and

"(D) the development by local housing authority managements of viable homeownership opportunity programs for lower income families capable of assuming the responsibilities of homeownership.

"(c) Every contract for contributions with respect to a lower income housing project shall provide that no contributions by the Secretary shall be made available for such project unless such project (exclusive of any portion thereof which is not developed or assisted by contributions under this title) is exempt from all real and personal property taxes levied or imposed by the State, tribe, city, county, or other political subdivision; and such contract shall require the Indian housing authority to make payments in lieu of taxes equal to 10 per centum of the sum of the shelter rents charged in such project, or such lesser amount as (i) is prescribed by State or tribal law, or (ii) is agreed to by the tribe in its agreement for local cooperation with the Indian housing authority required under section 204(e)(2) of this title, or (iii) is due to failure of a tribal body or tribes other than the Indian housing authority to perform any obligation under such agreement. If any such project is not exempt from all real and personal property taxes levied or imposed by the State, tribe, city, county, or other political subdivision, such contract shall provide, in lieu of the requirement for tax exemption and payments in lieu of taxes, that no contributions by the Secretary shall be made available for such project unless and until the State, tribe, city, county, or other political subdivision in which such project is situated shall contribute, in the form of cash or tax remission, the amount by which the taxes paid with respect to the project exceed 10 per centum of the shelter rents charged in such project.

"(d) Every contract for contributions shall provide that whenever in any year the receipts of an Indian housing authority in connection with a lower income housing project exceed its expenditures (including debt service, operation, maintenance, establishment of reserves, and other costs and charges), an amount equal to such excess shall be applied, or set aside for application, to purposes which, in the determination of the Secretary, will effect a reduction in the amount of subsequent contributions.

"(e) Every contract for contributions (including contracts which amend or supersede contracts previously made) may provide that—

"(1) upon the occurrence of a substantial default in respect to the covenants or conditions to which the Indian housing authority is subject (as such substantial default shall be defined in such contract, the Indian housing authority shall be obligated at the option of the Secretary either to convey title in any case where, in the determination of the Secretary (which determination shall be final and conclusive), such conveyance of title is necessary to achieve the purposes of this title, or to deliver to the Secretary possession of the project, as then constituted, to which such contract relates; and

"(2) the Secretary shall be obligated to reconvey or redeliver possession of the project, as constituted at the time of reconveyance or redelivery, to such Indian housing authority or to its successor (if such Indian housing authority or a successor exists) upon such terms as shall be prescribed in such contract, and as soon as practicable (A) after the Secretary is satisfied that all defaults with respect to the project have been cured, and that the project will, in order to fulfill the purpose of this title, thereafter be operated in accordance with the terms of such contract; or (B) after the termination of the obligation to make annual contributions available unless there are any obligations or covenants of the Indian housing authority to the Secretary which are then in default. Any prior conveyances and reconveyances or deliveries and redeliveries of possession shall not exhaust the right to require a conveyance or delivery of possession of the project to the Secretary pursuant to paragraph (1) upon the subsequent occurrence of a substantial default. Whenever such a contract for annual contributions includes provisions which the Secretary in such contract determines are in accordance with this subsection, and the portion of the contribution payable for debt service requirements pursuant to such contract has been pledged by the Indian housing authority as security for the payment of the principal and interest on any of its obligations, the Secretary (notwithstanding any other provision of this title) shall continue to make such contributions available for the project so long as any of such obligations remain outstanding, and may covenant in such contract that in any event such contributions shall in each year be at least equal to an amount which, together with such income or other funds as are actually available from the project for the purpose at the time such contribution is made, will suffice for the payment of all installments, falling due within the next succeeding twelve months, of principal and interest on the obligations for which the contributions provided for in the contract shall have been pledged as security. In no case shall such contributions be in excess of the maximum sum specified in the contract involved, nor for longer than the remainder of the maximum period fixed by the contract.

"(f) In entering into commitments for the development of Indian housing, the Secretary shall give a priority to projects for the construction, acquisition, or acquisition and rehabilitation of housing suitable for occupancy by families requiring three or more bedrooms.

"(g) The Secretary shall by regulation require each Indian housing authority receiving assistance under this title to establish and implement an administrative grievance procedure under which tenants will—

"(1) be advised of the specific grounds of any proposed adverse Indian housing authority action;

"(2) have an opportunity for a hearing before an impartial party upon timely request within any period applicable under subsection (h);

"(3) have an opportunity to examine any documents or records or regulations related to the proposed action;

"(4) be entitled to be represented by another person of his or her choice at any hearing;

"(5) be entitled to ask questions of witnesses and have others make statements on his or her behalf; and

"(6) be entitled to receive a written decision by the Indian housing authority on the proposed action.

An Indian housing authority may exclude from its procedure any grievance concerning an eviction or termination of tenancy in any jurisdiction which requires that, prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the basic elements of due process.

"(h) Each Indian housing authority shall use leases which—

"(1) do not contain unreasonable terms and conditions;

"(2) obligate the Indian housing authority to maintain the project in a decent, safe, and sanitary condition;

"(3) require the Indian housing authority to give adequate written notice of termination of the lease which shall not be less than—

"(A) a reasonable time, but not to exceed thirty days, when the health or safety of other tenants or Indian housing authority employees is threatened;

"(B) fourteen days in the case of nonpayment of rent; and

"(C) thirty days in any other case; and

"(4) require that the Indian housing authority may not terminate the tenancy except for serious or repeated violation of the terms or conditions of the lease or for other good cause.

"(i) The Secretary shall not impose any unnecessarily duplicative or burdensome reporting requirements on tenants of Indian housing authorities assisted under this title.

"ANNUAL CONTRIBUTIONS FOR OPERATION OF LOWER INCOME HOUSING PROJECTS

"SEC. 206. (a)(1) In addition to the contributions authorized to be made for the purposes specified in section 204 of this title, the Secretary may make annual contributions to Indian housing authorities for the operation of lower income housing projects. The contributions payable annually under this section shall not exceed the amounts which the Secretary determines are required (A) to assure the lower income character of the projects involved, (B) to achieve and maintain adequate operating services and reserve funds, and (C) to provide funds (in addition to any other operating costs contributions approved by the Secretary under this section) as determined by the Secretary to be required to cover the administrative costs to an Indian housing authority during the development period of a project approved pursuant to section 204 and until such time as the project is occupied. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payments subject to the availability of funds, and such contract shall provide that no disposition of the lower income housing project, with respect to which the contract is entered into, shall occur during and for ten years after the period when contributions were made pursuant to such contract unless approved by the Secretary. For purposes of making payments under this section, the Secretary shall establish standards for costs of operation and reasonable projects of income, taking into account the character and location of the project and characteristics of the families served, or the costs of providing comparable services as determined in accordance with criteria or a formula representing the operations of a prototype well-managed project. Where the Secretary determines that an Indian housing authority has failed to submit an acceptable audit on a timely basis in accordance with applicable program requirements, the Secretary may arrange for and pay the costs of such an audit. In such circumstances, the Secretary may withhold from assistance otherwise payable to the authority under this section amounts sufficient to pay for the reasonable costs of conducting an acceptable audit, including, where appropriate, the reasonable costs of accounting services necessary to place the authority's books and records in auditable condition.

"(2) The Secretary may not make assistance available under this section for any lower income housing project unless such project is one developed pursuant to a contributions contract authorized by sections 5(c) or 205, except that after the duration of any such contributions contract with respect to a lower income housing project, the Secretary may provide assistance under this section with respect to such project as long as the lower income nature of such project is maintained.

"(b) The aggregate rentals required to be paid in any year by families residing in the dwelling units administered by an Indian housing authority receiving annual contributions under this section shall not be less than an amount equal to one-fifth of the sum of the incomes of all such families.

"(c) There are authorized to be appropriated, for the purpose of providing payments pursuant to this section such sums as may be necessary.

"(d) If, in any fiscal year, any funds which have been appropriated for such year remain after applying the provisions of the second and fourth sentences of subsection (a)(1), the Secretary shall distribute such funds to lower income housing projects which incurred excessive costs which were beyond their control and the full extent of which was not taken into account in the original distribution of funds for such fiscal year.

"FINANCING LOWER INCOME HOUSING PROJECTS

"SEC. 207. (a) Obligations issued by an Indian housing authority in connection with lower income housing projects which (1) are secured (A) by a pledge of a loan under any agreement between such Indian housing authority and the Secretary, or (B) by a pledge of annual contributions under an annual contributions contract between such public housing agency and the Secretary, or (C) by a pledge of both annual contributions under an annual contributions contract and a loan under an agreement between such Indian housing authority and the Secretary, and (2) bear, or are accompanied by, a certificate of the Secretary that such obligations are so secured, shall be incontestable in the hands of a bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for such obligations.

"(b) Except as provided in section 204(g), obligations, including interest thereon, issued by Indian housing authorities in connection with lower income housing projects shall be exempt from all taxation now or hereafter imposed by the United States whether paid by such authorities or by the Secretary. The income derived by such authorities from such projects shall be exempt from all taxation now or hereafter imposed by the United States.

"LABOR STANDARDS

"SEC. 208. Any contract for loans, contributions, sale, or lease pursuant to this title shall contain a provision requiring that not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, and technicians employed in the development, and all maintenance laborers and mechanics employed in the operations, of the lower income housing project involved.

"COMPREHENSIVE GRANT PROGRAM

"SEC. 209. (a) PURPOSE AND AUTHORITY TO PROVIDE FINANCIAL ASSISTANCE.—(1) The purpose of this section is to provide Indian housing authorities with a predictable source of funding and, through deregulation, with the flexibility to determine the most appropriate use of available funding, in order to assume the responsibility for improving the physical condition of existing Indian housing projects, upgrading their management and operation, and thereby contributing to their long-term viability and their continued availability to provide decent, safe, and sanitary living conditions for lower income families.

"(2) The Secretary may make available, and contract to make available, financial assistance to Indian housing authorities in accordance with the provisions of this section with respect to Indian housing (as defined in section 202(b)(1)) owned or operated by them.

"(b) ALLOCATIONS.—(1) From the amount approved in an appropriation Act for any year for financial assistance under this section, the Secretary shall determine the amount necessary to fund the annual accrual of capital improvement needs of Indian housing authorities, based on available data concerning these needs. The Secretary shall allocate this amount to each Indian housing authority on the basis of a formula, which is based on objectively measurable criteria which reflect the annual accrual of capital improvement needs of each Indian housing authority.

"(2) The Secretary shall allocate the amount that remains after the allocation referred to in paragraph (1) to Indian housing authorities, based on the relative current needs of the authorities for capital improvements, as determined by the Secretary.

"(c) CONDITIONS FOR FUNDING.—No financial assistance may be made available under this section unless: (1) the Indian housing authority has certified that it has completed and retained in its files a comprehensive plan that is in conformity with applicable program requirements, and submitted a one-year work plan, as required by subsection (f); and (3) the Secretary approves the work plan, in accordance with subsection (g). Authorities which the Secretary determines do not meet, or are not making reasonable progress toward meeting, the performance standards under subsection (h)(2)(C) shall submit their comprehensive plan to the Secretary for review and approval. The Secretary's review shall assess whether the plan is adequate to improve the physical condition of the authority's housing projects, upgrade their management and operation, and contribute to their long-term viability and their continued availability to provide decent, safe, and sanitary living conditions for lower income families. Notwithstanding the conditions for funding in this subsection, the Secretary may provide assistance where necessary to correct conditions that constitute an immediate threat to the health or safety of tenants.

"(d) COMPREHENSIVE PLAN.—The comprehensive plan shall contain—

"(1) a comprehensive assessment of—

"(A) the current physical condition of each project owned or operated by the authority;

"(B) the physical improvements necessary for each project to permit the project to be rehabilitated to a level the authority determines is appropriate for the project; and

"(C) the replacement needs of equipment systems and structural elements which will be required to be met (assuming routine and timely maintenance is performed) during the five-year period covered by the assessment;

"(2) a comprehensive assessment of the improvements needed to upgrade the management and operation of the authority and of each project so that decent, safe, and sanitary living conditions will be provided, including at least an identification of needs related to—

"(A) the management, financial, and accounting control systems of the authority for the projects;

"(B) the adequacy and qualifications of personnel employed by the authority in the management and operation of the projects for each category of employment; and

"(C) the adequacy and efficacy of (i) tenant programs and services; (ii) the security of each project and its tenants; (iii) policies and procedures of the authority for the selection and eviction of tenants; and (iv) other policies and procedures of the authority relating to the projects, as listed in regulations issued by the Secretary;

"(3) an analysis, made on a project-by-project basis in accordance with standards prescribed by the Secretary, demonstrating that completion of the improvements and replacements identified under paragraphs (1) and (2) will reasonably assure the long-term viability of the project at a reasonable cost;

"(4) based on a reasonable expectation of continued funding, a five-year work plan to correct the deficiencies identified under paragraphs (1) and (2) to the extent possible within the five-year timeframe. The five-year work plan shall provide for making the improvements and replacements identified under paragraphs (1) and (2) which, pursuant to the analysis described in paragraph (3), the authority anticipates will reasonably assure the long-term viability of projects at a reasonable cost, and reasonably assure the efficient use of funds to achieve decent, safe, and sanitary living conditions for most lower income families. The work plan shall include at least a schedule, in priority order, of the actions which are to be completed, over a period of not more than five years, and which are necessary (A) to make the improvements and replacements identified under paragraph (1) for each project expected to receive capital improvements or replacements; and (B) to upgrade the management and operation of the authority and its projects as identified under paragraph (2);

"(5) a statement from the Indian tribal official that the tribe has been consulted on the development of the comprehensive plan, has had an opportunity to comment, has approved the comprehensive plan, and will cooperate in the work process and provision of tenant programs and services;

"(6) a preliminary estimate of the total cost of the items identified in paragraphs (1) and (2), including a preliminary estimate of the costs that will be incurred during each year covered by the comprehensive plan; and

"(7) such other information as the Secretary may require.

"(e) PUBLIC COMMENT.—To permit tenant, public, and tribal government examination and appraisal of the comprehensive plan, to further enhance authority flexibility and accountability, and to facilitate coordination of activities among various levels of government, the authority shall in a timely manner—

"(1) give the tenants, the public, and the tribal government information concerning the amount of funds expected to be available each year for comprehensive improvements;

"(2) publish an announcement that the proposed comprehensive plan is available for review, and make it sufficiently available, so tenants, the public, and the tribal government have an opportunity to examine it and submit comments;

"(3) hold at least one meeting for tenants in projects to be affected by each comprehensive plan to obtain views on the agency's comprehensive plan;

"(4) hold at least one public hearing to obtain views on the authority's comprehensive plan; and

"(5) take comments into consideration.

"(f) ONE-YEAR WORK PLAN.—(1) To receive assistance with respect to any fiscal year, each Indian housing authority shall prepare, and submit to the Secretary, a one-year work plan indicating the particular activities to be conducted in the next authority fiscal year. The one-year work plan shall be based on the comprehensive plan and reflect the actions necessary to assure the long-term viability of the projects at a reasonable cost and the schedule of priorities contained in the comprehensive plan.

"(2) The authority shall submit, with the one-year work plan, an information copy of any amendments to its five-year comprehensive plan or of a revised plan, and certifications—

"(A) that it has completed the comprehensive plan in conformity with applicable program requirements;

"(B) that the one-year work plan is consistent with the comprehensive plan;

"(C) that it has provided the tenants of Indian housing and other interested parties the opportunity to review the work plan and comment on it, and that such comments have been taken into account in formulating the plan as submitted to the Secretary;

"(D) from the Indian tribal official that the tribe has been consulted on the development of the one-year work plan, has had an opportunity to comment on it, has approved the one-year work plan, and will cooperate in the work process and provision of tenant programs and services;

"(E) that it will spend the funds available under the one-year work plan in accordance with subsection (i) in such a way as to accomplish the actions in the plan in a cost-effective manner; and

"(F) that it will implement the one-year work plan in conformance with (i) the Indian Civil Rights Act (Title II of the Civil Rights Act of 1968), (ii) title VI of the Civil Rights Act of 1964, (iii) title VIII of the Civil Rights Act of 1968, and (iv) section 504 of the Rehabilitation Act of 1973.

"(g) REVIEW OF ONE-YEAR WORK PLANS BY THE SECRETARY.—(1) The Secretary shall approve a one-year work plan submitted under subsection (f) unless—

"(A) the plan is incomplete;

"(B) on the basis of available significant facts and data pertaining to the physical and operational condition of the Indian housing authority's projects or the management and operations of the authority, the Secretary determines that the authority's identification of work is plainly inappropriate to contributing to the long-term viability of the projects or maintaining the decent, safe, and sanitary character of the project; or

"(C) there is evidence available to the Secretary which tends to challenge in a substantial manner any certification contained in the plan.

"(2) The plan shall be considered to be approved unless the Secretary notifies the authority in writing within seventy-five days of submission that the Secretary has disapproved the plan as submitted. The notice shall detail the reasons for disapproval and the modifications required to make the plan approvable and, where appropriate, specify why the proposed work is plainly inappropriate to contributing to the long-term viability of the projects or maintaining their decent, safe, and sanitary character.

"(h) ANNUAL PERFORMANCE REPORTS; REVIEWS AND AUDITS.—

"(1) PERFORMANCE AND EVALUATION REPORTS.—Each Indian housing authority receiving assistance under this section shall submit to the Secretary, on a date determined by the Secretary, the performance and evaluation report concerning the use of funds made available under this section. The report of the authority shall include its assessment of the relationship of such use, as well as the use of other funds, to the needs identified in the applicable one-year work plan of the authority and to the purposes of this section. The agency shall certify that it made the report available for review and comment by tenants, the public, the Indian government, and other interested parties before its submission to the Secretary.

"(2) REVIEWS BY SECRETARY.—The Secretary shall, at least on an annual basis, make such reviews as may be necessary or appropriate to determine whether each authority receiving assistance under this section—

"(A) has carried out its activities under this section in a timely manner and in accordance with its one-year work plan;

"(B) has a continuing capacity to carry out its one-year work plans in a timely manner;

"(C) has satisfied, or has made reasonable progress towards satisfying, such performance standards as shall be prescribed, by the Secretary, which shall include at least that the authority shall—

"(i) maintain all occupied dwelling units in Indian housing projects eligible for assistance under this section at levels at least equal to the housing quality standards established by the Secretary under section 8(o)(6) of this Act;

"(ii) maintain at least a 97 per centum occupancy rate for all dwelling units in such projects; and

"(iii) maintain an operating reserve, as authorized under section 206(a), equal to at least 20 per centum of the routine expenses in the operating budget of each year; and

"(D) has made reasonable progress in carrying out modernization projects approved under the provisions of section 14 of this Act, as it existed immediately before the effective date of this title. The Secretary shall make the determination under clause (D) of the preceding sentence before providing financial assistance under this section with respect to the first funding cycle after the effective date of this title as well as for later funding cycles.

"(3) AUDITS OF FINANCIAL TRANSACTIONS.—Recipients of assistance under this section shall have an audit made in accordance with chapter 75 of title 31, United States Code. The Secretary, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States shall have access to all books, documents, papers, or other records that are pertinent to the activities carried out under this section in order to make audit examinations, excerpts, and transcripts.

"(4) CORRECTIVE ACTIONS.—The one-year work plan (once approved by the Secretary) shall be binding upon the Secretary and the Indian housing authority. The comprehensive plan and any amendments to the comprehensive plan will also be binding, if the plan and any amendments are approved by the Secretary under subsection (c) in the case of authorities that do not meet, or are not making reasonable progress towards meeting, the performance standards. The Secretary may order corrective action only if the Indian housing authority does not comply with paragraph (1), or if a review under paragraph (2) or an audit under paragraph (3) reveals findings that the Secretary determines require corrective action. The Secretary may withhold funds under this section only if the Indian housing authority fails to take corrective action after written notice and a reasonable opportunity to do so. In administering this section, the Secretary shall, to the greatest extent possible, respect the professional judgment of the administrators of the Indian housing authority.

"(i) ELIGIBLE COSTS.—(1) An Indian housing authority may use financial assistance received under this section only—

"(A) to undertake activities described in its approved one-year work plan;

"(B) to correct conditions that constitute an immediate threat to the health or safety of tenants, whether or not the need for correction is indicated in its comprehensive plan or one-year work plan;

"(C) to prepare a comprehensive plan and a one-year work plan, including reasonable costs in connection with public comment, an annual performance and evaluation report, and an audit; and

"(D) to operate Indian housing projects consistent with the requirements that apply to amounts provided under section 206 for the operation of lower income housing projects, except that not more than 20 per centum of the amount received under this section for any authority fiscal year may be so used.

"(2) Financial assistance received under this section may be expended only for allowable costs as determined in accordance with cost determination policies of the Office of Management and Budget applicable to Indian tribal governments, as appropriately modified for application to Indian housing authorities.

"(j)(1) There are authorized to be appropriated, for the purpose of providing financial assistance under this section, such sums as may be necessary for fiscal years 1988, 1989, and 1990.

"(2) Any amount appropriated under this subsection shall remain available until expended.

"AVAILABILITY FOR LOWER INCOME FAMILIES

"SEC. 210. Not more than 25 per centum of the dwelling units available for occupancy under annual contributions contracts entered into under this Act with Indian housing authorities shall be available for leasing by lower income families other than very low-income families.

"DEMOLITION AND DISPOSITION OF INDIAN HOUSING

"SEC. 211. (a) The Secretary may not approve an application by an Indian housing authority for permission, with or without financial assistance under this title, to demolish or dispose of an Indian housing project or a portion of an Indian housing project unless the Secretary has determined that—

"(1) in the case of an application proposing demolition of an Indian housing project or a portion of an Indian housing project, the project or portion of the project is obsolete as to physical condition, location, or other factors, making it unusable for housing purposes, or no reasonable program of modifications is feasible to return the project or portion of the project to useful life; or in the case of an application proposing the demolition of only a portion of a project, the demolition will help to assure the useful life of the remaining portion of the project; or

"(2) in the case of an application proposing disposition of real property of an Indian housing authority by sale or other transfer—

"(A)(i) the property's retention is not in the best interests of the tenants or the Indian housing authority because developmental changes in the area surrounding the project adversely affect the health or safety of the tenants or the feasible operation of the project by the Indian housing authority, because disposition allows the acquisition, development, or rehabilitation of other properties which will be more efficiently or effectively operated as lower income housing projects and which will preserve the total amount of lower income housing stock available in the community, or because of other factors which the Secretary determines are consistent with the best interests of the tenants and Indian housing authority and which are not inconsistent with other provisions of this title; and

"(ii) for property other than dwelling units, the property is excess to the needs of a project or the disposition is incidental to, or does not interfere with, continued operation of a project; and

"(B) except as otherwise provided by this subparagraph, the net proceeds of the disposition will be used for (i) the payment of development cost for the project and for the retirement of outstanding obligations issued to finance original development or modernization of the project, and (ii) to the extent that any proceeds remain after the application of proceeds in accordance with clause (i), the provision of housing assistance for lower income families through such measures as modernization of lower income housing, or the acquisition, development, or rehabilitation of other properties to operate as lower income housing; in the case of an Indian housing project financed under either section 5(a)(2) or section 204(a)(2) of this title, or with respect to which a loan made under sections 4(a) or 203(a) of this title was forgiven under section 4(c) or 203(c), respectively, the net proceeds of the disposition will be used in a manner prescribed by the Secretary in regulations, which shall be comparable (as determined by the Secretary, taking into account that the indebtedness was forgiven or a different financing method was used, as appropriate) to the requirements for the use of such net proceeds applicable to other Indian housing projects under this subparagraph.

"(b) The Secretary may not approve an application or furnish assistance under this section under this title unless—

"(1) the application from the Indian housing authority has been developed in consultation with tenants and tenant councils, if any, who will be affected by the demolition or disposition and contains a certification by appropriate tribal government officials that the proposed activity is consistent with the applicable housing assistance plan; and

"(2) all tenants to be displaced as a result of the demolition or disposition will be given assistance by the Indian housing authority and are relocated to other decent, safe, sanitary, and affordable housing, which is, to the maximum extent practicable, housing of their choice, including housing assisted under section 8 of this title.

"(c) Notwithstanding any other provision of law, the Secretary is authorized to make available financial assistance for applications approved under this section using available contributions authorized under section 204(c).

"(d) The provisions of this section shall not apply to the conveyance of units in an Indian housing project for the purpose of providing homeownership opportunities for lower income families capable of assuming the responsibilities of homeownership.

"TRANSITION PROVISION

"SEC. 212. All references to sections 3, 4, 5, 6, 9, 11, 12, 14, 16, or 18 in any contract for assistance with an Indian housing authority entered into before the effective date of this title shall be amended to refer to sections 202, 203, 204, 205, 206, 207, 208, 209, 210, and 211, respectively.

"AUDITS: COMPTROLLER GENERAL

"SEC. 213. Every contract for loans or contributions under title II of the United States Housing Act of 1937 shall provide that the Secretary of Housing and Urban Development and the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination, have access to any books, documents, paper, and records of the Indian housing authority entering into such contract that are pertinent to its operations with respect to financial assistance under title I of this Act.

"RECAPTURE OF FUNDS

"SEC. 214. Any budget authority available for use for Indian housing under this title or under title I that is recaptured shall be available only for Indian housing.";

(2) by inserting the following new title designation after section 1:

"TITLE I—ASSISTED HOUSING".

(b) Section 2 of such Act is amended—

(1) by striking out "Act" wherever it appears and inserting in lieu thereof "title"; and

(2) in the second sentence, by inserting "or her" after "his".

(c) Section 3(a) of such Act is amended by striking out "Act" wherever it appears and inserting in lieu thereof "title".

(d) Section 3(b) of such Act is amended by—

(1) striking out "this Act" the first time it appears and each time it appears in paragraphs (1) and (3) and inserting in lieu thereof "this title"; and

(2) amending paragraph (7) to read as follows:

"(7) the term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.".

(e) Section 4(b) of such Act is amended by striking out "Act" and inserting in lieu thereof "title".

(f) Section 5 of such Act is amended by striking out "this Act" wherever it appears in subsections (c)(4), (d), (e) and (f) and inserting in lieu thereof "this title".

(g) Section 6 of such Act is amended by striking out "Act" in the first sentence of subsection (a) and wherever it appears in subsections (c), (g)(2) and (k) and in the parenthetical in subsection (d)(1) and inserting in lieu thereof "title".

(h) Section 8(f) of such Act is amended by—

(1) by striking out "and" at the end of the paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(3) by adding the following new paragraphs (4), (5), and (6) to read as follows:

"(4) the term 'public housing agency' includes 'Indian housing authority' as defined under section 203(b)(6) of this Act;

"(5) the term 'public housing' includes 'Indian housing authority' as defined under section 203(b)(6) of this Act;

"(6) the term 'adjusted income' when applied by an Indian housing authority includes, where appropriate, the adjustment for excessive travel expenses as provided for in section 203(b)(5)(D) of this Act.".

(i)(1) Section 213 of the United States Housing Act of 1937 shall not take effect until Congress, by law, establishes criteria for a formula or other allocation method to be used by the Secretary of Housing and Urban Development under section 213 of the United States Housing Act of 1937 to determine—

(A) for each Indian housing authority the amounts necessary to address current needs for capital improvements;

(B) for each authority, the amounts necessary to address the future needs for capital improvements through a replacement reserve; and

(C) the relative needs of authorities of different sizes for the amount described in subparagraphs (A) and (B).

(2) Not later then one year after the date of enactment of this Act, the Secretary shall submit to the Congress a report setting forth—

(A) the proposed method for providing funding for unanticipated or extraordinary emergency needs;

(B) the proposed method of determining the division of funds between current needs and annual accrual of capital improvement needs;

(C) the proposed method of determining amounts to be provided to Indian housing authorities for current needs and for annual accrual of capital improvement needs, which may include a formula for specifying amounts for individual agencies or a method of regional, field office, or other allocations;

(D) an analysis of the objectively measurable data or other information used under subparagraphs (A), (B), and (C), along with a comparison of the proposed allocations to recent previous funding; and

(E) any proposed difference in the method of funding large and small authorities.

(3)(A) Any amount that the Secretary has obligated to an Indian housing authority under sections 5 and 9 of the United States Housing Act of 1937, as it existed immediately before the effective date of this Act, shall be used as provided by sections 205 and 209, respectively.

(B) Any amount that the Secretary has obligated to an Indian housing authority under section 14 of the United States Housing Act of 1937, as it existed immediately before the effective date of this Act, shall be used for the purposes for which amount was provided, or purposes consistent with a one-year work plan submitted by the authority and approved by the Secretary under section 213, as amended by this Act, as the agency considers appropriate.

SECTION-BY-SECTION ANALYSIS

SEC. 1. Title—Indian Housing Act of 1987.

SEC. 2. Addition of Title II to the United States Housing Act of 1937 entitled—TITLE II—ASSISTED HOUSING FOR INDIANS AND ALASKA NATIVES.

SEC. 201. Declaration of Policy—to promote the general welfare of Indian tribes by assisting tribes to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of lower income and to invest Indian housing authorities with the maximum amount of responsibility in the administration of their housing programs.

SEC. 202. Defines rental payments to be paid by families based upon 20 per centum of the family's monthly adjusted income, 10 per centum of the family's monthly income or if the family is receiving welfare payments, the amount of payments allowed by the agency for such housing costs. Also, this section provides that any Indian housing authority may establish monthly rental payments that do not exceed a maximum amount that is established by the Indian housing authority and approved by the Secretary.

The Indian housing authority and the Secretary may establish appropriate monthly payments for families under the Mutual Help Homeownership program where such families contribute labor, land, materials, or cash to the development of such projects.

This section provides definitions for lower income housing, lower income families, very low income families, families, income, adjusted income, Indian housing authority, Indian tribe, Secretary, development and other administrative terms as used in this Title.

SEC. 203. Provides the Secretary of the Department of Housing and Urban Development with the authority to make loans or commitments to make loans to Indian housing authorities to help finance or refinance the development, acquisition, or operation of lower income housing projects by such Indian housing authorities.

SEC. 204. Provides that the Secretary of the Department of Housing and Urban Development may make annual contributions to Indian housing authorities to assist in achieving and maintaining the lower income character of their projects. This section establishes procedures the Secretary must follow in providing such annual contributions. On or after October 1, 1987, the Secretary may only make one-time capital contributions to Indian housing authorities to cover the development costs of Indian housing projects. The contract under which such contributions shall be made shall specify the amount of capital contributions required for each project and the period of time (not to exceed forty years) during which the terms and conditions of such contract shall remain in effect. Authority is given to the Secretary to establish regulations to govern the contributions contracts under different circumstances.

SEC. 205. Provides the Secretary with authority to include such convenants, conditions, or provisions as the Secretary may deem necessary to insure the lower income character of the Indian housing project involved. Requires Indian housing authorities to comply with procedures and requirements the Secretary may prescribe to assure that sound management practices are followed. This section details such management requirements in areas such as tenant-management relations (rent collections, tenant security, and maintenance, etc.).

This section also provides terms and conditions involving contracts for contributions to Indian housing authorities.

SEC. 206. In addition to the contributions authorized for the purposes specified in Sec. 204 of this title, this section authorizes the Secretary to make annual contributions to Indian housing authorities for the operation of lower income housing projects. The contributions payable under this section shall not exceed the amounts the Secretary determines are required to (A) assure the lower income character of the projects involved, (B) achieve and maintain adequate operating services and reserve funds, and (C) provide funds (in addition to any other operating costs contributions approved by the Secretary under this section) as determined by the Secretary to be required to cover the administrative costs of an Indian housing authority during the development period of a project. Provides authority to the Secretary to enter into contracts for annual contributions to Indian housing authorities that guarantee such annual contributions and provides authority to the Secretary to establish standards for costs of operation and reasonable projections of income, taking into account the character and location of the Indian families served, or the costs of providing comparable services as determined in accordance with criteria or a formula representing the operations of a prototype well-managed project. This section provides authority to the Secretary to require audits of an Indian housing authority.

SEC. 207. Provides that obligations issued by an Indian housing authority in connection with lower income housing projects which are secured by a pledge of a loan under any agreement between such Indian housing authority and the Secretary, or by an annual contributions contract between such public housing agency and the Secretary, or by a pledge of both annual contributions under an annual contributions contract and a loan under an agreement between such Indian housing authority and the Secretary, and which bear or are accompanied by a certificate of the Secretary that such obligations are so secured, shall be incontestable in the hands of a bearer, and the full faith and credit of the United States is pledged to the payments of all amounts agreed to be paid by the Secretary as security for such obligations. This section also provides that obligations, including interest thereon, issued by Indian housing authorities in connection with lower income housing projects shall be exempt from all taxation now or hereafter imposed by the United States whether paid by such authorities or by the Secretary. The income derived by such authorities from such projects shall be exempt from all taxation now or hereafter imposed by the United States.

SEC. 208. Provides for labor standards to be incorporated into contracts for loans, contributions, sale, or lease pursuant to this title and that contracts shall contain a provision requiring that not less than the wages prevailing in the locality, as determined or adopted (under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, and technicians employed in the development, and all maintenance laborers and mechanics employed in the operations, of the lower income housing project involved.

SEC. 209. Provides for a comprehensive grant program that would provide Indian housing authorities with a predictable source of funding and, through deregulation, with the flexibility to determine the most appropriate use of available funding, in order to assume the responsibility for improving the physical condition of existing Indian housing projects, upgrading their management and operation, and thereby contributing to their long-term viability and their continued availability to provide decent, safe, and sanitary living conditions for lower income Indian families. The section provides authority to the Secretary to determine allocations for financial assistance and conditions for financial assistance.

SEC. 210. Provides that not more than 25 per centum of the dwelling units available for occupancy under annual contributions contracts pursuant to this Act with Indian housing authorities shall be available for leasing by lower income families other than very low-income families. Low income and very low-income families are defined in section 202. In summary, this section provides for the income mix of families living in an Indian housing project.

SEC. 211. Provides conditions whereby the Secretary may approve an application by an Indian housing authority for permission to demolish or dispose of an Indian housing project or a portion of an Indian housing project.

SEC. 212. Provides for the cross-reference of sections in contracts for assistance with an Indian housing authority to the new sections of this Title. This is provided for the transition period for contracts entered into by an Indian housing authority and the Secretary before the effective date of this title.

SEC. 213. Provides authority to the Secretary of Housing and Urban Development and the Comptroller General of the United States, or designated representatives to gain access for the purpose of audit and examination of any books, documents, papers, and records of the Indian housing authority entering into such contracts that are pertinent to its operations with respect to financial assistance under this Act.

SEC. 214. Provides for the recapture of budget authority available for use under this title or under title I that is recaptured from any Indian housing authority. If such budget authority is recaptured, it shall be available only for Indian housing by such other housing authority that is capable of undertaking the construction of additional units.

This section also provides for the designation of a new title after section 1, as Title I—Assisted Housing, and makes amendments conforming to Title II.●

● Mr. EVANS. Mr. President, today I am pleased to cosponsor legislation that will vastly improve the delivery of housing services to this Nation's American Indian citizens who reside on reservations and trust lands. The legislation that is being introduced today is primarily technical in nature. A few basic and necessary changes are included to address immediate problems in the current Indian housing program. The bill will codify sections in the United States Housing Act of 1937 that are appropriate and relevant to the administration of the Indian housing program and moves them to its own title (II), while retaining the program within the jurisdiction of the Department of Housing and Urban Development and within the 1937 act. I believe that this is an important aspect of this legislation.

Over the past several years it has become increasingly clear to the administrators of the Department of Housisng and Urban [HUD] that the development and management of public housing on Indian reservations is quite different from the development and management of public housing in the Nation's urban areas. The Indian and Alaska Native housing programs, rental and ownership, are characterized by single family detached units, a homogeneous population, and remote rural locations.

Currently, the 1937 Housing Act and its amendments do not recognize the critical differences between public and Indian housing. Although most amendments to the 1937 act were intended to improve the public housing programs, they had the effect of complicating the Indian housing programs. At their worst, the Housing Act amendments demand time-consuming regulatory and handbook interpretations that were developed before Indian field offices and Indian housing authorities [IHA's] can respond appropriately to proposed changes.

It is well documented that problems associated with the administration of the Indian housing programs are numerous, complex, and difficult. Simplification of the entire Indian housing program is a must if HUD and the IHA's are to efficiently manage their responsibilities. Many proposals have been made to Congress and the administration regarding the improvement of the Indian housing delivery system. Few have been seriously considered and changes are slow in coming.

When the Select Committee on Indian Affairs circulated the draft legislation throughout Indian country this past summer, the response from Indian tribal governments, Indian housing authorities and national Indian organizations was overwhelmingly in favor of the legislation that we are introducing today. I look forward to working with the Committee on Banking, Housing, and Urban Affairs so that this legislation can move as swiftly as possible in the next session of Congress.●

By Mr. BREAUX:

S. 1988. A bill making amendments to the Merchant Marine Act of 1920; to the Committee on Commerce, Science, and Transportation.

MERCHANT MARINE ACT AMENDMENTS

● Mr. BREAUX. Mr. President, the legislation that I am introducing regarding which my distinguished chairman of the Commerce Committee has promised hearings next month upon our return. I am indebted to him for his commitment to early hearings on the measure. My bill is nearly identical to H.R. 82, the sludge barge bill, as it passed the House and was later amended last week by the House Merchant Marine and Fisheries Committee under the leadership of my colleague from Louisiana, Congressman Billy Tauzin, and added to H.R. 3767, the South Pacific Tuna Treaty legislation.

My bill differs in only one respect from the version contained in H.R. 3767 in as much as it simply clarifies that the legislation also covers dredge material removed from and redeposited between any two points within the exclusive economic zone. My bill, as does H.R. 3767, grandfathers foreign built launch barges, extant or under construction with the carrying capacity of 12,000 long tons or more, for use on the U.S. Outer Continental Shelf. Mr. President, I am looking forward to January 1988 hearings and subsequent action on this urgent and necessary legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record immediately following my statement.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1988

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sec. 1. That Section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) is amended—

(1) in the first sentence—

(A) by striking "Treasury" and inserting "Treasury, or, in the case of valueless material, the actual cost of the transportation"; and

(B) by striking the colon, inserting a period, and adding "For purposes of this section, 'merchandise' includes valueless material."; and

(2) at the end, by striking the period, inserting a colon, and adding the following:

"Provided further, That this section applies to the transportation of valueless material, and any dredged material regardless of whether it has commercial value, from a point or place in the United States, or a point or place on the high seas within the Exclusive Economic Zone as defined in the Presidential Proclamation of March 10, 1983, to another point or place in the United States or, to a point or place on the high seas within that Exclusive Economic Zone. Provided further, That the transportation of any platform jacket in or on a launch barge shall not be deemed transportation subject to this section if the launch barge has a carrying capacity of 12,000 long tons or more, was built or under construction as of the date of enactment of this proviso, and is documented under the laws of the United States, and the platform jacket cannot be transported on and launched from a barge of lesser capacity."

Sec. 2. Section 4370(a) of the Revised Statutes of the United States (46 App. U.S.C. 316(a)) is amended by inserting at the end the following:

"This section applies to the towing of a vessel transporting valueless material, and any dredged material, regardless of whether it has commercial value, from a point or place in the United States or a point or place on the high seas within the Exclusive Economic Zone as defined in the Presidential Proclamation of March 10, 1983, to another point or place in the United States or a point or place on the high seas within that Exclusive Economic Zone."

Sec. 3. A vessel may transport municipal sewage sludge to a deepwater disposal site designated by the Administrator of the Environmental Protection Agency under the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401-1444) if that vessel is documented under the laws of the United States and that vessel—

(1) is under construction for use by a municipality for the transportation of sewage sludge on the date of enactment of this Act; or

(2) is under contract with a municipality for the transportation of sewage sludge on the date of enactment of this Act.

Sec. 4. For purposes of the first paragraph of section 805(a) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1233(a)), a vessel described in section 3(2) of this Act is not a vessel engaged in domestic intercoastal or coastwise service, but the prohibitions in the second paragraph apply to that vessel.

Sec. 5. Notwithstanding another law, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation under section 12106 of title 46, United States Code, endorsed to restrict the use of a vessel to which such a certificate is issued to the transportation of valueless material in the coastwise trade, to a vessel that—

(1) is engaged in transporting only valueless material in the coastwise trade;

(2) had a certificate of documentation issued under section 12105 of that title on October 1, 1987;

(3) had been sold foreign or placed under a foreign registry before that certificate was issued; and

(4) was built in the United States.●

By Mr. BREAUX:

S. 1989. A bill entitled the "South Pacific Tuna Act of 1987"; to the Committee on Commerce, Science, and Transportation.

SOUTH PACIFIC TUNA ACT

● Mr. BREAUX. Mr. President, I am pleased to have the opportunity to introduce, on behalf of the State Department, legislation to implement for the United States, the "Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America." As you know, I lent my strong endorsement to the Senate consent necessary to ratify this treaty earlier this year in November. By providing U.S. tuna fishermen access to fishing grounds throughout the South Pacific through a regional licensing program, the treaty represents an important reaffirmation of U.S. tuna policy and the commitment of the U.S. Government to working closely and cooperatively with the many governments of this region.

For the record, I remain a strong proponent and advocate of the U.S. juridical position that, due to their highly migratory nature, tuna cannot be effectively conserved or managed on a unilateral basis. Instead, such conservation and management must be addressed on a cooperative, multilateral basis throughout the range of the species. The legislation I am introducing today will ensure that this policy is reiterated and extended to the management of 10 million square miles of what may be the richest of tuna fishing grounds in the world.

Furthermore, Mr. President, the Pacific island nations very much desire and deserve the opportunity to improve their economies and standard of living. It is clearly appropriate and wholly consistent with U.S. foreign policy to assist these nations to achieve their long-term goals of economic stability and independence—particularly in light of the political maneuvers the Soviet Union has already made in the region, and in light of the economic benefits to the U.S. tuna industry. Clearly, the treaty and this implementing legislation have profound economic and political significance for U.S. policy and industry in the South Pacific region.

Mr. President, I ask for the support and cosponsorship by my colleagues of this important legislation. I also look forward to having hearings in the Commerce, Science, and Transportation Committee as soon as is possible upon our return in January 1988.

Mr. President, I ask unanimous consent that the text of the bill and the section-by-section analysis of the bill be printed in the Record immediately following my statement.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1989

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "South Pacific Tuna Act of 1987".

SEC. 2. DEFINITIONS.

As used in this Act—

(1) The term "Administrator" means the person or organization designated by the Pacific Island Parties to act on their behalf under the Treaty and notified to the United States Government.

(2) The term "Authorized Officer" means any officer who is authorized by the Secretary, or the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an agreement with the Secretary under section 11(a) to enforce the provisions of this Act.

(3) The term "Authorized Party Officer" means any officer authorized by a Pacific Island party to enforce the provisions of the Treaty.

(4) The term "applicable national laws" means those laws as described in paragraph 1(a) of Annex I of the Treaty.

(5) The term "Closed Area(s)" means those areas so identified in Annex I, Schedule 2 of the Treaty.

(6) The term "fishing" means—

(A) searching for, catching, taking, or harvesting fish;

(B) attempting to search for, catch, take, or harvest fish;

(C) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking, or harvesting of fish;

(D) placing, searching for or recovering fish aggregating devices or associated electronic equipment such as radio beacons;

(E) any operations at sea directly in support of, or in preparation for any activity described in this paragraph; or

(F) aircraft use, relating to the activities described in this paragraph except for flights in emergencies involving the health or safety of crew members or the safety of a vessel.

(7) The term "fishing vessel" or "vessel" means any boat, ship, or other craft which is used for, equipped to be used for, or of a type normally used for commercial fishing, and which is documented under the laws of the United States.

(8) The term "Licensing Area" means all waters in the Treaty Area except for:

(A) those waters subject to the jurisdiction of the United States in accordance with international law; and

(B) those waters closed to fishing by United States vessels as set forth in Annex I, Schedule 2 of the Treaty.

(9) The term "licensing period" means the period of validity of licenses issued in accordance with the Treaty.

(10) The term "Limited Area(s)" means those area(s) so identified in Annex I, Schedule 3 of the Treaty.

(11) The term "operator" means any person who is in charge of, directs or controls a vessel, including the owner, charterer and master.

(12) The term "Pacific Island Party" means a Pacific Island nation which is a party to the Treaty.

(13) The term "Party" means a nation which is a party to the Treaty.

(14) The term "person" means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized, or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(15) The term "Secretary" means the Secretary of Commerce, or the designee of the Secretary of Commerce.

(16) The term "State" means each of the several States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, American Samoa, the Virgin Islands, Guam and any other Commonwealth, territory, or possession of the United States.

(17) The term "Treaty" means the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, signed in Port Moresby, Papua New Guinea, April 2, 1987, and its Annexes, Schedules, and implementing agreements.

(18) The term "Treaty Area" means all waters north of 60 degrees South Latitude and east of 90 degrees East Longitude, subject to the fisheries jurisdiction of Pacific Island parties, and all other waters within rhumb lines connecting the following geographic coordinates, designated for the purposes of the Treaty, except for waters subject to the jurisdiction in accordance with international law of a nation which is not a party to the Treaty:

2°35′39″S	141°00′00″E
1°01′35″N	140°48′35″E
1°01′35″N	129°30′00″E
10°00′00″N	129°30′00″E
14°00′00″N	140°00′00″E
14°00′00″N	142°00′00″E
12°30′00″N	142°00′00″E
12°30′00″N	158°00′00″E
15°00′00″N	158°00′00″E
15°00′00″N	165°00′00″E
18°00′00″N	165°00′00″E
18°00′00″N	174°00′00″E
12°00′00″N	174°00′00″E
12°00′00″N	176°00′00″E
5°00′00″N	176°00′00″E
1°00′00″N	180°00′00″
1°00′00″N	164°00′00″W
8°00′00″N	164°00′00″W
8°00′00″N	158°00′00″W
0°00′00″	150°00′00″W
6°00′00″S	150°00′00″W
6°00′00″S	146°00′00″W
12°00′00″S	146°00′00″W
26°00′00″S	157°00′00″W
26°00′00″S	174°00′00″W
40°00′00″S	174°00′00″W
40°00′00″S	171°00′00″W
46°00′00″S	171°00′00″W
55°00′00″S	180°00′00″
59°00′00″S	160°00′00″E
59°00′00″S	152°00′00″E

and north along the 152 degrees of East Longitude until intersecting the Australian 200 nautical mile limit.

SEC. 3. APPLICATION TO OTHER LAWS.

The seizure by a Pacific Island Party of a vessel of the United States shall not be considered to be a seizure described in section 205(a)(4)(C) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1825(a)(4)(C)) or the Fishermen's Protective Act of 1967 (22 U.S.C. 1874) if the seizure is in accordance with the provisions of the Treaty.

SEC. 4. REGULATIONS.

The Secretary of Commerce, with the concurrence of the Secretary of State and after consultation with the Secretary of the Department in which the Coast Guard is operating, shall issue regulations as may be necessary to carry out the purposes and objectives of the Treaty and this Act. These regulations shall be made applicable as necessary to all persons and vessels subject to the jurisdiction of the United States, wherever located.

SEC. 5. PROHIBITED ACTS.

(a) It is unlawful for any person subject to the jurisdiction of the United States—

(1) to violate any provision of this Act or any regulation, license, or order issued pursuant to this Act;

(2) to use a vessel for fishing in violation of applicable national laws;

(3) who is a party to a fishing arrangement under Article 3 paragraph 3 of the Treaty to violate the terms and conditions of any fishing arrangement if the arrangement has received the concurrence of the Secretaries of State and Commerce pursuant to section 18 of this Act;

(4) to use a vessel for fishing in any Limited Area in violation of any requirements in Annex I, Schedule 3 of the Treaty;

(5) to use a vessel for fishing in any Closed Area;

(6) to falsify any information required to be reported, notified, communicated or recorded pursuant to a requirement of this Act, or to fail to submit any required information, or fail to report to the Secretary immediately any change in circumstances which has the effect of rendering any such information false, incomplete or misleading;

(7) to intentionally destroy evidence which could be used to determine if a violation of this Act or the Treaty has occurred;

(8) to refuse to permit any Authorized Officer or Authorized Party Officer to board a fishing vessel for purposes of conducting a search or inspection in connection with the enforcement of this Act, the Treaty, or any regulation or license issued thereunder;

(9) to refuse to comply with the instructions of an Authorized Officer or Authorized Party Officer relating to fishing activities under the Treaty;

(10) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any Authorized Officer or Authorized Party Officer in the conduct of a search or inspection described in subparagraph (8) above, or an observer under the Treaty in the conduct of his duties;

(11) to resist a lawful arrest for any act prohibited by this section;

(12) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section; or

(13) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this Act or any regulation, permit, or the Treaty, with the knowledge that the fish were so taken or returned.

(b) It is unlawful for any person subject to the jurisdiction of the United States when in the Licensing Area—

(1) to use a vessel to fish unless validly licensed as required by the Administrator;

(2) to use a vessel for directed fishing for southern bluefin tuna or for fishing for any kinds of fish other than tunas, except that fish may be caught as an incidental bycatch;

(3) to use a vessel for fishing by any method, except the purse-seine method;

(4) to use any vessel to engage in fishing after the revocation of its license, or during the period of suspension of an applicable license;

(5) to operate a vessel in such a way as to disrupt or in any other way adversely affect the activities of traditional and locally based fishermen and fishing vessels;

(6) to use a vessel to fish after the Secretary has made a finding under section 10 that fishing should not continue; or

(7) except for circumstances involving force majeure and other emergencies involving the health or safety of crew members or the safety of the vessel, to use aircraft in association with the fishing activities of a vessel unless it is identified on the license application form or its supplements.

SEC. 6. EXCEPTIONS.—(a) Vessels used for fishing for albacore tuna by the trolling method outside of the 200 nautical mile fisheries zones of the Pacific Island Parties are exempt from the prohibitions of section 5 and the licensing requirements of section 9.

(b) Vessels fishing under the terms and conditions of an arrangement which has been reached under Article 3 paragraph 3 of the Treaty and which has the concurrence of the Secretaries of State and Commerce pursuant to section 18 of this Act are exempt from the prohibitions of section 5(a)(4), 5(a)(5), and 5(b)(3).

SEC. 7. CRIMINAL OFFENSES.

(a) OFFENSE.—A person is guilty of a criminal offense if he or she commits any act prohibited by section 5(a)(8), (10), (11), or (12).

(b) PUNISHMENT.—Any offense described in section 7(a) is punishable by a fine of not more than $50,000, or imprisonment for not more than six months, or both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any Authorized Officer, Authorized Party Officer or observer under the Treaty in the conduct of their duties, or places any such person in fear of imminent bodily injury, the offense is punishable by a fine of not more than $100,000 or imprisonment for not more than ten years, or both.

(c) JURISDICTION.—The Federal District Courts shall have jurisdiction over any offense described in this section.

SEC. 8. CIVIL PENALTIES.

(a) ASSESSMENT OF PENALTY.—Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 5 of this Act, shall be liable to the United States for a civil penalty. Before issuing a notice of violation, the Secretary shall consult with the Secretary of State. The amount of the civil penalty shall be determined in accordance with considerations set forth in the Treaty and shall take into account the nature, circumstances, extent and gravity of the prohibited acts committed, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay and such other matters as justice may require. Except for those acts prohibited by section 5(a)(4), (5), (7), (8), (10), (11), and (12), or section 5(b)(1), (2), (3), and (7), the amount of the civil penalty shall not exceed $250,000 for each violation. Upon written notice, the Secretary of State shall have the right at any time to participate in any proceeding initiated to assess a civil penalty for violation of this Act.

(b) REVIEW OF CIVIL PENALTY.—Any person against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the United States district court for the appropriate district by filing a complaint in such court within 30 days from the date of the order and by simultaneously serving a copy of the complaint by certified mail on the Secretary, the Attorney General of the United States and the appropriate United States Attorney. The Secretary shall promptly file in the court a certified copy of the record upon which the violation was found or the penalty imposed. The findings and order of the Secretary shall be set aside or modified by the court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(c) ACTION UPON FAILURE TO PAY ASSESSMENT.—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, and the subject vessel fails to leave the Licensing Area, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. The matter shall not be referred to the Attorney General for collection if the subject vessel had a valid license in accord with the Treaty at the time of the violation, and within 60 days of the final penalty assessment, leaves and remains outside of the Licensing Area until the final penalty assessed has been paid. This exception from referral shall not apply to violations of sections 5(a) (10), (11), and (12). In addition, the Secretary of State shall not forward license applications for additional licenses for the subject vessel until any civil penalty assessed has been paid.

(d) *In Rem* JURISDICTION.—Subject to the provisions of subsection (c) above, a fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 5 shall be liable *in rem* for any civil penalty assessed for the violation under section 8 and may be proceeded against in any district court of the United States having jurisdiction thereof. The penalty shall constitute a maritime lien on the vessel which may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(e) COMPROMISE OR OTHER ACTION BY SECRETARY.—The Secretary, in consultation with the Secretary of State, may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(f) SUBPOENAS.—For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon a person pursuant to this subsection, the district court of the United States for any district in which the person is found, resides, or transacts business, upon application by the United States and after notice to the person, shall have jurisdiction to issue an order requiring the person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey the order of the court may be punished by the court as a contempt thereof.

SEC. 9. LICENSES.

(a) Licenses to fish in the Licensing Area may be requested from the Secretary by operators of vessels, under requirements and procedures established by the Secretary. The license application shall designate an agent for the service of legal process to be located in Port Moresby. The applicant shall ensure that the designated agent for service of process, acting on behalf of the licensee, will receive and respond to any legal process issued in accordance with the Treaty and will, within 21 days of notification, travel if necessary for this purpose to any Pacific Island Party at no expense to that Party.

(b) The Secretary shall forward license applications to the Secretary of State for transmittal to the Administrator for a license on behalf of a vessel which has submitted a complete application form and the required fees except as provided in paragraphs (e) and (f) below.

(c) License Numbers and Fees:

(1) In the initial year of implementation, 40 vessel licenses shall be made available at $50,000 each. Ten additional licenses in the initial year shall be made available at $60,000 each, and more may be made available in accordance with the Treaty.

(2) In subsequent years, vessel licenses shall be made available in accordance with the Treaty.

(d) Licenses shall be valid for the licensing period specified by the Administrator.

(e) The Secretary may establish a system of allocating licenses in the event more applications are received than there are licenses available.

(f) For the initial year of implementation, license applications and fees totaling at least $1,750,000 must be received by the Secretary before any license applications will be forwarded to the Secretary of State for transmittal to the Administrator. For subsequent years the same procedures will be followed with no minimum total amount.

(g) The Secretary, in consultation with the Secretary of State, may determine that a license application should not be forwarded to the Administrator for one of the following reasons:

(1) where the application is not in accordance with the requirements of the Secretary or the Treaty;

(2) where the owner or charterer is the subject of proceedings under the bankruptcy laws of the United States, unless reasonable financial assurances have been provided to the Secretary;

(3) where the owner or charterer has not established to the satisfaction of the Secretary that the fishing vessel is fully insured against all risks and liabilities normally provided in maritime liability insurance;

(4) where the owner or charterer has not paid any penalty which has become final, assessed by the Secretary in accordance with this Act.

SEC. 10. FINDINGS BY THE SECRETARY.

(a) Following any investigation conducted in accordance with section 11(b), the Secretary with the concurrence of the Secretary of State, and upon the request of a Pacific Island Party, may order a fishing vessel to leave immediately all, or portions, of, the Licensing Area, Limited Areas, or Closed Areas upon making a finding,

(1) that the fishing vessel which has not submitted to the jurisdiction of the Pacific Island Party concerned:

(A) while fishing in the Licensing Area did not have a license to fish in the Licensing Area, except in accordance with paragraph 2 of Article 3 of the Treaty;

(B) was involved in any incident in which an Authorized Officer, Authorized Party Officer, or observer was allegedly assaulted with resultant bodily harm, physically threatened, forcefully resisted, refused boarding or subjected to physical intimidation or physical interference in the performance of duties as authorized by this Act or the Treaty;

(C) is being investigated by a Party for any infringement of the Treaty provided that the investigating Pacific Island Party notifies the Secretary of State and all other Parties;

(D) has not made full payment within sixty days of any amount due as a result of a final judgment or other final determination deriving from a violation in waters within the Treaty Area of a Pacific Island Party;

(E) was not represented by an agent for service of process in accordance with the Treaty; or

(2) that there is probable cause to believe that a fishing vessel which has not submitted to the jurisdiction of the Pacific Island Party concerned:

(A) was used for fishing in waters closed to fishing pursuant to Annex I of the Treaty, except as authorized in accordance with paragraph 3 of Article 3 of the Treaty;

(B) was used for fishing in any Limited Area as described in Annex I of the Treaty, except as authorized in accordance with that Annex;

(C) was used for fishing by any method other than the purse seine method, except in accordance with paragraph 2 of Article 3 of the Treaty;

(D) was used for directed fishing for southern bluefin tuna or for fishing for any kinds of fish other than tunas, except that fish may be caught as an incidental bycatch;

(E) used an aircraft for fishing which was not identified on a form provided pursuant to Schedule 1 of Annex II in relation to that vessel; or

(F) was involved in an incident in which evidence which otherwise could have been used in proceedings concerning the vessel has been intentionally destroyed;

(b) Upon issuing an order under this section the Secretary must give the owner a reasonable opportunity, not longer than 10 days from service of notice, to respond in writing or otherwise. If an order is issued under subsection (a)(1)(A), (a)(1)(B) or (a)(2) of this section a hearing respecting the violation at issue must be held within 30 days. The Secretary shall rescind any order issued under subsections (a)(1)(D) or (E) upon compliance with the applicable requirements.

(c) All orders issued in accordance with this section are final and not subject to judicial appeal.

(d) Upon a request by the Secretary, the Attorney General shall commence a civil action for appropriate relief, including permanent or temporary injunction, to enforce any order issued by the Secretary under this section.

SEC. 11. ENFORCEMENT.

(a) Responsibility.—The provisions of this Act shall be enforced by the Secretary in cooperation with the Secretary of State. The Secretary, after consultation with the Secretary of State, may by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency and of any State agency in the performance of these duties.

(b) Pacific Island Party Investigation Requests.—The Secretary shall, at the request of the Government of a Pacific Island Party made to the Secretary of State, fully investigate any alleged infringement of the Treaty involving a vessel of the United States, and report as soon as practicable, and in any case within two months, to that Government through the Secretary of State on any action taken or proposed by the Secretary in regard to the alleged infringement.

(c) Sequence of Prosecution.—Prior to instituting any legal proceedings under this Act for those types of actions which are also covered by Article 4 of the Treaty and which concern alleged infringements of the Treaty in waters within the jurisdiction of a Pacific Island Party, the Secretary, through the Secretary of State, shall notify the Government of the Pacific Island Party in accordance with Article 4.8 of the Treaty that the proceedings will be instituted. Such notice shall include a statement of the facts believed to show an infringement of the Treaty and the nature of the proposed proceedings, including the proposed charges and the proposed penalties to be sought. The Secretary shall not institute such proceedings if the Government of the Pacific Island Party objects within 30 days of the effective date of the notice. The Secretary, through the Secretary of State, shall promptly notify the Pacific Island Party exercising jurisdiction over the waters involved in such a legal proceeding of the outcome of the proceedings.

(d) Powers of Authorized Officers.—

(1) Any Authorized Officer may—

(A) with or without a warrant or other process—

(I) arrest any person, if he has reasonable cause to believe that the person has committed any act subject to prosecution under Section 7;

(II) board, and search or inspect, any fishing vessel which is subject to the provisions of this Act; or

(III) seize samples of fish or items for evidence (other than the vessel or its fishing gear or equipment) related to any violation of any provision of this Act;

(IV) order a vessel into port for investigation when an investigation has been requested by a Pacific Island Party in accordance with the Treaty.

(B) execute any warrant or other process issued by any court of competent jurisdiction;

(C) exercise any other lawful authority; and

(D) investigate alleged violations of the Treaty to the same extent authorized to investigate alleged violations of this Act.

(2) Authorized officers shall exercise their powers under section 11(d)(1)(A) (II), (III), and (IV) as much as possible so as not to interfere unduly with the lawful operation of the vessel.

(3) Nothing in this Act shall be construed to limit the enforcement of this or other applicable federal laws under 14 USC 89.

(e) Jurisdiction of Courts.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this Act.

SEC. 12. REPORTING.

(a) Holders of licenses shall comply with the reporting requirements of part 4 of Annex I to the Treaty.

(b) Information provided by license holders in Schedules 5 and 6 of Annex I of the Treaty shall be provided to the Secretary for transmittal to the Administrator and to an entity designated by the license holder. Such information thereafter shall not be released and shall be maintained as confidential by the Secretary, including information requested under the Freedom of Information Act, unless disclosure is required under court order or unless the information is essential for an enforcement action under sections 5, 10, or 11(b) and 11(c), or any other proper law enforcement action.

SEC 13. CLOSED AREA STOWAGE REQUIREMENTS.

At all times while a vessel is in a Closed Area, the fishing gear of the vessel shall be stowed in such a manner as not to be readily available for fishing. In particular, the boom shall be lowered as far as possible so that the vessel cannot be used for fishing, but so that the skiff is accessible for use in emergency situations; the helicopter, if any, shall be tied down; and launches shall be secured.

SEC. 14. OBSERVERS.

(a) The operator and each member of the crew of the vessel shall allow and assist any person identified as an observer by the Pacific Island Parties to—

(1) board the vessel for scientific, compliance, monitoring and other functions at the point and time notified by the Pacific Island Parties to the Secretary;

(2) have full access to and use of facilities and equipment on board the vessel which the observer may determine are necessary to carry out his duties; have full access to the bridge, fish on board and areas which may be used to hold, process, weigh and store fish; remove samples; have full access to the vessel's records, including its log and documentation for the purpose of inspection and copying; and gather any other information relating to fisheries in the Licensing Area; without interfering unduly with the lawful operation of the vessel;

(3) disembark at the point and time notified by the Pacific Island Parties to the Secretary; and

(4) enable the observer to carry out his duties safely;

and shall not assault, obstruct, resist, delay, refuse boarding to, intimidate, or interfere with an observer in the performance of his duties.

(b) The operator shall provide the observer, while on board the vessel, at no expense to the Pacific Island Parties, with food, accommodation and medical facilities of such reasonable standard as may be acceptable to the Pacific Island Party whose representative is serving as the observer.

(c) Any operator of the vessel from which any fish taken in the Licensing Area is unloaded shall allow, or arrange for, and assist any person authorized for this purpose by the Pacific Island Parties to have full access to any place where such fish is unloaded, to remove samples and to gather any other information relating to fisheries in the Licensing Area.

SEC. 15. TECHNICAL ASSISTANCE.

The United States tuna industry shall provide $250,000 annually in technical assistance, including provision of assistance by technicians, in response to requests coordinated through the Administrator. The Secretary of State shall designate an entity to coordinate the provision of such technical assistance as provided by the United States tuna industry and to provide an annual report to the Secretary of State regarding the provision of such technical assistance.

SEC. 16. ARBITRATION.

The Secretary of State, in consultation with the Secretary of Commerce, shall appoint an arbitrator to act as a member of the dispute tribunal, as provided by the Treaty.

SEC. 17. DISPOSITION OF FEES, PENALTIES, FORFEITURES, AND OTHER MONEYS.

To the extent required by Article 4 of the Treaty, an amount equivalent to the total value of any fine, penalty, or other amount collected as a result of any action, judicial or otherwise, pursuant to sections 7 and 8 shall be paid by the United States through the Secretary of State to the Administrator as soon as reasonably possible following the date that such amount is collected.

SEC. 18. ADDITIONAL AGREEMENTS.

Within 30 days of the Secretary of State's receipt of notice from a Pacific Island Party that it has concluded an arrangement pursuant to Article 3, paragraph 3, of the Treaty, the Secretary of State shall consult with the Secretary concerning whether the procedures of Article 4 and 5.6 of the Treaty should be made applicable to such arrangement. At the conclusion of the consultations the Secretary of State shall notify the Pacific Island Party and all other parties to the arrangement in question of the decision he has made.

SEC. 19. SECRETARY OF STATE TO ACT FOR THE UNITED STATES.

The Secretary of State is authorized to receive on behalf of the United States reports, requests, and other communications from the Administrator and to act thereon directly or by reference to the appropriate authorities. The Secretary of State, after consultations with the Secretary, may accept or reject, on behalf of the United States, changes or amendments to Annex I of the Treaty and its Schedules and Annex II to the Treaty and its Schedules.

SEC. 20. AUTHORIZATION OF APPROPRIATIONS.

(a) There are authorized to be appropriated for fiscal years 1988, 1989, 1990, 1991, and 1992 such sums as may be necessary for carrying out the purposes and provisions of the Treaty and this chapter including—

(1) for fiscal years 1988, 1989, 1990, 1991, and 1992, there is authorized an amount not to exceed $350,000 annually to the Department of Commerce for administrative expenses; and

(2) for fiscal years 1988, 1989, 1990, 1991, and 1992, there is authorized an amount not to exceed $50,000 annually to the Department of State for administrative expenses.

(b) Funds appropriated for the purposes of this Treaty may be used notwithstanding any of the provisions of the Foreign Assistance Act of 1961, as amended, or of any appropriations Act that imposes restrictions on the maintenance or use of cash transfer assistance, which are inconsistent with the provisions of this Treaty.

SEC. 21. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b) this Act shall be effective on the date on which the Treaty enters into force for the United States.

(b) ISSUANCE OF REGULATIONS.—

(1) IN GENERAL.—The authority to promulgate regulations pursuant to this Act shall be effective on the date of enactment of this Act.

(2) EFFECTIVE DATE OF REGULATIONS.—Any regulation promulgated pursuant to this Act shall not be effective before the effective date of the provision of this Act under which the regulation is prescribed.

SOUTH PACIFIC TUNA ACT OF 1987

Section Two defines terms used in this Act.

Section Three describes how seizures of U.S. vessels made by Pacific Island Parties in accordance with the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America (the Treaty) relate to the Magnuson Fishery Conservation and Management Act and the Fishermen's Act.

Section Four provides authority for the Secretary of Commerce, with the concurrence of the Secretary of State, to issue regulations necessary to carry out the purpose and objective of the Treaty and this Act.

Section Five lists prohibited acts under the Treaty. These include fishing in violation of any requirements of the Treaty, falsification of information and refusal to comply with or resistance to enforcement actions taken under the terms of the Treaty.

Section Six lists exceptions to the prohibitions of Section Five and the licensing provisions of Section Nine.

Section Seven sets forth criminal penalties for violation of this Act. Criminal offenses include resistance to or failure to comply with enforcement actions under the Treaty. These are punishable by fines of not more than $50,000 or imprisonment of not more than six months, or both.

Section Eight sets forth civil penalties for violation of this Act. It provides that before issuing a notice of violation the Secretary of Commerce shall consult with the Secretary of State. All acts prohibited under Section Five are subject to civil penalties. Determination of the civil penalty shall be made in accordance with considerations set forth in the Treaty and other factors such as the gravity of the offense, history of prior offenses, etc. In regard to certain more serious offenses penalties may exceed $250,000. The Secretary of State shall have the right to participate in any proceeding initiated to assess a civil penalty.

Section Nine sets forth procedures for applying for fishing licenses under the Treaty. Fishing licenses will be purchased by U.S. tuna vessel operators. In the first year of Treaty implementation, 40 licenses will be made available at $50,000 each and ten additional licenses will be made available at $60,000 each. For the first year of the treaty, fees totalling at least $1,750,000 must be paid before any licenses will be issued. In future years, the Treaty provides for escalation of license prices indexed to the price of tuna and there will be no minimum number of licenses to be purchased.

Section Ten outlines findings by the Secretary of Commerce, with the concurrence of the Secretary of State, which may result in U.S. fishing vessels being ordered to immediately leave all or part of the Treaty Area.

Section Eleven describes enforcement actions which may be taken by the Secretary of Commerce in cooperation with the Secretary of State. The Secretary of Commerce will be obliged to fully investigate any alleged infringement of the Treaty involving a vessel of the United States upon the request of a Pacific Island party to the Treaty.

Section Twelve provides the authority for requiring U.S. fishermen to report as required by the Treaty.

Section Thirteen describes requirements for gear stowage in areas closed to fishing under the Treaty.

Section Fourteen describes the obligation of licensed fishing vessels to host, assist and cooperate with observers of Pacific Island parties.

Section Fifteen outlines the obligations of the U.S. tuna industry to annually provide technical assistance valued at $250,000 to the Pacific Island states party to the Treaty.

Section Sixteen provides authority for the Secretary of State to appoint an arbitrator to act as a member of the dispute tribunal as provided by the Treaty.

Section Seventeen states that, to the extent required by the Treaty, monies collected under Sections Seven and Eight of the Act shall be paid to the Treaty Administrator as soon as practicable following collection.

Section Eighteen describes the procedure for including additional fishing arrangements between U.S. vessel operators and Pacific Island States.

Section Nineteen authorizes the Secretary of State to act on behalf of the United Sates and to accept or reject changes or amendments to the Treaty's Annexes or Schedules.

Section Twenty authorizes the appropriation of funds to carry out this Act and authorizes Economic Support Funds which are used for the purposes of the Treaty to be made available notwithstanding certain provisions of law which might be inconsistent with the Treaty obligations.

Section Twenty-one provides that the effective date of this Act will be when the Treaty enters into force for the United States.●

By Mr. STAFFORD (for himself, Mr. BAUCUS, Mr. CHAFEE, Mr. MITCHELL, and Mr. DURENBERGER):

S. 1990. A bill entitled the "Global Environmental Protection Act of 1987"; to the Committee on Environment and Public Works.

GLOBAL ENVIRONMENTAL PROTECTION ACT

● Mr. STAFFORD. Mr. President, sometime today, the President will transmit the Montreal Protocol on Substances that Deplete the Ozone Layer to the Senate for approval. The agreement is a remarkable achievement and should be promptly approved by the Senate.

Remarkable as it may be, however, the protocol falls short of committing the United States and the other nations of the world to the actions which must be taken to deal with global climate change and ozone shield depletion. I say this for three reasons:

First, the Montreal Protocol is designed to deal only with the issue of destruction of the global ozone shield.

For this purpose it proposes a reduction in the production and emissions of freons of 50 percent. However, an analysis conducted by the Office of Technology Assessment indicates the protocol could have a range of outcomes. The very best of these—assuming approval by every nation in the world, the most stringent interpretation and enforcement of its terms, and unrealistically low growth in the use of CFC's—achieves a reduction of 45 percent. Under more realistic assumptions, OTA estimates that freon use could actually increase by 20 percent. Thus, the protocol is inadequate in terms of achieving the stated goal of a 50-percent cut.

But more importantly, the protocol fails to take into account reductions which must be achieved to deal with the hole in the ozone layer over the Antarctic. Until recently, this area of depletion has been described as a springtime hole, but that is no longer accurate. It is now summer in the Antarctic and the hole has yet to close, as articles in both the New York Times and the Washington Post reported on Saturday. If there is no objection, Mr. President, I would ask that copies of these articles be printed in the RECORD at the conclusion of my remarks, together with a summary of the OTA analysis.

Finally, Mr. President, no international agreement attempting to deal with just ozone shield destruction will be adequate to cope with the other global environmental threat, which is climate change.

For these reasons, Mr. President I am introducing a proposal which would take the first step toward adressing both of these problems, as well as others, in a coordinated fashion. I am very pleased that Senators

BAUCUS, CHAFEE, MITCHELL, and DURENBERGER are also sponsoring the bill, because in any list of leaders on these issues their names would be bound to appear.

This bill is just a start, and I hope that when the second session of the 100th Congress convenes we can introduce a bill which would set us on the road of specific actions.

Mr. BAUCUS. Mr. President, I agree with what the Senator from Vermont is trying to do and share his hope that in another month we can place some specific suggestions before the Senate.

I said just last week that the time had arrived for the Congress to consider specific regulatory policies and hope that he and I and others can work toward developing such a proposal.

Mr. CHAFEE. That is a sentiment I share. I'm not certain exactly what must be done but it is incumbent on the United States to take a leadership role. Among other things, we could certainly finish what was started with the Montreal Protocol and commit the world to reductions of these chemicals that go beyond 50 percent. As I have said before, virtual elimination of these harmful chemicals should be our goal.

But we can't stop there. We should also start doing what we can to reduce gases other than the ozone depleters. Why can't we put a limit on emissions of carbon dioxide, for example?

Mr. STAFFORD. I think we can. Speaking only for myself, I see no reason why this Nation could not commit itself to cutting CO_2 emissions by 50 percent in the next several years. There are already cars which can get 95 miles to the gallon.

Mr. MITCHELL. Well, whether increasing the mileage requirements for cars is the answer or not, greater efficiency would certainly solve more than one of our problems. Reducing carbon dioxide by increasing the efficiency of powerplants would cut down on emissions of sulphur dioxide, which would help solve the acid rain problem. Not that taking any of these actions would be easy, but I don't see how we can expect to find the right solutions until we start the search for answers.

Mr. BAUCUS. That's right. We're all in this together, no matter what kind of fuel we use or car we drive. And the United States can't solve this problem by itself. It will require international agreement that there is a problem and that it is enough of a threat to warrant changes in our lifestyles.

Mr. CHAFEE. I think that there is already an emerging consensus on this subject. This time last year the Soviet Premier wrote an article in Pravda on this subject and warned that, "This time there would be no Noah's Ark" if the nations of the world failed to take the threat of climate change seriously. As a matter of fact, there was substantial discussion of these problems during the Reagan-Gorbachev summit 2 weeks ago here in Washington.

Mr. STAFFORD. I think there are some very specific steps we should consider. One of these is to require cars, trucks, and other modes of transportation to reduce their CO_2 emissions by at least 50 percent. The same could be done for powerplants. Another possibility would be to identify practices which lead to climate change, such as tropical deforestation, and control those. Finally, there are some alternatives which could be encouraged as solutions. These would include nuclear fusion, solar power, and fuel cells. To steal a phrase, we should let 10,000 flowers bloom. But whatever we do, it must start as soon as possible.

Mr. CHAFEE. I agree completely. If we don't start, we will never finish. And now is as good a time as any to start, so I support what Senator STAFFORD is trying to do.

Mr. MITCHELL. I do as well, and hope that when we're not as pressed for time as we are now that all of us can work toward a bill that members of other committees can also support. We are going to need agreement across a wide spectrum to produce something that a majority of the Members can support.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 19, 1987]

LATE THAW AT SOUTH POLE CALLED "OMINOUS TREND"

(By Cass Peterson)

The frigid air over Antarctica took three weeks longer than usual to warm at the onset of the Antarctic spring this year, prompting concern that the "ozone hole" discovered over the icy continent less than three years ago may be affecting global climate.

According to satellite data from the National Aeronautics and Space Administration, the polar vortex—a whirlpool-like mass of extremely cold air that forms over Antarctica in the dark winter months—broke up in late November. The vortex normally breaks up in late October or early November, when spring brings sunlight back to the South Pole and warms the atmosphere.

"This is the latest that it has failed to break up," NASA atmospheric scientist Robert Watson said. "It may be what you would expect because there is so little ozone there. What one has to consider are the ramifications."

University of California scientist F. Sherwood Rowland, a leading expert in ozone depletion, said the event "could be the first indication of major climatic change. There is no way of judging the impact, but it's an ominous trend."

Other researchers said it is not certain whether stratospheric temperatures over Antarctica could affect weather patterns. "I don't think it makes a difference in the troposphere [the atmospheric level closest to the Earth]," NASA scientist Mark Schoeberl said. "It means that temperatures in the polar region are still anomalously cold relative to previous years."

Scientists think that the delayed warming is related to a phenomenon first reported by British researchers in 1985 and now known as the ozone hole: During each Antarctic winter, ozone levels drop drastically before rising to normal again in the spring.

The discovery caused alarm, because ozone protects Earth and its inhabitants from most of the sun's most damaging ultraviolet rays, which can cause cancer, cataracts and immune-system problems.

Although the phenomenon is not understood fully, recent research tends to buttress theories that the ozone is being destroyed by chlorine molecules from a class of chemicals called chlorofluorocarbons. The process is believed to be aided by Antarctics's unusual atmospheric conditions, including the polar vortex, which traps chlorine molecules and spawns icy stratospheric clouds that enhance chemical reactions.

When the polar vortex breaks up in the spring, ozone levels over Antarctica rise and the "hole" disappears. Some ozone comes from air moving into Antarctica from other parts of the globe, and some comes from natural reformation of ozone when sunlight strikes the stratosphere.

Scientists theorize that the vortex held on longer this spring because of the magnitude of ozone loss in winter. A research expedition this year found ozone levels down more than 60 percent.

Ozone absorbs radiation and helps heat the atmosphere. Some scientists say the lack of ozone over Antarctica may have slowed the heating necessary to break up the polar vortex.

"If ozone doesn't reform, you get no heating," said Irving Mintzer of the World Resources Institute. "So you get continuing cold that contributes to the formation of stratospheric clouds and may increase ozone depletion. It's yet another of those surprises that have characterized our emerging understanding of the hole."

Schoeberl said the polar vortex also was late in breaking up in 1985, when ozone levels dropped nearly as steeply as they did this year.

The delayed breakup meant that the ozone hole lasted longer than usual, exposing an area larger than the continental United States to abnormally high levels of ultraviolet radiation for several extra weeks.

"We have to ask what the impact will be of that low ozone on the aquatic life around Antarctica," Watson said.

[From the New York Times, Dec. 19, 1987]

NEW FINDING ON OZONE "HOLE" RAISES CONCERN

(By Philip Shabecoff)

WASHINGTON, Dec. 19.—The winter mass of extremely cold air over Antarctica remained weeks longer than usual this year, along with the seasonal "hole" in the atmosphere's protective ozone layer, British and American scientists have reported.

The scientists said in interviews today and Thursday that they could give no definitive explanation for the events. It might simply be a quirk in the weather, some of them said. But several said they were worried about the possible implications for both climate change and the earth's protective ozone shield.

Scientists have previously reported that atmospheric ozone over the Antarctic fell this year to the lowest levels recorded in the several years since measurements of the seasonal thinning began. Some speculated that the extremely low ozone level itself directly contributed to the extended cold weather because there was little ozone in the atmosphere to absorb the sun's warmth.

LATE BREAKUP OF COLD AIR

In the past the cold air mass over Antarctica in its winter has tended to break up by early to mid-November, in the Antarctic spring. At that point the ozone levels climb back toward normal too. But measurements taken by American scientists at the South Pole found that the breakup did not begin this year until Nov. 29 or 30. Scientists of the British Antarctic survey, who took measurements of Halley Bay, 1,000 miles from the pole, where ozone levels are often lowest, found the usual warming had only begun to move within the past three or four days.

Scientists from both countries said the warming of the air mass had been delayed in the past, but that this year the breakup was at least two weeks later than in any Antarctic springtime since monitoring began in 1957.

Jonathan D. Shanklin, a scientist with the British Antarctic survey who was among the first to observe the "hole" of depleted ozone in the Anatarctic atmosphere, said that on Dec. 3 the measured ozone level was about a third lower than the previous year. It was, he said, "by far the lowest" ozone readings ever made on that date.

ULTRAVIOLET RADIATION

Atmospheric ozone, a form of oxygen, protects the earth's surface from harmful ultraviolet radiation from the sun that can cause skin cancer and other health problems in humans and other life on earth. Recent evidence has indicated that the man-made chemicals have played an important role in creating the seasonal ozone hole over the South polar region.

Several of the scientists, including F. Sherwood Rowland, who first proposed in the early 1970's that atmospheric ozone could be destroyed by chlorine chemicals, suggested that the extended duration of the cold air mass was directly related to the low ozone levels. Because there was so much less ozone to absorb heat from the sun, the air over Antarctica was warming up more slowly, the scientists said.

Ralph J. Cicerone, director of the National Science Foundation's National Center for Atmospheric Research in Boulder, Colo., said the duration of the ozone-poor air mass could be dangerous for organisms in Antarctica. When the ozone first begins to disappear late in the polar winter, the sun is very low on the horizon and little ultraviolet radiation penetrates the earth. But with the ozone hole remaining until late in the Antarctic spring, the sun is higher and much more radiation can penetrate the thin atmospheric shield, Dr. Cicerone explained.

The Antarctic is rich in animal life, such as krill, a crustacean on which other marine life feeds, that plays an important part in the global food chain.

CHANGES IN CLIMATE FEARED

Mr. Shanklin of the British Antarctic Survey, interviewed by telephone in Cambridge, England, said the temperature measured at Halley Bay was still at minus 60 degrees centrigrade on Dec. 10, much colder than at that date in the past. He said the long duration of the frigid air mass in the Antarctic was likely to produce variations in "short-term weather systems and long-term climate changes" in the Southern Hemisphere.

"The problem is that we really don't know enough about the atmosphere to predict what this is going to do," Mr. Shanklin said. He added, however, that from now on those who try to predict climate patterns "are going to have to put the ozone hole into their models."

Arlen J. Krueger, an atmospheric Scientist for the National Aeronautics and Space Administration, cautioned that the extended duration of the ozone hole might simply be a variation from normal patterns and would not necessarily reoccur.

OTA ANALYSIS

[Figures 1 and 2 not reproducible for the RECORD.]

Given the uncertainties associated with the Protocol itself, today's data base, the number and behavior of signatories, and future worldwide economic activity, estimates of production and consumption of CFCs and halons in future years are necessarily uncertain. It is difficult, therefore, to forecast reductions that might result from it by the year 2009—the year by which all mandated reductions will have taken place. Scenarios can be constructed, to provide reasonable upper and lower bounds. A large consumption-cutback scenario, with a maximum reduction in use of ozone-depleting substances, is one where every nation in the world abides by the Protocol. A low consumption-cutback scenario would include only current signatories as subject to the requirements of the Protocol. While it is possible that the quantity of controlled substances could exceed these extremes, this range provides a plausible estimate of the bounds of the Protocol.

OTA analyzed the potential effects of the treaty in two ways. First, as summarized in Table 1, we examined the sensitivity of the expected changes in consumption of controlled substances to changing numbers of signatories to the treaty. These scenarios look only at changes in freons CFC-11 and CFC-12 because disaggregated data are available only for these compounds. However, CFC-11 and CFC-12 combined represent about 77 percent of world use of the substances controlled under the Protocol. Where detailed country-by-country numbers for consumption do not exist, use[4] is estimated based on GNP. EPA notes that there is a consistent relationship between billions of dollars of Gross National Product ($billions GNP) and metric tons of CFC consumed (See Figure 1). The range is between 40 and 80 metric tons per billion dollars GNP, with the average about 60 metric tons per billion dollars GNP. This relationship appears to hold for developing (Article 5) countries such as China as well as for developed countries like the United States. OTA used this relationship along with published statistics on current population, population growth rate per country, and rate of growth of per capita GNP, to project CFC use in the future.[5] The ranges displayed in each scenario of Table 1 bracket varying growth rates for the developed and developing countries.[6] The four scenarios shown here are:

TABLE 1.—CONSUMPTION SCENARIOS [1] $CFC_{11} + CFC_{12}$

	Thousand metric tons			Change from 1986 levels (percent)
	Developed	Developing	Total	
1986	550 to 660	120 to 230	700 to 890	
SCENARIO A: The Whole World Signs the Treaty				
1999	280 to 330	190 to 380	490 to 710	−15 to −35.
2009	280 to 330	90 to 190	390 to 520	−40 to −45.
SCENARIO B: The Whole World Signs the Protocol, minus some Key Countries [2]				
1999	290 to 350	190 to 380	510 to 720	−15 to −30.
2009	310 to 370	190 to 370	530 to 740	−15 to −30.
SCENARIO C: Current Protocol Signatories [3]				
1999	300 to 360	190 to 380	520 to 740	−15 to −30.
2009	330 to 400	300 to 600	670 to 1,000	−10 to +20.
SCENARIO D: The Treaty Ncver Goes Into Effect				
1999	770 to 920	190 to 380	1,000 to 1,300	+40 to +60.
2009	1,090 to 1,310	330 to 650	1,500 to 1,960	+110 to +140.

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[4] The protocol defines "consumption" strictly as direct use of the actual controlled CFC or halon, not in terms of the consumption or use of products made with controlled substances. Under the protocol's definition, a country manufacturing a refrigerator is the consumer of the controlled substance, even though the refrigerator ultimately may be used in another country. Because data based on the protocol's definition are not available, we base estimates of consumption on actual product use; only the ultimate user of the product is considered the consumer. Therefore, because developing countries are currently not importers of products made with or containing controlled substances, they appear in this analysis to have somewhat higher consumption levels than would be the case under the protocol's definition. Likewise, developed countries—not exporters of such products, appear to consume less.

[5] World Population, rate of population increase, and GNP from 1987 World Population Data Sheet, Population Reference Bureau, Inc.; average rate of growth of GNP/capita over the period 1970-1981, World Bank Statistics.

[6] For developed countries we used 50-60 tons CFC per billion dollars GNP to project growth; for developing (Article-5) countries, this variable ranged from 40-80 tons CFC/$billion GNP.

[1] Estimates represent upper and lower bounds across a range of eight simulations per scenario; thus, numbers may not add across rows.

[2] Much of the growth in CFC consumption could occur in a fairly small set of developing counties: China and India—poor counties with enormous populations and rasonably optimistic economic prospects: Indonesia, Brazil, and Mexico—with GNP now in the middle range among nations; and Saudi Arabia, Iran, and South Korea—which have high levels of GNP per capita. (Kohler, Haaga, and Camm, "Projections of Consumption of Products Using Chlorofluorocarbons in Developing Countries," January 1987. Because Mexico has already signed the protocol, we do not include them in this category).

[3] Signatories plus U.S.S.R. and Australia.

Scenario A: Large Consumption Cutback—the entire world signs the treaty.

This results in world-wide reductions of 15-35 percent by 1999, and 40-45 percent by 2009 of CFC-11 and CFC-12 from an assumed 1986 baseline.

Scenario B: The world signs the treaty except for countries identified as pivotal to future CFC use (China, India, Indonesia, Brazil, Saudi Arabia, Iran and South Korea, none of whom have currently signed).[7]

This results in world-wide reductions of 15-30 percent by both 1999 and 2009 of CFC-11 and CFC-12 from an assumed 1986 baseline. By excluding only these 8 countries from the Protocol, much of the reduction in consumption of ozone-depleting substances possible under Scenario A is lost. This scenario demonstrates the importance of including key countries with large populations and/or favorable economic prospects in the treaty.

Scenario C: Only the countries that signed the Protocol (plus the USSR and Australia) participate.

This results in world-wide reductions of 15-30 percent by 1999, and reductions of 10 percent to an increase of 20 percent by 2009 of CFC-11 and CFC-12 from an assumed 1986 baseline. This scenario demonstrates the importance of including developing countries in the treaty; most have not signed the Protocol to date.

Scenario D: The treaty never goes into effect.

The world levels of CFC-11 and CFC-12 increase 40-60 percent over 1986 levels by 1999, and more than double by 2009. This scenario demonstrates the value of the treaty; even if only current signatories sign (Scenario C, above), consumption levels in the world will remain close to 1986 levels.

In the second type of analysis, summarized in Table 2, future consumption is calculated for all compounds covered in the treaty weighted by their ozone-depleting values.[8] Although we cannot examine the effect of adding or subtracting signatories in this situation (because detailed data are not available for compounds other than CFC-11 and CFC-12) this situation is a useful check on Scenario A. We use aggregated consumption numbers by region of the world for Group I and Group II compounds, EPA growth rates to calculate future emissions, and apply the requirements of the treaty to the whole world. Table 2 shows current and future production for developed countries, Article 5 (developing) countries, and the world. The results show that by the year 2009, if the whole world abides by the Protocol, consumption of controlled substances could decrease by about 40 percent from 1986 levels in terms of the ozone-depletion potential. The range calculated in Scenario A for the same degree of world participation is 40-45 percent; in both analyses this is somewhat less than the 50 percent cut that the United Nations anticipates by the year 1999.[9]

Group I: CFC-11 (1), CFC-12 (1), CFC-113 (0.8), CFC-114 (1), CFC-115 (0.8).

Group II: Halon-1211 (3), Halon-1301 (10), Halon-2402 (to be determined).

Either type of analysis—using detailed country-by-country consumption numbers for freons CFC-11 and CFC-12 only (Table 1), or using large world regions but including all ozone-depleting substances covered by the Protocol (Table 2)—converges on the same conclusion. Even with world cooperation through the treaty, OTA's analyses suggest that total reduction of ozone-depleting compounds would be somewhat smaller and slower than previously estimated.

TABLE 2.—PROJECTED CONSUMPTION OF CONTROLLED SUBSTANCES—LARGE CONSUMPTION-CUTBACK SCENARIO

[In thousands of metric tons] [1]

	1986 [2]		1995–97 average [3] (Article 5 parties only) Weighted [3]	1999		2009	
	Unweighted	Weighted [4]		Weighted [4]	Percent change from 1986	Weighted [4]	Percent change from 1986
Developed parties: [5]							
Group I	935	895		475	−47	[6] 475	−47
CFC–11 and 12	740	740		370		370	
CFC–113, 114, 115	190	155		77		80	
Group II	15	94		94	0	94	0
Total group I and II	950	990		570	−43	[6] 570	−43
Article 5 parties: [7]							
Group I	180	180	265	265	+47	130	−26
CFC–11 and 12	170	170	245	245		125	
CFC–113, 114, 115	14	12	21	21		10	
Group II	3	15	23	23	+53	23	+53
Total group I and II	185	195	290	290	+49	155	−20
World:							
Group I	1,115	1,075		740	−31	[6] 605	−44
CFC–11 and 12	910	910		615		495	
CFC–113, 114, 115	205	165		101		87	
Group II	20	110		118	+8	120	+7
Total group I and II	1,130	1,185		858	−28	[6] 720	−39

[1] All 3- and 4-digit numbers are rounded to the nearest "5" (resulting in numbers which end with either "0" or "5").

Key assumptions: The protocol is not altered. All countries become parties. Article 5 countries produce and consume controlled substances for products used only domestically. Production and consumption levels do not fall below maximum levels allowed by protocol. All of the Soviet capacity allowed under article 2, paragraph 6 consists of group I compounds; and all of it is consumed domestically.

[2] The 1986 unweighted values are estimates provided in exhibit 4–6 of United States, Environmental Protection Agency, Office of Air and Radiation, Office of Program Development, Stratospheric Protection Program, "Draft Regulatory Impact Analysis: Protection of Stratospheric Ozone. Volume I: Regulatory Impact Analysis Document" (Washington, DC: U.S. EPA, October 16, 1987).

[3] Based on the growth rates provided in Exhibit 4–5 of U.S. EPA.

[4] The weighted values are computed by multiplying the unweighted values by the "ozone depleting potentials" listed in annex A of the Montreal protocol.

[5] The category of "developed" countries includes the United States, the U.S.S.R. and the Eastern block countries of Europe; and "other developed countries," as defined in U.S. EPA.

[6] This includes 50 percent of the allowance provided under article 2, paragraph 6. Because the allowance is estimated to be 50,000 tons, 50 percent or 25,000 tons will be permitted by 2009.

[7] The category of "article 5 countries" includes China and India, "group I" developing countries and "group II" developing countries as defined in U.S. EPA.

Greater reductions in consumption of ozone-depleting substances than calculated in Tables 1 and 2 could occur if:

1. The provisions in the Protocol are tightened.

2. Consumption drops more than is required by the Protocol, which may occur if countries take unilateral actions directed towards that end or if widespread changes in consumer preferences occur.

The latter would require rapid development and market infiltration of alternatives.

3. CFC and halon consumption in developing countries grows more slowly than the ranges assumed by EPA or OTA.

Smaller reductions in consumption of ozone-depleting substances than calculated in Tables 1 and 2 could occur if:

1. Fewer countries sign the Protocol than are expected under the different scenarios.

2. Developed countries who are parties to the Protocol increase their imports of products made with controlled substances from non-parties or Article-5 countries.

3. Article-5 countries increase their consumption of CFCs and halons at a faster rate than EPA or OTA estimates.

4. There is a significant increase in the use of ozone-depleting compounds (including methyl chloroform, carbon tetrachloride and CFC-22) that do not fall under the Protocol. While none of the major compounds left out of the Protocol pose threats as immediate and large as those which are covered (See Figure 2), they nevertheless do pose small but growing ozone-depletion threats.

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[7] EPA Report, N-2458-EPA. Projections of Consumption of Products using Chlorofluorocarbons in developing countries, A Rand Note, by D. F. Kohler, J. Haaga, and F. Camm. This report included Mexico as an important country; since it has already signed the protocol, we did not include it as a non-signer under this scenario.

[8] The weightings are described in Annex A of the protocol.

[9] Telefax, 23 November, 1987, from I. Rummel-Bulska, United Nations Environment Program, Nairobi, Kenya, op. cit.

CFC-22, is an example of a chlorofluorocarbon that is not currently covered under the Protocol. Its ozone-depletion potential is approximately 5 percent of that associated with CFC-11; it would take 20 units of CFC-22 to have the same effect as one unit of CFC-11. While it is extremely unlikely that in the next 20 years CFC-22 will be produced in quantities large enough to match the ozone-depletion threat posed by the compounds that are regulated under the Protocol, it contributes to global warming as well (See Table 3). Note that while the ozone-depletion potential of CFC-22 is only 0.05 compared to 1.0 for CFC-11, it is relatively more significant as a greenhouse gas. The radiative forcing associated with CFC-12 is 0.08° Centigrade/part per billion (ppb) in the atmosphere; for CFC-22, the value is 0.03. Consequently, CFC-22 may ultimately pose a greater problem as a greenhouse-gas than as an ozone-depleter. Likewise, while many of the candidate compounds under investigation by the chemical industry as substitutes for the present CFC's have lower ozone-depletion potential, they may contribute to the greenhouse effect as well.[10]

The most significant impetus behind the growing use of CFC-22 will be its continued use in stationary air-conditioners, and its growing use in both mobile air-conditioners and in refrigeration as an alternative to CFC-12. This growth, however, could be significantly mitigated by the use of other alternatives, including FC-134a, a chemical substitute that contains no chlorine. It is not anticipated that alternatives for most freon uses will be widely available for at least 7-10 years.[11] Therefore, it is unlikely that substitutes will replace a large share of the controlled substance market in the near future.

TABLE 3.—OZONE DEPLETION POTENTIAL AND GREENHOUSE EFFECT FOR SELECTED COMPOUNDS

Compound	Ozone depletion-potential	Greehhouse effect: Temperature change for a uniform increase in trace gases (degrees celsius/ppb)
Group I:		
Halon 1211	3.0	(**)
Halon 1301	10.0	.10
Halon 2402	6.0	(**)
Group II:		
CFC–11	1.0	.07
CFC–12	1.0	.08
CFC–113	.8	(**)
CFC–114	1.0	(**)
CFC–115	.6	(**)
Compounds not covered by protocol:		
Carbon Tetrachloride	1.06	.05
CFC–22	.05	.03
Methyl Chloroform	.1	.01
Sulfur Dioxide	(**)	.01
CH_4	(**)	.0001
CO_2	(**)	.000004

Note.—For entries marked with **, there either is no known significant effect, or the data was not available at the time the analysis was conducted.

Sources.—(1) Ramanathan et al., 1985 as cited in United States, Environmental Protection Agency, Office of Air and Radiation, "An Assessment of the Risks of Stratospheric Modification, Volume II:" Chapter 1–6 (Washington, DC: US EPA October 1986), submission to the Science Advisory Board, U.S. EPA, p. 6–10.

(2) United States, Environmental Protection Agency, "Supplementary Information" provided with Proposed Rule on Protection of Stratospheric Ozone, December 1987.●

By Mr. HEINZ (for himself, Mr. SASSER, and Mr. ROTH):

S. 1992. A bill to provide intergovernmental and interagency cooperation in the development of ground water policy; to the Committee on Governmental Affairs.

COOPERATION IN THE DEVELOPMENT OF GROUND WATER POLICY

● Mr. HEINZ. Mr. President, today I am introducing legislation to promote interagency and intergovernmental cooperation in the development of ground water policy. Many agencies have responsibility for ground water policy, and often efforts to protect this invaluable resource are fragmented and uncoordinated. This lack of a coordinated, effective policy should not continue.

The myriad of agencies with responsibility for ground water protection include: Environmental Protection Agency, the U.S. Geologic Survey, the Soil Conservation Service, the Bureau of Reclamation, the Office of Surface Mine Reclamation and Enforcement, Federal Energy Regulatory Commission, and the Army Corps of Engineers, among others.

The legislation I am introducing today would establish an Interagency Committee on Groundwater Protection. The committee would include members from every Federal agency with responsibility for ground water protection. The USGS and the EPA would cochair the committee. The committee would be charged with reviewing each agency's activities to ensure coordination of ground water research efforts. It would identify duplication of effort by the agencies and any policy gaps; identify major State technical assistance, information, and research needs; develop overall priorities and a coordinated plan for addressing State technical assistance, information, and research needs; review ground water data and make recommendations to maximize its value; and facilitate interagency communication.

In addition, recognizing the critical role which State and local governments play in protecting ground water, the legislation would establish an advisory committee of State and local government representatives, in order to be certain that those governments receive the full benefit of advances in Federal research and regulatory efforts.

Mr. President, it is essential that government agencies organize themselves to cope with the serious threat that ground water poses to our Nation. While most ground water is still of good quality, there are ominous signs—Times Beach, Love Canal, Pennsylvanians forced to boil their drinking water. Leaking underground storage tanks, surface impoundments, chemical and fuel spills, midnight dumping, and more pose severe threats to public health and safety. We must see to it that coordinated, intergovernmental action to address this serious problem is taken, and taken soon.

I ask unanimous consent that the text of the bill appears at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1992

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

For the purposes of this Act—

(1) the term "Federal agency" means any department, agency, or other instrumentality of the Federal Government, including any government corporation;

(2) the term "groundwater" means water below the land surface in a zone of saturation;

(3) the term "local government" means any city, town, borough, county, parish, district, or other public body which is a political subdivision of a State and which is created pursuant to State law; and

(4) the term "State" means the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands.

SEC. 2. INTERAGENCY COORDINATION OF FEDERAL GROUNDWATER POLICY.

(a) IN GENERAL.—The President shall coordinate activities conducted by the agencies of the United States Government to assist efforts to characterize, classify, manage, protect, and remediate groundwater resources and to design groundwater monitoring programs. The President shall also disseminate information concerning those activities to the appropriate Federal agencies, and State and local governments.

(b) INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT OF INTERAGENCY COMMITTEE.—In carrying out his responsibilities to coordinate Federal actitivies under this Act, the President shall establish an Interagency Committee on Groundwater Protection. The Committee shall be established within 90 days from the enactment of this Act. The membership of the Committee shall include each Federal agency involved in groundwater related activities. The Committee shall be co-chaired by the Director of the United States Geological Survey and the Administrator of the Environmental Protection Agency and shall hold at least two public meetings per year.

(2) DUTIES.—The Interagency Committee on Groundwater Protection shall—

(A) review the activities of each member agency to ensure coordination among such agencies;

(B) identify and eliminate duplications and overlap between or among programs of member agencies;

(C) identify major State technical assistance, information, and research needs;

(D) develop overall priorities and a coordinated plan for addressing State technical assistance, information, and research needs identified in subparagraph (C);

(E) review groundwater information and data collected by member agencies and make recommendations to maximize the value of information collected for programs conducted by the Federal agencies and by State and local governments; and

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[10] M. Good, Testimony of March 9, 1987 as published in U.S. Congress, House of Representatives, Committee on Energy and Commerce, Subcommittee on Health and the Environment, Ozone Layer Depletion. [Washington, D.C. Government Printing Office, 1987]

[11] Ibid.

(F) otherwise facilitate interagency communication on technical assistance, information, and research and development programs which support State groundwater protection and management programs.

(3) ANNUAL REPORT.—The Interagency Committee on Groundwater Protection shall prepare an annual report that summarizes the groundwater technical assistance, information, and research needs of State and local governments, takes into account reports of the Advisory Committee established under subsection (c) and evaluates the extent to which member agencies are addressing those needs. The annual report shall be submitted to Congress not later than January 15 of each year beginning in 1989.

(c) ADVISORY COMMITTEE.—

(1) ESTABLISHMENT OF COMMITTEE.—The President shall establish within 90 days after the date of enactment of this Act, the Advisory Committee on Groundwater Protection (hereinafter referred to as the "Advisory Committee"). The Advisory Committee shall be composed of not more than 11 individuals representing State and local governments. Each member shall be selected from among State and local government officials with knowledge of groundwater issues.

(2) PURPOSE OF COMMITTEE.—The purpose of the Committee is to ensure that the programs and policies carried out by the member agencies of the Interagency Committee on Groundwater Protection are familiar to and meet the needs of State and local government agencies with responsibility for protecting groundwater resources.

(3) CONSULTATIONS.—The Interagency Committee on Groundwater Protection shall meet on a regular basis with the Advisory Committee but no less often than every 6 months to discuss the progress in developing the policies and programs required by this Act. The Advisory Committee shall submit reports, at least one per year, to the Interagency Committee on Groundwater Protection.

(4) ACCESS TO INFORMATION.—The Advisory Committee may request, in writing, access to information from the Interagency Committee on Groundwater Protection. The Interagency Committee on Groundwater Protection is authorized and directed to provide the Advisory Committee with such information as it deems appropriate.

(5) AGREEMENTS.—Each member agency of the Interagency Committee on Groundwater Protection shall enter into agreements and/or memoranda of understanding with the other members of the Committee detailing the responsibilities of each entity in order to avoid duplication of efforts.

SEC. 3. AUTHORIZATION.

There are authorized to be appropriate $2,000,000 in each of fiscal years 1988, 1989, 1990, 1991, and 1992 to carry out this Act.●

By Mr. BUMPERS (for himself, Mr. WEICKER, and Mr. KERRY):

S. 1993. A bill to amend the Small Business Act to improve the growth and development of small business concerns owned and controlled by socially and economically disadvantaged individuals, especially through participation in the Federal procurement process, and for other purposes; to the Committee on Small Business.

MINORITY BUSINESS DEVELOPMENT PROGRAM REFORM ACT

Mr. BUMPERS. Mr. President, I am pleased to introduce today, with the cosponsorship of Senator LOWELL WEICKER and Senator JOHN KERRY, legislation that proposes reforms in the Small Business Administration's 8(A) Program. The 8(A) Program, established to assist the development of minority and disadvantaged businesses by providing Federal contracts and business development resources to these firms, has been crippled by fraud and mismanagement. Sadly, today a former SBA Regional Administrator is under indictment, and the Attorney General himself is under investigation, both in connection with the most notorious 8(A) scandal ever, Wedtech. The program has become unresponsive to the true needs of the minority small business community, and it is essential that Congress consider improvements that will prevent future program abuse and assist small businesses in becoming self-sufficient and competitive.

This legislation is not solely a response to Wedtech and other scandals that have recently surfaced. Although these events have added a degree of timeliness to our efforts, the Senate Small Business Committee began to scrutinize the 8(A) Program almost 2 years ago in preparation for this reform measure. During that period, we implemented a survey of businesses that had graduated from the 8(A) Program, and were able from that survey to define many of the program's weaknesses. Our hearings, in Washington and Boston, have examined the problems that the minority small business community finds in the program. We have studied the problems, weighed the solutions, and today we present our proposal.

Approximately 850,000 minority-owned small businesses constitute an important part of our Nation's economic framework. All across this country, these firms have played a pivotal role in making the American dream a reality for minority entrepreneurs, and in revitalizing depressed areas that would otherwise be dependent upon millions of Federal dollars for economic recovery. Yet, the resources available to minority-owned businesses are limited. Only 1.8 percent of all minorities have been financially able to start firms, and well over 94 percent of such businesses are sole proprietorships. They continue to face discrimination in access to credit and markets. Therefore, the restricted resources with which these firms must deal have stagnated economic expansion in many areas.

The Small Business Administration's 8(A) Program is a mechanism by which minority-owned firms can pull themselves up by their bootstraps. The program has the potential of offering economic promise for many disadvantaged Americans who otherwise would be unable to do business with the Federal Government. The 8(A) Program allows qualified firms to provide necessary services for the Federal Government through contracts that are set aside for minority business concerns. Technically, section 8(A) allows SBA to act as the provider of goods and services to the Government, and the agency then subcontracts performance of the work to one of its portfolio of 8(A) certified firms. Firms may remain eligible for these no-bid contracts for a fixed period of time, although under current law they may receive an extension of their participation period and then must graduate to full private sector status. Upon graduation, the firms are expected to have garnered the necessary experience and financial security to compete in the economic mainstream.

The program's promise, however, has often been an empty one. Poor program management has all too often led to program inadequacies and abuse. High-ranking Government officials have been indicted for directing contract awards to benefit firms in which they have an interest, as exemplified by the Wedtech scandal. This politicalization has threatened the very existence of the 8(A) effort, and is intolerable. Furthermore, inequitable contract distribution has enabled 10 percent of participating firms to receive 80 percent of all contracts. A sluggish application process has stagnated the development of firms that must base their business plans on program acceptance, and the arbitrary manner in which program extensions are granted helps lend further credence to the popular belief that 8(A) is a highly political and inefficient program.

Moreover, a survey of 8(A) graduates performed by the Senate Small Business Committee during Senator WEICKER's chairmanship found that as many as 30 percent of firms probably go out of business after graduation. The program has failed to offer adequate business development resources and the program has not encouraged firms to stand on their own. This has created a deadly dependency for firms upon 8(A) contracts, as many have closed their doors or have barely survived due to their inability to compete in the open market.

This legislation provides a vital step forward in tightening up the 8(A) Program. Its reforms are intended to curb future program abuse. It also stresses the importance of adhering to business development plans, strengthens the resources available to firms from the SBA, and encourages firms to sharpen their abilities through honest competition inside and outside the program. It is high time that those who administer 8(A), along with the program's participants, roll up their sleeves and put some determination behind making this program work effectively and equitably. Otherwise, it could be lost.

This bill proposes many major program improvements. It institutes an 8-year fixed participation period with no extension considerations. Not only does this remove the arbitrary nature by which such extensions were granted in the past, it also sets a more definite planning period for firms and affords program administrators the time to direct their energies toward application and development responsibilities rather than toward extension requests. The SBA will also be required to make decisions on applications within 90 days and ensure that contract distribution is fair among firms and around the Nation.

To foster the growth of 8(A) businesses and to reduce the incentives for political influence peddling, this initiative proposes competition within and outside the program. Competition within the program will be required among firms for manufacturing, construction, and service contracts worth more than $2 million and all other contracts worth more than $1 million. This requirement will deter the domination of a few firms over large awards and guard against corruption that large 8(A) awards have drawn in the past.

After participating in the program for 3 years, firms must also develop specified percentages of non-8(A) business in order to maintain their eligibility for contracts awarded within the program. I believe this provision will be the catalyst in preventing firms from becoming addicted to the program and disabling their ability after graduation. Requiring the procurement of outside contracts will increase the inventory of 8(A) awards, alleviating the stagnation that firms often face due to the lack of contract activity presently in the program and, most importantly, enabling more businesses to successfully participate in 8(A).

In order to facilitate 8(A) firms' efforts to develop competitive business, this bill establishes a revolving fund from which bid preparation costs can be subsidized. Firms may receive not more than $100,000 annually in bid preparation costs from the fund, and those that are successful in obtaining contracts will repay 50 percent of the grant to the fund.

I am optimistic that this measure will gain the support of my fellow colleagues, as it will streamline and rejuvenate a program that is important to strengthening our Nation's disadvantaged small business community. Although the House and Senate bills have many differences, both bills commit us to providing opportunities and growth for small firms. The hope and confidence of enterpreneurs, founded on the belief that ambition and hard work will provide opportunities that can only be earned in America, must be supported if we are to maintain a healthy economy. This legislation provides corrections to a worthy program and presents new possibilities for those who will work to make their dreams come true. I am proud to introduce it today, and I ask my colleagues for their support.

I ask unanimous consent that the Minority Business Development Reform Act of 1987 be printed in the RECORD at this time.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1993

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minority Business Development Program Reform Act of 1987".

TITLE I.—CONGRESSIONAL FINDINGS AND PROGRAM PURPOSES

SEC. 101. FINDINGS.

The Congress finds that—

(1) the Small Business Administration Section 8(a) Minority Small Business program remains a primary tool for improving opportunities for minority-owned businesses in the Federal procurement process and bringing these businesses into the nation's economic mainstream;

(2) in spite of all efforts, too few 8(a) graduates have been prepared by the program to compete successfully in the open marketplace on competitive procurements and many firms have developed an unhealthy dependency on sole-source contracts by the time of graduation from the program;

(3) the application and certification process for bringing new participants in the program is unordinately lengthy and burdensome;

(4) the Small Business Administration has often failed to efficiently and equitably administer and manage the program, and there have not been clear lines of responsibility for implementing and monitoring many of the administrative duties under the program;

(5) many Federal procuring agencies have failed to identify and offer the necessary amount of contract support in order to allow for diversification and growth of minority-owned businesses participating in the program;

(6) both contract support as well as business development expense have been provided by SBA to only a few firms, while many other firms have received little or no direct assistance under the program;

(7) the wide-spread perception of undue political influence in the operation and administration of the 8(a) program has significantly contributed to the program's poor public image and has deterred utilization of the program both by socially and economically disadvantaged concerns and by Federal procuring agency managers; and

(8) it is imperative that substantial reforms be accomplished in the 8(a) program in order to promote the Congressionally mandated business development objectives and purposes of the program.

SEC. 102. PURPOSES.

The purposes of this Act are to—

(1) ensure that the benefits of the section 8(a) program accrue to individuals who are both socially and economically disadvantaged;

(2) reaffirm the business development objectives and purposes of the program to ensure that concerns graduating from the program will be better prepared to compete in this nation's economic mainstream;

(3) increase the number of minority-owned businesses from which the United States may purchase articles, equipment, supplies, services, materials, and construction work; and

(4) ensure integrity, competence and efficiency in the administration of both business development services and management and distribution of Federal contracting opportunities to disadvantaged small businesses.

TITLE II.—PROGRAM ORGANIZATION, ELIGIBILITY, AND PARTICIPATION

SEC. 201. OFFICE OF MINORITY SMALL BUSINESS CERTIFICATION.

Section 7(j)(11) of the Small Business Act (15 U.S.C. 636(j)(11)) is amended to read as follows:

"(11)(A) There is established within the Office of Minority Small Business and Capital Ownership Development a Division of Minority Small Business Certification which shall exercise the responsibilities and functions specified in subparagraph (B). The Division shall be administered by a Director appointed by the Administrator and shall be responsible to the Associate Administrator for Minority Small Business and Capital Ownership Development. To facilitate the timely exercise of the Division's responsibilities and functions, an office of the Division shall be established in each regional office of the Administration.

"(B) The responsibilities and functions of the Division of Minority Small Business Certification, to be exercised through its regional offices, shall be to—

"(i) receive applications for certification as Program Participants from small businesses owned and controlled by socially and economically disadvantaged individuals;

"(ii) review and evaluate applications required of prospective Program Participants, visiting the offices and facilities of such applicants when appropriate to thoroughly evaluate applications;

"(iii) make recommendations regarding certification of a prospective Program Participant to the Director [for his consideration];

"(iv) review periodically the financial and other reports of each Program Participant to confirm its continued Program eligibility, or whenever a Program Participant initiates any change in ownership interest or other change which could impair continued Program eligibility;

"(v) initiate termination proceedings with respect to a Program Participant deemed to have met one or more of the grounds for termination set forth in paragraph 10(H) of this section; and

"(vi) consider all protests regarding a small business concerns status as a small business concern owned and controlled by socially and economically disadvantaged individuals for the purpose of eligibility to participate in the various programs authorized by this Act or section 1207 of Public Law 99-661.".

SEC. 202. ELIGIBILITY AND CERTIFICATION.

(a) Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is amended by adding at the end thereof the following new subparagraphs:

"(D)(i) The Associate Administrator for Minority Small Business and Capital Ownership Development shall consider applications received from the Director of the Division of Minority Small Business Certification and issue a certificate as a Program Participant to a small business concern owned and controlled by socially and economically disadvantaged individuals as determined in accordance with paragraphs (4), (5), (6) and (7) of section 8(a) of this Act or deny such application, in accordance with subparagraph (E) of this section.

"(ii) Notwithstanding any other provision of law, a small business concern certified as a Program Participant shall not be eligible to participate in the Program for a period in excess of 8 years, commencing on the date of the award of its first contract under the authority of section 8(a).

"(E)(i) Within 15 days of the receipt of an application for admission into the Program, an applicant shall be furnished written notification that such application is complete and suitable for consideration, or specify the deficiencies which make such application unsuitable for consideration.

"(ii) Not later than 90 days after receipt of a completed application for Program certification, the Associate Administrator for Minority Small Business and Capital Ownership Development shall render a decision regarding such application in accordance with subparagraph (D)(i).

"(iii) If an applicant is denied certification, the Associate Administrator for Minority Small Business and Capital Ownership Development shall notify the applicant in writing, specifying the reasons for such denial and advising the applicant of the right to request a reconsideration within 30 days of receipt of such notice of denial. The applicant may make a written request for reconsideration, including therein information and documentation not previously provided, specifically rebutting the basis on which denial was made. If upon reconsideration, the application is again denied, no new application may be accepted for a period of one year from the date of Associate Administrator's action on such request for reconsideration.

"(iv) The Associate Administrator in conjunction with the Director shall develop procedures and guidelines to minimize the paperwork and reduce the time associated with the certification process, in accordance with clause (ii).

"(F)(i) Any small business concern participating in the Program authorized under this section and eligible for award of contracts under the authority of section 8(a) on the effective date of this section shall be deemed to be a Program Participant.

"(ii) Such Program Participant may continue in the Program for a period of time which is the greater of—

"(I) 8 years less the number of years since the award of such Program Participant's first contract under section 8(a), or

"(II) the unexpired portion of its Program Participation Term established in accordance with section 7(j)(10) of the Act.

"(iii) This section shall not be deemed to create any Program eligibility for a small business concern owned and controlled by socially and economically disadvantaged individuals, if prior to the effective date of this section such firm was—

"(I) graduated from the Minority Small Business and Capital Ownership Development Program by the expiration of its Program Participation Term,

"(II) terminated for cause from participation in the Program authorized by this section or for award of a contract under the authority of section 8(a), or

"(III) deemed otherwise ineligible to receive assistance authorized under this section or for the award of a contract under the authority of section 8(a).".

SEC. 203. GRADUATION STANDARDS.

Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is further amended by adding at the end thereof the following new subparagraph:

"(G) A Program Participant certified as eligible to receive assistance under the authority of this section and eligible to receive contracts under section 8(a) of this Act shall be graduated if such Program Participant—

"(i) has been a participant in the Program for the 8-year period prescribed by subparagraph (D)(ii) or (F) of this section,

"(ii) has exceeded the applicable size standard established by the Administration pursuant to section 3 of this Act,

"(iii) is no longer owned and controlled by socially and economically disadvantaged individuals, as the result of a sale of securities to the public, or

"(iv) determines that it has achieved its business goals and objectives as specified in its most recent business plan established pursuant to section 7(j)(10)(A) and (C) and elects to graduate prior to the expiration of its Program Participation Term.

For the purposes of this Act the term "graduated" or "graduation" shall mean the cessation of a Program Participant's eligibility to receive assistance pursuant to this section or for award of a contract under section 8(a) in recognition of the firm's successful completion of its Program Participation Term.".

SEC. 204. TERMINATION.

Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is further amended by adding at the end thereof the following subparagraphs:

"(H) The Administration, in accordance with clause (iii), may terminate a Program Participant from eligibility for this Program and the program under section 8(a) of this Act based upon good cause if—

"(i) such Program Participant—

"(I) fails to conform to the criteria of eligibility as a small business concern owned and controlled as socially and economically disadvantaged,

"(II) has a consistent pattern of delinquent performance or termination for default with respect to contracts awarded under the authority of section 8(a) of this Act,

"(III) has a consistent pattern of failing to make required submissions or responses to the Administration in a timely manner,

"(IV) is debarred by any contracting agency pursuant to the Federal Acquisition Regulation (48 CFR 9.4), or

"(V) violates rules and regulations promulgated by the Administration; or

"(ii) any of the owners of such Program Participant are convicted of embezzlement, theft, forgery, bribery, falsification or any other offense indicating a lack of business integrity.

For the purpose of this Act 'terminated' or 'termination' shall mean the total denial of assistance pursuant to this paragraph or section 8(a) prior to graduation (as described in subparagraph (G)) or prior to the time prescribed by subparagraph (D)(ii).

"(iii) The Director of the Division of Minority Small Business Certification may initiate a termination action by recommending such action to the Associate Administrator for Minority Small Business Capital Ownership Development. Whenever the Associate Administrator deems such termination is appropriate, the Program Participant shall be provided a written notice of intent to terminate, specifying the reasons for such action. No Program Participant shall be terminated from the Program without first being afforded a hearing on the record in accordance with section 8(a)(9) of this Act. The Administration shall conduct such hearing within 120 days of the Program Participant's receipt of the notice of intent to terminate.".

SEC. 205. CHALLENGING ELIGIBILITY.

Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is further amended by adding at the end thereof the following new subparagraphs:

"(I)(i) The Administration may conduct an evaluation of a Program Participant's eligibility for continued participation in the Program whenever it receives specific and credible information alleging that such Program Participant no longer meets the requirements for Program eligibility.

"(ii) Upon making a finding that a Program Participant is no longer eligible, the Administration shall provide a written notice to such Program Participant, specifying the grounds for such finding and affording the challenged Program Participant the opportunity to offer a response within 45 days of receipt of the notice of ineligibility.

"(J)(i) Any protest challenging the status of a small business concern as a small business concern owned and controlled by socially and economically disadvantaged individuals shall be considered and decided by the Director of the regional office of the Division of Minority Small Business Certification for the region in which such challenged small business concern has its principal place of business.

"(ii) A protest regarding the eligibility of a small business concern as a small business owned and controlled by socially and economically disadvantaged individuals may be filed by an offeror, the contracting officer, or other interested party relating to a contract action under the authority of section 8(a) of this act or section 1207 of Public Law 99-661, or a subcontract action pursuant to section 8(d) of this Act. Such protest shall be in writing and shall specifically allege the grounds upon which the protest is based. In order to be considered, a protest must be filed with the Assistant Regional Administrator for Minority Small Business and Capital Development Ownership within 5 days of—

"(I) bid opening in the case of a contract or subcontract being awarded by competitive sealed bidding or its equivalent; or

"(II) receipt of notice of the apparent successful offeror in the case of a contract or subcontract being awarded by negotiation, either competitively or noncompetitively.

"(iii) The Director of the regional office of the Division of Minority Small Business Certification shall promptly review the eligibility of the party whose status is being challenged, after giving notice to such party, the party filing the protest, the contracting officer (if other than the party filing the protest) and any other interested parties he deems appropriate. The Director's review shall include consideration of information submitted by the party whose status is being challenged, the party filing the protest, and other interested parties, if such information is received by the Administration not later than 5 days after the date such party receives the notice of protest. A decision regarding the status of the concern shall be issued not later than 15 days after receipt of the protest.

"(iv) Not later than 5 days after receipt of the Director's decision, the firm whose status is being challenged may file a written appeal to the Associate Administrator for Minority Small Business and Capital Ownership Development, who shall render a decision not later than 5 days after such appeal is filed.

"(v) Within 5 days of receipt of the decision of the Associate Administrator, the firm whose status is being challenged may file a written appeal to the Administration's Office of Hearings and Appeals.

"(vi) Unless otherwise provided by law or regulation, a procurement action need not be suspended pending decision on appeal to the Associate Administrator or the Office of Hearings and Appeals.

"(vii) The Administration may dismiss a protest without further consideration if it determines such protest is without merit or frivolous.

"(viii) Whenever the Administration has reason to believe from its consideration of a protest that a false statement has been made, the matter shall be referred to the agency investigating official designated pursuant to the Program Fraud and Civil Remedies Act of 1986 (sections 3801-3812, title 31, United States Code).".

TITLE III—ENHANCING THE PROGRAM'S BUSINESS DEVELOPMENT ASPECTS

SEC. 301. BUSINESS PLANS.

(a) Section 7(j)(10)(A)(i) of the Small Business Act (15 U.S.C. 636(j)(10)(A)(i)) is to read as follows:

"(i) assist small business concerns participating in the Program either through public or private organizations to develop and maintain a comprehensive business plan which sets forth the Program Participant's specific business objectives and goals. Such business plan, developed and maintained in conformity with subparagraph (B) shall be designed to result in such Program Participant becoming a business concern capable of effectively competing in the marketplace upon graduation from the Program."

(b) Section 7(j)(10) of such Act is further amended—

(1) by striking subparagraph (C),

(2) by redesignating subparagraph (D) (as added by Section 202 of this Act) as subparagraph (C), and

(3) by adding after subparagraph (C), the following new subparagraph:

"(D)(i) Promptly after certification under subparagraph (E), a Program Participant shall submit a business plan as described in clause (ii) of this subparagraph for review by the Business Opportunity Specialist assigned to assist such Program Participant. Such plan, and subsequent revisions submitted under clause (iii) of this subparagraph, shall be approved by the Administration prior to the Program Participant being eligible for award of a contract pursuant to section 8(a).

"(ii) The business plans submitted under this paragraph shall include the following:

"(I) An analysis of market potential, competitive environment, and other business analyses estimating the Program Participant's prospects for profitable operations during the term of Program participation and after graduation.

"(II) An analysis of the Program Participant's strengths and weaknesses with particular attention to correcting any financial, managerial, technical, or personnel conditions which impede such small business concern from winning contracts other than those obtained under section 8(a) of this Act.

"(III) Specific objectives and goals for development of the Program Participant during the next and succeeding years utilizing the results of the analyses conducted pursuant to subclauses (I) and (II).

"(IV) A transition management plan outlining specific steps to assure profitable business operations after graduation (to be incorporated into the Program Participant's overall business plan during the revision relating to the fifth Program year of the firm's Program Participant Term).

"(V) Estimates of contract awards pursuant to section 8(a) and from other sources, which the Program Participant will require to meet the specific objectives and goals for the years covered by its approved plan. The estimates established shall be consistent with the provisions of subparagraph (K) and section 8(a)(18)(D).

"(VI) The dollar value of the aggregate awards from the Bid and Proposal Cost Fund to which the Program Participant may be eligible pursuant to section 7(m)."

"(iii) Each Program Participant shall annually review its currently approved business plan with its Business Opportunity Specialist and modify such plan as may be appropriate. Any modified plan shall be submitted to the Administration for approval. The currently approved plan shall be considered valid until such time as a modified plan is approved by the Administration. The annual review pertaining to the fifth and subsequent years of Program participation shall include a verification of such Program Participant's compliance with the requirement of subparagraph (K).".

SEC. 302. COMPETITIVE BID AND PROPOSAL COST FUND.

(a) IN GENERAL.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding at the end thereof the following new subsection:

"(m)(1) There is hereby established in the Treasury of the United States a separate fund consisting of such amounts as may be appropriated to carry out the purposes of this subsection. Such fund shall be available as a revolving fund to the Administrator for bid and proposal costs without fiscal year limitation.

"(2) The purpose of the Bid and Proposal Cost Fund is to foster the competitiveness of Program Participants through the award of financial assistance to help defray the substantial costs to be incurred in the preparation of offers necessary to effectively compete for the award of government and commercial contracts.

"(3) Program Participants shall be eligible for funding from the Bid and Proposal Cost Fund during—

"(A) The first through the fourth year of the Program Participant's Program Participation Term; and

"(B) The fifth and succeeding years of the Program Participant's Program Participation Term, if the Program Participant has failed to meet the requirements of subsection (j)(10)(K).

"(4) The amount of assistance from such Fund which may be awarded to an eligible Program Participant during the succeeding fiscal year shall be annually determined by the Administration on the basis of an analysis conducted in conjunction with the Program Participant during the review of such Program Participant's business plan, but shall not exceed an aggregate of $100,000 in any fiscal year.

"(5) Subject to regulations promulgated by the Administration, an award of financial assistance in the form of a grant may be made in response to an application from a Program Participant, for—

"(A) such direct and indirect costs which may be incurred by the Program Participant for the preparation of an offer in response to a competitive contract solicitation;

"(B) in an amount not to exceed the level of bid and proposal cost effective authorized in the Program Participant's business plan for that fiscal year.

"(6) Any recipient which is awarded a contract for which it has received bid and proposal cost assistance under this subsection shall be required to repay the Fund an amount equal to 50 percent of the amount received from the Fund to assist in the preparation of the offer that led to such contract award.".

(b) AUTHORIZATION FOR APPROPRIATIONS.—There is hereby authorized to be appropriated for the fund established pursuant to subsection (a) the sum of $5,000,000 for fiscal years 1989, 1990, and 1991.

SEC. 303. MANAGEMENT ASSISTANCE.

Section 7(j)(10)(A) is further amended—

(1) by striking out "and" at the end of clause (v),

(2) by striking out the period at the end of clause (vi) and inserting in lieu thereof a semicolon, and "and", and

(3) by adding at the end thereof the following new clauses:

"(vii) provide assistance necessary to help small business concerns participating in the Program by establishing a training program to be delivered at the regional level to instruct Program Participants in preparing effective proposals to competitive solicitations issued by the various Federal agencies; and

"(viii) provide assistance to public or private organizations or individuals to conduct seminars to assist Program Participants to develop business plans which will enhance the concern's potential for operating profitably upon graduating from the Program.".

SEC. 304. AUTHORITY FOR JOINT VENTURES.

Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is amended by adding at the end thereof the following new paragraph:

"(15)(A) The Administrator, on a nondelegable basis, may approve any agreement for a joint venture between a small business concern eligible for assistance under section 7(j)(10) of this section and any other business concern, if the Administrator—

"(i) determines that such joint venture will develop the marketing, business management, or technical performance capabilities of the eligible small business concern, enhancing its ability to successfully win and perform contract opportunities other than those obtained under the authority of this section; and

"(ii) obtains the prior written approval of the Attorney General, after consultation with the Chairman of the Federal Trade Commission.

"(B) No act or omission occurring during the term of any such approved joint venture agreement shall be construed to be within the prohibitions of the antitrust laws or the Federal Trade Commission Act, if undertaken pursuant to and within the scope of any such agreement.

"(C) No small business concern that enters into such joint venture agreement shall be deemed to be other than a small business concern solely because it is a party to such agreement.

"(D) No joint venture established under the authority of this paragraph shall be eligible for an award of any contract or subcontract pursuant to sections 8(a), 8(d), 9, or 15 unless such joint venture would have been eligible in the absence of the provisions of this paragraph.

"(E) The Administrator shall withdraw approval for such joint venture agreement if—

"(i) he determines that the activities of the joint venture are failing to attain the purposes and objectives for which such joint venture was approved; or

"(ii) the Attorney General requests its termination, after making a determination that the activities of the joint venture, which would otherwise be deemed to be within the prohibitions of the antitrust laws or the Federal Trade Commission Act, are inimical to the public interest.

"(F) Each approval of a joint venture agreement and any withdrawal of such an approval shall be published in the Federal Register.".

SEC. 305. MINORITY BUSINESS DIRECT LOAN PROGRAM.

Section 7(a) of the Small Business Act (15 U.S.C. 626(a)) is amended by adding at the end thereof the following new paragraph:

"(17)(A) The Administration is authorized to make loans for the purchase of equipment, facilities, materials, supplies or other necessary production or technical assets and for working capital directly to small business concerns which are eligible to receive assistance under sections 7(j)(10) and 8(a) of this Act. Such assistance may be provided subject to the following limitations and restrictions:

"(i) all loans made under this section shall be of such sound value as to reasonably assure repayment.

"(ii) no financial assistance shall be extended under this subsection if the applicant can obtain credit elsewhere, and

"(iii) the rate of interest on financings made under this subsection shall be 2 percent less than the rate established on direct loans made under paragraph (11).

"(B) There is hereby established within the Treasury a revolving fund that shall be available to the Administration, without fiscal year limitation, for financing functions performed pursuant to this paragraph. Any repayment received by the Administration with respect to loans made under this paragraph shall be deposited in the fund. All expenses, including administrative expenses, resulting from making or disposing of such loans by the Administration shall be paid from the fund.

"(C) There are hereby authorized to be appropriated to the fund established by subparagraph (B) $10,000,000 to carry out the provisions of this paragraph relating to the making and servicing of loans. Unobligated funds previously appropriated for business development expense from the salaries and expense account shall be transferred into the fund established by subparagraph (B).".

TITLE IV.—BUSINESS DEVELOPMENT THROUGH FEDERAL CONTRACTING OPPORTUNITIES

SEC. 401. DEVELOPMENT OF BUSINESS MIX EMPHASIZING COMPETITIVE CONTRACT AWARDS.

Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is further amended by adding at the end thereof the following:

SEC. 402. PLANNING 8(A) CONTRACT ACTIVITY.

(a) Forecasting Contracting Opportunities. Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is amended by adding at the end thereof the following new paragraph:

"(16)(A) Each executive agency reporting to the Federal Procurement Data System contract actions with an aggregate value in excess of $50,000,000 in fiscal year 1986 and any succeeding fiscal year shall prepare a forecast of expected contracting opportunites or classes of contracting opportunities for the next and succeeding fiscal years that it considers to be suitable for award under section 8(a), which shall be periodically revised during such year. To the extent such information is available, the agency forecasts shall specify:

"(i) The approximate number of individual contract opportunities (and the number of opportunities within a class).

"(ii) The approximate dollar value, or range of dollar values, for each contract opportunity or class of contract opportunities.

"(iii) The anticipated time (by fiscal year quarter) for the issuance of a procurement request to the responsible agency contracting activity.

"(iv) The activity within the department or agency responsible for the program requirement creating the contracting opportunity.

"(v) The contracting activity responsible for the award and administration of the contract.

"(B) The head of each executive agency subject to the provisions of subparagraph (A) shall furnish such forecasts of expected contracting opportunities suitable for award under section 8(a) to the Administration within 10 days of its availability to such agency head.".

(b) RATE OF CONTRACT SUPPORT AS ELEMENT OF ANNUAL REVIEW OF BUSINESS PLAN.—Section 8(a) of the Small Business Act is further amended by adding at the end thereof the following new paragraph:

"(17)(A) Each Program Participant shall annually forecast its needs for contract awards under this section for the next Program year and the succeeding Program year during the review of its business plan, conducted pursuant to section 7(j)(10)(K)) of this Act.

"(B) Such forecast shall include—

"(i) the aggregate level of contract support (number and dollar value) to be sought under section 8(a), reflecting compliance with the requirements of section 7(j)(10)(K),

"(ii) the types of contract opportunities being sought, identified by Standard Industrial Classification (SIC) Code or otherwise,

"(iii) an estimate of the level of contract support (number and dollar value) to be sought on a noncompetitive basis,

"(iv) an estimate of the level of support (number of applications and estimated dollar value of each) to be sought from the Bid and Proposal Cost Fund under section 7(m), and

"(v) such other information as may be useful to the Business Opportunity Specialist in providing effective business development assistance to the Program Participant.".

SEC. 403. CONTRACT AWARDS.

Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is amended by adding at the end thereof the following new paragraph:

"(18)(A) Except as provided in subparagraphs (B) and (C), the Administration shall award non-competitive contracts under this section to the concern that identifies the contract opportunity if—

"(i) the Program Participant is determined to be a responsible contractor with respect to performance of such contract opportunity;

"(ii) the award of such contract would be consistent with the Program Participant's business plan; and

"(iii) the award of the contract would not result in the Program Participant exceeding the requirements established by section 7(j)(10)(K) of this Act.

"(B) Notwithstanding the preceding paragraph, the Administration may consider the geographical distribution of contracts and may direct the award of any contract under this section to achieve an equitable distribution of contracts among the Administration's various regions and among Program Participants.

"(C)(i) except as provided in clause (ii), the Assistant Regional Administrator for Minority Small Business and Capital Ownership Development in each of the regional offices shall be the contract award official with respect to each contract awarded to a Program Participant under this section.

"(ii) Awards shall be made by the Assistant Regional Administrator to the Program Participant selected by—

"(I) The contracting officer of the agency offering the contracting opportunity to the Administration, after a restricted competition conducted under the authority of subparagraph (E) of this section; or

"(II) the Assistant Regional Administrator for Minority Small Business and Capital Ownership Development, if the contracting opportunity is being awarded noncompetitively and designation of the Program Participant to receive the contract has been made at the Administration's headquarters.

"(D)(i) Except as provided in clause (ii), a Program Participant shall be ineligible for the award of a contract on a noncompetitive basis under this section, if the expected award price of such contract exceeds by more than 150 percent the total contract price paid to the Program Participant for performance of its largest prior contract.

"(ii) The Assistant Regional Administrator for Minority Small Business and Capital Ownership Development may waive the requirements of subclause (i) upon making a written determination that the Program Participant otherwise eligible to receive the contract award has the managerial, financial, and technical capabilities to perform the contract in accordance with its terms and conditions, specifically taking into consideration all concurrent contractual obligations from Governmental and non-governmental sources. Such determination shall be based on a thorough evaluation of the Program Participant's business operations, including a physical survey of its offices and facilities, as appropriate.

"(E)(i) Except as provided in clause (ii), an agency offering a contracting opportunity for award under this section shall determine the Program Participant eligible for award of the contract on the basis of a competition and submission of the amendment. A public housing agency shall have a right to amend its comprehensive plan and related statements to extend the time for performance whenever the Secretary has not provided the amount of assistance set forth in the plan or has not provided the assistance in a timely manner.

"(C) The Secretary shall approve the annual statement and any amendment to it or the comprehensive plan unless the Secretary determines that the statement or amendment is plainly inconsistent with the activities specified in the comprehensive plan. The statement or amendment shall be considered to be approved, unless the Secretary notifies the public housing agency in writing before the expiration of the 75-day period following its submission that the Secretary has disapproved it as submitted, indicating the reasons for disapproval and the modifications required to make it approvable.

"(4)(A) Each public housing agency that owns or operates 500 or more public housing dwelling units shall submit to the Secretary, on a date determined by the Secretary, a performance and evaluation report concerning the use of funds made available under this section. The report of the public housing agency shall include an assessment by the public housing agency of the relationship of such use of funds made available under this section, as well as the use of other funds, to the needs identified in the comprehensive plan of the public housing agency and to the purposes of this section. The public housing agency shall certify that the report has been made available for review and comment by affected tenants prior to its submission to the Secretary.

"(B) The Secretary shall, at least on an annual basis, make such reviews as may be necessary or appropriate to determine whether each public housing agency receiving assistance under this section—

"(i) has carried out its activities under this section in a timely manner and in accordance with its comprehensive plan;

"(ii) has a continuing capacity to carry out its comprehensive plan in a timely manner;

"(iii) has satisfied, or has made reasonable progress towards satisfying, such performance standards as shall be prescribed by the Secretary, and has made reasonable progress in carrying out modernization projects approved under this section.

"(C) Each public housing agency that owns or operates 500 or more public housing dwelling units and receives assistance under this section shall have an audit made in accordance with chapter 75 of title 31, United States Code. The Secretary, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States shall have access to all books, documents, papers, or other records that are pertinent to the activities carried out under this section in order to make audit examinations, excerpts, and transcripts.

"(D) The comprehensive plan, any amendments to the comprehensive plan, and the annual statement shall, once approved by the Secretary, be binding upon the Secretary and the public housing agency. The Secretary may order corrective action only if the public housing agency does not comply with subparagraph (A) or (B) or if an audit under subparagraph (C) reveals findings that the Secretary reasonably believes require such corrective action. The Secretary may withhold funds under this section only if the public housing agency fails to take such corrective action after notice and a reasonable opportunity to do so. In administering this section, the Secretary shall, to the greatest extent possible, respect the professional judgment of the administrators of the public housing agency.".

(e) Eligible Costs.—Section 14(f) of the United States Housing Act of 1937 (as so redesignated by this section) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in the matter preceding paragraph (1), by inserting after "public housing agency" the following: "that owns or operates less than 500 public housing dwelling units";

(3) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D); and

(4) by adding at the end the following new paragraph:

"(2) A public housing agency that owns or operates 500 or more public housing dwelling units may use financial assistance received under subsection (b) only—

"(A) to undertake activities described in its approved comprehensive plan under subsection (e)(1) or its annual statement under subsection (e)(3);

"(B) to correct conditions that constitute an immediate threat to the health or safety of tenants and to meet special purpose needs described in section 14(i)(1)(D), whether or not the need for such correction is indicated in its comprehensive plan or annual statement; and

"(C) to prepare a comprehensive plan under subsection (e)(1), including reasonable costs that may be necessary to assist tenants in participating in the planning process in a meaningful way, an annual statement under subsection (e)(3), an annual performance and evaluation report under subsection (e)(4)(A), and an audit under subsection (e)(4)(C).".

(f) Allocation of Assistance.—Section 14 of the United States Housing Act is amended by adding at the end the following new subsection:

"(k)(1) Until the Congress establishes by law a revised method for allocating assistance under this section, assistance shall be allocated under this section in substantial accordance with the allocation method in effect on the date of the enactment of the Housing and Community Development Act of 1987.

"(2) Not later than 1 year after the date of the enactment of the Housing and Community Development Act of 1987, the Secretary shall—

"(A) complete the study of the need for public housing modernization initiated pursuant to the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 (Pub. L. 98-45) and any other studies that are necessary to evaluate the current condition and capital requirements of public housing as well as the future need for rehabilitation and replacement of public housing facilities;

"(B) submit to the Congress proposed methods for determining the relative allocation of funds between activities to correct existing deficiencies and the annual accrual of resources to meet future needs;

"(C) submit to the Congress proposed alternatives for allocating funds among public housing agencies to correct existing deficiencies, including formulas for distributing funds to public housing agencies, to regional and field offices of the Department of Housing and Urban Development, or to States, as well as such other allocation methods as the Secretary may wish to recommend;

"(D) provide the Congress with—

"(i) an analysis of data and other information used to develop recommendations for measuring existing deficiencies, future needs, and anticipated emergencies;

"(ii) an analysis of the bases underlying each of the proposed allocation methods; and

"(iii) a comparison of proposed allocations to previous allocations under this section;

"(E) propose to the Congress criteria for distinguishing capital replacement activities that are routine from those that are not routine;

"(F) propose to the Congress alternative methods—

"(i) to allocate funds to public housing agencies to meet predictable routine modernization and regular capital replacement expenses; and

"(ii) provide for unpredictable, infrequent, or extraordinary future capital replacement needs through a fund administered on a national, regional, State, or local level or through such other methods as the Secretary may recommend;

"(G) consult at least on a quarterly basis with organizations and individuals representing public housing agencies, local government, and tenants regarding progress on the studies referred to in subparagraph (A) and the development of alternatives for improving this section; and

"(H) estimate, for not less than the 200 largest public housing agencies, the amount that will be received annually under each such alternative allocation system and compare such amounts to funds received in prior years under this section.".

(g) Annual Report.—Section 14 of the United States Housing Act (as amended by subsection (f) of this section) is further amended by adding at the end the following new subsection:

"(l) The Secretary shall include in the annual report under section 8 of the Department of Housing and Urban Development Act—

"(1) a description of the allocation, distribution, and use of assistance under this section on a regional basis and on the basis of public housing agency size; and

"(2) a national compilation of the total funds requested in comprehensive plans for all public housing agencies owning or operating 500 or more public housing dwelling units.".

(h) Regulations.—Section 14 of the United States Housing Act (as amended by subsection (g) of this section) is further amended by adding at the end the following new subsection:

"(m) Subject to subsection (k)(1), the Secretary may issue any regulations that are necessary to carry out this section.".

(i) Conforming Amendments.—

(1) Section 14(d) of the United States Housing Act of 1937 is amended in the matter preceding paragraph (1) by striking "subsection (e)(4)" and inserting "subsection (f)(4)".

(2) Section 14(i)(1) of the United States Housing Act of 1937 is amended in the matter preceding subparagraph (A) by inserting "(f)," after "(e),".

(3) Section 14(f) of the United States Housing Act of 1937 (as so redesignated by this section) is amended by striking "annual".

(4) Section 14(g) of the United States Housing Act of 1937 is amended by inserting "or (e)" after "subsection (d)(4)".

(5) Section 14(h)(2) of the United States Housing Act of 1937 is amended by inserting "or (e)" after "subsection (d)(4)".

(6) Section 14(i) of the United States Housing Act of 1937 is amended by striking "subsections (c), (d), (e), (g), and (h)" and inserting "subsections (c) through (h)".

SEC. 120. COMPREHENSIVE IMPROVEMENT ASSISTANCE SPECIAL PURPOSE NEEDS.

Section 14(i)(1)(D) of the United States Housing Act of 1937 is amended—

(1) by inserting "(i)" after "(D)";

(2) by redesignating clauses (i) and (ii) and clauses (I) and (II), respectively;

(3) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new clause:

"(ii) physical improvement needs eligible under this subparagraph shall include replacing or repairing major equipment systems or structural elements, upgrading security, increasing accessibility for elderly families and handicapped families (as such terms are defined in section 3(b)(3)), reducing the number of vacant substandard units, and increasing the energy efficiency of the units, except that the Secretary may make financial assistance available under this clause only if the Secretary determines that the physical improvements are necessary and sufficient to extend substantially the useful life of the project.".

SEC. 121. PUBLIC HOUSING DEMOLITION AND DISPOSITION.

(a) DETERMINATION OF INFEASIBILITY OF MODIFICATIONS.—Section 18(a)(1) of the United States Housing Act of 1937 is amended by striking "or" after "purposes," and inserting "and".

(b) DEVELOPMENT AND APPROVAL OF REPLACEMENT HOUSING PLAN.—Section 18(b) of the United States Housing Act of 1937 is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end of the following new paragraph:

"(3) the public housing agency has developed a plan for the provision of an additional decent, safe, sanitary, and affordable dwelling unit for each public housing dwelling unit to be demolished or disposed under such application, which plan—

"(A) provides for the provision of such additional dwelling units through—

"(i) the acquisition or development of additional public housing dwelling units;

"(ii) the use of 15-year project-based assistance under section 8;

"(iii) the use of not less than 15-year project-based assistance under other Federal programs;

"(iv) the acquisition or development of dwelling units assisted under a State or local government program that provides for project-based assistance comparable in terms of eligibility, contribution to rent, and length of assistance contract (not less than 15 years) to assistance under section 8(b)(1);

"(v) the use of 15-year tenant-based assistance under section 8 (excluding vouchers under section 8(o)); or

"(vi) any combination of such methods;

"(B) if it provides for the use of tenant-based assistance under section 8, may be approved—

"(i) only after a finding by the Secretary that replacement with project-based assistance is not feasible, and the supply of private rental housing actually available to those who would receive such assistance under the plan is sufficient for the total number of certificates and vouchers available in the community after implementation of the plan and that such supply is likely to remain available for the full 15-year term of the assistance; and

"(ii) only if such finding is based on objective information, which shall include rates of participation by landlords in the section 8 program, size, conditions and rent levels of available rental housing as compared to section 8 standards, the supply of vacant existing housing meeting the section 8 quality standards with rents at or below the fair market rent or the likelihood of adjusting the fair market rent, the number of eligible families waiting for public housing or housing assistance under section 8, and the extent of discrimination against the types of individuals or families to be served by the assistance;

"(C) is approved by the unit of general local government in which the project is located;

"(D) includes a schedule for completing the plan within a period consistent with the size of the proposed demolition or disposition, except that the schedule shall in no event exceed 6 years;

"(E) includes a method of ensuring that the same number of individuals and families will be provided housing;

"(F) provides for the payment of the relocation expenses of each tenant to be displaced and ensures that the rent paid by the tenant following relocation will not exceed the amount permitted under this Act; and

"(G) prevents the taking of any action to demolish or dispose of any unit until the tenant of the unit is relocated to decent, safe, sanitary, and affordable housing that is, to the extent practicable, of the tenant's choice.".

(c) FUNDING OF REPLACEMENT HOUSING PLAN.—Section 18(c) of the United States Housing Act of 1937 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraphs:

"(2) The Secretary shall, upon approving a plan under subsection (b)(3), agree to commit (subject to the availability of future appropriations) the funds necessary to carry out the plan over the approved schedule of the plan.

"(3) The Secretary shall, in allocating assistance for the acquisition or development of public housing or for moderate rehabilitation under section 8(e)(2), give consideration to housing that replaces demolished public housing units in accordance with a plan under subsection (b)(3).".

(d) APPLICABILITY.—Section 18 of the United States Housing Act of 1937 is amended by striking subsection (d) and inserting the following new subsection:

"(d) A public housing agency shall not take any action to demolish or dispose of a public housing project or a portion of a public housing project without obtaining the approval of the Secretary and satisfying the conditions specified in subsections (a) and (b).".

SEC. 122. PUBLIC HOUSING RESIDENT MANAGEMENT.

The United States Housing Act of 1937 is amended by adding at the end the following new section:

"PUBLIC HOUSING RESIDENT MANAGEMENT

"SEC. 20. (a) PURPOSE.—The purpose of this section is to encourage increased resident management of public housing projects, as a means of improving existing living conditions in public housing projects, by providing increased flexibility for public housing projects that are managed by residents by—

"(1) permitting the retention, and use for certain purposes, of any revenues exceeding operating and project costs; and

"(2) providing funding, from amounts otherwise available, for technical assistance to promote formation and development of resident management entities.

For purposes of this section, the term 'public housing project' includes one or more contiguous buildings or an area of contiguous row houses the elected resident councils of which approve the establishment of a resident management corporation and otherwise meet the requirements of this section.

"(b) PROGRAM REQUIREMENTS.—

"(1) RESIDENT COUNCIL.—As a condition of entering into a resident management program, the elected resident council of a public housing project shall approve the establishment of a resident management corporation. When such approval is made by the elected resident council of a building or row house area, the resident management program shall not interfere with the rights of other families residing in the project or harm the efficient operation of the project. The resident management corporation and the resident council may be the same organization, if the organization complies with the requirements applicable to both the corporation and council. The corporation shall be a nonprofit corporation organized under the laws of the State in which the project is located, and the tenants of the project shall be the sole voting members of the corporation. If there is no elected resident council, a majority of the households of the public housing project shall approve the establishment of a resident council to determine the feasibility of establishing a resident management corporation to manage the project.

"(2) PUBLIC HOUSING MANAGEMENT SPECIALIST.—The resident council of a public housing project, in cooperation with the public housing agency, shall select a qualified public housing management specialist to assist in determining the feasibility of, and to help establish, a resident management corporation and to provide training and other duties agreed to in the daily operations of the project.

"(3) BONDING AND INSURANCE.—Before assuming any management responsibility for a public housing project, the resident management corporation shall provide fidelity bonding and insurance, or equivalent protection, in accordance with regulations and requirements of the Secretary and the public housing agency. Such bonding and insurance, or its equivalent, shall be adequate to protect the Secretary and the public housing agency against loss, theft, embezzlement, or fraudulent acts on the part of the resident management corporation or its employees.

"(4) MANAGEMENT RESPONSIBILITIES.—A resident management corporation that qualifies under this section, and that supplies insurance and bonding or equivalent protection sufficient to the Secretary and the public housing agency, shall enter into a contract with the public housing agency establishing the respective management rights and responsibilities of the corporation and the public housing agency. Such contract shall be consistent with the requirements of this Act applicable to public housing projects and may include specific terms governing management personnel and compensation, access to public housing project records, submission of and adherence to budgets, rent collection procedures, tenant income verification, tenant eligibility determinations, tenant eviction, the acquisition of supplies and materials, and such other matters as may be appropriate. The contract shall be treated as a contracting out of services and shall be subject to any provision of a collective bargaining agreement regarding contracting out to which the public housing agency is subject.

"(5) ANNUAL AUDIT.—The books and records of a resident management corporation operating a public housing project shall be audited annually by a certified public accountant. A written report of each audit shall be forwarded to the public housing agency and the Secretary.

"(c) COMPREHENSIVE IMPROVEMENT ASSISTANCE.—Public housing projects managed by resident management corporations may be provided with comprehensive improvement assistance under section 14 for purposes of renovating such projects in accordance with such section. If such renovation activities (including the planning and architectural design of the rehabilitation) are administered by a resident management corporation, the public housing agency involved may not retain, for any administrative or other reason, any portion of the assistance provided pursuant to this subsection unless otherwise provided by contract.

"(d) WAIVER OF FEDERAL REQUIREMENTS.—

"(1) WAIVER OF REGULATORY REQUIREMENTS.—Upon the request of any resident management corporation and public housing agency, and after notice and an opportunity to comment is afforded to the affected tenants, the Secretary may waive (for both the resident management corporation and the public housing agency) any requirement established by the Secretary (and not specified in any statute) that the Secretary determines to unnecessarily increase the costs or restrict the income of a public housing project.

"(2) WAIVER TO PERMIT EMPLOYMENT.—Upon the request of any resident management corporation, the Secretary may, subject to applicable collective bargaining agreements, permit residents of such project to volunteer a portion of their labor.

"(3) REPORT ON ADDITIONAL WAIVERS.—Not later than 6 months after the date of the enactment of the Housing and Community Development Act of 1987, the Secretary shall submit to the Congress a report setting forth any additional waivers of Federal law that the Secretary determines are necessary or appropriate to carry out the provisions of this section. In preparing the report, the Secretary shall consult with resident management corporations and public housing agencies.

"(4) EXCEPTIONS.—The Secretary may not waive under this subsection any requirement with respect to income eligibility for purposes of section 16, rental payments under section 3(a), tenant or applicant protections, employee organizing rights, or rights of employees under collective bargaining agreements.

"(e) OPERATING SUBSIDY AND PROJECT INCOME.—

"(1) CALCULATION OF OPERATING SUBSIDY.—Notwithstanding any provision of section 9 or any regulation under such section, and subject to the exception provided in paragraph (3), the portion of the operating subsidy received by a public housing agency under section 9 that is allocated to a public housing project managed by a resident management corporation shall not be less than the public housing agency per unit monthly amount provided in the previous year as determined on an individual project basis.

"(2) CONTRACT REQUIREMENTS.—Any contract for management of a public housing project entered into by a public housing agency and a resident management corporation shall specify the amount of income expected to be derived from the project itself (from sources such as rents and charges) and the amount of income funds to be provided to the project from the other sources of income of the public housing agency (such as operating subsidy under section 9, interest income, administrative fees, and rents).

"(3) CALCULATION OF TOTAL INCOME.—

"(A) Subject to subparagraph (B), the amount of funds provided by a public housing agency to a public housing project managed by a resident management corporation may not be reduced during the 3-year period beginning on the date of enactment of the Housing and Community Development Act of 1987 or on any later date on which a resident management corporation is first established for the project.

"(B) If the total income of a public housing agency (including the operating subsidy provided to the public housing agency under section 9) is reduced or increased, the income provided by the public housing agency to a public housing project managed by a resident management corporation shall be reduced or increased in proportion to the reduction or increase in the total income of the public housing agency, except that any reduction in operating subsidy that occurs as a result of fraud, waste, or mismanagement by the public housing agency shall not affect the funds provided to the resident management corporation.

"(4) RETENTION OF EXCESS REVENUES.—

"(A) Any income generated by a resident management corporation of a public housing project that exceeds the income estimated for purposes of this subsection shall be excluded in subsequent years in calculating (i) the operating subsidies provided to the public housing agency under section 9; and (ii) the funds provided by the public housing agency to the resident management corporation.

"(B) Any revenues retained by a resident management corporation under subparagraph (A) shall be used for purposes of improving the maintenance and operation of the public housing project, for establishing business enterprises that employ residents of public housing, or for acquiring additional dwelling units for lower income families.

"(f) RESIDENT MANAGEMENT TECHNICAL ASSISTANCE AND TRAINING.—

"(1) FINANCIAL ASSISTANCE.—To the extent budget authority is available for section 14, the Secretary shall provide financial assistance to resident management corporations or resident councils that obtain, by contract or otherwise, technical assistance for the development of resident management entities, including the formation of such entities, the development of the management capability of newly formed or existing entities, the identification of the social support needs of residents of public housing projects, and the securing of such support.

"(2) LIMITATION ON ASSISTANCE.—The financial assistance provided under this subsection with respect to any public housing project may not exceed $100,000.

"(3) FUNDING.—Of the amounts available for financial assistance under section 14, the Secretary may use to carry out this subsection not more than $2,500,000 for fiscal year 1988 and not more than $2,500,000 for fiscal year 1989.

"(f) ASSESSMENT AND REPORT BY THE SECRETARY.—Not later than 3 years after the date of the enactment of the Housing and Community Development Act of 1987, the Secretary shall—

"(1) conduct an evaluation and assessment of resident management, and particularly of the effect of resident management on living conditions in public housing; and

"(2) submit to the Congress a report setting forth the findings of the Secretary as a result of the evaluation and assessment and including any recommendations the Secretary determines to be appropriate.".

SEC. 123. PUBLIC HOUSING HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES.

The United States Housing Act of 1937 (as amended by section 122 of this Act) is further amended by adding at the end the following new section:

"PUBLIC HOUSING HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES

"SEC. 21. (a) HOMEOWNERSHIP OPPORTUNITIES IN GENERAL.—Lower income families residing in a public housing project shall be provided with the opportunity to purchase the dwelling units in the project through a qualifying resident management corporation as follows:

"(1) FORMATION OF RESIDENT MANAGEMENT CORPORATION.—As a condition for public housing homeownership—

"(A) the adult residents of a public housing project shall have formed a resident management corporation in accordance with regulations and requirements of the Secretary prescribed under this section and section 20;

"(B) the resident management corporation shall have entered into a contract with the public housing agency establishing the respective management rights and responsibilities of the resident management corporation and the public housing agency; and

"(C) the resident management corporation shall have demonstrated its ability to manage public housing effectively and efficiently for a period of not less than 3 years.

"(2) HOMEOWNERSHIP ASSISTANCE.—

"(A) The Secretary may provide comprehensive improvement assistance under section 14 to a public housing project in which homeownership activities under this section are conducted.

"(B) The Secretary, and the public housing agency owning and operating a public housing project, shall provide such training, technical assistance, and educational assistance as the Secretary determines to be necessary to prepare the families residing in the project, and any resident management corporation established under paragraph (1), for homeownership.

"(C) This paragraph shall not have effect after September 30, 1990.

"(3) CONDITIONS OF PURCHASE BY A RESIDENT MANAGEMENT CORPORATION.—

"(A) A resident management corporation may purchase from a public housing agency one or more multifamily buildings in a public housing project following a determination by the Secretary that—

"(i) the resident management corporation has met the conditions of paragraph (1);

"(ii) the resident management corporation has applied for and is prepared to undertake the ownership, management, and maintenance of the building or buildings with continued assistance from the Secretary;

"(iii) the public housing agency has held one or more public hearings to obtain the views of citizens regarding the proposed purchase and, in consultation with the Secretary, has certified that the purchase will not interfere with the rights of other families residing in public housing, will not harm the efficient operation of other public housing, and is in the interest of the community;

"(iv) the public housing agency has certified that it has and will implement a plan to replace public housing units sold under this section within 30 months of the sale, which plan shall provide for replacement of 100 percent of the units sold under this section by—

"(I) production, acquisition, or rehabilitation of vacant public housing units by the public housing agency; and

"(II) acquisition by the resident management corporation of nonpublicly owned, decent, and affordable housing units, which the resident management corporation shall operate as rental housing subject to tenant income and rent limitations comparable to the limitations applicable to public housing; and

"(v) the building or buildings meet the minimum safety and livability standards applicable under section 14, and the physical condition, management, and operation of the building or buildings are sufficient to permit affordable homeownership by the families residing in the project.

"(B) The price of a building purchased under the preceding sentence shall be approved by the Secretary, in consultation with the public housing agency and resident management corporation, taking into account the fair market value of the property, the ability of resident families to afford and maintain the property, and such other factors as the Secretary determines to be consistent with increasing the supply of dwelling units affordable to very low income families.

"(C) This paragraph shall not have effect after September 30, 1990.

"(4) CONDITIONS OF RESALE.—

"(A)(i) A resident management corporation may sell a dwelling unit or ownership rights in a dwelling unit only to a lower income family residing in, or eligible to reside in, public housing and only if the Secretary determines that the purchase will not interfere with the rights of other families residing in the housing project or harm the efficient operation of the project, and the family will be able to purchase and maintain the property.

"(ii) The sale of dwelling units or ownership rights in dwelling units under clause (i) shall be made to families in the following order of priority:

"(I) a lower income family residing in the public housing project in which the dwelling unit is located;

"(II) a lower income family residing in any public housing project within the jurisdiction of the public housing agency having jurisdiction with respect to the project in which the dwelling unit is located;

"(III) a lower income family receiving Federal housing assistance and residing in the jurisdiction of such public housing agency; and

"(IV) a lower income family on the waiting list of such public housing agency for public housing or assistance under section 8, with priority given in the order in which the family appears on the waiting list.

"(iii) Each resident management corporation shall provide each family described in clause (ii) with a notice of the eligibility of the family to purchase a dwelling unit under this paragraph.

"(B) A purchase under subparagraph (A) may be made under any of the following arrangements:

"(i) Limited dividend cooperative ownership.

"(ii) Condominium ownership.

"(iii) Fee simple ownership.

"(iv) Shared appreciation with a public housing agency providing financing under paragraph (6).

"(v) Any other arrangement determined by the Secretary to be appropriate.

"(C) Property purchased under this section shall be resold only to the resident management corporation, a lower income family residing in or eligible to reside in public housing or housing assisted under section 8, or to the public housing agency.

"(D) In no case may the owner receive consideration for his or her interest in the property that exceeds the total of—

"(i) the contribution to equity paid by the owner;

"(ii) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the owner during the owner's tenure as owner; and

"(iii) the appreciated value determined by an inflation allowance at a rate which may be based on a cost of living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the resident management corporation or the public housing agency, whichever is appropriate, at the time of initial sale, and applied against the contribution to equity; the resident management corporation or the public housing agency may, at the time of initial sale, enter into an agreement with the owner to set a maximum amount which this appreciation may not exceed.

"(E) Upon sale, the resident management corporation or the public housing agency, whichever is appropriate, shall ensure that subsequent owners are bound by the same limitations on resale and further restrictions on equity appreciation.

"(5) USE OF PROCEEDS.—Notwithstanding any other provision of this Act or other law to the contrary, proceeds from the sale of a building or buildings under paragraph (3) and amounts recaptured under paragraph (4) shall be paid to the public housing agency and shall be retained and used by the public housing agency only to increase the number of public housing units available for occupancy. The resident management corporation shall keep and make available to the public housing agency and the Secretary all records necessary to calculate accurately payments due the local housing agency under this section. The Secretary shall not reduce or delay payments under other provisions of law as a result of amounts made available to the local housing agency under this section.

"(6) FINANCING.—When financing for the purchase of the property is not otherwise available for purposes of assisting any purchase by a family or resident management corporation under this section, the public housing agency involved may make a loan on the security of the property involved to the family or resident management corporation at a rate of interest that shall not be lower than 70 percent of the market interest rate for conventional mortgages on the date on which the loan is made.

"(7) ANNUAL CONTRIBUTIONS.—Notwithstanding the purchase of a building in a public housing project under this section, the Secretary shall continue to pay annual contributions with respect to the project. Such contributions may not exceed the maximum contributions authorized in section 5(a).

"(8) OPERATING SUBSIDIES.—Operating subsidies shall not be available with respect to a building after the date of its sale by the public housing agency.

"(b) PROTECTION OF NONPURCHASING FAMILIES.—

"(1) EVICTION PROHIBITION.—No family residing in a dwelling unit in a public housing project may be evicted by reason of the sale of the project to a resident management corporation under this section.

"(2) TENANTS RIGHTS.—Families renting a dwelling unit purchased by a resident management corporation shall have all rights provided to tenants of public housing under this Act.

"(3) RENTAL ASSISTANCE.—If any family resides in a dwelling unit in a building purchased by a resident management corporation, and the family decides not to purchase the dwelling unit, the Secretary shall offer to provide to the family (at the option of the family) a certificate under section 8(b)(1) or a housing voucher under section 8(o) for as long as the family continues to reside in the building. The Secretary may adjust the fair market rent for such certificate to take into account conditions under which the building was purchased.

"(4) RENTAL AND RELOCATION ASSISTANCE.—If any family resides in a dwelling unit in a public housing project in which other dwelling units are purchased under this section, and the family decides not to purchase the dwelling unit, the Secretary shall offer (to be selected by the family, at its option)—

"(A) to assist the family in relocating to a comparable appropriate sized dwelling unit in another public housing project, and to reimburse the family for their cost of relocation; and

"(B) to provide to the family the financial assistance necessary to permit the family to stay in the dwelling unit or to move to another comparable dwelling unit and to pay no more for rent than required under subparagraph (A), (B), or (C) of section 3(a)(1).

"(c) FINANCIAL ASSISTANCE FOR PUBLIC HOUSING AGENCIES.—The Secretary shall provide to public housing agencies such financial assistance as is necessary to permit such agencies to carry out the provisions of this section.

"(d) ADDITIONAL HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES.—This section shall not apply to the turnkey III, the mutual help, or any other homeownership program established under section 5(h) or section 6(c)(4)(D) and in existence before the date of the enactment of the Housing and Community Development Act of 1987.

"(e) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section. Such regulations may establish any additional terms and conditions for homeownership or resident management under this section that are determined by the Secretary to be appropriate.

"(f) ANNUAL REPORT.—The Secretary shall annually submit to the Congress a report setting forth—

"(1) the number, type, and cost of units sold;

"(2) the income, race, gender, children, and other characteristics of families purchasing or moving and not purchasing;

"(3) the amount and type of financial assistance provided;

"(4) the need for subsidy to ensure continued affordability and meet future maintenance and repair costs;

"(5) any need for the development of additional public housing dwelling units as a result of the sale of public housing dwelling units under this section;

"(6) recommendations of the Secretary for additional budget authority to carry out such development;

"(7) recommendations of the Secretary to ensure decent homes and decent neighborhoods for lower income families; and

"(8) the recommendations of the Secretary for statutory and regulatory improvements to the program.

"(g) Limitation.—Any authority of the Secretary under this section to provide financial assistance, or to enter into contracts to provide financial assistance, shall be effective only to such extent or in such amounts as are or have been provided in advance in an appropriation Act.".

SEC. 124. TREATMENT OF CERTAIN PUBLIC HOUSING DEVELOPMENT FUNDS.

(a) Forgiveness of Certain Interest.—Notwithstanding any other provision of law or other requirement, any interest accruing on any excess funds advanced to the Housing Authority of the City of Pittsburgh, in the State of Pennsylvania, for development of the public housing project numbered PA-1-22 shall be forgiven, and any such interest paid to the Secretary of Housing and Urban Development before the date of the enactment of this Act shall be returned to such City.

(b) Forgiveness of Certain Payments.—Notwithstanding any other provision of law or other requirement, the Secretary of Housing and Urban Development may not require the Bay City Housing Commission in the State of Michigan to pay any amount relating to ineligible costs incurred with respect to the public housing development grant numbered Michigan 24-7, awarded in 1974, under the United States Housing Act of 1937.

(c) Subject to Appropriations.—This section shall be effective only to the extent approved in appropriation Acts.

SEC. 125. ENERGY EFFICIENT PUBLIC HOUSING DEMONSTRATION.

(a) Establishment.—The Secretary of Housing and Urban Development shall establish a demonstration program through the assistance of an appropriate technology transfer organization that specializes in producing detailed energy-efficient designs and in conducting local and statewide, public participation tests for energy efficient, needs-oriented housing. The appropriate technology organization shall carry out the demonstration working through and with public housing agencies to build and test a variety of energy-efficient housing designs in 100 separate housing units in 4 different States that meet local lower income housing needs (including single parent, disabled, and elderly concerns) through a composite ranging from single to 12-plex units in the cluster approach on vacant lots and open areas.

(b) Report.—As soon as practicable following September 30, 1988, the Secretary of Housing and Urban Development shall submit to the Congress a report setting forth the findings and recommendations of the Secretary as a result of the demonstration under this section.

(c) Funding.—Of the budget authority authorized to be provided for the development of public housing, there is authorized to be appropriated to carry out this section $4,700,000 for fiscal year 1988.

SEC. 126. PUBLIC HOUSING COMPREHENSIVE TRANSITION DEMONSTRATION.

(a) Establishment of Demonstration Program.—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") shall carry out a program to demonstrate the effectiveness of providing a comprehensive program of services to participating public housing residents in order to ensure the successful transition of such residents to private housing. In carrying out the demonstration program, the Secretary shall consult with the heads of other appropriate Federal agencies to design and implement procedures to carry out the transition from public housing.

(b) Scope of Demonstration Program.—The Secretary shall carry out the demonstration program with respect to public housing administered by the Housing Authority of the City of Charlotte, in the State of North Carolina. The Secretary may also carry out the demonstration program with respect to public housing administered by not more than 10 additional public housing agencies.

(c) Requirements of Demonstration Program.—The demonstration program shall consist of the following requirements:

(1) Contract of participation.—Each participating public housing agency may enter into a voluntary contract with any family that is to commence residence in a public housing project administered by the public housing agency. The contract shall be made part of the lease, shall set forth the provisions of the demonstration program, and shall specify the resources to made available to the participating family and the responsibilities of the participating family.

(2) Remediation phase.—

(A) During not to exceed the first 2 years of residence of a participating family in public housing, the public housing agency shall ensure the provision of remediation services to the family in accordance with the terms and conditions of the contract of participation, which may include—

(i) remedial education;

(ii) completion of high school;

(iii) job training and preparation;

(iv) substance abuse treatment and counseling;

(v) training in homemaking skills and parenting; and

(vi) training in money management.

(B) During the remediation phase, the amount of rent charged the family may not be increased on the basis of any increase in earned income of the family.

(3) Transition phase.—

(A) During not to exceed a 5-year period following completion of the remediation stage—

(i) the head of the family shall be required to have full-time employment; and

(ii) the public housing agency shall ensure the provision of counseling for the family with respect to homeownership, money management, and problem solving.

(B) During the transition phase, the amount of rent charged the family—

(i) may be increased on the basis of any increase in family income; and

(ii) may not be decreased on the basis of any decrease in earned income due to voluntary termination of employment.

(4) Encouragement of savings.—The public housing agency shall take appropriate actions (including the establishment of an escrow savings account) to encourage each participating family to save funds during the remediation and transition phases.

(5) Effect of increases in family income.—

(A) Any increase in the earned income of a family during participation in the demonstration program under this section may not be considered as income or a resource for the purpose of denying the eligibility of, or reducing the amount of benefits payable to, the family under any other Federal law, unless the income of the family increases at any time to not less than 50 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families).

(B) If at any time during the participation of a family in the demonstration program the income of the family increases to not less than 80 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families), the participation of the family in the demonstration program shall terminate.

(6) Completion of transition.—Each family participating in the demonstration program shall be required to complete the transition out of public housing during a period of not more than 7 years. The public housing agency shall extend the period for any family that requests an extension for good cause.

(d) Reports to Congress.—

(1) Interim report.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to the Congress an interim report evaluating the effectiveness of the demonstration program under this section.

(2) Final report.—Not later than 60 days after the termination of the demonstration program under subsection (f), the Secretary shall submit to the Congress a final report evaluating the effectiveness of the demonstration program under this section.

(e) Regulations.—The Secretary shall issue such regulations as may be necessary to carry out this section.

(f) Termination of Demonstration Program.—The demonstration program under this section shall terminate upon the expiration of the 7-year period beginning on the date of the enactment of this Act.

PART 3—SECTION 8 ASSISTANCE AND OTHER PROGRAMS

SEC. 141. SECTION 8 CONTRACTS FOR EXISTING DWELLING UNITS.

Section 8(b)(1) of the United States Housing Act of 1937 is amended by inserting after the first sentence the following new sentence: "The Secretary shall enter into a separate annual contributions contract with each public housing agency to obligate the authority approved each year, beginning with the authority approved in appropriations Acts for fiscal year 1988 (other than amendment authority to increase assistance payments being made using authority approved prior to the appropriations Acts for fiscal year 1988), and such annual contributions contract (other than for annual contributions under subsection (o)) shall bind the Secretary to make such authority, and any amendments increasing such authority, available to the public housing agency for a specified period.".

SEC. 142. SECTION 8 FAIR MARKET RENTALS AND CONTRACT RENTS.

(a) Annual Adjustment.—Section 8(c)(1) of the United States Housing Act of 1937 is amended by inserting before the last sentence the following new sentence: "Each fair market rental in effect under this subsection shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply, of rents for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in the market area suitable for occupancy by persons assisted under this section.".

(b) Calculation for Certain County.—Section 8(c)(1) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence: "The Secretary shall establish separate fair market rentals under this paragraph for Westchester County in the State of New York.".

(c) Comparability.—

(1) Section 8(c)(1) of the United States Housing Act of 1937 (as amended by subsection (b) of this section) is further amended by adding at the end the following new sentence: "If units assisted under this section are exempt from local rent control while they are so assisted or otherwise, the maximum monthly rent for such units shall be reasonable in comparison with other units in the market area that are exempt from local rent control.".

(2) Section 8(c)(2)(C) of the United States Housing Act of 1937 is amended—

(A) by striking "assisted and comparable unassisted units" and inserting the following: "assisted units and unassisted units of similar quality and age in the same market area"; and

(B) by adding at the end the following new sentence: "If the Secretary or appropriate State agency does not complete and submit to the project owner a comparability study not later than 60 days before the anniversary date of the assistance contract under this section, the automatic annual adjustment factor shall be applied.".

(d) Prohibition on Reduction of Certain Contract Rents.—Section 8(c)(2)(C) of the United States Housing Act of 1937 (as amended by subsection (c) of this section) is further amended by adding at the end the following new sentence: "The Secretary may not reduce the contract rents in effect on or after April 15, 1987, for newly constructed, substantially rehabilitated, or moderately rehabilitated projects assisted under this section (including projects assisted under this section as in effect prior to November 30, 1983), unless the project has been refinanced in a manner that reduces the periodic payments of the owner.".

(e) Repeal of Limit on Contract Rent Increases.—Section 8(c)(2) of the United States Housing Act of 1937 is amended by striking subparagraph (D).

SEC. 143. HOUSING VOUCHER PROGRAM.

(a) Operation.—Section 8(o) of the United States Housing Act of 1937 is amended—

(1) in the first sentence of paragraph (1), by striking "In" and all that follows through "demonstration program" and inserting "The Secretary may provide assistance";

(2) by striking paragraph (4); and

(3) by redesignating paragraphs (5) through (8) as paragraphs (4) through (7), respectively.

(b) Flexibility To Adjust Assistance Payments.—Section 8(o)(6) of the United States Housing Act of 1937 (as so redesignated by subsection (a) of this section) is amended—

(1) in subparagraph (A), by striking "as frequently as twice during any five-year period" and inserting "annually"; and

(2) by striking subparagraph (D).

(c) Use of Vouchers in Connection With Cooperative and Mutual Housing.—Section 8(o)(7) of the United States Housing Act of 1937 (as so redesignated by subsection (a) of this section) is amended by striking "not to exceed 5 per centum of the amount of".

(d) Adjustment Pools.—Section 8(o) of the United States Housing Act of 1937 (as amended by subsection (a) of this section) is further amended by adding at the end the following new paragraph:

"(8) The Secretary may set aside up to 5 percent of the budget authority available under this subsection as an adjustment pool. The Secretary shall use amounts in the adjustment pool for adjustments pursuant to paragraph (6)(A) to ensure continued affordability where the Secretary determines additional assistance for this purpose is necessary, based on documentation submitted by a public housing agency.".

SEC. 144. ADMINISTRATIVE FEES FOR SECTION 8 CERTIFICATE AND HOUSING VOUCHER PROGRAMS.

Section 8 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(q)(1) The Secretary shall establish a fee for the costs incurred in administering the certificate and housing voucher programs under subsections (b) and (o). The amount of the fee for each month for which a dwelling unit is covered by an assistance contract shall be 8.2 percent of the fair market rental established under subsection (c)(1) for a 2-bedroom existing rental dwelling unit in the market area of the public housing agency. The Secretary may increase the fee if necessary to reflect the higher costs of administering small programs and programs operating over large geographic areas.

"(2)(A) The Secretary shall also establish reasonable fees (as determined by the Secretary) for—

"(i) the costs of preliminary expenses (not to exceed $275) that the public housing agency documents it has incurred in connection with new allocations of assistance under the certificate and housing voucher programs under subsections (b) and (o);

"(ii) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the programs; and

"(iii) extraordinary costs approved by the Secretary.

"(B) The method used to calculate fees under subparagraph (A) shall be the same for the certificate and housing voucher programs under subsections (b) and (o) and shall take into account local cost differences.

"(3) The Secretary may establish or increase a fee in accordance with this subsection only to such extent or in such amounts as are provided in appropriation Acts.".

SEC. 145. PORTABILITY OF SECTION 8 CERTIFICATES AND VOUCHERS.

Section 8 of the United States Housing Act of 1937 (as amended by section 144 of this Act) is further amended by adding at the end the following new subsection:

"(r)(1) Any family assisted under subsection (b) or (o) may receive such assistance to rent an eligible dwelling unit if the dwelling unit to which the family moves is within the same, or a contiguous, metropolitan statistical area as the metropolitan statistical area within which is located the area of jurisdiction of the public housing agency approving such assistance.

"(2) The public housing agency having authority with respect to the dwelling unit to which a family moves under this subsection shall have the responsibility of carrying out the provisions of this subsection with respect to the family. If no public housing agency has authority with respect to the dwelling unit to which a family moves under this subsection, the public housing agency approving the assistance shall have such responsibility.

"(3) In providing assistance under subsection (b) or (o) for any fiscal year, the Secretary shall give consideration to any reduction in the number of resident families incurred by a public housing agency in the preceding fiscal year as a result of the provisions of this subsection.

"(4) The provisions of this subsection may not be construed to restrict any authority of the Secretary under any other provision of law to provide for the portability of assistance under this section.".

SEC. 146. PROHIBITION OF DENIAL OF SECTION 8 CERTIFICATES AND VOUCHERS TO RESIDENTS OF PUBLIC HOUSING.

Section 8 of the United States Housing Act of 1937 (as amended by section 145 of this Act) is further amended by adding at the end the following new subsection:

"(s) In selecting families for the provision of assistance under this section (including subsection (o)), a public housing agency may not exclude or penalize a family solely because the family resides in a public housing project.".

SEC. 147. NONDISCRIMINATION AGAINST SECTION 8 CERTIFICATE HOLDERS AND VOUCHER HOLDERS.

Section 8 of the United States Housing Act of 1937 (as amended by section 146 of this Act) is further amended by adding at the end the following new subsection:

"(t)(1) No owner who has entered into a contract for housing assistance payments under this section on behalf of any tenant in a multifamily housing project shall refuse—

"(A) to lease any available dwelling unit in any multifamily housing project of such owner that rents for an amount not greater than the fair market rent for a comparable unit, as determined by the Secretary under this section, to a holder of a certificate of eligibility under this section a proximate cause of which is the status of such prospective tenant as a holder of such certificate, and to enter into a housing assistance payments contract respecting such unit; or

"(B) to lease any available dwelling unit in any multifamily housing project of such owner to a holder of a voucher under subsection (o), and to enter into a voucher contract respecting such unit, a proximate cause of which is the status of such prospective tenant as holder of such voucher.

"(2) For purposes of this subsection, the term 'multifamily housing project' means a residential building containing more than 4 dwelling units.".

SEC. 148. PROJECT-BASED SECTION 8 ASSISTANCE.

Section 8(d)(2) of the United States Housing Act of 1937 is amended by inserting before the period at the end of the last sentence the following: ", except that the Secretary shall permit the public housing agency to approve such attachment with respect to not more than 15 percent of the assistance provided by the public housing agency if the requirements of clause (B) are met".

SEC. 149. SECTION 8 ASSISTANCE FOR RESIDENTS OF RENTAL REHABILITATION PROJECTS.

Section 8 of the United States Housing Act of 1937 (as amended by section 147 of this Act) is further amended by adding at the end the following new subsection:

"(u) In the case of lower income families living in rental projects rehabilitated under section 17 of this Act or section 533 of the Housing Act of 1949 before rehabilitation—

"(1) certificates or vouchers under this section shall be made for families who are required to move out of their units because of the physical rehabilitation activities or because of overcrowding; and

"(2) at the discretion of each public housing agency or other agency administering the allocation of assistance, certificates or vouchers under this section may be made for families who would have to pay more than 30 percent of their adjusted income for rent after rehabilitation whether they choose to remain in, or to move from, the project.".

SEC. 150. RENTAL REHABILITATION GRANTS.

(a) Authorization of Appropriations.—Section 17(a)(3) of the United States Housing Act of 1937 is amended to read as follows:

"(3) Authorization.—There are authorized to be appropriated for rental rehabilitation under this section $125,000,000 for each of the fiscal years 1988 and 1989, of which $1,500,000 shall be available each fiscal year for technical assistance, including the collection, processing, and dissemination of program information useful for local and national program management.".

(b) Eligible Property.—Section 17(a)(1)(A) of the United States Housing Act of 1937 is amended by inserting after "property" the following: ", or of real property that will be privately owned upon the completion of rehabilitation,".

(c) Maximum Grant Amount.—Section 17(c)(2)(E) of the United States Housing Act of 1937 is amended by striking "$5,000 per unit" and inserting the following: "$5,000 per unit for a unit with no bedrooms, $6,500 per unit for a unit with 1 bedroom, $7,500 per unit for a unit with 2 bedrooms, and $8,500 per unit for a unit with 3 or more bedrooms,".

(d) Use of Funds.—Section 17(c) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(4) Use of Funds To Comply With Seismic Standards.—If a unit of general local government has a local ordinance that requires rehabilitation to meet seismic standards, the unit of local government may use all rehabilitation assistance received under this section to rehabilitate units with no bedroom or 1 bedroom, if the occupants of the units will have incomes that do not exceed 50 percent of the median income of the area.".

(e) Administrative Expenses.—Section 17(h) of the United States Housing Act of 1937 is amended by inserting before the period at the end the following: ", except that not more than 10 percent of any rehabilitation grant received under subsection (c) may be retained to cover administrative expenses incurred by any State administering resources made available under subsection (b) (which State shall share such amount with units of general local government administering the program with the State) and by any city or urban county receiving resources under subsection (b)".

(f) Eligibility.—Section 17(k)(4) of the United States Housing Act of 1937 is amended—

(1) by inserting "privately owned" before "real property";

(2) by inserting "(A)" after "includes"; and

(3) by inserting before the semicolon at the end the following: ", and (B) housing that is owned by a State or locally chartered, neighborhood based, nonprofit organization the primary purpose of which is the provision and improvement of housing".

SEC. 151. RENTAL DEVELOPMENT GRANTS.

(a) Authorization of Appropriations.—Section 17(a)(3) of the United States Housing Act of 1937 (as amended by section 150 of this Act) is further amended by adding at the end the following new sentence: "There are authorized to be appropriated for development grants under this section $75,000,000 for fiscal year 1988 and $75,000,000 for fiscal year 1989.".

(b) Area Eligibility.—Section 17(d)(2) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence: "Notwithstanding any other provision of law, the eligibility requirements for development grants under this section shall be the requirements in effect under this subsection on October 17, 1986.".

(c) Grant Amount.—Section 17(d)(4)(B) of the United States Housing Act of 1937 is amended by striking "refinancing costs and".

(d) Program Requirements.—Section 17(d)(4) of the United States Housing Act of 1937 is amended—

(1) by inserting before the semicolon at the end of subparagraph (G) the following: ", except that the Secretary may extend such period by not more than 6 months if the commencement of such activities is delayed due to judicial or administrative proceedings";

(2) by striking "and" at the end of subparagraph (G);

(3) by striking the period at the end of subparagraph (H) and inserting "; and"; and

(4) by adding at the end the following new subparagraph:

"(I) the owner of each assisted structure agrees to comply with the provisions of paragraph (8) until the 20-year period specified in paragraph (7) has ended.".

(e) Development Cost.—Section 17(d) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(10) Development Cost.—

"(A) The Secretary shall include in the development cost of a project assisted under this subsection any developer's fee if such fee—

"(i) is included in a mortgage secured by the project; and

"(ii) the lender is a State housing finance agency or the project is financed by bonds issued by a State housing finance agency or similar local entity.

"(B) The amount of any developer's fee shall not be counted in calculating the maximum grant amount pursuant to paragraph (4)(B).

"(C) This paragraph shall only be applicable to projects with respect to which a notice of project selection is received before the date of the enactment of the Housing and Community Development Act of 1987.".

SEC. 152. TERMINATION OF RENTAL DEVELOPMENT GRANT PROGRAM.

(a) In General.—Effective on October 1, 1989, the rental development grant program under section 17(d) of the United States Housing Act of 1937 shall terminate.

(b) Savings Provision.—The provisions of subsection (a) shall not apply with respect to any housing development grant under section 17(d) of the United States Housing Act of 1937 made pursuant to a reservation of funds made by the Secretary of Housing and Urban Development before October 1, 1989.

Subtitle B—Other Housing Assistance Programs

SEC. 161. HOUSING FOR THE ELDERLY AND HANDICAPPED.

(a) Borrowing Authority.—The first sentence of section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended—

(1) by striking "and" the first place it appears; and

(2) by inserting after "1984," the following: "and to such sums as may approved in appropriation Acts for fiscal years 1988 and 1989,".

(b) Loan Authority.—Section 202(a)(4)(C) of the Housing Act of 1959 is amended by adding at the end the following new sentence: "For fiscal years 1988 and 1989, not more than $621,701,000 and $630,000,000, respectively, may be approved in appropriation Acts for such loans.".

(c) Interest Rate on Loans.—

(1) Calculation of rate.—Section 202(a)(3) of the Housing Act of 1959 is amended—

(A) by inserting "(A)" after the paragraph designation;

(B) by striking all that follows "Secretary" the second place it appears through "loan is made" and inserting the following: "taking into consideration the average yield, during the 3-month period immediately preceding the fiscal year in which the loan is made, on the most recently issued 30-year marketable obligations of the United States"; and

(C) by adding at the end the following new subparagraph:

"(B) At the option of the borrower, a loan under this section may be made and may be processed for a conditional or firm commitment either (i) at an interest rate not to exceed a rate and allowance determined by the Secretary in accordance with subparagraph (A) using the 1-month period immediately prior to the month in which the request for a commitment is submitted; or (ii) at an interest rate not to exceed a rate and allowance determined by the Secretary in accordance with subparagraph (A) using the 3-month period immediately preceding the fiscal year in which the request for a commitment is submitted.".

(2) Maximum rate.—Section 223(a) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking paragraph (2).

(d) Interest Rate on Notes.—The second sentence of section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended to read as follows: "Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the average yield, during the 3-month period immediately preceding the fiscal year in which the loan is made, on the most recently issued 30-year marketable obligations of the United States.".

(e) Appeal of Cancellation of Loan Authority.—Section 202 of the Housing Act of 1959 is amended by adding at the end the following new subsection:

"(n) The Secretary shall notify the project sponsor not less than 30 days prior to canceling any loan authority provided under this section. During the 30-day period following the receipt of a notice under paragraph (1), a sponsor may appeal the proposed cancellation of loan authority. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.".

(f) Priority.—Section 202(a) of the Housing Act of 1959 is amended by adding at the end the following new paragraph:

"(8) In reviewing applications for loans under this section, the Secretary shall give a priority to any project that will provide housing designed to replace a structure that is owned by a public housing agency, contains not less than 100 dwelling units, is used for housing only elderly families, and is to be demolished. The requirements of this paragraph shall not apply after September 30, 1988.".

SEC. 162. HOUSING FOR THE HANDICAPPED.

(a) Findings and Purpose.—

(1) The Congress finds that—

(A) housing for nonelderly handicapped families is assisted under section 202 of the Housing Act of 1959 and section 8 of the United States Housing Act of 1937;

(B) the housing programs under such sections are designed and implemented primarily to assist rental housing for elderly and nonelderly families and are often inappropriate for dealing with the specialized needs of the physically impaired, the developmentally disabled, and the chronically mentally ill;

(C) the development of housing for nonelderly handicapped families under such programs is often more expensive than necessary, thereby reducing the number of such families that can be assisted with available funds;

(D) the program under section 202 of the Housing Act of 1959 can continue to provide direct loans to finance group residences and independent apartments for nonelderly handicapped families, but can be made more efficient and less costly by the adoption of standards and procedures applicable only to housing for such families;

(E) the cost containment policies currently being implemented in the development of small group homes (i) do not adequately reflect the necessity for building designs to meet the needs of the designated residents; and (ii) do not recognize necessary State and local standards for the operation of such homes;

(F) the use of the program under section 8 of the United States Housing Act of 1937 to assist rentals for housing for nonelderly handicapped families is time consuming and unnecessarily costly and, in some areas of the Nation, prevents the development of such housing;

(G) the use of the program under section 8 of the United States Housing Act of 1937 to assist rentals for housing for nonelderly handicapped families should be replaced by a more appropriate subsidy mechanism;

(H) both elderly and handicapped housing projects assisted under section 202 of the Housing Act of 1959 will benefit from an increased emphasis on supportive services and a greater use of State and local funds; and

(I) an improved program for nonelderly handicapped families will assist in providing shelter and supportive services for mentally ill persons who might otherwise be homeless.

(2) The purpose of this section is to improve the direct loan program under section 202 of the Housing Act of 1959 to ensure that such program meets the special housing and related needs of nonelderly handicapped families.

(b) Housing for Handicapped Families.—

(1) Section 202(h) of the Housing Act of 1959 is amended to read as follows:

"(h)(1) Of the amounts made available in appropriation Acts for loans under subsection (a)(4)(C) for any fiscal year commencing after September 30, 1987, not less than 15 percent shall be available for loans for the development costs of housing for handicapped families. If the amount required for any such fiscal year for approvable applications for loan under this subsection is less than the amount available under this paragraph, the balance shall be made available for loans under other provisions of this section.

"(2) The Secretary shall take such actions as may be necessary to ensure that—

"(A) funds made available under this subsection will be used to support a variety of methods of meeting the needs primarily of nonelderly handicapped families by providing a variety of housing options, ranging from small group homes to independent living complexes; and

"(B) housing for handicapped families assisted under this subsection will provide families occupying units in such housing with an assured range of services specified in subsection (f), will provide such families with opportunities for optimal independent living and participation in normal daily activities, and will facilitate access by such families to the community at large and to suitable employment opportunities within such community.

"(3)(A) In allocating funds under this subsection, and in processing applications for loans under this section and assistance payments under paragraph (4), the Secretary shall adopt such distinct standards and procedures as the Secretary determines appropriate due to differences between housing for handicapped families and other housing assisted under this section. In adopting such standards, the Secretary shall ensure adequate participation by representatives of the disability community through the provisions available under the Federal Advisory Committee Act.

"(B) The Secretary may, on a demonstration basis, determine the feasibility and desirability of reducing processing time and costs for housing for handicapped families by limiting project design to a small number of prototype designs. Any such demonstration shall be limited to the 3-year period following the date of the enactment of the Housing and Community Development Act of 1987, may only involve projects whose sponsors consent to participation in such demonstration, and shall be described in a report submitted by the Secretary to the Congress following completion of such demonstration.

"(4)(A) The Secretary shall, to the extent approved in appropriation Acts, enter into contracts with owners of housing for handicapped families receiving loans under, or meeting the requirements of, this section to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by lower income families that is not met from project income. The annual contract amount for any project shall not exceed the sum of the initial annual project rentals for all units and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The term of a contract entered into under this subparagraph shall be 240 months. The annual contract amount may be adjusted by the Secretary if the sum of the project income and the amount of assistance payments available under this subparagraph are inadequate to provide for reasonable project costs. In the case of an intermediate care facility in which there reside families assisted under title XIX of the Social Security Act, project income under this subparagraph shall include the same amount as if such families were being assisted under title XVI of the Social Security Act.

"(B) The Secretary shall approve initial project rentals for any project assisted under this subsection based on the determination of the Secretary of the total actual necessary and reasonable costs of developing and operating the project, excluding the costs of the assured range of services under subsection (f), taking into consideration the need to contain costs to the extent practicable and consistent with the purposes of the project and this section.

"(C) The Secretary shall require that, during the term of each contract entered into under subparagraph (A), all units in a project assisted under this subsection shall be made available for occupancy by lower income families, as such term is defined in section 3(b)(2) of the United States Housing Act of 1937. The rent payment required of a lower income family shall be determined in accordance with section 3(a) of such Act, except that the gross income of a family occupying an intermediate care facility assisted under title XIX of the Social Security Act shall be the same amount as if the family were being assisted under title XVI of the Social Security Act.

"(D) The Secretary shall coordinate the processing of an application for a loan for housing for handicapped families under this section and the processing of an application for assistance payments under this paragraph for such housing.".

(2) Section 202(d) of the Housing Act of 1959 is amended by adding at the end the following new paragraphs:

"(9) The term 'housing for handicapped families' means housing and related facilities to be occupied by handicapped families who are primarily nonelderly handicapped families.

"(10) The term 'nonelderly handicapped families' means elderly or handicapped families, the head of which (and spouse, if any) is less than 62 years of age at the time of initial occupancy of a project assisted under this section.".

(3) Section 202(c)(3) of the Housing Act of 1959 is amended by inserting after "section" the following: "and designed for dwelling use by 12 or more elderly or handicapped families".

(c) Supportive Services for Elderly and Handicapped Families.—Section 202(f) of the Housing Act of 1959 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraph:

"(2) Each applicant for a loan under this section for housing and related facilities shall submit with the application a supportive services plan describing—

"(A) the category or categories of families such housing and facilities are intended to serve;

"(B) the range of necessary services to be provided to the families occupying such housing;

"(C) the manner in which such services will be provided to such families; and

"(D) the extent of State and local funds available to assist in the provision of such services.".

(d) Termination of Section 8 Assistance.—On and after the first date that amounts approved in an appropriation Act for any fiscal year become available for contracts under section 202(h)(4)(A) of the Housing Act of 1959, as amended by subsection (b) of this section, no project for handicapped (primarily nonelderly) families approved for such fiscal year pursuant to section 202 of such Act shall be provided assistance payments under section 8 of the United States Housing Act of 1937, except pursuant to a reservation for a contract to make such assistance payments that was made before the first date that amounts for contracts under such section 202(h)(4)(A) became available.

(e) IMPLEMENTATION.—Not later than the expiration of the 120-day period following the date of the enactment of this Act, the Secretary of Housing and Urban Development shall, to the extent amounts are approved in an appropriation Act for use under section 202(h)(4)(A) of the Housing Act of 1959 for fiscal year 1988, publish in the Federal Register a notice of fund availability to implement the provisions of, and amendments made by, this section. The Secretary shall issue such rules as may be necessary to carry out such provisions and amendments for fiscal year 1989 and thereafter.

(f) EFFECTIVE DATE AND APPLICABILITY.—

(1) Except as otherwise provided in this section, the provisions of, and amendments made by, this section shall not apply with respect to projects with loans or loan reservations made under section 202 of the Housing Act of 1959 before the implementation date under subsection (e).

(2) Notwithstanding paragraph (1), the Secretary shall apply the provisions of, and amendments made by, this section to any project if needed to facilitate the development of such project in a timely manner.

SEC. 163. CONGREGATE SERVICES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 411(a) of the Congregate Housing Services Act of 1978 is amended to read as follows:

"(a) There are authorized to be appropriated to carry out this title $10,000,000 for each of the fiscal years 1988 and 1989.".

(b) DELETION OF REFERENCE TO PROGRAM AS NONPERMANENT.—Section 408 of the Congregate Housing Services Act of 1978 is amended by striking subsection (c).

(c) REPORT.—Section 408 of the Congregate Housing Services Act of 1978 (as amended by subsection (b) of this section) is further amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall contract with a university or qualified research institution to produce a report—

"(A) documenting the number of elderly living in federally assisted housing at risk of institutionalization;

"(B) studying and comparing alternative delivery systems in the States, including the congregate housing services program, to provide services to older persons in assisted congregate housing;

"(C) assessing existing and potential financial resources at the Federal, State, and local levels for the support of congregate housing services; and

"(D) making legislative recommendations as to the feasibility of permitting State housing agencies and other appropriate State agencies to participate and operate the program on a matching grant basis.

"(2) The Secretary shall submit the report to the Congress not later than September 30, 1988.".

SEC. 164. MODIFICATION OF RESTRICTION ON USE OF ASSISTED HOUSING BY ALIENS.

(a) ALIENS ADMITTED FOR LAWFUL RESIDENCE.—Section 214(a) of the Housing and Community Development Act of 1980 is amended—

(1) by striking "or" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(6) an alien lawfully admitted for temporary or permanent residence under section 245A of the Immigration and Nationality Act.".

(b) PRESERVATION OF FAMILIES.—Section 214 of the Housing and Community Development Act of 1980 is amended by inserting after subsection (b) the following new subsection:

"(c)(1) If, following completion of the applicable hearing process, financial assistance for any individual receiving such assistance on the date of the enactment of the Housing and Community Development Act of 1987 is to be terminated, the public housing agency or other local governmental entity involved (in the case of public housing or assistance under section 8 of the United States Housing Act of 1937) or the Secretary of Housing and Urban Development (in the case of any other financial assistance) may, in its discretion, take one of the following actions:

"(A) Permit the continued provision of financial assistance, if necessary to avoid the division of a family in which the head of household or spouse is a citizen of the United States, a national of the United States, or an alien resident of the United States described in any of paragraphs (1) through (6) of subsection (a). For purposes of this paragraph, the term 'family' means a head of household, any spouse, any parents of the head of household, any parents of the spouse, and any children of the head of household or spouse.

"(B) Defer the termination of financial assistance, if necessary to permit the orderly transition of the individual and any family members involved to other affordable housing. Any deferral under this subparagraph shall be for a 6-month period and may be renewed by the public housing agency or other entity involved for an aggregate period of 3 years. At the beginning of each deferral period, the public housing agency or other entity involved shall inform the individual and family members of their ineligibility for financial assistance and offer them other assistance in finding other affordable housing.

"(2) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may not make financial assistance available for the benefit of—

"(A) any alien who—

"(i) has a residence in a foreign country that such alien has no intention of abandoning;

"(ii) is a bona fide student qualified to pursue a full course of study; and

"(iii) is admitted to the United States temporarily and solely for purposes of pursuing such a course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by such alien and approved by the Attorney General after consultation with the Department of Education of the United States, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student (and if any such institution of learning or place of study fails to make such reports promptly the approval shall be withdrawn); and

"(B) the alien spouse and minor children of any alien described in subparagraph (A), if accompanying such alien or following to join such alien.".

(c) VERIFICATION PROCEDURES.—Section 214(d) of the Housing and Community Development Act of 1980 (as added by section 121(a)(2) of the Immigration Reform and Control Act of 1986 (Public Law 99-603)) is amended—

(1) in paragraph (2), by inserting after "States" the following: ", is not 62 years of age or older, and is receiving financial assistance on the date of the enactment of the Housing and Community Development Act of 1987";

(2) in paragraph (4), in the matter before subparagraph (A)—

(A) by inserting after "States" the following: ", is not 62 years of age or older, and is receiving financial assistance on the date of the enactment of the Housing and Community Development Act of 1987"; and

(B) by inserting "or recertification" after "application";

(3) in paragraph (4)(A)(i), by inserting after the comma the following: "or to appeal to the Immigration and Naturalization Service the verification determination of the Immigration and Naturalization Service under paragraph (3),";

(4) in paragraph (4)(B), by striking the matter before clause (i) and inserting the following:

"(B) if any documents or additional information are submitted as evidence under subparagraph (A), or if appeal is made to the Immigration and Naturalization Service with respect to the verification determination of the Service under paragraph (3)—";

(5) in paragraph (4)(B)(i), by inserting "or additional information" after "documents";

(6) in paragraph (4)(B)(ii), by inserting "or appeal" after "verification";

(7) by inserting after paragraph (5) the following new paragraph:

"(6) For purposes of paragraph (5)(B), the applicable fair hearing process made available with respect to any individual shall include not less than the following procedural protections:

"(A) The Secretary shall provide the individual with written notice of the determination described in paragraph (5) and of the opportunity for a hearing with respect to the determination.

"(B) Upon timely request by the individual, the Secretary shall provide a hearing before an impartial hearing officer designated by the Secretary, at which hearing the individual may produce evidence of a satisfactory immigration status.

"(C) The Secretary shall notify the individual in writing of the decision of the hearing officer on the appeal of the determination in a timely manner.

"(D) Financial assistance may not be denied or terminated until the completion of the hearing process."; and

(8) by striking the last sentence and inserting the following: "For purposes of this subsection, the term 'Secretary' means the Secretary of Housing and Urban Development, a public housing agency, or another entity that determines the eligibility of an individual for financial assistance.".

(d) ENFORCEMENT PROCEDURES.—Section 214(e) of the Housing and Community Development Act of 1980 (as added by section 121(a)(2) of the Immigration Reform and

Control Act of 1986 (Public Law 99-603)) is amended—

(1) in the matter before paragraph (1), by inserting "of Housing and Urban Development" after "Secretary";

(2) in paragraph (2), by inserting after "(d)(4)(A)(ii)" the following: "(or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603))";

(3) in paragraph (3), by inserting after "(d)(4)(B)(ii)" the following: "(or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603))"; and

(4) in paragraph (4), by inserting after "(d)(5)(B)" the following: "(or provided for under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603))".

(e) VERIFICATION SYSTEM.—Section 214 of the Housing and Community Development Act of 1980 (as amended by section 121(a)(2) of the Immigration Reform and Control Act of 1986 (Public Law 99-603)) is amended by adding at the end the following new subsection:

"(f)(1) Notwithstanding any other provision of law, no agency or official of a State or local government shall have any liability for the design or implementation of the Federal verification system described in subsection (d) if the implementation by the State or local agency or official is in accordance with Federal rules and regulations.

"(2) The verification system of the Department of Housing and Urban Development shall not supersede or affect any consent agreement entered into or court decree or court order entered prior to the date of the enactment of the Housing and Community Development Act of 1987.".

(f) REIMBURSEMENT FOR COSTS OF IMPLEMENTATION.—

(1) Section 214 of the Housing and Community Development Act of 1980 (as amended by subsection (e) of this section) is further amended by adding at the end the following new subsection:

"(g) The Secretary of Housing and Urban Development is authorized to pay to each public housing agency or other entity an amount equal to 100 percent of the costs incurred by the public housing agency or other entity in implementing and operating an immigration status verification system under subsection (d) (or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603)).".

(2) The United States Housing Act of 1937 (as amended by section 121(b)(6) of the Immigration Reform and Control Act of 1986 (Public Law 99-603)) is amended by striking section 20.

(g) TRANSITIONAL CERTIFICATION AND DOCUMENTATION PROVISIONS.—In carrying out section 214 of the Housing and Community Development Act of 1980 during fiscal year 1988, the Secretary of Housing and Urban Development shall require, as a condition of providing financial assistance for the benefit of any individual, that such individual—

(1) declare in writing, under penalty of perjury, whether or not such individual is a citizen or national of the United States; and

(2) if not a citizen or national—

(A) declare in writing, under penalty of perjury, the immigration status of such individual, if such individual is not less than 62 years of age "and is receiving financial assistance on the date of the enactment of the Housing and Community Development Act of 1987"; or

(B) provide such documentation regarding the immigration status of such individual as the Secretary may require by regulation.

(h) EFFECTIVE DATES.—

(1) The provisions of, and amendments made by, subsections (a), (b), (e), (f), and (g) shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsections (c) and (d) shall take effect on October 1, 1988.

SEC. 165. PREVENTING FRAUD AND ABUSE IN DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PROGRAMS.

(a) DISCLOSURE OF SOCIAL SECURITY ACCOUNT NUMBER.—As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving loans, grants, interest or rental assistance of any kind, or mortgage or loan insurance, and to ensure that the level of benefits provided under such programs is proper, the Secretary of Housing and Urban Development may require that an applicant or participant (including members of the household of an applicant or participant) disclose his or her social security account number or employer identification number to the Secretary.

(b) DEFINITIONS.—For purposes of this section, the terms "applicant" and "participant" shall have such meanings as the Secretary of Housing and Urban Development by regulation shall prescribe. Such terms shall not include persons whose involvement is only in their official capacity, such as State or local government officials or officers of lending institutions.

SEC. 166. ANNUAL REPORT ON CHARACTERISTICS OF FAMILIES IN ASSISTED HOUSING.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall include in the annual report under section 8 of the Housing and Urban Development Act descriptions of the characteristics of families assisted under each of the following programs of assistance: public housing, section 8 of the United States Housing Act of 1937 (other than subsection (o) of such section), section 8(o) of the United States Housing Act of 1937, and section 202 of the Housing Act of 1959.

(b) SPECIFIC REQUIREMENTS.—The descriptions required in subsection (a) shall include information with respect to—

(1) family size, including the number of children;

(2) amount and sources of family income;

(3) the age, race, and sex of family members; and

(4) whether the head of the family (or the spouse of such person) is a member of the armed forces.

SEC. 167. SECTION 236 RENTAL HOUSING PROGRAM.

(a) STATE-AIDED PROJECTS.—

(1) Section 236(f)(4) of the National Housing Act is amended by striking "90 per centum" and inserting "100 percent".

(2) Section 101(g) of the Housing and Urban Development Act of 1965 is amended by striking "90 per centum" and inserting "100 percent".

(b) INSURING AUTHORITY.—Section 236(n) of the National Housing Act is amended by adding at the end the following new sentence: "A mortgage may be insured under this section after the date in the preceding sentence in order to refinance a mortgage insured under this section or to finance pursuant to subsection (j)(3) the purchase, by a cooperative or nonprofit corporation or association, of a project assisted under this section.".

SEC. 168. TENANT ELIGIBILITY DETERMINATIONS IN RENT SUPPLEMENT PROJECTS.

Section 101 of the Housing and Urban Development Act of 1965 is amended—

(1) by striking the second sentence of subsection (e)(1); and

(2) by striking subsection (k) and inserting the following:

"(k) In selecting individuals or families to be assisted under this section in accordance with the eligibility criteria and procedures established under subsection (e)(1), the project owner shall give preference to individuals or families who are occupying substandard housing, are paying more than 50 percent of family income for rent, or are involuntarily displaced at the time they are seeking housing assistance under this section.".

SEC. 169. COUNSELING TO TENANTS AND HOMEOWNERS.

(a) COUNSELING SERVICES.—Section 106(a)(3) of the Housing and Urban Development Act of 1968 is amended in the first sentence by striking all that follows the semicolon and inserting the following: "except that for each of the fiscal years 1988 and 1989 there are authorized to be appropriated $3,500,000 for such purposes.".

(b) EMERGENCY HOMEOWNERSHIP COUNSELING.—Section 106 of the Housing and Urban Development Act of 1968 is amended by inserting at the end the following new subsection:

"(c) GRANTS FOR HOMEOWNERSHIP COUNSELING ORGANIZATIONS.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development may make grants—

"(A) to nonprofit organizations experienced in the provision of homeownership counseling to enable the organizations to provide homeownership counseling to eligible homeowners; and

"(B) to assist in the establishment of nonprofit homeownership counseling organizations.

"(2) PROGRAM REQUIREMENTS.—

"(A) Applications for grants under this subsection shall be submitted in the form, and in accordance with the procedures, that the Secretary requires.

"(B) The homeownership counseling organizations receiving assistance under this subsection shall use the assistance only to provide homeownership counseling to eligible homeowners.

"(C) The homeownership counseling provided by homeownership counseling organizations receiving assistance under this subsection shall include counseling with respect to—

"(i) financial management;

"(ii) available community resources, including public assistance programs, mortgage assistance programs, home repair assistance programs, utility assistance programs, food programs, and social services; and

"(iii) employment training and placement.

"(3) AVAILABILITY OF HOMEOWNERSHIP COUNSELING.—The Secretary shall take any action that is necessary—

"(A) to ensure the availability throughout the United States of homeownership counseling from homeownership counseling organizations receiving assistance under this subsection, with priority to areas that—

"(i) are experiencing high rates of home foreclosure and any other indicators of homeowner distress determined by the Secretary to be appropriate; and

"(ii) are not already adequately served by homeownership counseling organizations; and

"(B) to inform the public of the availability of the homeownership counseling.

"(4) ELIGIBILITY FOR COUNSELING.—A homeowner shall be eligible for homeownership counseling under this subsection if—

"(A) the home loan is secured by property that is the principal residence (as defined by the Secretary) of the homeowner;

"(B) the home loan is not assisted under title V of the Housing Act of 1949; and

"(C) the homeowner is, or is expected to be, unable to make payments, correct a home loan delinquency within a reasonable time, or resume full home loan payments due to a reduction in the income of the homeowner because of—

"(i) an involuntary loss of, or reduction in, the employment of the homeowner, the self-employment of the homeowner, or income from the pursuit of the occupation of the homeowner; or

"(ii) any similar loss or reduction experienced by any person who contributes to the income of the homeowner.

"(5) NOTIFICATION OF AVAILABILITY OF HOMEOWNERSHIP COUNSELING REQUIREMENT.—The creditor of a delinquent home loan shall notify an eligible homeowner of the availability of any homeownership counseling offered by the creditor. As a supplement to the counseling provided by the creditor, the creditor shall notify the homeowner of the availability of 1 of the following:

"(A) Homeownership counseling provided by nonprofit organizations approved by the Secretary and experienced in the provision of homeownership counseling.

"(B) A list of the nonprofit organizations, approved by the Secretary and experienced in the provision of homeownership counseling, that can be obtained by calling a toll-free telephone number at the Department of Housing and Urban Development.

"(C) Homeownership counseling provided by the Administrator of Veterans' Affairs for loans insured or guaranteed under chapter 37 of title 38, United States Code.

"(6) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'creditor' means a person or entity that is servicing a home loan on behalf of itself or another person or entity.

"(B) The term 'eligible homeowner' means a homeowner eligible for counseling under paragraph (4).

"(C) The term 'home loan' means a loan secured by a mortgage or lien on residential property.

"(D) The term 'homeowner' means a person who is obligated under a home loan.

"(E) The term 'residential property' means a 1-family residence, including a 1-family unit in a condominium project, a membership interest and occupancy agreement in a cooperative housing project, and a manufactured home and the lot on which the home is situated.

"(7) REGULATIONS.—The Secretary shall issue any regulations that are necessary to carry out this subsection.

"(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $3,500,000 for each of the fiscal years 1988 and 1989. Any amount appropriated under this subsection shall remain available until expended.

"(9) TERMINATION.—The provisions of this subsection shall not be effective after September 30, 1989.".

SEC. 170. HOUSING ASSISTANCE TECHNICAL AMENDMENTS.

(a) SECTION 235 HOMEOWNERSHIP ASSISTANCE.—Section 235(i)(3)(C) of the National Housing Act is amended by inserting an opening parenthesis before "including".

(b) RENTAL HOUSING FOR LOWER INCOME FAMILIES.—The last sentence of section 236(i)(1) of the National Housing Act is amended by striking "(h)" and inserting "(f)(4)".

(c) DEFINITION OF DISABILITY.—Section 3(b)(3)(A) of the United States Housing Act of 1937 is amended—

(1) by striking "or" the first place it appears and inserting a comma; and

(2) by striking "or in section 102 of the Developmental Disabilities Services and Facilities Construction Amendments of 1970" and inserting the following: ", has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7))".

(d) LOWER INCOME HOUSING.—

(1) The first sentence of section 6(a) of the United States Housing Act of 1937 is amended by inserting "The" before "Secretary".

(2) Section 6(c)(4)(A) of the United States Housing Act of 1937 is amended—

(A) by striking "or are paying more than 50 per centum of family income for rent"; and

(B) by inserting ", are paying more than 50 percent of family income for rent," after "substandard housing".

(3) Paragraphs (4) and (5) of section 6(k) of the United States Housing Act of 1937 are amended by striking "his" each place it appears and inserting "their".

(e) HOUSING DEVELOPMENT GRANTS.—Section 17(d)(7)(A) of the United States Housing Act of 1937 is amended by striking "title" and inserting "subsection".

(f) PUBLIC HOUSING DEMOLITION AND DISPOSITION.—Section 18(b) of the United States Housing Act of 1937 is amended in the matter preceding paragraph (1) by inserting "or" after "section".

(g) HOUSING FOR THE ELDERLY AND HANDICAPPED.—

(1) The third sentence of section 202(d)(4) of the Housing Act of 1959 is amended by striking "is a developmentally disabled individual as defined in section 102(5) of the Developmental Disabilities Services and Facilities Construction Amendments of 1950" and inserting the following: "has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7))".

(2) Section 202(f) of the Housing Act of 1959 is amended by striking "section 134" and inserting "section 133".

(3) Section 202(l) of the Housing Act of 1959 is amended by striking "difference" and inserting "different".

(h) RENT SUPPLEMENTS.—Section 101(j)(1)(D) of the Housing and Urban Development Act of 1965 is amended by striking "divided" and inserting "dividend".

Subtitle C—Multifamily Housing Management and Preservation

SEC. 181. MANAGEMENT AND PRESERVATION OF HUD-OWNED MULTIFAMILY HOUSING PROJECTS.

(a) GOALS.—Section 203(a) of the Housing and Community Development Amendments of 1978 is amended by striking "(a)" and all that follows through the semicolon at the end of paragraph (1) and inserting the following:

"(a) The Secretary of Housing and Urban Development (in this section referred to as the 'Secretary') shall manage or dispose of multifamily housing projects that are owned by the Secretary, or that are subject to a mortgage held by the Secretary that is either delinquent, under a workout agreement, or being foreclosed upon by the Secretary, in a manner that is consistent with the National Housing Act and this section and that will, in the least costly fashion among the reasonable alternatives available, further the goals of—

"(1) preserving so that they are available to and affordable by low- and moderate-income persons—

"(A) all units in multifamily housing projects that are subsidized projects or formerly subsidized projects;

"(B) in other multifamily housing projects owned by the Secretary, at least the units that are occupied by low- and moderate-income persons or vacant; and

"(C) in all other multifamily housing projects, at least the units that are, on the date of assignment, occupied by low- and moderate-income persons;".

(b) MANAGEMENT SERVICES.—Section 203(b)(2) of the Housing and Community Development Amendments of 1978 is amended—

(1) by inserting "(A)" after the paragraph designation;

(2) by redesignating clauses (A) through (D) as clauses (i) through (iv), respectively;

(3) by striking ", owned by the Secretary" and inserting the following: "subject to subsection (a) that is owned by the Secretary (or for which the Secretary is mortgagee in possession)";

(4) by striking the period at the end and inserting "; and"; and

(5) by adding at the end the following new subparagraph:

"(B) to require the owner of a multifamily housing project subject to subsection (a) that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), to contract for management services for the project in the manner described in subparagraph (A).".

(c) MAINTAINING OF PROJECTS.—Section 203(c) of the Housing and Community Development Amendments of 1978 is amended to read as follows:

"(c)(1) In the case of multifamily housing projects subject to subsection (a) that are owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall—

"(A) to the greatest extent possible, maintain all such occupied projects in a decent, safe, and sanitary condition;

"(B) to the greatest extent possible, maintain full occupancy in all such projects; and

"(C) maintain all such projects for purposes of providing rental or cooperative housing for the longest feasible period.

"(2) In the case of any multifamily housing project subject to subsection (a) that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), the Secretary shall require the owner of the project to carry out the requirements of paragraph (1).".

(d) FINANCIAL ASSISTANCE.—Section 203 of the Housing and Community Development Amendments of 1978 is amended—

(1) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d) In carrying out the goals specified in subsection (a)(1) the Secretary shall take not less than one of the following actions:

"(1) Enter into contracts under section 8 of the United States Housing Act of 1937, to the extent budget authority is available for such section 8, with owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary. Such contracts shall provide assistance to the project involved for a period of not less than 15 years. Such contracts shall be sufficient to assist all units in subsidized or formerly subsidized projects, and all units in other projects that are occupied by lower income families eligible for assistance under such section 8 at the time of foreclosure or sale, as the case may be, and all units that are vacant at such time (which units shall be made available for such families as soon as possible). In order to make available to families any units in subsidized or formerly subsidized projects that are occupied by persons not eligible for assistance under such section 8, but that subsequently become vacant, the contract shall also provide that when any such vacancy occurs the owner involved shall lease the available unit to a family eligible for assistance under such section 8. The Secretary shall provide such contracts at contract rents that, consistent with subsection (a), provide for the rehabilitation of such project and do not exceed the most recently adjusted fair market rents for substantially rehabilitated units published by the Secretary in the Federal Register.

"(2) In accordance with the authority provided under the National Housing Act, provide purchase-money mortgages, reduce the selling price, or provide other financial assistance to the owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms that will ensure that, for a period of not less than 15 years (A) the project will remain available to and affordable by low- and moderate-income persons; and (B) such persons shall pay not more than the amount payable as rent under section 3(a) of the United States Housing Act of 1937.".

(e) Right of First Refusal.—Section 203 of the Housing and Community Development Amendments of 1978 is amended—

(1) by redesignating subsections (e) through (h) (as so redesignated by this section) as subsections (f) through (i); and

(2) by inserting before such subsection (f) the following new subsection:

"(e) Upon receipt of a bona fide offer to purchase a project subject to subsection (a), the Secretary shall notify the local government and the State housing finance agency (or other agency or agencies designated by the Governor) of the proposed terms and conditions of the offer, including the assistance that the Secretary plans to make available to the prospective purchaser. The local government and the designated State agency shall have 90 days to match the offer and purchase the project. In administering the right of first refusal provided in this subsection, the Secretary shall offer assistance to the local government or designated State agency on terms and conditions at least as favorable as made available to the prospective purchaser. Notwithstanding any other provision of law to the contrary, a local government (including a public housing agency) or designated State agency may purchase a subsidized project or formerly subsidized project in accordance with this subsection.".

(f) Displacement Protection.—Section 203(f)(1) of the Housing and Community Development Amendments of 1978 (as so redesignated by this section) is amended—

(1) by striking "owned by the Secretary" and inserting the following: "subject to subsection (a) that is owned by the Secretary (or for which the Secretary is mortgagee in possession)"; and

(2) by adding at the end the following new sentence: "In the case of a multifamily housing project subject to subsection (a) that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), the Secretary shall require the owner of the project to carry out the requirements of this paragraph.".

(g) Limitations on Certain Project, Loan, and Mortgage Sales.—Section 203 of the Housing and Community Development Amendments of 1978 is amended—

(1) by redesignating subsections (h) and (i) (as so redesignated by this section) as subsections (i) and (j); and

(2) by inserting before such subsection (i) the following new subsection:

"(h)(1) The Secretary may not approve the sale of any loan or mortgage held by the Secretary (including any loan or mortgage owned by the Government National Mortgage Association) on any subsidized project or formerly subsidized project unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such loan or mortgage in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

"(2) The Secretary may not approve the sale of any subsidized project (A) that is subject to a mortgage held by the Secretary; or (B) if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of the loan or mortgage in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed sale of the project.

"(3) Notwithstanding any provision of law that may require competitive sales or bidding, the Secretary may carry out negotiated sales of subsidized or formerly subsidized mortgages held by the Secretary, without the competitive selection of purchasers or intermediaries, to agencies of State or local government, or groups of investors that include at least 1 such agency of State or local government, if the negotiations are conducted with such agencies, except that—

"(A) the terms of any such sale shall include the agreement of the purchasing agency or agencies of State or local government to act as mortgagee or owner of a beneficial interest in such mortgages in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such agency of State or local government to enforce the provisions of any regulatory agreement or other program requirements applicable to the related projects; and

"(B) the sales prices for such mortgages shall be, in the determination of the Secretary, the best price that may be obtained for such mortgages from an agency of State or local government, consistent with the expectation and intention that the projects financed will be retained for use under the applicable mortgage insurance program for the life of the initial mortgage insurance contract.".

(h) Definitions.—Section 203(i) of the Housing and Community Development Amendments of 1978 (as so redesignated by this section) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraphs:

"(2) For the purpose of this section, the term 'subsidized project' means a multifamily housing project receiving any of the following assistance immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary:

"(A) below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act;

"(B) interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act;

"(C) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;

"(D) direct loans at below market interest rates, made under section 202 of the Housing Act of 1959 or to a multifamily housing project under section 312 of the Housing Act of 1964; or

"(E) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975) or section 8 of the United States Housing Act of 1937 (other than subsection (b)(1) of such section), without regard to whether such payments are made to all or a portion of the units in the project.

"(3) For the purpose of this section, the term 'formerly subsidized project' means a multifamily housing project owned by the Secretary that was a subsidized project immediately prior to its acquisition by the Secretary.".

SEC. 182. ACQUISITION OF INSURED MULTIFAMILY HOUSING PROJECTS.

Section 207(k) of the National Housing Act is amended by inserting after the second sentence the following new sentence: "In determining the amount to be bid, the Secretary shall act consistently with the goal established in section 203(a)(1) of the Housing and Community Development Amendments of 1978.".

SEC. 183. TENANT PARTICIPATION IN MULTIFAMILY HOUSING PROJECTS.

(a) Applicability.—Section 202(a) of the Housing and Community Development Amendments of 1978 is amended by inserting before the period at the end the following: "or section 202 of the Housing Act of 1959".

(b) Notice and Comment.—Section 202(b)(1) of the Housing and Community Development Amendments of 1978 is amended by striking "and the Secretary deems it appropriate" and inserting the following: "or where the Secretary proposes to sell a mortgage secured by a multifamily housing project".

(c) Nondiscrimination Against Section 8 Certificate Holders and Voucher Holders.—No owner of a subsidized project (as defined in section 203(i)(2) of the Housing and Community Development Amendments of 1978, as amended by section 181(h) of this Act) shall refuse—

(1) to lease any available dwelling unit in any such project of such owner that rents for an amount not greater than the fair market rent for a comparable unit, as determined by the Secretary under section 8 of the United States Housing Act of 1937, to a holder of a certificate of eligibility under such section, a proximate cause of which is the status of such prospective tenant as a holder of such certificate, and to enter into a housing assistance payments contract respecting such unit; or

(2) to lease any available dwelling unit in any such project of such owner to a holder of a voucher under section 8(o) of such Act, and to enter into a voucher contract respecting such unit, a proximate cause of which is the status of such prospective tenant as holder of such voucher.

SEC. 184. MULTIFAMILY HOUSING DISPOSITION PARTNERSHIP.

(a) Establishment of Demonstration Program.—The Secretary of Housing and Urban Development (referred to in this section as the "Secretary") shall carry out a program to demonstrate the effectiveness of disposing of distressed multifamily housing projects owned by the Department of Housing and Urban Development through a partnership with State housing finance agencies. The demonstration program may be carried out with not more than 4 State housing finance agencies and shall be designed to determine the feasibility of entering into similar relationships with other State housing finance agencies.

(b) Requirements of Demonstration Program.—

(1) Opportunity to participate in sale.—Not less than 30 days before offering to sell any multifamily housing project that is located in a State participating in the demonstration program and that is subject to section 204 of the Housing and Community Development Amendments of 1978, the Secretary shall—

(A) notify the State housing finance agency of the plan of the Secretary to sell the project; and

(B) provide the State housing finance agency with the option to provide the long-term financing for the sale of the project through the co-insurance program of the Secretary, if the project complies with the State laws applicable to the State housing finance agency.

(2) Terms of participation.—If the State housing finance agency agrees to participate in the sale of a project under this section, the terms of the sale shall be as follows:

(A) The State housing finance agency shall provide a loan to the purchaser of the property.

(B) The mortgage securing the loan shall be insured by the Secretary and the State housing finance agency under paragraph (3) or (4) of section 221(d) of the National Housing Act.

(C) The terms and conditions of the loan shall be consistent with the terms and conditions of the sale.

(3) Cooperative agreement.—Not later than the expiration of the 3-month period beginning on the date of the enactment of this Act, the Secretary shall enter into cooperative agreements with State housing finance agencies to carry out the demonstration program under this section.

(c) Termination of Demonstration Program.—

(1) In general.—Except as provided in paragraph (2), the demonstration program under this section shall terminate upon the expiration of the 3-year period beginning on the date of the enactment of this Act.

(2) Continuation of program.—

(A) The Secretary may continue the demonstration program under this section after the termination date established in paragraph (1) for such additional period as the Secretary determines to be appropriate.

(B) The Secretary shall continue the demonstration program under this section with respect to any project for which the Secretary notifies the State housing finance agency under subsection (b)(1)(A) before the termination date established in paragraph (1) or under subparagraph (A).

(d) Report to Congress.—Not later than 6 months after the termination date established in subsection (c)(1), the Secretary shall submit to the Congress a report evaluating the effectiveness of the demonstration program under this section as a national model for the disposition of distressed multifamily housing projects owned by the Department of Housing and Urban Development.

SEC. 185. MULTIFAMILY HOUSING CAPITAL IMPROVEMENTS ASSISTANCE.

(a) Purpose.—Section 201(a) of the Housing and Community Development Amendments of 1978 is amended by inserting after "management," the following: "to permit capital improvements to be made to maintain certain projects as decent, safe, and sanitary housing,".

(b) Eligiblity.—Section 201(c)(1)(B) of the Housing and Community Development Amendments of 1978 is amended by inserting after "is assisted under" the following: "section 23 of the United States Housing Act of 1937, as in effect immediately before January 1, 1975,".

(c) Borrower Requirements.—Section 201(d) of the Housing and Community Development Amendments of 1978 is amended—

(1) in paragraph (1), by inserting "or physical" after "maintain the financial"; and

(2) in paragraph (6), by striking the final period, and inserting the following: "; except that the Secretary may excuse an owner from compliance with the plan requirement set forth in this paragraph in any case in which such owner seeks only assistance for capital improvements under this section.".

(d) Amount and Conditions of Assistance.—Section 201(f) of the Housing and Community Development Amendments of 1978 is amended—

(1) in paragraph (1), by inserting after "to any project" in the matter preceding subparagraph (A) the following: "(except a project assisted only for capital improvements)"; and

(2) in paragraph (4), by inserting after "for any year" the following: "for a project (other than a project receiving assistance only for capital improvements)".

(e) Regulations.—Section 201(g) of the Housing and Community Development Amendments of 1978 is amended by inserting before the period at the end the following: ", to the extent applicable.".

(f) Flexible Subsidy Fund.—Section 201(j) of the Housing and Community Development Amendments of 1978 is amended to read as follows:

"(j)(1) For purposes of carrying out the provisions of this section, there is hereby established in the Treasury of the United States a revolving fund, to be known as the Flexible Subsidy Fund. The Fund shall, to the extent approved in appropriation Acts, be available to the Secretary to provide assistance under this section (including assistance for capital improvements).

"(2) The Fund shall consist of (A) any amount appropriated to carry out the purposes of this section; (B) any amount repaid on any assistance provided under this section; (C) any amounts credited to the reserve fund described in section 236(g) of the National Housing Act; and (D) any other amount received by the Secretary under this section (including any amount realized under paragraph (3)).

"(3) Any amounts in the Fund determined by the Secretary to be in excess out the amounts currently required to carry out the provisions of this section shall be invested by the Secretary in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

"(4) The Secretary may use not more than $50,000,000 from the Fund in any fiscal year for purposes of providing assistance for capital improvements in accordance with this section.".

(g) Assistance for Capital Improvements.—Section 201 of the Housing and Community Development Amendments of 1978 is amended by adding at the end the following new subsections:

"(k)(1) Assistance for capital improvements under this section shall include assistance for any major repair or replacement of a capital item in a multifamily housing project, including any such repair or replacement required as a result of deferred or inadequate maintenance. Capital improvements do not include maintenance of any such item. Assistance for capital improvements under this section shall be in the form of a loan.

"(2) The owner of a project receiving assistance for capital improvements shall agree to contribute assistance to such project in such amounts, from such sources, and in such manner as the Secretary determines to be appropriate, except that—

"(A) such contribution shall not be less than 20 percent of the total estimated cost of the capital improvements involved, unless the Secretary, upon application of the owner, determines that such contribution is financially infeasible and waives or reduces such contribution to the extent necessary;

"(B) the Secretary may not require an amount to be contributed, from the reserve funds established by the owner of such projects for the purpose of making capital improvements, in excess of 50 percent of the amount of such reserve funds on the date of such loan; and

"(C) The Secretary shall waive the requirements of this paragraph if such owner is a private nonprofit corporation or an association.

"(3) The Secretary may provide assistance for capital improvements under this section if the Secretary finds that the reserve funds established by the owner of a project for the purpose of making capital improvements are insufficient to finance both the capital improvements for which such assistance is to be used and other capital improvements that are reasonably expected to be required in the near future, and such insufficiency is not the result of the failure of such owner to comply with any standard established by the Secretary for management of such reserve funds.

"(4) In providing, and contracting to provide, assistance for capital improvements under this section, the Secretary shall—

"(A) give priority to projects that are eligible for incentives under section 224(b) of the Emergency Low Income Housing Preservation Act of 1987; and

"(B) with respect to any amounts not required for projects under subparagraph (A), give priority among other projects based on the extent to which—

"(i) the capital improvements for which such assistance is requested are immediately required;

"(ii) the projects serve as the residences of lower income families, and the extent which other suitable housing is unavailable for such families in the areas in which such projects are located;

"(iii) the capital improvements for which such assistance is requested involve the life, safety, or health of the residents of the project or involve major capital improvements in the projects; and

"(iv) the projects demonstrate the greatest financial distress, while continuing to meet the requirements of subsection (d)(1).

"(l)(1) The principal amount of any assistance for capital improvements under this section that is provided to the owner of a project shall not exceed the difference between the contribution made by the owner in accordance with subsection (k)(2) and the sum of—

"(A) the amount determined by the Secretary to be necessary for such owner to make capital improvements with respect to capital items that have failed, or are likely to deteriorate seriously or fail in the near future, in such projects;

"(B) the amount determined by the Secretary to be necessary to carry out a plan to upgrade the capital items being improved, and any other capital items determined by the Secretary to be associated with such capital items being improved and to require upgrading, to meet cost-effective energy efficiency standards prescribed by the Secretary; and

"(C) the amount determined by the Secretary to be necessary to comply with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(2)(A) The term of any assistance for capital improvements in the form of a loan under this section shall not exceed the remaining term of the mortgage of the project with respect to which such loan is provided.

"(B) Each loan for capital improvements provided under this section shall bear interest at a rate determined by the Secretary to be appropriate, except that—

"(i) such rate shall not be more than 3 percentage points below a rate determined by the Secretary of the Treasury taking into consideration the average interest rate on all interest bearing obligations of the United States then forming a part of the public debt, computed at the end of the fiscal year next preceding date on which the loan is made, adjusted to the nearest 1/8 of 1 percent, plus an allowance adequate in the judgment of the Secretary of Housing and Urban Development to cover administrative costs and probable losses under the program; and

"(ii) such interest rate plus such allowance shall not exceed 6 percent per annum nor be less than 3 percent per annum.

"(C) Each loan for capital improvements provided under this section shall be considered to be a liability of the project involved, and shall not be dischargeable in any bankruptcy proceeding under section 727, 1141, or 1328(b) of title 11, United States Code.

"(D) The Secretary may establish such additional conditions on loans provided under this section as the Secretary determines to be appropriate.

"(E) The Secretary may provide more than one loan or assistance in any other form to any project under this section, if each loan or other assistance complies with the provisions of this section.

"(m)(1) Increases in rental payments that may occur as a result of the debt service and other expenses of a loan for capital improvements provided under this section for a project subject to a plan of action approved under subtitle B of the Emergency Low Income Housing Preservation Act of 1987 shall be governed by the rent agreements entered into under such subtitle.

"(2) In order to minimize any increases in rental payments that may occur as a result of the debt service and other expenses of a loan for capital improvements provided under this section for a project not subject to paragraph (1) and that would be incurred by lower income residents of the project involved whose rental payments are, or would as a result of such expenses be, in excess of the amount allowable if section 3(a) of the United States Housing Act of 1937 were applicable to such residents, the Secretary may take any or all of the following actions:

"(A) Provide assistance with respect to such project under section 8(b)(1) of the United States Housing Act of 1937, to the extent amounts are available for such assistance and without regard to section 16 of such Act.

"(B) Reduce the rate of interest charged on such loan to a rate of not less than 1 percent.

"(C) Increase the term of such loan to a term that does not exceed the remaining term of the mortgage on such project.

"(D) Increase the amount of assistance to be provided by the owner of such project under subsection (k)(2), if applicable, to an amount not to exceed 30 percent of the total estimated cost of the capital improvements involved.".

(h) CONFORMING AMENDMENT.—The section heading for section 201 of the Housing and Community Development Amendments of 1978 is amended by striking "OPERATING".

SEC. 186. FLEXIBLE SUBSIDY PROGRAM.

(a) USE OF SECTION 236 EXCESS RENTAL CHARGES.—Section 236(f)(3) of the National Housing Act is amended by striking "September 30, 1985" and inserting "September 30, 1989".

(b) ASSISTANCE FOR CERTAIN HOUSING PROJECTS FOR ELDERLY OR HANDICAPPED FAMILIES.

(1) Section 201(a) of the Housing and Community Development Amendments of 1978 is amended by inserting "the Housing Act of 1959," after "1937,".

(2) Section 201(c)(1)(A) of the Housing and Community Development Amendments of 1978 is amended by inserting before the semicolon at the end the following: ", or received a loan under section 202 of the Housing Act of 1959 more than 15 years before the date on which assistance is made available under this section".

TITLE II—PRESERVATION OF LOW INCOME HOUSING

Subtitle A—General Provisions

SEC. 201. SHORT TITLE.

This title may be cited as the "Emergency Low Income Housing Preservation Act of 1987".

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) in the next 15 years, more than 330,000 low income housing units insured or assisted under sections 221(d)(3) and 236 of the National Housing Act could be lost as a result of the termination of low income affordability restrictions;

(2) in the next decade, more than 465,000 low income housing units produced with assistance under section 8 of the United States Housing Act of 1937 could be lost as a result of the expiration of the rental assistance contracts;

(3) some 150,000 units of rural low income housing financed under section 515 of the Housing Act of 1949 are threatened with loss as a result of the prepayment of mortgages by owners;

(4) the loss of this privately owned and federally assisted housing, which would occur in a period of sharply rising rents on unassisted housing and extremely low production of additional low rent housing, would inflict unacceptable harm on current tenants and would precipitate a grave national crisis in the supply of low income housing that was neither anticipated nor intended when contracts for these units were entered into;

(5) the loss of this affordable housing, to encourage the production of which the public has provided substantial benefits over past years, would irreparably damage hard-won progress toward such important and long-established national objectives as—

(A) providing a more adequate supply of decent, safe, and sanitary housing that is affordable to low income Americans;

(B) increasing the supply of housing affordable to low income Americans that is accessible to employment opportunities; and

(C) expanding housing opportunities for all Americans, particularly members of disadvantaged minorities;

(6) the provision of an adequate supply of low income housing has depended and will continue to depend upon a strong, long-term partnership between the public and private sectors that accommodates a fair return on investment;

(7) recent reductions in Federal housing assistance and tax benefits related to low income housing have increased the incentives for private industry to withdraw from the production and management of low income housing;

(8) efforts to retain this housing must take account of specific financial and market conditions that differ markedly from project to project;

(9) a major review of alternative responses to this threatened loss of affordable housing is now being undertaken by numerous private sector task forces as well as State and local organizations; and

(10) until the Congress can act on recommendations that will emerge from this review, interim measures are needed to avoid the irreplaceable loss of low income housing and irrevocable displacement of current tenants.

(b) PURPOSE.—It is the purpose of this title—

(1) to preserve and retain to the maximum extent practicable as housing affordable to

low income families or persons those privately owned dwelling units that were produced for such purpose with Federal assistance;

(2) to minimize the involuntary displacement of tenants currently residing in such housing; and

(3) to continue the partnership between all levels of government and the private sector in the production and operation of housing that is affordable to low income Americans.

SEC. 203. TERMINATION OF CERTAIN PROVISIONS.

(a) In General.—Effective upon the expiration of the 2-year period beginning on the date of the enactment of this Act—

(1) subtitles B and D are repealed; and

(2) each provision of law amended by subtitle B or D is amended to read as it would without such amendment.

(b) Savings Provision.—The repeal or amendment of any provision under subsection (a) shall have no effect on any action taken or authorized under the provision prior to such repeal or amendment.

Subtitle B—Prepayment of Mortgages Insured Under National Housing Act

SEC. 221. GENERAL PREPAYMENT LIMITATION.

(a) Prior Approval of Plan of Action.—An owner of eligible low income housing may prepay, and a mortgagee may accept prepayment of, a mortgage on such housing only in accordance with a plan of action approved by the Secretary of Housing and Urban Development under this subtitle.

(b) Alternative Prepayment Moratorium.—In the event any court of the United States or any State invalidates the requirements established in this subtitle, an owner of eligible low income housing located in the geographic area subject to the jurisdiction of such court may not prepay, and a mortgagee may not accept prepayment of, a mortgage on such housing during the 2-year period following the date of such invalidation.

SEC. 222. NOTICE OF INTENT.

An owner of eligible low income housing seeking to initiate prepayment or other changes in the status or terms of the mortgage or regulatory agreement shall file with the Secretary a notice of the intent of the owner in such form and manner as the Secretary shall prescribe. The owner shall simultaneously file the notice or intent with any appropriate State or local government agency for the jurisdiction within which the housing is located.

SEC. 223. PLAN OF ACTION.

(a) Preparation and Submission.—Upon receipt of a notice of intent, the Secretary shall provide the owner with such information as the owner needs to prepare a plan of action, which information shall include a description of the Federal incentives authorized under this title. The owner shall submit the plan of action to the Secretary in such form and manner as the Secretary shall prescribe. The owner may simultaneously submit the plan of action to any appropriate State or local government agency for the jurisdiction within which the housing is located, which agency shall, in reviewing the plan, consult with representatives of the tenants of the housing.

(b) Contents.—The plan of action shall include—

(1) a description of any proposed changes in the status or terms of the mortgage or regulatory agreement, which may include a request for incentives to extend the low income use of the housing;

(2) a description of any assistance that could be provided by State or local government agencies, as determined by prior consultation between the owner and any appropriate State or local agencies;

(3) a description of any proposed changes in the low income affordability restrictions;

(4) a description of any change in ownership that is related to prepayment;

(5) an assessment of the effect of the proposed changes on existing tenants;

(6) a statement of the effect of the proposed changes on the supply of housing affordable to lower and very low income families or persons in the community within which the housing is located and in the area that the housing could reasonably be expected to serve; and

(7) any other information that the Secretary determines is necessary to achieve the purposes of this title.

(c) Revisions.—The owner may from time to time revise and amend the plan of action as may be necessary to obtain approval of the plan under this subtitle.

SEC. 224. INCENTIVES TO EXTEND LOW INCOME USE.

(a) Agreements by Secretary.—After receiving a plan of action from an owner of eligible low income housing, the Secretary may enter into such agreements as are necessary to satisfy the criteria for approval under section 225.

(b) Permissible Incentives.—Such agreements may include one or more of the following incentives that the Secretary, after taking into account local market conditions, determines to be necessary to achieve the purposes of this title:

(1) An increase in the allowable distribution or other measures to increase the rate of return on investment.

(2) Revisions to the method of calculating equity.

(3) Increased access to residual receipts accounts or excess replacement reserves.

(4) Provision of insurance for a second mortgage under section 241(f) of the National Housing Act.

(5) An increase in the rents permitted under an existing contract under section 8 of the United States Housing Act of 1937, or (subject to the availability of amounts provided in appropriation Acts) additional assistance under such section 8 or an extension of any project-based assistance attached to the housing.

(6) Financing of capital improvements under section 201 of the Housing and Community Development Amendments of 1978.

(7) Other actions, authorized in other provisions of law, to facilitate a transfer or sale of the project to a qualified nonprofit organization, limited equity tenant cooperative, public agency, or other entity acceptable to the Secretary.

(8) Other incentives authorized in law.

SEC. 225. CRITERIA FOR APPROVAL OF PLAN OF ACTION.

(a) Plan of Action Involving Termination of Low Income Affordability Restrictions.—The Secretary may approve a plan of action that involves termination of the low income affordability restrictions only upon a written finding that—

(1) implementation of the plan of action will not materially increase economic hardship for current tenants or involuntarily displace current tenants (except for good cause) where comparable and affordable housing is not readily available; and

(2)(A) the supply of vacant, comparable housing is sufficient to ensure that such prepayment will not materially affect—

(i) the availability of decent, safe, and sanitary housing affordable to lower income and very low-income families or persons in the area that the housing could reasonably be expected to serve;

(ii) the ability of lower income and very low-income families or persons to find affordable, decent, safe, and sanitary housing near employment opportunities; or

(iii) the housing opportunities of minorities in the community within which the housing is located; or

(B) the plan has been approved by the appropriate State agency and any appropriate local government agency for the jurisdiction within which the housing is located as being in accordance with a State strategy approved by the Secretary under section 226.

(b) Plan of Action Including Incentives.—The Secretary may approve a plan of action that includes incentives only upon finding that—

(1) the package of incentives is necessary to provide a fair return on the investment of the owner;

(2) due diligence has been given to ensuring that the package of incentives is, for the Federal Government, the least costly alternative that is consistent with the full achievement of the purposes of this title; and

(3) binding commitments have been made to ensure that—

(A) the housing will be retained as housing affordable for very low-income families or persons, lower income families or persons, and moderate income families or persons for the remaining term of the mortgage;

(B) throughout such period, adequate expenditures will be made for maintenance and operation of the housing;

(C) current tenants shall not be involuntarily displaced (except for good cause);

(D) any increase in rent contributions for current tenants shall be to a level that does not exceed 30 percent of the adjusted income of the tenant or the fair market rent for comparable housing under section 8(b) of the United States Housing Act of 1937, whichever is lower;

(E)(i) any resulting increase in rents for current tenants (except for increases made necessary by increased operating costs)—

(I) shall be phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and

(II) shall be limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent; and

(ii) assistance under section 8 of the United States Housing Act of 1937 shall be provided if necessary to mitigate any adverse affect on current income eligible tenants; and

(F)(i) rents for units becoming available to new tenants shall be at levels approved by the Secretary that will ensure, to the extent practicable, that the units will be available and affordable to the same proportions of very low-income families or persons, lower income families or persons, and moderate income families or persons (including families or persons whose incomes are 95 percent or more of area median income) as resided in the housing as of January 1, 1987; and

(ii) in approving rents under this paragraph, the Secretary shall take into account any additional incentives provided under this subtitle and shall make provision for such annual rent adjustments as may be made necessary by future reasonable increases in operating costs.

SEC. 226. ALTERNATIVE STATE STRATEGY.

(a) Criteria for Approval.—The Secretary may approve a State strategy for purposes of section 225(a) only upon finding that it is a practicable statewide strategy that ensures at a minimum that—

(1) current tenants will not be involuntarily displaced (except for good cause);

(2) housing opportunities for minorities will not be adversely affected in the communities within which the housing is located;

(3) any increase in rent for current tenants shall be to a level that does not exceed 30 percent of the adjusted income of the tenants or the fair market rent for comparable housing under section 8(b) of the United States Housing Act of 1937, whichever is lower, except that any increase not necessitated by increased operating costs shall be phased in equally over not less than 3 years if such increase exceeds 10 percent;

(4) housing approved under the State strategy will remain affordable to very low-income, lower income or moderate income families and persons for not less than the remaining term of the original mortgage, if the housing is to be made available for rental, or for not less than 40 years, if the housing is to be made available for homeownership;

(5)(A) not less than 80 of all units in eligible low-income housing approved under the State strategy shall be retained as affordable to families or persons meeting the income eligibility standards for initial occupancy that applies to the housing on January 1, 1987; and

(B) not less than 60 percent of the units in any one project shall remain available and affordable to such families or persons, within which not less than 20 percent of the units shall remain available and affordable to very low income families or persons as determined by the Secretary with adjustments for smaller and larger families;

(6) expenditures for rehabilitation, maintenance and operation shall be at a level necessary to maintain the housing as decent, safe, and sanitary for the period specified in paragraph (4);

(7) not less than 25 percent of new assistance required to maintain low-income affordability in accordance with this section shall be provided through State and local actions, such as tax exempt financing, low-income tax credits, State or local tax concessions, and other incentives provided by the State or local governments; and

(8) for each unit of eligible low income housing approved under the State strategy that is not retained as affordable to families or persons meeting the income eligibility standards for initial occupancy on January 1, 1987, the State will provide with State funds 1 additional unit of comparable housing in the same market area that is available and affordable to such families or persons, and such units or funds shall be made available before the Secretary approves the State strategy.

(b) Additional Requirements.—

(1) The Secretary may not approve a State strategy until the State has entered into all of the agreements necessary to carry out the strategy.

(2) Each State strategy shall include any other provision that the Secretary determines to be necessary to implement an approved State strategy.

(c) Implementation Agreements.—The Secretary may enter into such agreements as are necessary to implement an approved State strategy, which agreements may include incentives that are authorized in other provisions of this subtitle.

SEC. 227. TIMETABLE FOR APPROVAL OF PLAN OF ACTION.

(a) Notification of Deficiencies.—Not later than 60 days after receipt of a plan of action, the Secretary shall notify the owner in writing of any deficiencies that prevent the plan of action from being approved. If deficiencies are found, such notice shall describe alternative ways in which the plan could be revised to meet the criteria for approval.

(b) Notification of Approval.—

(1) In general.—Not later than 180 days after receipt of a plan of action, or such longer period as the owner requests, the Secretary shall notify the owner in writing whether the plan of action, including any revisions, is approved. If approval is withheld, the notice shall describe—

(A) the reasons for withholding approval; and

(B) the actions that could be taken to meet the criteria for approval.

(2) Opportunity to revise.—The Secretary shall subsequently give the owner a reasonable opportunity to revise the plan of action and seek approval.

SEC. 228. MODIFICATION OF EXISTING REGULATORY AGREEMENTS.

(a) In General.—If a plan of action cannot be approved within 300 days after a plan of action is submitted, the Secretary may, upon the request of the owner, modify existing regulatory agreements to—

(1) prevent involuntary displacement of current tenants (except for good cause);

(2) ensure that adequate expenditures will be made for maintenance and operation of the housing;

(3) extend any expiring project-based assistance on the housing for the term of the agreement;

(4) permit an increase in the allowable distribution that could be accommodated by a rise in rents on occupied units to rise to a level no higher than 30 percent of the adjusted income of the current tenants, as determined by the Secretary, except that rents shall not exceed the fair market rent for comparable housing under section 8(b) of the United States Housing Act of 1937 and any resulting increase in rents for current tenants shall be phased in equally over a period of no less than 3 years unless such increase is less than 10 percent; and

(5) ensure that units becoming vacant during the term of the agreement are made available in accordance with section 225(b)(6).

(b) Expiration.—Agreements entered into under this section shall expire upon the expiration of the 4-year period beginning on the date of the enactment of this Act. Upon the expiration of the agreements, the housing covered by the agreements shall be subject to any law then affecting low income affordability restrictions.

SEC. 229. CONSULTATIONS WITH OTHER INTERESTED PARTIES.

The Secretary shall confer with any appropriate State or local government agency to confirm any State or local assistance that is available to achieve the purposes of this title and shall give consideration to the views of any such agency when making determinations under section 225. The Secretary shall also confer with appropriate interested parties that the Secretary believes could assist in the development of a plan of action that best achieves the purposes of this title.

SEC. 230. RIGHT OF CONVERSION TO ALTERNATIVE PREPAYMENT SYSTEM.

Any agreement to extend low income affordability restrictions under section 225(b) shall, for 4 years from the date of the enactment of this Act, provide the owner the right to convert to any system of incentives and restrictions provided in law during such period, with such adjustments as the Secretary determines are appropriate to compensate for the value of any benefits the owner had received under this title.

SEC. 231. INSURANCE FOR SECOND MORTGAGE FINANCING.

Section 241 of the National Housing Act is amended by adding at the end the following new subsection:

"(f)(1) Notwithstanding any other provision of this section, the Secretary may, upon such terms and conditions as the Secretary may prescribe, make a commitment to insure and insure equity loans made by financial institutions approved by the Secretary. For purposes of this section, the term 'equity loan' means a loan or advance of credit to the owner of eligible low income housing (as defined in section 233 of the Emergency Low Income Housing Preservation Act of 1987) that is made for the purpose of implementing a plan of action approved under such Act.

"(2) To be eligible for insurance under this subsection, an equity loan shall—

"(A) be limited to an amount equal to 90 percent of the value of the equity in the project, as determined by the Secretary, and the Secretary, in making the determination, shall take into account that rental income for the project may rise within limits established by section 225(b) of the Emergency Low Income Housing Preservation Act of 1987;

"(B) have a maturity and provisions for amortization satisfactory to the Secretary, bear interest at such rate as may be agreed upon by the mortgagor and mortgagee, and be secured in such manner as the Secretary may require; and

"(C) contain such other terms, conditions, and restrictions as the Secretary may prescribe, including phased advances of equity loan proceeds to reflect project rent levels.

"(3) A qualified nonprofit organization or limited equity tenant cooperative corporation, when purchasing an otherwise eligible project, may constitute an owner of eligible low income housing for purposes of receiving a loan insured under this subsection.

"(4) The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 shall be applicable to loans insured under this section, except that—

"(A) all references to the term 'mortgage' shall be construed to refer to the term 'loan' as used in this subsection;

"(B) loans involving projects covered by a mortgage insured under section 236 shall be insured under and shall be the obligation of the Special Risk Insurance Fund; and

"(C) with respect to any sale under foreclosure of a mortgage on the project that is senior to the equity loan insured under this subsection and when the equity loan is secured by a mortgage, the Secretary may—

"(i) issue regulations providing that, in order to receive insurance benefits, the insured mortgagee shall either assign the equity loan to the Secretary or bid the amount necessary to acquire the project and convey title to the project to the Secretary, in which case the insurance benefits paid by the Secretary shall include the amount bid by the mortgagee to satisfy the senior mortgage at the foreclosure sale; and "(ii) if the equity loan has been assigned to the Secretary, bid, in addition to amounts authorized under section 207(k), any sum not in excess of the total unpaid indebtedness secured by such senior mortgage and the equity loan, plus taxes, insurance, foreclosure costs, fees, and other expenses.

"(5) A mortgagee approved by the Secretary may not withhold consent to an equity loan on a property on which that mortgagee holds a mortgage.".

SEC. 232. REPORT TO CONGRESS.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to the Congress a report setting forth the activities carried out under this subtitle. The report shall include a description of the plans of action approved under subsections (a) and (b) of section 225 and an analysis of the extent to which the plans retain housing affordable for very low-income families or persons, lower income families or persons, and moderate income families or persons.

SEC. 233. DEFINITIONS.

For purposes of this subtitle:

(1) The term "eligible low income housing" means any housing financed by a loan or mortgage—

(A) that is—

(i) insured or held by the Secretary under section 221(d)(3) of the National Housing Act and assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937;

(ii) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 221(d)(5) of the National Housing Act;

(iii) insured, assisted, or held by the Secretary under section 236 of the National Housing Act; or

(iv) held by the Secretary and formerly insured under a program referred to in clause (i), (ii), or (iii); and

(B) that, under regulation or contract in effect before the date of the enactment of this Act, is or will within 1 year become eligible for prepayment without prior approval of the Secretary.

(2) The term "low income affordability restrictions" means limits imposed by regulation or regulatory agreement on tenant rents, rent contributions, or income eligibility in eligible low income housing.

(3) The terms "lower income families or persons" and "very low-income families or persons" mean families or persons whose incomes do not exceed the respective levels established for lower income families and very low-income families under section 3(b)(2) of the United States Housing Act of 1937.

(4) The term "moderate income families or persons" means families or persons whose incomes are between 80 percent and 95 percent of median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

(5) The term "owner" means the current or subsequent owner or owners of eligible low income housing.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "termination of low income affordability restrictions" means any elimination or relaxation of low income affordability restrictions (other than those permitted under an approved plan of action under section 225(b)).

SEC. 234. REGULATIONS.

The Secretary shall issue final regulations to carry out this subtitle not later than 60 days after the date of the enactment of this Act. The Secretary shall provide for the regulations to take effect not later than 45 days after the date on which the regulations are issued.

SEC. 235. EFFECTIVE DATE.

The requirements of this subtitle shall apply to any project that is eligible low income housing on or after November 1, 1987.

Subtitle C—Rural Rental Housing Displacement Prevention

SEC. 241. PREPAYMENT AND REFINANCING PROCEDURES.

Section 502(c) of the Housing Act of 1949 is amended by adding at the end the following new paragraphs:

"(3) NOTICE OF OFFER TO PREPAY.—Not less than 30 days after receiving an offer to prepay any loan made or insured under section 514 or 515, the Secretary shall provide written notice of the offer or request to the tenants of the housing and related facilities involved, to interested nonprofit organizations, and to any appropriate State and local agencies.

"(4)(A) AGREEMENT BY BORROWER TO EXTEND LOW INCOME USE.—Before accepting any offer to prepay, or requesting refinancing in accordance with subsection (b)(3) of, any loan made or insured under section 514 or 515 pursuant to a contract entered into before December 21, 1979, the Secretary shall make reasonable efforts to enter into an agreement with the borrower under which the borrower will make a binding commitment to extend the low income use of the assisted housing and related facilities involved for not less than the 20-year period beginning on the date on which the agreement is executed.

"(B) ASSISTANCE AVAILABLE TO BORROWER TO EXTEND LOW INCOME USE.—To the extent of amounts provided in appropriation Acts, the agreement under subparagraph (A) may provide for 1 or more of the following forms of assistance that the Secretary, after taking into account local market conditions, determines to be necessary to extend the low income use of the housing and related facilities involved:

"(i) Increase in the rate of return on investment.

"(ii) Reduction of the interest rate on the loan through the provision of interest credits under section 521(a)(1)(B).

"(iii) Additional rental assistance, or an increase in assistance provided under existing contracts, under section 521(a)(2) or under section 8 of the United States Housing Act of 1937.

"(iv) An equity loan to the borrower under paragraphs (7) and (8) of section 515(b).

"(v) Incremental rental assistance in connection with loans under clauses (ii) and (iv) to the extent necessary to avoid increases in the rental payments of current tenants not receiving rental assistance under section 521(a)(2) or under section 8 of the United States Housing Act of 1937.

"(C) APPROVAL OF ASSISTANCE.—The Secretary may approve assistance under subparagraph (B) only if the Secretary determines that the combination of assistance provided—

"(i) is necessary to provide a fair return on the investment of the borrower; and

"(ii) is the least costly alternative for the Federal Government that is consistent with carrying out the purposes of this subsection.

"(5)(A) OFFER TO SELL TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.—

"(i) IN GENERAL.—If the Secretary determines after a reasonable period that an agreement will not be entered into with a borrower under paragraph (4), the Secretary shall require the borrower (except as provided in subparagraph (G)) to offer to sell the assisted housing and related facilities involved to any qualified nonprofit organization or public agency at a fair market value determined by 2 independent appraisers, one of whom shall be selected by the Secretary and one of whom shall be selected by the borrower. If the 2 appraisers fail to agree on the fair market value, the Secretary and the borrower shall jointly select a third appraiser, whose appraisal shall be binding on the Secretary and the borrower.

"(ii) PERIOD FOR WHICH REQUIREMENT APPLICABLE.—If, upon the expiration of 180 days after an offer is made to sell housing and related facilities under clause (i), no qualified nonprofit organization or public agency has made a bona fide offer to purchase, the Secretary may accept the offer to prepay, or may request refinancing in accordance with subsection (b)(3) of, the loan. This clause shall apply only when funds are available for purposes of carrying out a transfer under this paragraph.

"(B) QUALIFIED NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.—

"(i) LOCAL NONPROFIT ORGANIZATION OR PUBLIC AGENCY.—A local nonprofit organization or public agency may purchase housing and related facilities under this paragraph only if—

"(I) the organization or agency is determined by the Secretary to be capable of managing the housing and related facilities (either directly or through a contract) for the remaining useful life of the housing and related facilities; and

"(II) the organization or agency has entered into an agreement that obligates it (and successors in interest thereof) to maintain the housing and related facilities as affordable for very low-income families or persons and low income families or persons for the remaining useful life of the housing and related facilities.

"(ii) NATIONAL OR REGIONAL NONPROFIT ORGANIZATION.—If the Secretary determines that there is no local nonprofit organization or public agency qualified to purchase the housing and related facilities involved, the Secretary shall require the borrower to offer to sell the assisted housing and related facilities to an existing qualified national or regional nonprofit organization.

"(C) FINANCING OF SALE.—To facilitate the sale described in subparagraph (A), the Secretary shall—

"(i) to the extent provided in appropriation Acts, make an advance to the nonprofit organization or public agency whose offer to purchase is accepted under this paragraph to cover any direct costs (other than the purchase price) incurred by the organization or agency in purchasing and assuming responsibility for the housing and related facilities involved;

"(ii) approve the assumption, by the nonprofit organization or public agency involved, of the loan made or insured under section 514 or 515;

"(iii) to the extent provided in appropriation Acts, transfer any rental assistance payments that are received under section 521(a)(2)(A), or under section 8 of the United States Housing Act of 1937, with respect to the housing and related facilities involved; and

"(iv) to the extent provided in appropriation Acts, provide a loan under section 515(c)(3) to the nonprofit organization or public agency whose offer to purchase is accepted under this paragraph to enable the organization or agency to purchase the housing and related facilities involved.

"(D) RENT LIMITATION AND ASSISTANCE.—The Secretary shall, to the extent provided in appropriation Acts, provide to each nonprofit organization or public agency purchasing housing and related facilities under this paragraph financial assistance (in the form of monthly payments or forgiveness of debt) in an amount necessary to ensure that the monthly rent payment made by each low income family or person residing in the housing does not exceed the maximum rent permitted under section 521(a)(2)(A).

"(E) RESTRICTION ON SUBSEQUENT TRANSFERS.—Except as provided in subparagraph (B)(ii), the Secretary may not approve the transfer of any housing and related facilities purchased under this paragraph during the remaining useful life of the housing and related facilities, unless the Secretary determines that—

"(i) the transfer will further the provision of housing and related facilities for low income families or persons; or

"(ii) there is no longer a need for such housing and related facilities by low income families or persons.

"(F) GENERAL RESTRICTION ON PREPAYMENTS AND REFINANCINGS.—Following the transfer of the maximum number of dwelling units set forth in subparagraph (H)(i) in any fiscal year or the maximum number of dwelling units for which budget authority is available in any fiscal year, the Secretary may not accept in such fiscal year any offer to prepay, or request refinancing in accordance with subsection (b)(3) of, any loan made or insured under section 514 or 515 pursuant to a contract entered into before December 21, 1979, except in accordance with subparagraph (G). The limitation established in this subparagraph shall not apply to an offer to prepay, or request to refinance, if, following the date on which such offer or request is made (or following the date of the enactment of the Housing and Community Development Act of 1987, whichever occurs later) a 15-month period expires during which no budget authority is available to carry out this paragraph. For purposes of this subparagraph, the Secretary shall allocate budget authority under this paragraph in the order in which offers to prepay, or request to refinance, are made.

"(G) EXCEPTION.—This paragraph shall not apply to any offer to prepay, or any request to refinance in accordance with subsection (b)(3), any loan made or insured under section 514 or 515 pursuant to a contract entered into before December 21, 1979, if—

"(i) the borrower enters into an agreement with the Secretary that obligates the borrower (and successors in interest thereof)—

"(I) to utilize the assisted housing and related facilities for the purposes specified in section 514 or 515, as the case may be, for a period determined by the Secretary (but not less than the period described in paragraph (1)(B) calculated from the date on which the loan is made or insured); and

"(II) upon termination of the period described in paragraph (1)(B), to offer to sell the assisted housing and related facilities to a qualified nonprofit organization or public agency in accordance with this paragraph; or

"(ii) the Secretary determines that housing opportunities of minorities will not be materially affected as a result of the prepayment or refinancing, and that—

"(I) the borrower (and any successor in interest thereof) are obligated to ensure that tenants of the housing and related facilities financed with the loan will not be displaced due to a change in the use of the housing, or to an increase in rental or other charges, as a result of the prepayment or refinancing; or

"(II) there is an adequate supply of safe, decent, and affordable rental housing within the market area of the housing and related facilities and sufficient actions have been taken to ensure that the rental housing will be made available to each tenant upon displacement.

"(H) FUNDING.—

"(i) BUDGET LIMITATION.—Not more than 5,000 dwelling units may be transferred under this paragraph in any fiscal year, and the budget authority that may be provided under this paragraph for any fiscal year may not exceed the amounts required to carry out this paragraph with respect to such number.

"(ii) REIMBURSEMENT OF RURAL HOUSING INSURANCE FUND.—There are authorized to be appropriated to the Rural Housing Insurance Fund such sums as may be necessary to reimburse the Fund for financial assistance provided under this paragraph, paragraph (4), and section 517(j)(7).

"(I) DEFINITION.—For purposes of this paragraph, the term 'nonprofit organization' means any private organization—

"(i) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual; and

"(ii) that is approved by the Secretary as to financial responsibility.

"(J) REGULATIONS.—Notwithstanding section 534, the Secretary shall issue final regulations to carry out this paragraph not later than 60 days after the date of the enactment of the Housing and Community Development Act of 1987. The Secretary shall provide for the regulations to take effect not later than 45 days after the date on which the regulations are issued.".

SEC. 242. EQUITY RECAPTURE LOANS AND LOANS TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.

Section 515 of the Housing Act of 1949 is amended—

(1) by redesignating subsections (c) through (p) as subsections (d) through (q), respectively; and

(2) by inserting after subsection (b) the following:

"(c) With respect to a loan made or insured under subsection (a) or (b), the Secretary is authorized to—

"(1) make or insure an equity loan in the form of a supplemental loan for the purpose of equity takeout to the owner of housing financed with a loan made or insured under this section pursuant to a contract entered into before December 21, 1979, for the purpose of extending the affordability of the housing for low income families or persons and very-low income families or persons for not less than 20 years, except that such loan may not exceed 90 percent of the value of the equity in the project as determined by the Secretary;

"(2) transfer and reamortize an existing loan in connection with assistance provided under paragraph (1); and

"(3) make or insure a loan to enable a nonprofit organization or public agency to make a purchase described in section 502(c)(5).".

SEC. 243. USE OF RURAL HOUSING INSURANCE FUND.

Section 517(j) of the Housing Act of 1949 is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(7) to provide advances and assistance required to carry out paragraphs (4) and (5) of section 502(c).".

Subtitle D—Other Measures to Preserve Low Income Housing

SEC. 261. EARLY PREPAYMENT.

Section 250(a)(1) of the National Housing Act is amended by striking "or" and all that follows through "needs" the last place it appears.

SEC. 262. SECTION 8 ASSISTANCE.

(a) REQUIRED NOTICE.—Section 8(c) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(9) Not less than 1 year prior to terminating any contract under which assistance payments are received under this section (but not less than 90 days in the case of housing certificates or vouchers under subsection (b) or (o)), an owner shall provide written notice to the Secretary and the tenants involved of the proposed termination, specifying the reasons for the termination with sufficient detail to enable the Secretary to evaluate whether the termination is lawful and whether there are additional actions that can be taken by the Secretary to avoid the termination. The Secretary shall review the owner's notice, shall consider whether there are additional actions that can be taken by the Secretary to avoid the termination, and shall ensure a proper adjustment of the contract rents for the project in conformity with the requirements of paragraph (2). The Secretary shall issue a written finding of the legality of the termination and the reasons for the termination, including the actions considered or taken to avoid the termination. For purposes of this paragraph, the term 'termination' means the expiration of the assistance contract or an owner's refusal to renew the assistance contract.".

(b) ADJUSTMENT OF ALLOWABLE RENT.—Section 8(c) of the United States Housing Act of 1937 (as amended by subsection (a) of this section) is further amended by adding at the end the following new paragraph:

"(10) If an owner provides notice of proposed termination under paragraph (9) and the contract rent is lower than the maximum monthly rent for units assisted under subsection (b)(1), the Secretary shall adjust the contract rent based on the maximum monthly rent for units assisted under subsection (b)(1) and the value of the lower income housing after rehabilitation.".

(c) LOAN MANAGEMENT AND PROPERTY DISPOSITION PROGRAMS.—Section 8 of the United States Housing Act of 1937 (as amended by section 149 of this Act) is further amended by adding at the end the following new subsection:

"(v)(1) Each contract entered into by the Secretary under this section for loan management assistance shall be for a term of 180 months.

"(2) The Secretary shall extend any expiring contract entered into under this section for loan management assistance or execute a new contract, if the owner agrees to continue providing housing for lower income families during the term of the contract.".

SEC. 263. SECTION 515 OPERATING RESERVE AND EQUITY CONTRIBUTION REQUIREMENTS.

Section 515 of the Housing Act of 1949 (as amended by section 242) is further amended by adding at the end the following new subsection:

"(r) The Secretary—

"(1) may require that the initial operating reserve under this section may be in the form of an irrevocable letter of credit; and

"(2) may not require more than a 3 percent contribution to equity.".

TITLE III—RURAL HOUSING

SEC. 301. PROGRAM AUTHORIZATIONS.

(a) Insurance and Guarantee Authority.—Section 513(a)(1) of the Housing Act of 1949 is amended to read as follows:

"(a)(1) The Secretary may, to the extent approved in appropriation Acts, insure and guarantee loans under this title during fiscal years 1988 and 1989 in aggregate amounts not to exceed $1,775,395,000 and $1,794,925,000, respectively, as follows:

"(A) For insured or guaranteed loans under section 502 on behalf of borrowers receiving assistance under section 521(a)(1) or receiving guaranteed loans pursuant to section 304 of the Housing and Community Development Act of 1987, $1,104,000,000 for fiscal year 1988 and $1,116,144,000 for fiscal year 1989.

"(B) For loans under section 504, $11,335,000 for fiscal year 1988 and $11,460,000 for fiscal year 1989.

"(C) For insured loans under section 514, $11,485,000 for fiscal year 1988 and $11,612,000 for fiscal year 1989.

"(D) For insured loans under section 515, $647,000,000 for fiscal year 1988 and $654,117,000 for fiscal year 1989.

"(E) For loans under section 523(b)(1)(B), $1,000,000 for fiscal year 1988 and $1,011,000 for fiscal year 1989.

"(F) For site loans under section 524, $575,000 for fiscal year 1988 and $581,000 for fiscal year 1989.".

(b) Authorization of Appropriations.—Section 513(b) of the Housing Act of 1949 is amended to read as follows:

"(b) There are authorized to be appropriated for fiscal years 1988 and 1989, and to remain available until expended, the following amounts:

"(1) For grants under section 504, $13,113,000 for fiscal year 1988 and $13,362,000 for fiscal year 1989.

"(2) For purposes of section 509(c), $713,000 for fiscal year 1988 and $727,000 for fiscal year 1989.

"(3) Such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 511 equal to—

"(A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 503; and

"(B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary.

"(4) For financial assistance under section 516, $9,979,000 for fiscal year 1988 and $10,169,000 for fiscal year 1989.

"(5) For grants under section 523(f), $8,392,000 for fiscal year 1988 and $8,551,000 for fiscal year 1989.

"(6) For grants under section 533, $20,078,000 for fiscal year 1988 and $20,460,000 for fiscal year 1989.".

(c) Rental Assistance Payment Contracts.—Section 513(c) of the Housing Act of 1949 is amended to read as follows:

"(c)(1) The Secretary, to the extent approved in appropriation Acts for fiscal years 1988 and 1989, may enter into rental assistance payment contracts under section 521(a)(2)(A) aggregating $275,310,000 for fiscal year 1988 and $280,000,000 for fiscal year 1989.

"(2) Any authority approved in appropriation Acts for fiscal year 1988 or any succeeding fiscal year for rental assistance payment contracts under section 521(a)(2)(A) shall be used by the Secretary—

"(A) to renew rental assistance payment contracts that expire during such fiscal year;

"(B) to provide amounts required to continue rental assistance payments for the remaining period of an existing contract, in any case in which the original amount of rental assistance is used prior to the end of the term of the contract; and

"(C) to make additional rental assistance payment contracts for existing or newly constructed dwelling units.".

(d) Supplemental Rental Assistance Contracts.—Section 513 of the Housing Act of 1949 is amended by adding at the end the following new subsection:

"(d) The Secretary, to the extent approved in appropriation Acts for fiscal years 1988 and 1989, may enter into 5-year supplemental rental assistance contracts under section 502(c)(5)(D) aggregating $26,000,000 for fiscal year 1988 and $27,534,000 for fiscal year 1989.".

(e) Rental Housing Loan Authority.—Section 515(b)(4) of the Housing Act of 1949 is amended by striking "March 15, 1988" and inserting "September 30, 1989".

(f) Mutual and Self-Help Housing Grant and Loan Authority.—Section 523(f) of the Housing Act of 1949 is amended by striking "March 15, 1988" and inserting "September 30, 1989".

(g) Rural Housing Voucher Demonstration.—Section 513 of the Housing Act of 1949 (as amended by subsection (d) of this section) is further amended by adding at the end the following:

"(e)(1) To such extent or in such amounts as are approved in appropriation Acts, the Secretary shall carry out a demonstration rural housing voucher program during fiscal years 1988 and 1989. For such purpose, the Secretary shall enter into contracts using a payment standard in accordance with section 8(o) of the United States Housing Act of 1937 covering up to 7,500 dwelling units located in rural areas in not more than 5 States during each such fiscal year.

"(2) The Secretary may use the authority conferred by paragraph (1) in a State only if the State Farmers Home Administration Administrator certifies that—

"(A) such Administrator has completed an inventory of the State's housing supply, including housing suitable for rehabilitation, using currently available data; and

"(B) there is an adequate supply of decent, safe, and sanitary housing available for occupancy by voucher holders in that State.

"(3) In carrying out the voucher demonstration program under this subsection, the Secretary shall coordinate activities under this subsection with activities assisted under sections 515 and 533 of this title and under section 17 of the United States Housing Act of 1937.

"(4) Funding for the voucher demonstration program under this subsection shall be from amounts in the Rural Housing Insurance Fund authorized for loans under sections 502 and section 515 in proportion to the amounts authorized for such loans. Any reduction in the amounts available for such loans shall be made from the total amounts available for such loans in all States.".

SEC. 302. ELIGIBILITY REQUIREMENTS.

(a) Resident Aliens.—Section 501 of the Housing Act of 1949 is amended by adding at the end the following new subsection:

"(h)(1) The Secretary may not restrict the availability of assistance under this title for any alien for whom assistance may not be restricted by the Secretary of Housing and Urban Development under section 214 of the Housing and Community Development Act of 1980.

"(2) In carrying out any restriction established by the Secretary on the availability of assistance under this title for any alien, the Secretary shall follow procedures comparable to the procedures established in section 214 of the Housing and Community Development Act of 1980.".

(b) Income Levels.—

(1) Section 501(b)(4) of the Housing Act of 1949 is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the maximum income levels established for purposes of this title for such families and persons in the Virgin Islands shall not be less than the highest such levels established for purposes of this title for such families and persons in American Samoa, Guam, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

(2) The amendment made by paragraph (1) shall be applicable to any determination of eligibility for assistance under title V of the Housing Act of 1949 made on or after the date of the enactment of this Act.

SEC. 303. ESCROWING TAXES AND INSURANCE.

Section 501(e) of the Housing Act of 1949 is amended to read as follows:

"(e) The Secretary shall establish procedures under which borrowers under this title are required to make periodic payments for the purpose of taxes, insurance, and other necessary expenses as the Secretary may deem appropriate. Notwithstanding any other provision of law, such payments shall not be considered public funds. The Secretary shall direct the disbursement of the funds at the appropriate time or times for the purposes for which the funds were escrowed. If the prepayments made by the borrower are not sufficient to pay the amount due, advances may be made by the Secretary to pay the costs in full, which advances shall be charged to the account of the borrower, bear interest, and be payable in a timely fashion as determined by the Secretary. The Secretary shall notify a borrower in writing when loan payments are delinquent.".

SEC. 304. RURAL HOUSING GUARANTEED LOAN DEMONSTRATION.

(a) Establishment of Demonstration.—The Secretary of Agriculture (referred to in this section as the "Secretary") shall carry out a rural housing guaranteed loan demonstration program under which the Secretary shall, to the extent of amounts provided in appropriation Acts, provide guaranteed loans in accordance with section 502, 517(d), and the last sentence of section 521(a)(1)(A), of the Housing Act of 1949.

(b) Amount Available for Demonstration.—

(1) There shall be available for guaranteed loans under this section for any fiscal year in each State an amount equal to whichever of the following is lower:

(A) 10 percent of the total loan authority allocated under section 502 of the Housing Act of 1949 to the State for the fiscal year.

(B) The average, during the preceding 3 fiscal years, of the funds allocated to the

State under section 502 of the Housing Act of 1949 that have not been utilized.

(2) Any amount made available under this subsection that is not used before the last 60 days of a fiscal year shall become available for assistance for low income families or persons under section 502 of the Housing Act of 1949.

(c) ELIGIBLITY FOR LOANS.—Loans guaranteed pursuant to this section shall be made only to borrowers with moderate incomes that do not exceed the median income of the area, as determined by the Secretary, with adjustments for smaller and larger families.

(d) REPORTS TO CONGRESS.—The Secretary shall submit to the Congress—

(1) as soon as practicable after September 30, 1989, an interim report setting forth the findings and recommendations of the Secretary as a result of the demonstration; and

(2) as soon as practicable after September 30, 1991, a final report setting forth the findings and recommendations of the Secretary as a result of the demonstration.

(e) TERMINATION.—The Secretary may not provide any guaranteed loan under this section after September 30, 1991, except pursuant to a commitment entered into on or before such date.

SEC. 305. DEFINITION OF DOMESTIC FARM LABOR.

(a) INSURED LOAN PROGRAM.—Section 514(f)(3) of the Housing Act of 1949 is amended to read as follows:

"(3) the term 'domestic farm labor' means any person (and the family of such person) who receives a substantial portion of his or her income from primary production of agricultural or aquacultural commodities or the handling of such commodities in the unprocessed stage, without respect to the source of employment, except that—

"(A) such person shall be a citizen of the United States or a person legally admitted for permanent residence;

"(B) such term includes any person (and the family of such person) who is retired or disabled, but who was domestic farm labor at the time of retirement or becoming disabled; and

"(C) in applying this paragraph with respect to vacant units in farm labor housing, the Secretary shall make units available for occupancy in the following order of priority:

"(i) to active farm laborers (and their families);

"(ii) to retired or disabled farm laborers (and their families) who were active in the local farm labor market at the time of retiring or becoming disabled; and

"(iii) to other retired or disabled farm laborers (and their families).".

(b) GRANT PROGRAM.—Section 516(g) of the Housing Act of 1949 is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the term 'domestic farm labor' has the meaning given such term in section 514(f)(3).".

SEC. 306. CONFORMANCE WITH LOW-INCOME HOUSING TAX CREDIT ELIGIBILITY REQUIREMENTS.

Section 515(p) of the Housing Act of 1949 (as so redesignated by section 242 of this Act) is amended by adding at the end the following:

"(4) In projects financed under this section, units that have been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of the Internal Revenue Code of 1986 shall not be available for occupancy by persons or families other than persons or families with incomes not in excess of the qualifying income applicable to such units pursuant to subparagraph (A) or (B) of section 42(g)(1) of such Code, except when the Secretary determines that the continued vacancy of units that have been unoccupied for at least 6 months threatens the financial viability of the project.".

SEC. 307. LIMITATION OF FEES ON RURAL RENTAL HOUSING LOANS.

Section 515 of the Housing Act of 1949 (as amended by section 263 of this Act) is further amended by adding at the end the following new subsection:

"(s) No fee other than a late fee may be imposed by or for the Secretary or any other Federal agency on or with respect to a loan made or insured under this section.".

SEC. 308. RURAL AREA CLASSIFICATION.

(a) HOLD HARMLESS.—Section 520 of the Housing Act of 1949 is amended by striking "March 15, 1988" in the last sentence and inserting "September 30, 1989".

(b) ELIGIBILITY OF RURAL AREA PROXIMATE TO URBAN AREA.—Section 520 of the Housing Act of 1949 is amended in the first sentence by inserting before "part of or associated with" the following: "(except in the case of Pajaro, in the State of California)".

SEC. 309. PROCEDURES FOR REDUCTION OF INTEREST CREDITS.

Section 521(a)(1)(B) of the Housing Act of 1949 is amended by adding at the end the following new sentence: "In the case of assistance provided under this subparagraph with respect to a loan under section 502, the Secretary may not reduce, cancel, or refuse to renew the assistance due to an increase in the adjusted income of the borrower if the reduction, cancellation, or nonrenewal will cause the borrower to be unable to reasonably afford the resulting payments required under the loan.".

SEC. 310. RURAL HOUSING PRESERVATION GRANT PROGRAM.

Section 533(h) of the Housing Act of 1949 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary shall, not later than the expiration of the 30-day period following the date of the enactment of the Housing and Community Development Act of 1987 issue regulations to carry out the program of grants under subsection (a)(2).".

SEC. 311. RURAL RENTAL REHABILITATION DEMONSTRATION.

(a) ESTABLISHMENT OF DEMONSTRATION.—The Secretary of Housing and Urban Development (referred to in this section as the "Secretary") shall carry out a rural rental rehabilitation demonstration program in accordance with this section.

(b) AVAILABILITY OF AMOUNTS.—For purposes of the demonstration program, any rental rehabilitation grant amount provided to a State under section 17 of the United States Housing Act of 1937 that is unutilized from any prior fiscal year shall be available for use in areas eligible for assistance under title V of the Housing Act of 1949.

(c) REPORT TO CONGRESS.—The Secretary shall submit to the Congress as soon as practicable after September 30, 1989, a report setting forth the findings and recommendations of the Secretary as a result of the demonstration program. The report shall include an evaluation of the following:

(1) The effectiveness of the program in meeting the need for the rehabilitation of rental housing in rural areas.

(2) The extent of participation by the owners of rental properties in the program.

(3) The cost of the program.

(d) TERMINATION.—The authority provided in this section shall terminate after September 30, 1989.

SEC. 312. STUDY OF MORTGAGE CREDIT IN RURAL AREAS.

The Secretary of Housing and Urban Development shall conduct a study of the availability and use of funds (including mortgages and loans insured under title II of the National Housing Act, loans made or insured under title V of the Housing Act of 1949, and conventional mortgages and loans) for the purchase and improvement of residential real property in rural areas, particularly in communities that have populations of not more than 2,500 individuals. Not later than April 1, 1988, the Secretary shall submit to the Congress a detailed report setting forth the findings of the Secretary as a result of the study.

SEC. 313. DEBT SETTLEMENT AUTHORITY OF SECRETARY.

Section 510(c) of the Housing Act of 1949 is amended to read as follows:

"(c) compromise, adjust, reduce, or charge-off claims, and adjust, modify, subordinate, or release the terms of security instruments, leases, contracts, and agreements entered into or administered by the Secretary under this title, as circumstances may require, including the release of borrowers or others obligated on a debt from personal liability with or without payment of any consideration at the time of the compromise, adjustment, reduction, or charge-off of any claim;".

SEC. 314. MANUFACTURED HOUSING.

Section 502(e) of the Housing Act of 1949 is amended by adding at the end the following:

"(3) A loan that may be made or insured under this section with respect to a manufactured home on a permanent foundation, or a manufactured home on a permanent foundation and a lot, shall be repayable over the same period as would be applicable under section 203(b) of the National Housing Act.".

SEC. 315. LOAN PACKAGING BY NONPROFIT ORGANIZATIONS.

Section 501 of the Housing Act of 1949 (as amended by section 302 of this Act) is further amended by adding at the end the following new subsection:

"(i) For the purposes of this title, the term 'development cost' shall include the packaging of loan and grant applications and actions related thereto by public and private nonprofit organizations tax exempt under the Internal Revenue Code of 1986.".

SEC. 316. RURAL HOUSING TECHNICAL AMENDMENTS.

(a) DEFINITIONS.—Section 501(b)(3) of the Housing Act of 1949 is amended by striking "is a developmentally disabled individual as defined in section 102(7) of the Development Disabilities Services and Facilities Construction Act" and inserting the following: "has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7))".

(b) FARM LABOR HOUSING.—Section 514(f)(1) of the Housing Act of 1949 is amended by striking "and" at the end.

(c) HOUSING FOR ELDERLY FAMILIES.—Section 515(p)(1) of the Housing Act of 1949 (as so redesignated by section 242 of this Act) is amended by striking "effective".

(d) Loans to Low- and Moderate-Income Families.—Section 521(a) of the Housing Act of 1949 is amended—

(1) in paragraph (1)(A), by striking ", except" and all that follows through "charges"; and

(2) in paragraph (2)(A), by striking "; or" and inserting ", or".

(e) Housing for Rural Trainees.—Section 522(a) of the Housing Act of 1949 is amended by striking the comma after "Health".

(f) Condominium Housing.—

(1) Section 526(a) of the Housing Act of 1949 is amended by striking "and" the first place it appears.

(2) Section 526(c) of the Housing Act of 1949 is amended by striking "and" the first place it appears.

(g) Housing Preservation Grants.—

(1) Section 533(e)(1)(B)(iii) of the Housing Act of 1949 is amended by inserting "to" before "refuse".

(2) Section 533(g) of the Housing Act of 1949 is amended by striking "persons of low income and very low-income" and inserting "low income families or persons and very low-income families or persons".

TITLE IV—MORTGAGE INSURANCE AND SECONDARY MORTGAGE MARKET PROGRAMS

Subtitle A—FHA Mortgage Insurance Programs

SEC. 401. INSURANCE AUTHORITY FOR FHA.

(a) Repeals.—Each of the following provisions of law is repealed:

(1) Section 217 of the National Housing Act.

(2) The fifth sentence of section 221(f) of the National Housing Act.

(3) Section 244(d), and the last sentence of section 244(h), of the National Housing Act.

(4) The last sentence of section 245(a) of the National Housing Act.

(5) The second sentence of section 809(f) of the National Housing Act.

(6) The second sentence of section 810(k) of the National Housing Act.

(7) The second sentence of section 1002(a) of the National Housing Act.

(8) The second sentence of section 1101(a) of the National Housing Act.

(b) Amendment.—The first sentence of section 2(a) of the National Housing Act is amended by striking "and not later than March 15, 1988,".

(c) Extension of Section 235.—The last sentence of section 235(h)(1), section 235(m), and the last sentence of section 235(q)(1), of the National Housing Act are each amended by striking out "March 15, 1988" and inserting in lieu thereof "September 30, 1989".

(d) Termination of Section 235.—

(1) In general.—Effective on October 1, 1989, the program under section 235 of the National Housing Act shall terminate.

(2) Savings provision.—The provisions of paragraph (1) shall not affect—

(A) any mortgage insurance commitment issued; or

(B) any assistance pursuant to a reservation of funds made;

under section 235 of the National Housing Act prior to October 1, 1989.

SEC. 402. AMOUNT TO BE INSURED UNDER NATIONAL HOUSING ACT.

Section 531 of the National Housing Act is amended—

(1) by inserting "(a)" after "Sec. 531."; and

(2) by adding at the end thereof the following:

"(b) Notwithstanding any other provision of law and subject only to the absence of qualified requests for insurance, to the authority provided in this Act, and to the limitation in subsection (a), the Secretary shall enter into commitments to insure mortgages under this Act with an aggregate principal amount of $100,000,000,000 during fiscal year 1988, and $104,000,000,000 during fiscal year 1989.".

SEC. 403. LIMITATION ON FEDERAL HOUSING ADMINISTRATION INSURANCE PREMIUMS.

Section 203(c) of the National Housing Act is amended by adding at the end the following new sentence: "In the case of any mortgage secured by a 1- to 4-family dwelling, the total premium charge shall not exceed an amount equal to 3.8 percent of the original principal obligation of the mortgage if the Secretary requires (1) a single premium charge to cover the total premium obligation of the insurance of the mortgage; or (2) a periodic premium charge over less than the term of the mortgage.".

SEC. 404. INCREASE IN MAXIMUM MORTGAGE AMOUNT UNDER SINGLE FAMILY INSURANCE PROGRAM.

Section 203(b)(2)(A) of the National Housing Act is amended by striking "133⅓ per centum" and inserting "150 percent".

SEC. 405. CHANGE IN DEFINITION OF VETERAN.

The National Housing Act is amended—

(1) by inserting before the period at the end of the first undesignated paragraph of section 203(b)(3)(2) the following: ", except that persons enlisting in the armed forces after September 7, 1980, or entering active duty after October 16, 1981, shall have their eligibility determined in accordance with section 3103A(d) of title 38, United States Code"; and

(2) by inserting before the semicolon at the end of section 220(d)(3)(A)(i) the following: ", except that persons enlisting in the armed forces after September 7, 1980, or entering active duty after October 16, 1981, shall have their eligibility determined in accordance with section 3103A(d) of title 38, United States Code".

SEC. 406. LIMITATION ON USE OF SINGLE FAMILY MORTGAGE INSURANCE BY INVESTORS.

(a) In General.—Section 203 of the National Housing Act is amended by inserting the following new subsection before subsection (h):

"(g)(1) The Secretary may insure a mortgage under this title that is secured by a 1- to 4-family dwelling, or approve a substitute mortgagor with respect to any such mortgage, only if the mortgagor is to occupy the dwelling as his or her principal residence or as a secondary residence, as determined by the Secretary.

"(2) The occupancy requirement established in paragraph (1) shall apply only if the mortgage involves a principal obligation that exceeds, as appropriate, 75 percent of—

"(A) the appraised value of the dwelling;

"(B) the estimate of the Secretary of the replacement cost of the property;

"(C) the sum of the estimates of the Secretary of the cost of repair and rehabilitation and the value of the property before repair and rehabilitation; or

"(D) the sum of the estimates of the Secretary of the cost of repair and rehabilitation and the amount (as determined by the Secretary) required to refinance existing indebtedness secured by the property, and, in the case of a property refinanced under section 220(d)(3)(A), any existing indebtedness incurred in connection with improving, repairing, or rehabilitating the property.

"(3) The occupancy requirement established in paragraph (1) shall not apply to any mortgagor (or co-mortgagor, as appropriate) that is—

"(A) a public entity, as provided in section 214 or 247;

"(B) a private nonprofit or public entity, as provided in section 221(h) or 235(j);

"(C) an Indian tribe, as provided in section 248;

"(D) a serviceperson who is unable to meet such requirement because of his or her duty assignment, as provided in section 216 or subsection (b)(4) or (f) of section 222; or

"(E) a mortgagor or co-mortgagor under subsection (k).

"(4) For purposes of this subsection, the term 'substitute mortgagor' means a person who, upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assumes such liability and agrees to pay the mortgage debt.".

(b) Conforming Amendments.—

(1) Section 203(b)(2) of the National Housing Act is amended—

(A) in the first sentence, by striking "(whether" and all that follows through "purposes)"; and

(B) in the second sentence, by striking the following: "to be occupied as a principal residence of the owner".

(2) Section 203(b) of the National Housing Act is amended by striking paragraph (8).

(3) Section 203(h) of the National Housing Act is amended by striking "is the owner and occupant and".

(4) Section 203(i) of the National Housing Act is amended—

(A) by striking the first proviso; and

(B) by striking "further" the first place it appears.

(5) The first sentence of section 203(o)(2) of the National Housing Act is amended by striking "occupant".

(6) The first sentence of section 203(p)(2) of the National Housing Act is amended by striking "owner-occupant" and inserting "owner".

(7) The fourth sentence of section 214 of the National Housing Act is amended by striking the following: "shall be the owner and occupant of the property or".

(8) Section 216 of the National Housing Act is amended—

(A) by striking "that the mortgagor be the occupant" and inserting "with respect to the occupancy of the mortgagor"; and

(B) by striking "occupy the property" each place it appears and inserting "meet such requirement".

(9) Section 220(d)(3)(A) of the National Housing Act is amended—

(A) by inserting "and" at the end of clause (i);

(B) by striking clauses (ii) and (iii);

(C) in clause (iv), by striking the following: "(except as provided in clause (iii))"; and

(D) by redesignating clause (iv) as clause (ii).

(10) Section 221(d)(2) of the National Housing Act is amended—

(A) by striking the colon at the end of subparagraph (A)(iv) and all that follows through "*Provided further,* That" the first place it appears, and inserting ", except that";

(B) by striking "*Provided,* That (i)" and all that follows through "(1) in" and inserting the following: "*Provided,* That (i)(1) in";

(C) by striking the penultimate proviso; and

(D) in the last proviso, by striking the following: ", if the mortgagor is the owner and an occupant of the property such" and inserting "the".

(11) Section 221(d)(6)(ii) of the National Housing Act is amended by striking the following: "is an owner-occupant of the property and".

(12) The first sentence of section 221(h)(6) of the National Housing Act is amended by striking "and occupied".

(13) Section 221(h)(8) of the National Housing Act is amended by striking the following: "if one of the units is to be occupied by the owner".

(14) Subsections (b)(4) and (f) of section 222 of the National Housing Act are amended by inserting "as a principal residence" after "occupies the property" each place it appears.

(15) Section 223(a) of the National Housing Act is amended by inserting after "this Act," the first place it appears the following: "other than the limitation in section 203(g),".

(16) The first sentence of section 223(e) of the National Housing Act is amended by inserting after "title XI," the following: "other than the limitation in section 203(g),".

(17) Section 234(c) of the National Housing Act is amended by striking the fourth sentence.

(18) Section 235(i)(3)(A) of the National Housing Act is amended by striking the following: "one of the units of which is to be occupied by the owner and".

(19) Section 235(j)(6) of the National Housing Act is amended by striking the following: "if one of the units is to be occupied by the owner".

(c) Repeal of Vacation and Seasonal Home Insurance Program.—Section 203 of the National Housing Act is amended by striking subsection (m).

(d) Applicability.—The amendments made by this section shall apply only with respect to—

(1) mortgages insured—

(A) pursuant to a conditional commitment issued on or after the date of the enactment of this Act; or

(B) in accordance with the direct endorsement program (24 CFR 200.163), if the approved underwriter of the mortgagee signs the appraisal report for the property on or after the date of the enactment of this Act; and

(2) the approval of substitute mortgagors, referred to in the amendment made by subsection (a), if the original mortgagor was subject to such amendment.

(e) Transition Provisions.—Any mortgage insurance provided under title II of the National Housing Act, as it existed immediately before the date of the enactment of this Act, shall continue to be governed (to the extent applicable) by the provisions specified in subsections (a) through (c), as such provisions existed immediately before such date.

SEC. 407. ACTIONS TO REDUCE LOSSES UNDER SINGLE FAMILY MORTGAGE INSURANCE PROGRAM.

(a) In General.—

(1) Amendment to section 203.—Section 203 of the National Housing Act is amended by adding at the end the following new subsection:

"(r) The Secretary shall take appropriate actions to reduce losses under the mortgage insurance program carried out under this section. Such actions shall include—

"(1) an annual review by the Secretary of the rate of early serious defaults and claims, in accordance with section 533;

"(2) requiring reviews of the credit standing of each person seeking to assume a mortgage insured under this section (A) during the 12-month period following the date on which the mortgage is endorsed for insurance, or (B) during the 24-month period following the date on which the mortgage is endorsed for insurance in the case of an investor originated mortgage; and

"(3) in any case where a mortgage is assumed after the period specified in paragraph (2), requiring that the original mortgagor be advised of the procedures by which he or she may be released from liability.

In any case where the homeowner does not request a release from liability, the purchaser and the homeowner shall have joint and several liability for any default for a period of 5 years following the date of the assumption. After the close of such 5-year period, only the purchaser shall be liable for any default on the mortgage unless the mortgage is in default at the time of the expiration of the 5-year period.".

(2) Effective date.—The amendment made by paragraph (1) shall apply to mortgages endorsed for issuance on or after December 1, 1986.

(b) Reports by Mortgagees.—Title V of the National Housing Act is amended by adding at the end thereof the following new section:

"DIRECTION TO THE SECRETARY TO REQUIRE MORTGAGEES WITH ABOVE NORMAL RATES OF EARLY, SERIOUS DEFAULTS AND CLAIMS TO SUBMIT REPORTS AND TAKE CORRECTIVE ACTION

"Sec. 533. (a) To reduce losses in connection with mortgage insurance programs under this Act, the Secretary shall review, at least once a year, the rate of early serious defaults and claims involving mortgagees approved under this Act. On the basis of this review, the Secretary shall notify each mortgagee which, as determined by the Secretary, had a rate of early serious defaults and claims during the preceding year which was higher than the normal rate for the geographic area or areas in which that mortgagee does business. In the notification, the Secretary shall require each mortgagee to submit a report, within a time determined by the Secretary, containing the mortgagee's (1) explanation for the above normal rate of early serious defaults and claims; (2) plan for corrective action, if applicable, both with regard to (A) mortgages in default; and (B) its mortgage-processing system in general; and (3) a timeframe within which this corrective action will be begun and completed. If the Secretary does not agree with this timeframe or plan, a mutually agreeable timeframe and plan will be determined.

"(b) Failure of the mortgagee to submit a report required under subsection (a) within the time determined by the Secretary or to commence or complete the plan for corrective action within the timeframe agreed upon by the Secretary may be cause for suspension of the mortgagee from participation in programs under this Act.".

SEC. 408. INSURANCE OF GRADUATED PAYMENT MORTGAGES.

(a) Authority to Insure Refinancing.—Section 223(a)(7) of the National Housing Act is amended in the first proviso by inserting after "except that" the following: "(A) the principal amount of any such refinancing mortgage may equal the outstanding balance of an existing mortgage insured pursuant to section 245, if the amount of the monthly payment due under the refinancing mortgage is less than that due under the existing mortgage for the month in which the refinancing mortgage is executed; and (B)".

(b) Termination of Authority to Insure.—Section 245(b) of the National Housing Act is amended by adding at the end the following new sentence: "No loan or mortgage may be insured under this subsection after the date of the enactment of the Housing and Community Development Act of 1987, except pursuant to a commitment to insure entered into on or before such date.".

SEC. 409. REFINANCING MORTGAGE INSURANCE FOR HOSPITALS, NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES.

(a) State Certification Requirement.—Section 223(f)(4)(D) of the National Housing Act is amended to read as follows:

"(D) the applicable requirements for certificates, studies, and statements of section 232 (for the existing nursing home, intermediate care facility, board and care home, or any combination thereof, proposed to be refinanced) or of section 242 (for the existing hospital proposed to be refinanced) have been met.".

(b) Refinancing Insurance for Nursing Homes, Intermediate Care Facilities, and Board and Care Homes.—Section 223(f) of the National Housing Act is amended—

(1) in paragraph (1), by inserting after "existing hospital" the following: "(or existing nursing home, existing intermediate care facility, existing board and care home, or any combination thereof)"; and

(2) in paragraph (4) (other than in subparagraph (D)), by inserting after "existing hospital" each place it appears the following: "(or existing nursing home, existing intermediate care facility, existing board and care home, or any combination thereof)".

(c) Regulations.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendment made by this section by not later than the expiration of the 90-day period following the date of the enactment of this Act.

SEC. 410. MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES.

(a) Insurance for Public Nursing Homes.—Section 232(b)(1) of the National Housing Act is amended by inserting "public facility," before "proprietary".

(b) Requirement of State Approval.—Section 232(d)(4)(A) of the National Housing Act is amended by inserting at the end the following new sentences: "If no such State agency exists, or if the State agency exists but is not empowered to provide a certification that there is a need for the home or facility or combined home and facility as required in clause (i) of the first sentence, the Secretary shall not insure any mortgage under this section unless (i) the State in which the home or facility or combined home and facility is located has conducted or commissioned and paid for the preparation of an independent study of market need and feasibility that (I) is prepared in accordance with the principles established by the American Institute of Certified Public Accountants; (II) assesses, on a marketwide basis, the impact of the proposed home or facility or combined home and facility on, and its relationship to, other health care facilities and services, the percentage of excess beds, demographic projections, alternative health care delivery systems, and the reimbursement structure of the home, facility, or combined home and facility; (III) is addressed to and is acceptable to the Secretary in form and substance; and (IV) in the event the State does not prepare the study, is prepared by a financial consultant who is selected by the State or the applicant for mortgage insurance and is approved by the Secretary; and (ii) the State complies with the other provisions of this subparagraph that would otherwise be required to be met by a State agency designated in accordance with section 604(a)(1) or section 1521 of the Public Health Service Act. The proposed mortgagor may reimburse the State for the cost of the independent feasibility study required in the preceding sentence. In the case of a small intermediate care facility for the mentally retarded or developmentally disabled, or a board and care home housing less than 10 individuals, the State program agency or agencies responsible for licensing, certifying, financing, or monitoring the facility or home may, in lieu of the requirements of clause (i) of the third sentence, provide the Secretary with written support identifying the need for the facility or home.".

(c) REGULATIONS.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendments made by this section by not later than the expiration of the 90-day period following the date of the enactment of this Act.

SEC. 411. REQUIREMENT OF STATE APPROVAL FOR MORTGAGE INSURANCE FOR HOSPITALS.

(a) IN GENERAL.—Section 242(d)(4) of the National Housing Act is amended by inserting at the end the following new sentences: "If no such State agency exists, or if the State agency exists but is not empowered to provide a certification that there is a need for the hospital as set forth in clause (A) of the first sentence, the Secretary shall not insure any mortgage under this section unless (A) the State in which the hospital is located has conducted or commissioned and paid for the preparation of an independent study of market need and feasibility that (i) is prepared in accordance with the principles established by the American Institute of Certified Public Accountants; (ii) assesses, on a marketwide basis, the impact of the proposed hospital on, and its relationship to, other health care facilities and services, the percentage of excess beds, demographic projections, alternative health care delivery systems, and the reimbursement structure of the hospital; (iii) is addressed to and is acceptable to the Secretary in form and substance; and (iv) in the event the State does not prepare the study, is prepared by a financial consultant selected by the State and approved by the Secretary; and (B) the State complies with the other provisions of this paragraph that would otherwise be required to be met by a State agency designated in accordance with section 604(a)(1) or section 1521 of the Public Health Service Act. The proposed mortgagor may reimburse the State for the cost of the independent feasibility study required in the preceding sentence.".

(b) REGULATIONS.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendment made by this section by not later than the expiration of the 90-day period following the date of the enactment of this Act.

SEC. 412. MORTGAGE INSURANCE FOR PUBLIC HOSPITALS.

(a) ELIMINATION OF ADDITIONAL COLLATERAL REQUIREMENTS FOR PUBLIC HOSPITALS.—Section 242(a) of the National Housing Act is amended by adding at the end the following: "Such assistance shall be provided regardless of the amount of public financial or other support a hospital may receive, and the Secretary shall neither require additional security or collateral to guarantee such support, nor impose more stringent eligibility or other requirements on publicly owned or supported hospitals.".

(b) CREDIT FOR EXISTING EQUIPMENT AND IMPROVEMENTS.—Section 242(d)(2) of the National Housing Act is amended by striking the matter preceding subparagraph (A) and inserting the following:

"(2) The mortgage shall involve a principal obligation in the amount requested by the mortgagor if such amount does not exceed 90 percent of the estimated replacement cost of the property or project including—".

(c) CONTINUED USE OF LETTERS OF CREDIT.—Section 242(d) of the National Housing Act is amended by adding at the end the following new paragraph:

"(6) To the extent that a private nonprofit or public facility mortgagor is required by the Secretary to provide cash equity in excess of the amount of the mortgage to complete the project, the mortgagor shall be entitled, at the option of the mortgagee, to fund the excess with a letter of credit. In such event, mortgage proceeds may be advanced to the mortgagor prior to any demand being made on the letter of credit.".

(d) IMMEDIATE PROCESSING OF APPLICATIONS FOR PUBLIC HOSPITALS.—Section 242(f) of the National Housing Act is amended by adding at the end the following: "The Secretary shall begin immediately to process applications of public facilities for mortgage insurance under this section in accordance with regulations, guidelines, and procedures applicable to facilities of private nonprofit corporations and associations.".

(e) REPORT ON INSURANCE UNDER SECTION 242.—The Comptroller General of the United States shall conduct a study of the long-term financial exposure of the Federal Government under the mortgage insurance program pursuant to section 242 of the National Housing Act. Not later than October 1, 1988, the Comptroller General of the United States shall transmit to the Congress a report setting forth the results of such study, including documentation of the long-term financial exposure determined in the course of such study and recommendations for such legislation as the Comptroller General deems appropriate.

SEC. 413. MORTGAGE INSURANCE ON HAWAIIAN HOME LANDS AND INDIAN RESERVATIONS.

(a) APPLICABILITY OF MORTGAGE INSURANCE ON HAWAIIAN HOME LANDS.—Section 247(c)(1) of the National Housing Act is amended by inserting before the period at the end the following: "(or, in the case of an individual who succeeds a spouse or parent in an interest in a lease of Hawaiian home lands, such lower percentage as may be established for such succession under section 209 of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 5))".

(b) MORTGAGE INSURANCE ON HAWAIIAN HOME LANDS AS OBLIGATIONS OF GENERAL INSURANCE FUND.—Section 247 of the National Housing Act is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding any other provision of this Act, the insurance of a mortgage using the authority contained in this section shall be the obligation of the General Insurance Fund established in section 519. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 204 with respect to mortgages insured pursuant to this section, except that (1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund; and (2) all references in section 204 to section 203 shall be construed to refer to the section under which the mortgage is insured.".

(c) MORTGAGE INSURANCE ON INDIAN RESERVATIONS AS OBLIGATIONS OF GENERAL INSURANCE FUND.—Section 248 of the National Housing Act is amended—

(1) in paragraphs (3) and (5) of subsection (f), by striking "insurance fund" each place it appears and inserting "General Insurance Fund";

(2) by redesignating subsections (f), (g), and (h) as subsections (g), (h), and (i), respectively; and

(3) by inserting after subsection (e) the following new subsection:

"(f) Notwithstanding any other provision of this Act, the insurance of a mortgage using the authority contained in this section shall be the obligation of the General Insurance Fund established in section 519. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 204 with respect to mortgages insured pursuant to this section, except that (1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund; and (2) all references in section 204 to section 203 shall be construed to refer to the section under which the mortgage is insured.".

SEC. 414. CO-INSURANCE PROGRAM.

(a) REPEALER.—Section 244 of the National Housing Act is amended by striking subsection (c).

(b) CO-INSURANCE AMENDMENTS.—Section 244 of the National Housing Act is amended—

(1) in subsection (h), by striking "coinsurance" each place it appears and inserting "co-insurance"; and

(2) by adding at the end the following new subsection:

"(i) Any mortgagee which enters into a contract of co-insurance under this section shall have the authority to assign its interest in any note or mortgage subject to a contract of co-insurance to a warehouse bank or other financial institution which provides interim funding for a loan co-insured under this section, and to retain the co-insurance risk of such note or mortgage, upon such terms and conditions as the Secretary shall prescribe.".

SEC. 415. INCREASE IN AUTHORITY TO INSURE ADJUSTABLE RATE SINGLE FAMILY MORTGAGES.

(a) IN GENERAL.—Section 251(c) of the National Housing Act is amended to read as follows:

"(c) The aggregate number of mortgages and loans insured under this section in any fiscal year may not exceed 30 percent of the aggregate number of mortgages and loans insured by the Secretary under this title during the preceding fiscal year.".

(b) Conforming Amendments.—

(1) Section 245(c) of the National Housing Act is amended in the last sentence by striking ", section 251,".

(2) Section 252(g) of the National Housing Act is amended—

(A) by striking the first comma and inserting "and"; and

(B) by striking ", and section 251".

SEC. 416. PENALTIES FOR EQUITY SKIMMING.

(a) Purchase of Dwelling Subject to Loan in Default.—Section 912 of the Housing and Urban Development Act of 1970 is amended—

(1) in paragraph (1), by inserting "(including condominiums and cooperatives)" after "dwellings";

(2) in paragraph (2), by inserting after "due" the following: ", regardless of whether the purchaser is obligated on the loan"; and

(3) in the matter following paragraph (3)—

(A) by striking "$5,000" and inserting "$250,000"; and

(B) by striking "three" and inserting "5".

(b) Use of Funds Derived From Property Subject to Loan in Default.—Title II of the National Housing Act is amended by adding at the end the following new section:

"EQUITY SKIMMING PENALTY

"Sec. 254. Whoever, as an owner, agent, or manager, or who is otherwise in custody, control, or possession of property that is security for a mortgage note that is insured, acquired, or held by the Secretary pursuant to section 203, 207, 213, 220, 221(d)(3), 221(d)(4), 223(f), 231, 232, 234, 236, 238(c), 241, 242, 244, 608, or 810, or title XI, or is made pursuant to section 202 of the Housing Act of 1959, willfully uses or authorizes the use of any part of the rents, assets, proceeds, income or other funds derived from property covered by such mortgage note during a period when the mortgage note is in default or the project is in a nonsurplus cash position as defined by the regulatory agreement covering such property, for any purpose other than to meet actual or necessary expenses that include expenses approved by the Secretary if such approval is required under the terms of the regulatory agreement, shall be fined not more than $250,000 or imprisoned not more than 5 years, or both.".

(c) Conforming Amendments.—Section 239 of the National Housing Act is amended—

(1) by striking "insured" in the section heading;

(2) by striking "(a)" after "Sec. 239."; and

(3) by striking subsection (b).

SEC. 417. HOME EQUITY CONVERSION MORTGAGE INSURANCE DEMONSTRATION.

(a) In General.—Title II of the National Housing Act (as amended by section 416 of this Act) is further amended by adding at the end the following new section:

"DEMONSTRATION PROGRAM OF INSURANCE OF HOME EQUITY CONVERSION MORTGAGES FOR ELDERLY HOMEOWNERS

"Sec. 255. (a) Purpose.—The purpose of this section is to authorize the Secretary to carry out a demonstration program of mortgage insurance designed—

"(1) to meet the special needs of elderly homeowners by reducing the effect of the economic hardship caused by the increasing costs of meeting health, housing, and subsistence needs at a time of reduced income, through the insurance of home equity conversion mortgages to permit the conversion of a portion of accumulated home equity into liquid assets;

"(2) to encourage and increase the involvement of mortgagees and participants in the mortgage markets in the making and servicing of home equity conversion mortgages for elderly homeowners; and

"(3) to require the evaluation of data to determine—

"(A) the extent of the need and demand among elderly homeowners for insured and uninsured home equity conversion mortgages;

"(B) the types of home equity conversion mortgages that best serve the needs and interests of elderly homeowners, the Federal Government, and lenders; and

"(C) the appropriate scope and nature of participation by the Secretary in connection with home equity conversion mortgages for elderly homeowners.

"(b) Definitions.—For purposes of this section:

"(1) The terms 'elderly homeowner' and 'homeowner' mean any homeowner who is, or whose spouse is, at least 62 years of age or such higher age as the Secretary may prescribe.

"(2) The terms 'mortgage', 'mortgagee', 'mortgagor', and 'State' have the meanings given such terms in section 201.

"(3) The term 'home equity conversion mortgage' means a first mortgage which provides for future payments to the homeowner based on accumulated equity and which a housing creditor (as defined in section 803(2) of the Garn-St Germain Depository Institutions Act of 1982) is authorized to make (A) under any law of the United States (other than section 804 of such Act) or applicable agency regulations thereunder; (B) in accordance with section 804 of such Act, notwithstanding any State constitution, law, or regulation; or (C) under any State constitution, law, or regulation.

"(c) Insurance Authority.—The Secretary may, upon application by a mortgagee, insure any home equity conversion mortgage eligible for insurance under this section and, upon such terms and conditions as the Secretary may prescribe, make commitments for the insurance of such mortgages prior to the date of their execution or disbursement to the extent that the Secretary determines such mortgages—

"(1) have promise for improving the financial situation or otherwise meeting the special needs of elderly homeowners;

"(2) will include appropriate safeguards for mortgagors to offset the special risks of such mortgages; and

"(3) have a potential for acceptance in the mortgage market.

"(d) Eligibility Requirements.—To be eligible for insurance under this section, a mortgage shall—

"(1) have been made to a mortgagee approved by the Secretary as responsible and able to service the mortgage properly;

"(2) have been executed by a mortgagor who—

"(A) qualifies as an elderly homeowner;

"(B) has received adequate counseling by a third party (other than the lender) as provided in subsection (f); and

"(C) meets any additional requirements prescribed by the Secretary;

"(3) be secured by a dwelling that is designed principally for a 1-family residence and is occupied by the mortgagor and that has a value not to exceed the maximum dollar amount established by the Secretary under section 203(b)(2) for a 1-family residence;

"(4) provide that prepayment, in whole or in part, may be made without penalty at any time during the period of the mortgage;

"(5) provide for a fixed or variable interest rate or future sharing between the mortgagor and the mortgagee of the appreciation in the value of the property, as agreed upon by the mortgagor and the mortgagee;

"(6) contain provisions for satisfaction of the obligation satisfactory to the Secretary;

"(7) provide that the homeowner shall not be liable for any difference between the net amount of the remaining indebtedness of the homeowner under the mortgage and the amount recovered by the mortgagee from—

"(A) the foreclosure sale; or

"(B) the insurance benefits paid pursuant to subsection (i)(1)(C); and

"(8) contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes, default reserve, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may prescribe.

"(e) Disclosures by Mortgagee.—The Secretary shall require each mortgagee of a mortgage insured under this section to make available to the homeowner—

"(1) at the time of the loan application, a written list of the names and addresses of third-party information sources who are approved by the Secretary as responsible and able to provide the information required by subsection (f);

"(2) at least 10 days prior to loan closing, a statement explaining the homeowner's rights, obligations, and remedies with respect to temporary absences from the home, late payments, and payment default by the lender, all conditions requiring satisfaction of the loan obligation, and any other information that the Secretary may require; and

"(3) on an annual basis (but not later than January 31 of each year), a statement summarizing the total principal amount paid to the homeowner under the loan secured by the mortgage, the total amount of deferred interest added to the principal, and the outstanding loan balance at the end of the preceding year.

"(f) Information Services for Mortgagors.—The Secretary shall provide or cause to be provided by entities other than the lender the information required in subsection (d)(2)(B). Such information shall be discussed with the mortgagor and shall include—

"(1) options other than a home equity conversion mortgage that are available to the homeowner, including other housing, social service, health, and financial options;

"(2) other home equity conversion options that are or may become available to the homeowner, such as sale-leaseback financing, deferred payment loans, and property tax deferral;

"(3) the financial implications of entering into a home equity conversion mortgage;

"(4) a disclosure that a home equity conversion mortgage may have tax consequences, affect eligibility for assistance under Federal and State programs, and have an impact on the estate and heirs of the homeowner; and

"(5) any other information that the Secretary may require.

"(g) Limitation on Insurance Authority.—No mortgage may be insured under this section after September 30, 1991, except pursuant to a commitment to insure issued on or before such date. The total number of mortgages insured under this section may not exceed 2,500. In no case may the benefits of insurance under this section exceed the maximum dollar amount established under section 203(b)(2) for a 1-family residence.

"(h) ADMINISTRATIVE AUTHORITY.—The Secretary may—

"(1) enter into such contracts and agreements with Federal, State, and local agencies, public and private entities, and such other persons as the Secretary determines to be necessary or desirable to carry out the purposes of this section; and

"(2) make such investigations and studies of data, and publish and distribute such reports, as the Secretary determines to be appropriate.

"(i) PROTECTION OF HOMEOWNER AND LENDER.—

"(1) Notwithstanding any other provision of law, and in order to further the purposes of the demonstration program authorized in this section, the Secretary shall take any action necessary—

"(A) to provide any mortgagor under this section with funds to which the mortgagor is entitled under the insured mortgage or ancillary contracts but that the mortgagor has not received because of the default of the party responsible for payment;

"(B) to obtain repayment of disbursements provided under subparagraph (A) from any source; and

"(C) to provide any mortgagee under this section with funds not to exceed the limitations in subsection (g) to which the mortgagee is entitled under the terms of the insured mortgage or ancillary contracts authorized in this section.

"(2) Actions under paragraph (1) may include—

"(A) disbursing funds to the mortgagor or mortgagee from the General Insurance Fund;

"(B) accepting an assignment of the insured mortgage notwithstanding that the mortgagor is not in default under its terms, and calculating the amount and making the payment of the insurance claim on such assigned mortgage;

"(C) requiring a subordinate mortgage from the mortgagor at any time in order to secure repayments of any funds advanced or to be advanced to the mortgagor;

"(D) requiring a subrogation to the Secretary of the rights of any parties to the transaction against any defaulting parties; and

"(E) imposing premium charges.

"(j) SAFEGUARD TO PREVENT DISPLACEMENT OF HOMEOWNER.—The Secretary may not insure a home equity conversion mortgage under this section unless such mortgage provides that the homeowner's obligation to satisfy the loan obligation is deferred until the homeowner's death, the sale of the home, or the occurrence of other events specified in regulations of the Secretary. For purposes of this subsection, the term 'homeowner' includes the spouse of a homeowner.

"(k) REPORTS TO CONGRESS.—

"(1) The Secretary shall, not later than September 30, 1989, submit an interim report to Congress describing—

"(A) design and implementation of the demonstration;

"(B) number and types of reverse mortgages written to date;

"(C) profile of participant homeowner-borrowers, including incomes, home equity, and regional distribution; and

"(D) problems encountered in implementation, including impediments associated with State or Federal laws or regulations governing taxes, insurance, securities, public benefits, banking, and any other problems in implementation that the Secretary encounters.

"(2) Not later than March 30, 1992, the Secretary shall submit to Congress a preliminary evaluation of the program authorized in this section. Such evaluation shall include an updated report on the matters referred to in paragraph (1) and shall in addition—

"(A) describe the types of mortgages appropriate for inclusion in such program;

"(B) describe any changes in the insurance programs under this title, or in other Federal regulatory provisions, determined to be appropriate;

"(C) describe any risk created under such mortgages to mortgagors and mortgagees or the insurance programs under this title, and whether the risk is adequately covered by the premiums under the insurance programs;

"(D) evaluate whether such program has improved the financial situation or otherwise met the special needs of participating elderly homeowners;

"(E) evaluate whether such program has included appropriate safeguards for mortgagors to offset the special risks of such mortgages; and

"(F) evaluate whether home equity conversion mortgages have a potential for acceptance in the mortgage markets.

"(3) The preliminary evaluation shall incorporate comments and recommendations solicited by the Secretary from the Board of Governors of the Federal Reserve System, the Secretary of Health and Human Services, the Federal Council on Aging, Federal Home Loan Bank Board, the Comptroller of the Currency, and the National Credit Union Administration Board regarding any of the matters referred to in paragraph (1) or (2).

"(4) Following submission of the preliminary evaluation, the Secretary shall, on a biennial basis, submit to the Congress an updated report and evaluation covering the period since the most recent report under this subsection and shall include analysis of the repayment of the home equity conversion mortgages under this demonstration during such period.".

(b) REGULATIONS.—The Secretary of Housing and Urban Development shall—

(1) not later than 6 months after the date of enactment of this Act, consult with lenders, insurers, and organizations and individuals with expertise in home equity conversion in developing proposed regulations implementing section 254 of the National Housing Act; and

(2) not later than 9 months after the date of the enactment of this Act, issue proposed regulations implementing section 254 of the National Housing Act.

SEC. 418. ASSURANCE OF ADEQUATE PROCESSING OF APPLICATIONS FOR LOAN AND MORTGAGE INSURANCE.

Title V of the National Housing Act (as amended by section 407 of this Act) is amended by adding at the end the following new section:

"ASSURANCE OF ADEQUATE PROCESSING OF APPLICATIONS FOR LOAN AND MORTGAGE INSURANCE

"SEC. 534. In order to ensure the adequate processing of applications for insurance of loans and mortgages under this Act, the Secretary shall maintain not less than one office in each State to carry out the provisions of this Act.".

SEC. 419. PROHIBITION OF LENDER REQUIREMENTS DISCOURAGING LOANS WITH LOWER PRINCIPAL AMOUNTS.

(a) LOAN AMOUNT OF ORIGINAL LOANS.—Title V of the National Housing Act (as amended by sections 407 and 418 of this Act) is further amended by adding at the end the following new section:

"PROHIBITION OF REQUIREMENT OF MINIMUM PRINCIPAL LOAN AMOUNT

"SEC. 535. A mortgagee or lender may not require, as a condition of providing a loan insured under this Act or secured by a mortgage insured under this Act, that the principal amount of the loan exceed a minimum amount established by the mortgagee or lender.".

(b) LOAN AMOUNT OF REFINANCINGS.—Section 223(a)(7) of the National Housing Act (as amended by section 408 of this Act) is further amended by striking "; and (B)" and inserting the following: "; (B) a mortgagee may not require a minimum principal amount to be outstanding on the loan secured by the existing mortgage; and (C)".

(c) STUDY OF OTHER LENDING PRACTICES.—During the 6-month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall conduct a study of the interest rates and discount points charged for mortgages and loans insured under the National Housing Act. The study shall be designed to identify any pattern or practice of charging higher interest rates or discount points for mortgages or loans with lower principal amounts than for mortgages or loans with the maximum principal amounts permitted for insurance under the National Housing Act. Not later than 3 months after the expiration of the 6-month period, the Secretary shall submit to the Congress a report setting forth the findings and recommendations of the Secretary.

SEC. 420. REPEAL OF REQUIREMENT TO PUBLISH PROTOTYPE HOUSING COSTS FOR 1- TO 4-FAMILY DWELLING UNITS.

The Housing and Community Development Act of 1977 is amended by striking section 904.

SEC. 421. DOUBLE DAMAGES REMEDY FOR UNAUTHORIZED USE OF MULTIFAMILY HOUSING PROJECT ASSETS AND INCOME.

(a) ACTION TO RECOVER ASSETS OR INCOME.—

(1) The Secretary of Housing and Urban Development (referred to in this section as the "Secretary") may request the Attorney General to bring an action in a United States district court to recover any assets or income used by any person in violation of (A) a regulatory agreement that applies to a multifamily project whose mortgage is insured or held by the Secretary under title II of the National Housing Act; or (B) any applicable regulation. For purposes of this section, a use of assets or income in violation of the regulatory agreement or any applicable regulation shall include any use for which the documentation in the books and accounts does not establish that the use was made for a reasonable operating expense or necessary repair of the project and has not been maintained in accordance with the requirements of the Secretary and in reasonable condition for proper audit.

(2) For purposes of a mortgage insured or held by the Secretary under title II of the National Housing Act, the term "any person" shall mean any person or entity which owns a project, as identified in the regulatory agreement, including but not

limited to any stockholder holding 25 percent or more interest of a corporation that owns the project; any beneficial owner under any business or trust; any officer, director, or partner of an entity owning the project; and any heir, assignee, successor in interest, or agent of any owner.

(b) Initiation of Proceedings and Temporary Relief.—The Attorney General, upon request of the Secretary, shall have the exclusive authority to authorize the initiation of proceedings under this section. Pending final resolution of any action under this section, the court may grant appropriate temporary or preliminary relief, including restraining orders, injunctions, and acceptance of satisfactory performance bonds, to protect the interests of the Secretary and to prevent use of assets or income in violation of the regulatory agreement and any applicable regulation and to prevent loss of value of the realty and personalty involved.

(c) Amount Recoverable.—In any judgment favorable to the United States entered under this section, the Attorney General may recover double the value of the assets and income of the project that the court determines to have been used in violation of the regulatory agreement or any applicable regulation, plus all costs relating to the action, including but not limited to reasonable attorney and auditing fees. Notwithstanding any other provision of law, the Secretary may apply the recovery, or any portion of the recovery, to the project or to the applicable insurance fund under the National Housing Act.

(d) Time Limitation.—Notwithstanding any other statute of limitations, the Secretary may request the Attorney General to bring an action under this section at any time up to and including 6 years after the latest date that the Secretary discovers any use of project assets and income in violation of the regulatory agreement or any applicable regulation.

(e) Continued Availability of Other Remedies.—The remedy provided by this section is in addition to any other remedies available to the Secretary or the United States.

SEC. 422. MISCELLANEOUS MORTGAGE INSURANCE PROVISIONS.

(a) Mortgage Insurance for Condominiums.—Section 234(e)(3) of the National Housing Act is amended by inserting after "design;" the following: "except that each of the foregoing dollar amounts is increased to the amount established for a comparable unit in section 221(d)(3)(ii);".

(b) Mortgage Insurance for Certain Properties Within an Indian Reservation.—Section 203(q)(1) of the National Housing Act is amended by striking "Secretary may" and inserting "Secretary shall".

SEC. 423. CALCULATION OF MAXIMUM MORTGAGE AMOUNT UNDER SINGLE FAMILY INSURANCE PROGRAM.

Section 203(b)(2) of the National Housing Act is amended by inserting after the first sentence the following: "For purposes of the preceding sentence, the term 'area' means a county, or a metropolitan statistical area as established by the Office of Management and Budget, whichever results in the higher dollar amount.".

SEC. 424. APPROVAL OF INDIVIDUAL RESIDENTIAL WATER PURIFICATION OR TREATMENT UNITS.

(a) In General.—When the existing water supply does not meet the minimum property standards established by the Department of Housing and Urban Development and a permanent alternative acceptable water supply is not available, a continuous supply of water may be provided through the use of approved residential water treatment equipment or a water purification unit that provides bacterially and chemically safe drinking water.

(b) Approval Process.—A performance-based approval of the equipment or unit and the maintenance, monitoring, and replacement plan for such equipment or unit shall be certified by field offices of the Department of Housing and Urban Development based upon general standards recognized by the Department as modified for local or regional conditions. As a part of such approved plan, a separate monthly escrow account may be required to be established through the lender to cover the cost of the approved yearly maintenance and monitoring schedule and projected replacement of the equipment or unit.

SEC. 425. REGULATION OF RENTS IN INSURED PROJECTS.

After December 1, 1987, the Secretary of Housing and Urban Development shall control rents and charges as they were controlled prior to April 19, 1983, for any multifamily housing project insured under the National Housing Act if—

(1) during the period of April 19, 1983, through December 1, 1987, the project owner and the Secretary have not executed, and the project owner has not filed a written request with the Secretary to enter into, an amendment to the regulatory agreement pursuant to regulations published by the Secretary on April 19, 1983, or June 4, 1986, electing to deregulate rents or utilize an alternative formula for determining the maximum allowable rents pursuant to regulations published by the Secretary on April 19, 1983, or June 4, 1986; and

(2)(A) the project was, as of December 1, 1987, receiving a housing assistance payment under a contract pursuant to section 8 of the United States Housing Act of 1937 (other than under the existing housing certificate program of section 8(b)(1) of such Act); or

(B) not less than 50 percent of the units in the project are occupied by lower income families (as defined in section 3(a)(2) of the United States Housing Act of 1937).

SEC. 426. MORTGAGE LIMITS FOR MULTIFAMILY PROJECTS.

(a) Section 207 Limits.—Section 207(c)(3) of the National Housing Act is amended—

(1) by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" and inserting in lieu thereof "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800", respectively; and

(2) by striking out "$22,500", "$25,200", "$30,900", "$38,700", and "$43,758" and inserting in lieu thereof "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885", respectively.

(b) Section 213 Limits.—Section 213(b)(2) of the National Housing Act is amended—

(1) by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" and inserting in lieu thereof "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800", respectively; and

(2) by striking out "$22,500", "$25,200", "$30,900", "$38,700", and "$43,758" and inserting in lieu thereof "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885", respectively.

(c) Section 220 Limits.—Section 220(d)(3)(B)(iii) of the National Housing Act is amended—

(1) by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" and inserting in lieu thereof "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800", respectively; and

(2) by striking out "$22,500", "$25,200", "$30,900", "$38,700", and "$43,758" and inserting in lieu thereof "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885", respectively.

(d) Section 221(d)(3) Limits.—Section 221(d)(3)(ii) of the National Housing Act is amended by striking out "$21,563"; "$24,862"; "$29,984"; "$38,379"; "$42,756"; "$22,692"; "$26,012"; "$31,631"; "$40,919"; and "$44,917" and inserting in lieu thereof "$28,032"; "$32,321"; "$38,979"; "$49,893"; "$55,583"; "$29,500"; "$33,816"; "$41,120"; "$53,195"; and "$58,392", respectively.

(e) Section 221(d)(4) Limits.—Section 221(d)(4)(ii) of the National Housing Act of 1934 is amended by striking out "$19,406"; "$22,028"; "$26,625"; "$33,420"; "$37,870"; "$20,962"; "$24,030"; "$29,220"; "$37,800"; and "$41,494" and inserting in lieu thereof "$25,228"; "$28,636"; "$34,613"; "$43,446"; "$49,231"; "$27,251"; "$31,239"; "$37,986"; "$49,140"; and "$53,942", respectively.

(f) Section 231 Limits.—Section 231(c)(2) of the National Housing Act is amended—

(1) by striking out "$18,450", "$20,625", "$24,630", "$29,640", and "$34,846" and inserting in lieu thereof "$23,985", "$26,813", "$32,019", "$38,532", and "$45,300", respectively; and

(2) by striking out "$20,962", "$24,030", "$29,220", "$37,800", and "$41,494" and inserting in lieu thereof "$27,251", "$31,239", "$37,986", "$49,140", and "$53,942", respectively.

(g) Section 234 Limits.—Section 234(e)(3) of the National Housing Act is amended—

(1) by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" and inserting in lieu thereof "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800", respectively; and

(2) by striking out "$22,500", "$25,200", "$30,900", "$38,700", and "$43,758" and inserting in lieu thereof "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885", respectively.

(h) Limits for Multifamily Projects in High-Cost Areas.—Section 207(c)(3), the second proviso of section 213(b)(2), the first proviso of section 220(d)(3)(B)(iii), section 221(d)(3)(ii), section 221(d)(4)(ii), section 231(c)(2), and section 234(e)(3) of the National Housing Act are each amended by striking "not to exceed 75 per centum" and all that follows through "involved) in such an area" and inserting the following: "not to exceed 110 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 140 percent where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 305 of this Act (as such section existed immediately before November 30, 1983) is involved".

SEC. 427. OPERATING LOSS LOAN INSURANCE.

Section 223(d) of the National Housing Act is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by striking the first and second sentences and inserting the following:

"Notwithstanding any other provision of this Act, the Secretary is authorized to insure loans made to cover the operating losses of certain projects that have existing project mortgages insured by the Secretary. Insurance under this subsection shall be in the Secretary's discretion and upon such terms and conditions as the Secretary may prescribe, and shall be provided in accordance with the provisions of this subsection. For purposes of this subsection, the term 'operating loss' means the amount by which the sum of the taxes, interest on the mortgage debt, mortgage insurance premiums, hazard insurance premiums, and the expense of maintenance and operation of the project covered by the mortgage, exceeds the income of the project.

"(2) To be eligible for insurance pursuant to this paragraph—

"(A) the existing project mortgage (i) shall have been insured by the Secretary at any time before or after the date of enactment of the Housing and Community Development Act of 1987; and (ii) shall cover any property, other than a property upon which there is located a 1- to 4-family dwelling;

"(B) the operating loss shall have occurred during the first 24 months after the date of completion of the project, as determined by the Secretary; and

"(C) the loan shall be in an amount not exceeding the operating loss.

"(3) To be eligible for insurance pursuant to this paragraph—

"(A) the existing project mortgage (i) shall have been insured by the Secretary at any time before or after the date of enactment of the Housing and Community Development Act of 1987; (ii) shall cover any property, other than a property upon which there is located a 1- to 4-family dwelling; and (iii) shall not cover a subsidized project, as defined by the Secretary;

"(B) the loan shall be in an amount not exceeding 80 percent of the unreimbursed cash contributions made on or after March 18, 1987, by the project owner for the use of the project, during any period of consecutive months (not exceeding 24 months) in the first 10 years after the date of completion of the project, as determined by the Secretary, except that in no event may the amount of the loan exceed the operating loss during such period;

"(C) the loan shall be made within 10 years after the end of the period of consecutive months referred to in the preceding subparagraph; and

"(D) the project shall meet all applicable underwriting and other requirements of the Secretary at the time the loan is to be made.

"(4) Any loan insured pursuant to this subsection shall (A) bear interest at such rate as may be agreed upon by the mortgagor and mortgagee; (B) be secured in such manner as the Secretary shall require; (C) be limited to a term not exceeding the unexpired term of the original mortgage; and (D) be insured under the same section as the original mortgage. The Secretary may provide insurance pursuant to paragraph (2) or (3), or pursuant to both such paragraphs, in connection with an existing project mortgage, except that the Secretary may not provide insurance pursuant to both such paragraphs in connection with the same period of months referred to in paragraphs (2)(B) and (3)(B)." ; and

(3) by inserting "(5)" before "A loan" at the beginning of the undesignated paragraph at the end.

SEC. 428. INTEREST CHARGES ON TEMPORARY MORTGAGE ASSISTANCE PAYMENTS AND ASSIGNMENT OR OTHER ASSISTANCE.

Section 230(a)(5) of the National Housing Act is amended by striking the third sentence and inserting the following: "The interest rate on payments made under this subsection shall be the rate established under section 1803(c) of title 38, United States Code. The interest rate to be charged shall be determined when the Secretary approves assistance under this subsection.".

SEC. 429. MORTGAGE INSURANCE TECHNICAL AMENDMENTS.

(a) Administrative Provisions.—The second sentence of section 1 of the National Housing Act is amended by striking the last comma.

(b) Applicablity.—Section 9 of the National Housing Act is amended by inserting the following section heading:

"APPLICABILITY".

(c) Loan Insurance Programs.—Sections 203(k)(3)(B) and 241(b)(3) of the National Housing Act are amended—

(1) by striking "mortgagor" each place it appears and inserting "borrower"; and

(2) by striking "mortgagee" each place it appears and inserting "financial institution".

(d) Miscellaneous Housing Insurance.—

(1) Section 223(a)(7) of the National Housing Act is amended—

(A) in the first proviso, by striking "a rate not in excess of the maximum rate prescribed under the applicable section or title of this Act" and inserting the following: "such rate as may be agreed upon by the mortgagor and the mortgagee";

(B) in the second proviso, by striking "maturity, a principal obligation, and an interest rate" and inserting the following: "maturity and a principal obligation"; and

(C) by inserting before the semicolon at the end the following: ", and shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee".

(2) Section 223(d)(1) of the National Housing Act is amended by striking "bear interest (exclusive of premium charges for insurance) at not to exceed the per centum per annum currently permitted for mortgages insured under the section under which it is to be insured" and inserting the following: "bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee".

(e) Insurance for Nursing Homes, Intermediate Care Facilities, and Board and Care Homes.—

(1) Section 232(b) of the National Housing Act is amended—

(A) by indenting as a separate paragraph (in the same manner as paragraph (1)) "(3) a nursing" and all that follows through "day; and";

(B) in such new paragraph (3)—

(i) by inserting "the term" after the paragraph designation; and

(ii) by striking "and" at the end;

(C) by redesignating the second paragraph (3) as paragraph (4); and

(D) by redesignating paragraph (4) as paragraph (5).

(2) Section 232(i)(2)(B) of the National Housing Act is amended to read as follows:

"(B) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee;".

(f) Multifamily Assistance.—Section 236 of such Act is amended by striking out "(h)" in the last sentence of subsection (i)(1) and inserting in lieu thereof "(f)(4)".

(g) Co-insurance.—

(1) Section 244(g) of the National Housing Act is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively.

(2) Section 244(h) of the National Housing Act is amended by striking "coinsurance" each place it appears and inserting "co-insurance".

(h) Insurance on Hawaiian Home Lands.—Section 247(a)(2) of the National Housing Act is amended by striking "Mortgagor" and inserting "mortgagor".

(i) Insurance on Indian Reservations.—Section 248 of the National Housing Act is amended—

(1) in subsection (a)(1), by striking "lands" and inserting "land";

(2) in subsection (a)(2), by striking "lands"; and

(3) in subsection (d), by striking "tribal or trust land" and inserting "trust or otherwise restricted land".

(j) Shared Appreciation Mortgages.—Section 253 of the National Housing Act is amended—

(1) in subsection (b), by striking the fourth sentence and inserting the following: "For purposes of this section, the term 'net appreciated value' means the amount by which the sales price of the property (less the mortgagor's selling costs) exceeds the actual project cost after completion, as approved by the Secretary.";

(2) in the first sentence of subsection (c), by striking "204" and inserting "207"; and

(3) in subsection (c), by striking the last sentence and inserting the following: "The term 'original principal face amount of the mortgage' as used in section 207 shall not include the mortgagee's share of net appreciated value.".

(k) Defense Housing for Impacted Areas.—The first sentence of section 810(h) of the National Housing Act is amended—

(1) by striking "(exclusive of premium charges for insurance) at not to exceed the rate applicable to mortgages insured under section 207" and inserting the following: "at such rate as may be agreed upon by the mortgagor and the mortgagee"; and

(2) by striking "not to exceed the rate applicable to mortgages insured under section 203" and inserting the following: "such rate as may be agreed upon by the mortgagor and the mortgagee".

SEC. 430. RELEASE OF POOL FUNDS.

(a) Section 236.—Section 236 of the National Housing Act is amended by adding at the end thereof the following:

"(r) The Secretary shall, not later than 45 days after receipt of an application by the mortgagee, provide interest reduction and rental assistance payments for the benefit of projects assisted under this section whose mortgages were made by State or local housing finance agencies or State or local government agencies for a term equal to the remaining mortgage term to maturity on projects assisted under this section to the extent of—

"(1) unexpended balances of amounts of authority as set forth in certain letter agreements between the Department of Housing and Urban Development and such State or local housing finance agencies or State or local government agencies, and

"(2) existing allocation under section 236 contracts on projects whose mortgages were made by State or local housing finance agencies or State or local government agencies which are not being funded, to the extent of such excess allocation, for any purposes permitted under the provisions of this section, including without limitation rent supplement and rental assistance payment unit increases and mortgage increases for any eligible purpose under this section, including without limitation operating deficit loans.

An application shall be eligible for assistance under the previous sentence only if the mortgagee submits the application within 548 days after the effective date of this subsection, along with a certification of the mortgagee that amounts hereunder are to be utilized only for the purpose of either (A) reducing rents or rent increases to tenants, or (B) making repairs or otherwise increasing the economic viability of a related project. Unexpended balances referred to in the first sentence of this subsection which remain after disposition of all such applications is favorably concluded shall be rescinded. The calculation of the amount of assistance to be provided under an interest reduction contract pursuant to this subsection shall be made on the basis of an assumed mortgage term equal to the lesser of a 40-year amortization period or the term of that part of the mortgage which relates to the additional assistance provided under this subsection, even though the additional assistance may be provided for a shorter period. The authority conferred by this subsection to provide interest reduction and rental assistance payments shall be available only to the extent approved in appropriation Acts.".

(b) Rent Supplement Program.—Section 101 of the Housing and Urban Development Act of 1965 is amended by adding at the end thereof the following:

"(m) The Secretary shall, not later than 45 days after receipt of an application by the mortgagee, provide interest reduction and rental assistance payments for the benefit of projects assisted under this section whose mortgages were made by State or local housing finance agencies or State or local government agencies for a term equal to the remaining mortgage term to maturity on projects assisted under this section to the extent of—

"(1) unexpended balances of amounts of authority as set forth in certain letter agreements between the Department of Housing and Urban Development and such State or local housing finance agencies or State or local government agencies, and

"(2) existing allocation under section 236 contracts on projects whose mortgages were made by State or local housing finance agencies or State or local government agencies which are not being funded, to the extent of such excess allocation, for any purposes permitted under the provisions of this section.

An application shall be eligible for assistance under the previous sentence only if the mortgagee submits the application within 548 days after the effective date of this subsection, along with a certification of the mortgagee that amounts are to be utilized hereunder for the purpose of either (A) reducing rents or rent increases to tenants, or (B) making repairs or otherwise increasing the economic viability of a related project. Unexpended balances referred to in the first sentence of this subsection which remain after disposition of all such applications is favorably concluded shall be rescinded. The authority conferred by this subsection to provide interest reduction and rental assistance payments shall be available only to the extent approved in appropriation Acts.".

Subtitle B—Secondary Mortgage Market Programs

SEC. 441. LIMITATIONS ON CERTAIN SECONDARY MORTGAGE MARKET FEES.

(a) Federal National Mortgage Association.—Section 304 of the Federal National Mortgage Association Charter Act is amended by adding at the end the following new subsection:

"(f) Except for fees paid pursuant to section 309(g), no fee or charge may be assessed or collected by the United States (including any executive department, agency, or independent establishment of the United States) on or with regard to the purchase, acquisition, sale, pledge, issuance, guarantee, or redemption of any mortgage, asset, obligation, trust certificate of beneficial interest, or other security by the corporation. No provision of this subsection shall affect the purchase of any obligation by the Secretary of the Treasury pursuant to subsection (c).".

(b) Federal Home Loan Mortgage Corporation.—Section 306 of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end the following new subsection:

"(i) Except for fees paid pursuant to section 303(c) or 306(c), no fee or charge may be assessed or collected by the United States (including any executive department, agency, or independent establishment of the United States) on or with regard to the purchase, acquisition, sale, pledge, issuance, guarantee, or redemption of any mortgage, asset, obligation, or other security by the Corporation. No provision of this subsection shall affect the purchase of any obligation by any Federal home loan bank pursuant to section 303(a).".

SEC. 442. FNMA CUMULATIVE VOTING.

Section 303(a) of the Federal National Mortgage Association Charter Act is amended by inserting after the first sentence the following new sentence: "The corporation may eliminate such rights of cumulative voting by a resolution adopted by its board of directors and approved by the holders of a majority of the shares of common stock voting in person or by proxy at the annual meeting, or other special meeting, at which such resolution is considered.".

SEC. 443. PERMANENT AUTHORITY TO PURCHASE SECOND MORTGAGES ON SINGLE-FAMILY PROPERTIES.

(a) Federal National Mortgage Association.—Section 302(b)(5)(A)(i) of the Federal National Mortgage Association Charter Act is amended by striking "through March 15, 1988,".

(b) Federal Home Loan Mortgage Corporation.—Section 305(a)(4)(A)(i) of the Federal Home Loan Mortgage Corporation Act is amended by striking "through March 15, 1988,".

SEC. 444. PERIOD FOR APPROVAL OF ACTIONS OF FNMA.

Section 309(i) of the Federal National Mortgage Association Charter Act is amended in the second sentence by inserting before the period at the end the following: ", but such 45-day period may not be extended for any other reason or for any period in addition to or other than such 15-day period".

SEC. 445. PROHIBITION OF LIMITATION ON FHLMC MORTGAGE OPERATIONS.

Section 305 of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end the following new subsection:

"(c) The Board of Directors may not impose any annual limitation on the maximum aggregate principal amount of mortgages purchased by the Corporation.".

SEC. 446. LIMITATION ON GNMA GUARANTEES OF MORTGAGE-BACKED SECURITIES.

Section 306(g)(2) of the Federal National Mortgage Association Charter Act is amended to read as follows:

"(2) Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to any funding limitation approved in appropriation Acts, the Association shall enter into commitments to issue guarantees under this subsection in an aggregate amount of $150,000,000,000 for fiscal year 1988, and $156,000,000,000 for fiscal year 1989.".

TITLE V—COMMUNITY DEVELOPMENT AND MISCELLANEOUS PROGRAMS

Subtitle A—Community and Neighborhood Development and Preservation

SEC. 501. COMMUNITY DEVELOPMENT AUTHORIZATIONS.

(a) Community Development Block Grants.—The second sentence of section 103 of the Housing and Community Development Act of 1974 is amended to read as follows: "There are authorized to be appropriated for purposes of assistance under sections 106 and 107 $3,000,000,000 for fiscal year 1988, and $3,000,000,000 for fiscal year 1989.".

(b) Discretionary Fund.—

(1) The first sentence of section 107(a) of the Housing and Community Development Act of 1974 is amended to read as follows: "Of the total amount provided in appropriation Acts under section 103 for fiscal years 1988 and 1989, $60,000,000 may be set aside in each year in a special discretionary fund for grants under subsection (b).".

(2) Section 107 of the Housing and Community Development Act of 1974 is amended—

(A) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(B) by inserting after subsection (b) the following new subsection:

"(c) Of the amount set aside for use under subsection (b) in any fiscal year, the Secretary shall, to the extent approved in appropriation Acts, make available not less than $3,000,000 in the form of grants to institutions of higher education, either directly or through areawide planning organizations or States, for the purpose of providing assistance to economically disadvantaged and minority students who participate in community development work study programs and are enrolled in full-time graduate or undergraduate programs in community and economic development, community planning, or community management.".

(c) Urban Development Action Grants.—Section 119(a) of the Housing and Community Development Act of 1974 is amended by striking the second and last sentences and inserting the following new sentences: "There are authorized to be appropriated to carry out this section $225,000,000 for fiscal year 1988, and $225,000,000 for fiscal year 1989. Any amount appropriated under this subsection shall remain available until expended.".

SEC. 502. TARGETING OF BENEFITS TO PERSONS OF LOW AND MODERATE INCOME.

(a) Primary Objective.—Section 101(c) of the Housing and Community Development Act of 1974 is amended in the second sentence by striking "51 percent" and inserting "60 percent".

(b) Specific Objectives.—Section 101(c)(6) of the Housing and Community Development Act of 1974 is amended by striking "to attract persons of higher income".

(c) CERTIFICATION.—Section 104(b)(3) of the Housing and Community Development Act of 1974 is amended by striking "51 percent" and inserting "60 percent".

SEC. 503. CITY AND COUNTY CLASSIFICATIONS.

(a) METROPOLITAN CITY.—Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended—

(1) in the second sentence, by striking "March 15, 1988" and inserting "September 30, 1989";

(2) by striking out the third sentence and inserting in lieu thereof the following: "Any unit of general local government that becomes eligible to be classified as a metropolitan city, and was not classified as a metropolitan city in the immediately preceding fiscal year, may, upon submission of written notification to the Secretary, defer its classification as a metropolitan city for all purposes under this title, if it elects to have its population included in an urban county under subsection (d). Notwithstanding the second sentence of this paragraph, a city may elect not to retain its classification as a metropolitan city for fiscal year 1988 or 1989."; and

(3) by adding at the end thereof the following new sentence: "Any city classified as a metropolitan city pursuant to the first or second sentence of this paragraph, and that no longer qualifies as a metropolitan city under such first or second sentence in a fiscal year beginning after fiscal year 1989, shall retain its classification as a metropolitan city for such fiscal year and the succeeding fiscal year, except that in such succeeding fiscal year (A) the amount of the grant to such city shall be 50 percent of the amount calculated under section 106(b); and (B) the remaining 50 percent shall be added to the amount allocated under section 106(d) to the State in which the city is located and the city shall be eligible in such succeeding fiscal year to receive a distribution from the State allocation under section 106(d) as increased by this sentence.".

(b) URBAN COUNTY.—Section 102(a)(6) of the Housing and Community Development Act of 1974 is amended to read as follows:

"(6)(A) The term 'urban county' means any county within a metropolitan area which—

"(i) is authorized under State law to undertake essential community development and housing assistance activities in its unincorporated areas, if any, which are not units of general local government, and

"(ii) either—

"(I) has a population of 200,000 or more (excluding the population of metropolitan cities therein) and has a combined population of 100,000 or more (excluding the population of metropolitan cities therein) in such unincorporated areas and in its included units of general local government (and in the case of counties having a combined population of less than 200,000, the areas and units of general local government must include the areas and units of general local government which in the aggregate have the preponderance of the persons of low and moderate income who reside in the county) (a) in which it has authority to undertake essential community development and housing assistance activities and which do not elect to have their population excluded, or (b) with which it has entered into cooperation agreements to undertake or to assist in the undertaking of essential community development and housing assistance activities, or

"(II) has a population in excess of 100,000, a population density of at least 5,000 persons per square mile, and contains within its boundaries no incorporated places as defined by the United States Bureau of the Census.

"(B) In order to permit an orderly transition of each county losing its classification as an urban county by reason of a decrease in population, any county classified as or deemed to be an urban county under this paragraph for purposes of receiving assistance under any section of this title for fiscal year 1983 or subsequent years shall retain such qualification for purposes of receiving such assistance through September 30, 1989, or for such longer period covered by a cooperation agreement entered into during fiscal year 1984, except that the provisions of this subparagraph shall not apply with respect to any county losing its classification as an urban county by reason of the election of any unit of general local government included in such county to have its population excluded under clause (ii)(I)(a) of subparagraph (A) or to not renew a cooperation agreement under clause (ii)(I)(b) of such subparagraph.

"(C) Notwithstanding the combined population amount set forth in clause (ii) of subparagraph (A), a county shall also qualify as an urban county for purposes of assistance under section 106 if such county—

"(i) complies with all other requirements set forth in the first sentence;

"(ii) has, according to the most recent available decennial census data, a combined population between 190,000 and 199,999, inclusive (excluding the population of metropolitan cities therein) in all its unincorporated areas that are not units of general local government and in all units of general local government located within such county;

"(iii) had a population growth rate of not less than 15 percent during the most recent 10-year period measured by applicable censuses; and

"(iv) has submitted data satisfactory to the Secretary that it has a combined population of not less than 200,000 (excluding the population of metropolitan cities therein) in all its unincorporated areas that are not units of general local government and in all units of general local government located within such county.

"(D) Such term also includes a county that—

"(i) has a combined population in excess of 175,000, has more than 50 percent of the housing units of the area unsewered, and has an aquifer that was designated before March 1, 1987, a sole source aquifer by the Environmental Protection Agency;

"(ii) has taken steps, which include at least one public referendum, to consolidate substantial public services with an adjoining metropolitan city, and in the opinion of the Secretary, has consolidated these services with the city in an effort that is expected to result in the unification of the two governments within 6 years of the date of enactment of the Housing and Community Development Act of 1987; or

"(iii) had a population between 180,000 and 200,000 on October 1, 1987, was eligible for assistance under section 119 of the Housing and Community Development Act of 1974 in fiscal year 1986, and does not contain any metropolitan cities.

"(E) Any county classified as an urban county pursuant to subparagraph (A), (B), or (C) of this paragraph, and that no longer qualifies as an urban county under such subparagraph in a fiscal year beginning after fiscal year 1989, shall retain its classification as an urban county for such fiscal year and the succeeding fiscal year, except that in such succeeding fiscal year (i) the amount of the grant to such an urban county shall be 50 percent of the amount calculated under section 106(b); and (ii) the remaining 50 percent shall be added to the amount allocated under section 106(d) to the State in which the urban county is located and the urban county shall be eligible in such succeeding fiscal year to receive a distribution from the State allocation under section 106(d) as increased by this sentence.".

(c) INCLUSION OF UNITS OF GENERAL LOCAL GOVERNMENT IN URBAN COUNTIES.—Section 102(d) of the Housing and Community Development Act of 1974 is amended by striking the last sentence.

SEC. 504. ELIGIBLE ACTIVITIES.

(a) ELIGIBLE ACTIVITIES.—Section 105(a)(15) of the Housing and Community Development Act of 1974 is amended by striking out "grants" both places it appears and inserting in lieu thereof "assistance".

(b) ENERGY USE STRATEGIES.—Section 105(a)(16) of such Act is amended to read as follows:

"(16) activities necessary to the development of energy use strategies related to a recipient's development goals, to assure that those goals are achieved with maximum energy efficiency, including items such as—

"(A) an analysis of the manner in, and the extent to, which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements budgeting, waste management, district heating and cooling, land use planning and zoning, and traffic control, parking, and public transportation functions; and

"(B) a statement of the actions the recipient will take to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy conservation or use of renewable energy resources, financial and other assistance to be provided (principally for the benefit of low- and moderate-income persons) to make energy conserving improvements to residential structures, and any other proposed energy conservation activities;".

SEC. 505. STATEMENT OF ACTIVITIES AND REVIEW.

Section 104(a)(1) of the Housing and Community Development Act of 1974 is amended by striking out the last sentence.

SEC. 506. ALLEVIATION OF LAKEFRONT FLOODING AND EROSION.

Section 104(b)(3) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting "(A)" after "except that"; and

(2) by inserting before the semicolon at the end the following: "; and (B) a grantee that borders on the Great Lakes and that experiences significant adverse financial and physical effects due to lakefront erosion or flooding may include in the projected use of funds activities that are clearly designed to alleviate the threat posed, and rectify the damage caused, by such erosion or flooding if such activities will principally benefit persons of low and moderate income and the grantee certifies that such activities are necessary to meet other needs having a particular urgency".

SEC. 507. HOUSING ASSISTANCE PLANS.

(a) HOUSING PRESERVATION.—Section 104(c)(1) of the Housing and Community Development Act of 1974 is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) specifies activities that will be undertaken annually to minimize displacement and preserve or expand the availability of housing for persons of low and moderate income, such as the preservation of single room occupancy housing and the development by public and private nonprofit organizations of vacant properties that become available under in rem proceedings, and specifies separately the activities that will be undertaken for persons of low income and the activities that will be undertaken for persons of moderate income.".

(b) TECHNICAL AMENDMENTS.—Section 104(c)(1) of the Housing and Community Development Act of 1974 is amended—

(1) by striking "lower income persons" each place it appears and inserting "persons of low and moderate income"; and

(2) in subparagraph (C)(ii), by striking "low-income persons" and inserting "persons of low and moderate income".

SEC. 508. CITIZEN PARTICIPATION PLAN.

Section 104(a) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following:

"(3) A grant under section 106 may be made only if the grantee certifies that it is following a detailed citizen participation plan which—

"(A) provides for and encourages citizen participation, with particular emphasis on participation by persons of low and moderate income who are residents of slum and blight areas and of areas in which section 106 funds are proposed to be used, and in the case of a grantee described in section 106(a), provides for participation of residents in low and moderate income neighborhoods as defined by the local jurisdiction;

"(B) provides citizens with reasonable and timely access to local meetings, information, and records relating to the grantee's proposed use of funds, as required by regulations of the Secretary, and relating to the actual use of funds under this title;

"(C) provides for technical assistance to groups representative of persons of low and moderate income that request such assistance in developing proposals with the level and type of assistance to be determined by the grantee;

"(D) provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including at least the development of needs, the review of proposed activities, and review of program performance, which hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for the handicapped;

"(E) provides for a timely written answer to written complaints and grievances, within 15 working days where practicable; and

"(F) identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.

This paragraph may not be construed to restrict the responsibility or authority of the grantee for the development and execution of its community development program.".

SEC. 509. CONSERVING NEIGHBORHOODS AND HOUSING BY PROHIBITING DISPLACEMENT.

(a) IN GENERAL.—Section 104 of the Housing and Community Development Act of 1974 is amended—

(1) by redesignating subsections (d) through (j) as subsections (e) through (k), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) A grant under section 106 or 119 may be made only if the grantee certifies that it is following a residential antidisplacement and relocation assistance plan. A grantee receiving a grant under section 106(a) or section 119 shall so certify to the Secretary. A grantee receiving a grant under section 106(d) shall so certify to the State.

"(2) The residential antidisplacement and relocation assistance plan shall in connection with a development project assisted under section 106 or 119—

"(A) in the event of such displacement, provide that—

"(i) governmental agencies or private developers shall provide within the same community comparable replacement dwellings for the same number of occupants as could have been housed in the occupied and vacant occupiable low and moderate income dwelling units demolished or converted to a use other than for housing for low and moderate income persons, and provide that such replacement housing may include existing housing assisted with project based assistance provided under section 8 of the United States Housing Act of 1937;

"(ii) such comparable replacement dwellings shall be designed to remain affordable to persons of low and moderate income for 10 years from the time of initial occupancy;

"(iii) relocation benefits shall be provided for all low or moderate income persons who occupied housing demolished or converted to a use other than for low or moderate income housing, including reimbursement for actual and reasonable moving expenses, security deposits, credit checks, and other moving-related expenses, including any interim living costs; and in the case of displaced persons of low and moderate income, provide either—

"(I) compensation sufficient to ensure that, for a 5-year period, the displaced families shall not bear, after relocation, a ratio of shelter costs to income that exceeds 30 percent; or

"(II) if elected by a family, a lump-sum payment equal to the capitalized value of the benefits available under subclause (I) to permit the household to secure participation in a housing cooperative or mutual housing association;

"(iv) persons displaced shall be relocated into comparable replacement housing that is—

"(I) decent, safe, and sanitary;

"(II) adequate in size to accommodate the occupants;

"(III) functionally equivalent; and

"(IV) in an area not subject to unreasonably adverse environmental conditions;

"(B) provide that persons displaced shall have the right to elect, as an alternative to the benefits under this subsection, to receive benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) if such persons determine that it is in their best interest to do so; and

"(C) provide that where a claim for assistance under subparagraph (A)(iv) is denied by a grantee, the claimant may appeal to the Secretary in the case of a grant under section 106 or 119 or to the appropriate State official in the case of a grant under section 106(d), and that the decision of the Secretary or the State official shall be final unless a court determines the decision was arbitrary and capricious.

"(3) Paragraphs (2)(A)(i) and (2)(A)(ii) shall not apply in any case in which the Secretary finds, on the basis of objective data, that there is available in the area an adequate supply of habitable affordable housing for low and moderate income persons. A determination under this paragraph is final and nonreviewable.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1988.

SEC. 510. LIMITED NEW CONSTRUCTION OF HOUSING UNDER COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.

Section 105(a) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (17);

(2) by striking out the period at the end of paragraph (18) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(19) provision of assistance to facilitate substantial reconstruction of housing owned and occupied by low and moderate income persons (A) where the need for the reconstruction was not determinable until after rehabilitation under this section had already commenced, or (B) where the reconstruction is part of a neighborhood rehabilitation effort and the grantee (i) determines the housing is not suitable for rehabilitation, and (ii) demonstrates to the satisfaction of the Secretary that the cost of substantial reconstruction is significantly less than the cost of new construction and less than the fair market value of the property after substantial reconstruction.".

SEC. 511. AVAILABILITY OF COMMUNITY DEVELOPMENT BLOCK GRANTS FOR UNIFORM EMERGENCY TELEPHONE NUMBER SYSTEMS.

Section 105(c)(2) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting "(A)" after the paragraph designation;

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(3) by adding at the end thereof the following new subparagraph:

"(B) The requirements of subparagraph (A) do not prevent the use of assistance under this title for the development, establishment, and operation for not to exceed 2 years after its establishment of a uniform emergency telephone number system if the Secretary determines that—

"(i) such system will contribute substantially to the safety of the residents of the area served by such system;

"(ii) not less than 51 percent of the use of the system will be by persons of low and moderate income; and

"(iii) other Federal funds received by the grantee are not available for the development, establishment, and operation of such system due to the insufficiency of the amount of such funds, the restrictions on the use of such funds, or the prior commitment of such funds for other purposes by the grantee.

On the next day, Article II was incorporated into the Joint Draft Text as a provision fully accepted by both parties. In so doing, the U.S. team had secured language which insured that future ABMs were covered and which reinforced the September agreement on Article V(1) that mobile ABMs, both existing and future, would be confined to research.

Thus, by late December, the subject of whether or not the treaty would restrict both present and future types of mobile ABMs was essentially closed except for a drafting change proposed by the U.S. in April, and accepted by the Soviets. (This minor change made clear that mobile components of an otherwise fixed land-based system were prohibited.) After completion of Article II, with regard to NSDM 127 the remaining issue was the U.S. proposal to prohibit the deployment of future types of ABMs which were fixed and land-based. None of the statements or proposals made by either delegation between the completion of Article II on December 22, 1971, and the conclusion of the negotiations raised questions about the agreement reached on prohibiting mobile ABMs. The delegations did continue to discuss Article V, but the negotiations were completely focused on the U.S. proposal for Article V(3), which at that time related to fixed land-based ABMs.

C. NEGOTIATION ON FIXED LAND-BASED ABM'S

The U.S. had first proposed in August 1971 that the treaty text include an Article prohibiting the deployment of fixed land-based ABMs using future technology. This became known as Article V(3). Throughout the fifth session in Helsinki, the Soviet delegation expressed its opposition to such a prohibition. While the Soviets did agree in the fifth session to a broad ban in Article V(1) on future ABMs which were mobile, the U.S. proposed Article V(3) on fixed land-based systems remained in brackets, indicating disagreement, in the joint draft text when the fifth session ended.

Early in the sixth session in Vienna, the Soviet delegation renewed its opposition to a ban on futrue fixed land-based ABMs. Their opposition took the form of asserting that the treaty should not limit weapon systems which could not be explictly identified. Some members of the U.S. delegation beleived that the Soviets were engaged in a fishing expedition—attempting to obtain information on secret U.S. laser research programs. Their opposition, however, never extended to the ban in Article V(1) on mobile ABM systems. At no time did the Soviet delegation deny or cast doubt on the agreement reached between Graybeal and Karpov on September 15. Moreover, in early December, while expressing opposition to the U.S. proposal on future fixed land-based ABMs, Chulitsky, a Soviet negotiator, made an explicit statement that future mobile-type ABMs were already prohibited by Article V(1). On December 4, Chulitsky argued "that the prohibition on air-based, space-based, land-based, [sic] etc. ABM systems is *adequate to cover the problem of future systems.*"

Despite this initial opposition to banning deployment of future fixed land-based ABMs, substantial progress on the question was made during the sixth session; and the issue was finally settled during the seventh. In a series of steps, from December 1971 to May 1972, involving Articles I, II, III, and Agreed Statement D, the delegation obtained Soviet agreement to ban deployment of future fixed land-based ABM systems. First, full agreement was reached on Articles I and II. Second, the U.S. withdrew Article V(3) but obtained the same ban on future fixed land-based ABMs in Agreed Statement D and Article III.

ARTICLE I(2)

At the opening of the sixth session, the Soviet delegation proposed that Article I include an undertaking not to deploy ABM systems for a defense of either sides' territory. On November 30, Soviet negotiator Kishilov described his new language as a "partial substitute" for the U.S. proposal on future systems in Article V(3). We accepted the new Soviet language on December 21, after the insertion of a phrase also prohibiting a "base" for a territorial defense. On the same day, both delegations agreed to Article II, which defined an ABM system as including future systems. Thus, the combination of Article I and Article II partially fulfilled the objectives of NSDM 127—that the treaty not allow circumvention of the ban on nationwide defenses through deployment of future fixed land-based ABMs. At the same time, we continued to insist that Article I did not obviate the need for specific language prohibiting that deployment.

By this time, the delegation was authorized to provide examples of future ABM systems. This instruction was designed as a response to the Soviet argument that future ABMs should be identified. On December 10, 1971, pursuant to these instructions, Harold Brown specified the "lasers and particle accelerators" would be covered by the proposed ban. Following Brown's identification of future systems, an important facet of the Soviet rationale for objecting to deployment ban became apparent in a December 10 exchange between Soviet negotiator Shchukin and Paul Nitze. Shchukin explained that both sides had agreed to prohibit territorial defenses and that the Soviet proposal for Article I would "ban the deployment of future systems in a manner providing a territorial defense." However, if new technology were to allow the permitted ABM functions at fixed land-based sites to be carried out "in a more efficient and less costly manner" he believed such new technology should be permitted. When Nitze asked how the sides could be sure that the nature of new technologies would not render meaningless the numerical restrictions in Article III on permitted systems, Shchukin suggested, "were such future systems to reach a stage where they could be deployed, the question would be referred to the Standing Commission, through which the necessary regulations could be worked out." Nitze then asked Shchukin whether the Soviets could agree that no such deployment could take place without prior agreement in the SCC. Shchukin said yes.

This discussion helped prepare the groundwork for subsequent agreement. NSDM 127 had indicated that the U.S. objective was to prohibit the deployment of future fixed land-based ABMs but to allow development and testing. The instructions also indicated that any problems that might arise should be handled through the SCC. Soviet negotiator Shchukin's comments made clear that the Soviet Union would be willing to accept this formulation, and the basis for agreement was apparent.

AGREED STATEMENT D AND ARTICLE III

After recognizing that the essence of both sides' positions were not that far apart, on December 17 Garthoff suggested the possibility that Article V(3) need not necessarily be part of the treaty but could be an agreed interpretation, so long as the substance of the U.S. position was maintained. Three days later, Garthoff told his counterpart that while an "agreed minute" might be acceptable in lieu of the language in Article V(3) "there must be a clear agreed mutual understanding that, prior to any deployment of future systems and components, there would be consultation and agreement in the Standing Consultative Commission." On December 20, when Garthoff transmitted proposed language for the agreed minute, he said, "while maintaining our basic position on this matter, the U.S. side is willing to drop Article V(3) if there is a clear agreed understanding." Thus, when the U.S. delegation proposed to drop Article V(3), it did so on the condition that its "basic position" on future fixed land-based ABM systems be made part of a binding understanding, not as a trade-off for other Soviet concessions. Indeed, Article V(3) was not actually dropped from the draft text until much later when the U.S. delegation was satisfied that its substance had been fully agreed.

The proposed agreed minute was to be tied to Article III, which specified the permitted ABM deployments. While Article III of the Treaty was not completed until the seventh session in April 1972, the basic substance of the Article was clear in January 1972: each side would only be permitted limited ABM deployment areas, and severe quantitative and qualitative limits would be placed on the fixed systems located at the designated areas. The U.S. goal was to ensure that these limits could not be obviated through deployments of ABM systems and components which employed new technology or by other circumventions. Paul Nitze expressed this concern on January 11, 1972, asking rhetorically, if future "components were developed and could in fact be deployed in a manner to circumvent the specific limitations of Article III of the treaty, would it not be appropriate that they also be subject to agreement between our Governments?"

Negotiating exchanges in January 1972 demonstrated that both delegations understood that large-scale deployment of future fixed land-based systems would be prohibited even without the agreed minute to replace Article V(3). According to the negotiating record, on January 11 Garthoff asked his Soviet counterpart whether, "in the light of Article I, II, III, Grinevsky considered that a part would have the right—assuming consultations were held and did not lead to agreement—to deploy all around the country, say, a thousand stations for firing anti-ballistic missile laser interceptor beams. Grinevsky said no, it would not have such a right. But, he countered, it should be able to place telescopes."

The example of "telescopes" raised an important question which, among other things, delayed final agreement on the text of Agreed Statement D. Telescopes, making use of different technology, could be used to assist ABM radars in discriminating between real reentry vehicles and decoys or chaff. Such devices, which the U.S. side called "adjuncts," were not intended to substitute for ABM launchers, radars, and missiles, but merely to supplement them. Indeed, like the Soviet military, the U.S. Joint Chiefs of Staff wanted to ensure that "adjuncts" based on new technology could be part of a permitted deployment. Resolving how the possibility of "adjuncts" would be treated, which was of great importance to the Defense Department, required many more days of discussions but is not central to the reinterpretation issue.

JANUARY 31, 1972

After two more weeks of negotiation on Agreed Statement D, the sides agreed on two important points at a January 31, 1972, meeting. First, the combination of Articles I, II, III would prohibit the deployment of future fixed land-based ABM systems even without an agreed understanding. Second, the agreed understanding would require that future deployment of components based on "other physical principles" be subject to discussion and agreement in the SCC if the new technology could substitute for the components limited in Article III, but not if it merely served as an "adjunct" to those components.

At that meeting, Garthoff read to his Soviet counterpart Grinevsky a prepared paper, entitled "Statement on 'Future ABM Systems,'" which expressed these two points clearly. It confirmed that no ABM systems could be deployed except as provided for in Article III and that Article III "should be drafted so as not to permit the deployment of devices other than ABM interceptor missiles, ABM launchers, or ABM radars to substitute for and perform their functions." The paper also stated that "Devices other than ABM interceptor missiles, ABM launchers, or ABM radars could be used as adjuncts to an ABM system provided that the devices could not perform the functions of and substitute" for these three existing components. Soviet negotiator Grinevsky, after reading this prepared paper, said "he believed there was complete agreement." Within two days, a number of minor drafting changes were completed and both delegations expressed their satisfaction with the language of Agreed Statement D.

The final discussions on Article III took place at the sixth and seventh negotiating sessions. In keeping with the mutual understanding reached in January that Article III would prohibit deployment of any ABM systems other than those expressly permitted in the article, we proposed on April 26, 1972, the following lead-in language to Article III: "Each Party undertakes not to deploy ABM systems or their components except as follows: . . ." On April 28, Soviet negotiator Grinevsky told Parsons that the Soviet delegation could agree to a formulation for Article III in which neither side could deploy ABM systems or their components "except as the Article would provide" and that "this would ban 'other systems.'" (Grinevsky's statement is also confirmation that the Soviet delegation understood that the phrase "ABM systems and components" includes future systems.) The final text agreed to in May 1972 incorporated this lead-in.

The U.S. recognized from January 1972 onward that because Article III would prohibit deployment of any system which it did not expressly permit, Agreed Statement D was not strictly necessary to prevent deployment of future fixed land-based ABM systems. However, because the U.S. had constantly been seeking more, not less, specificity and precision, there was no sensible reason to delete it, especially since Article III and Agreed Statement D were mutually reinforcing. Indeed, the U.S. believed the agreed understanding was important for other reasons. NSDM 127 instructed the delegation that the agreement "should not prohibit the development and testing of future ABM components in a fixed land-based mode" and that "the agreement should not be interpreted in such a way that either side could circumvent its provisions through future ABM systems or components." Because Agreed Statement D only prohibited the deployment of future fixed land-based systems, it implicitly allowed development and testing. Moreover, by clarifying that future technologies would become subject to discussion and agreement in the SCC only when they were "capable of substituting for" existing components, Agreed Statement D not only prevented circumvention of the specific limitations on deployment in Article III, it also allowed for the use of new technologies as "adjuncts," an outcome sought by both sides.

THE FINAL MEMORANDUM

From January to May 1972, I wrote a series of Memoranda to clarify what points had been agreed and what points required further discussion. In preparing these Memoranda, I would confer with members of the delegation to determine our understanding of the agreed meaning of various articles in the treaty. The final Memorandum, dated May 24, 1972, reflected the views of the entire U.S. delegation. With respect to Article V(1), it states:

"Paragraph 1 of Article V prohibits the development, testing, or deployment of: an ABM system that is sea-based, air-based, space-based, or mobile land-based; an ABM interceptor missile, ABM launcher, or ABM radar that is sea-based, air-based, space-based, or mobile land-based; a device capable of substituting for an ABM interceptor missile, ABM launcher or ABM radar that is sea-based, air-based, space-based, or mobile land-based (such as an air-based 'killer' laser)."

The memorandum was also clear with regard to the scope of the definition in Article II:

"An ABM system is described in paragraph 1 of Article II in terms of 'current' ABM components. This does not, however, limit the generality of the term ABM system as used in the Treaty to systems composed of 'current' ABM components, but would also include 'future systems' based on physical principles other than those used for 'current' ABM components and capable of substituting for a 'current' ABM component."

Senator Nunn characterized the Memorandum as follows: "In this form, the memorandum fully confirms the Traditional Interpretation of the Treaty as presented to the Senate and directly refutes Sofaer's reinterpretation." Indeed, the substance of the advice in this memorandum as summarized in a chapter I wrote for a book, (published in 1974), which stated "The overall effect of the treaty, therefore, is to prohibit any deployment of future systems and to limit their development and testing to those in a fixed land-based mode."

There is no doubt whatsoever that the entire U.S. delegation, including Paul Nitze, reviewed and agreed on this issue in 1972. The reinterpretation is nothing short of a repudiation of the delegation's explicit and unanimous understanding of the treaty's meaning.

The history of the ABM Treaty negotiations demonstrates that when the U.S. and Soviet delegations reached agreement on the text of the treaty both sides understood its meaning as being the traditional interpretation. That interpretation establishes the legal obligations of the United States under international law and domestic law. Unilateral U.S. implementation of the new interpretation without an agreed formal amendment would constitute a material breach of the treaty.

BEYOND THE REINTERPRETATION

During the negotiations, the delegation purposely left open details as to the exact scope of the term ABM "component" in the context of future technologies. This was consistent with NSDM 127, which sought agreement on the broad principle. It also reflected the fact that the U.S. government did not then know how to address that subject sensibly at a high level of specificity. What constitutes a new "component," coupled with the related question of the dividing line between permitted research and prohibited development, are the issues that should be engaging the U.S. and Soviet delegations now in Geneva. While their current public position is unduly restrictive, the Soviets have offered to negotiate these issues. The U.S. delegation, however, reportedly has explicit instructions from President Reagan not to negotiate on this question because it would legitimize the traditional interpretation. This is an unprecedented posture for the United States since the beginning of SALT and one which will almost certainly block any chance to achieve the deep reductions in offensive systems the President seeks. The posture is particularly unfortunate, because a prudent, verifiable threshold applicable to future systems would even permit continued research and development in space on SDI programs, as long as the work remained below the capabilities necessary for a true ABM role.

The Congress and Executive are unlikely to remain in a stalemate over the reinterpretation issue in the context of the upcoming budget. If enacted, the pending Nunn-Levin amendment would have the effect of legislating the "traditional" interpretation as part of the Senate's Defense Department authorization bill. That amendment could be added to the appropriations bill or a continuing resolution. A similar provision passed the House by a vote of 262-159. Such an approach is clearly constitutional. While the President threatens a veto, it is hard to imagine the government shutting down over disagreement on this issue. Congress should remain firm. Using its power of the purse, Congress should require U.S. adherence to the traditional interpretation.

From a political point of view, the White House continues to suffer serious damage by not accepting the position of Senator Nunn, Chairman of the Senate Armed Services Committee, and thus avoiding a major confrontation with this pro-defense, conservative Democrat, whose support is so critical to the Defense Department. It appears to be sheer madness to challenge Nunn's reasoned views, which were understated, but laid out with characteristic precision. This is especially true because the reinterpretation is not even necessary in order to continue a robust SDI program, which Nunn supports. The President's closest advisers must try to regain control of political reality.

The consequences of McFarlane's ill-advised announcement nearly two years ago, and the constantly unsound advice received from Sofaer both before and after, continue to bedevil the administration. The President should come to understand that while the reinterpretation may not block a summit and an INF agreement, it is a legal sham that seriously damages the international credibility of the United States and makes impossible the achievement of deep reductions in offensive arms, which could be the capstone of the Reagan presidency.

NOTES

The full quotation reads:

"The future systems ban applies to devices which would be capable of substituting for one or more of the three basic ABM components, such as a 'killer' laser or a particle accelerator. Article III of the treaty does not preclude either development or testing of fixed land-based devices which could substitute for ABM components, but does prohibit their deployment. Article V, on the other hand, prohibits development and testing, as well as deployment, of air-based, sea-based, space-based, or mobile land-based ABM systems or components, which *includes 'future systems' for those kinds of environments.* The overall effect of the treaty, therefore, is to prohibit any deployment of future systems and to limit their development and testing to those in a fixed land-based mode. Certain devices, such as telescopes, which are simply adjuncts to, not substitutes for, present ABM components are not covered."

See John B. Rhinelander, "The SALT I Agreements," in Mason Willrich and John B. Rhinelander, "SALT: The Moscow Agreements and Beyond" (New York: The Free Press, 1974), p. 128.

Quotations in this article were drawn primarily from actual memoranda prepared by the U.S. delegation during the ABM Treaty negotiations and released by the Department of State on May 11, 1987. Statements by Soviet negotiators cited in this article are based on the notes of the U.S. negotiators. All emphases in the quotes are added by the authors. Additional sources include:

"The ABM Treaty, Part I: Treaty Language and Negotiating History." Office of the Legal Advisor, Department of State, May 11, 1987; "Interpretation of the ABM Treaty, Part IV: An Examination of Judge Sofaer's Analysis of the Negotiating Record." Senator Sam Nunn, May 19, 1987; "Policy vs. Law: The Reinterpretation of the ABM Treaty." Raymond L. Garthoff (Washington, DC: The Brookings Institution, September 1987).

THE MEANING OF THE ABM TREATY

The following description of how the ABM Treaty deals with future systems will help the reader appreciate the reasoning of the delegation as it built the interlocking components of the treaty.

Article I(2) sets out the object and purpose of the treaty. It reads: "Each Party undertakes not to deploy ABM systems for a defense of the territory of its country and not to provide a base for such a defense, and not to deploy ABM systems for defense of an individual region except as provided for in Article III of this Treaty." The remainder of the treaty consists of a series of Articles which express more specific obligations of the parties in fulfilling this object and purpose.

Artile II(1) provides the critical definition: "For the purpose of this Treaty an ABM system is a system to counter strategic ballistic missiles or their elements in flight trajectory, currently consisting of: a) ABM interceptor missiles . . . b) ABM launchers . . . c) ABM radars."

This definition is functional. An ABM system is defined as *any* weapon system functionally able to "counter strategic ballistic missiles or their elements in flight trajectory." The fact that an ABM system could include components based on new technologies is implicity referred to by the phrase "currently consisting of." By stating that ABM systems "currently" consist of missiles, launchers, and radars, the language purposefully indicates that ABM systems could consist of other components. Otherwise, the word "currently" would not be necessary. Moreover, the fact that a comma was included in the text made clear that the subsequent phrase was non-restrictive in nature.

Article III provides the specific quantitative, qualitative, and geographic limits on the permitted ABM deployment of fixed land-based ABM systems consisting of interceptor missiles, launchers, and radars. The opening clause reads: "Each Party undertakes not to deploy ABM systems or their components except" those specified in the rest of this Article which are explicitly limited to "current" technology. By virtue of this lead-in language, the Article makes clear that all deployments are prohibited except those that are expressly permitted and specifically that deployment of future ABM systems and components is not allowed. The provision goes on to provide that "a Party may deploy . . . no more than one hundred ABM launchers and no more than one hundred ABM interceptor missiles at launch sites [and certain] ABM radars . . ." at two geographically designated areas, a right which was rendered to one deployment area in the 1974 ABM Protocol. By limiting the firepower of the permitted systems, and by virtue of the specific qualitative and geographic limits, Article III was expressly designed to ensure that Article I was not circumvented by deployment of any "future" systems.

Article V provides a critical barrier against the deployment of nationwide defenses or a base for such a deployment. The first paragraph of Article V reads: "Each Party undertakes not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based." Space-based and other mobile ABM systems are inherently capable of a nationwide defense. They were confined to the research stage. Because of the functional definition of an ABM system in Article II, this broad ban on space-based and other mobile systems applies to any of ABM system, regardless of whether its components include interceptor missiles or high-powered lasers capable of substituting for such missiles.

Article IV authorizes the development and testing of fixed land-based systems at ABM test ranges. In addition to sanctioning development and testing, this Article prohibits unauthorized "deployment" around the country in the guise of test programs. By prohibiting the testing of any space-based components, Article V(1) buttresses this aspect of Article IV. However, Article IV and the rest of the Treaty permit the development and testing of *fixed land-based future systems* at ABM test ranges.

Article VI is intended to ensure that the treaty cannot be circumvented by using weapon systems designed for other purposes as ABMs. In so doing, it limits non-ABM activities by applying the same functional definition of an ABM system used in Article II of the treaty: "each Party undertakes: (a) not to give missiles, launchers, or radars, other than ABM interceptor missiles, ABM launchers, or ABM radars, capabilities *to counter strategic balistic missiles or their elements in flight trajectory,* and not to test them in an ABM mode . . ."

Article XV provides that "This Treaty shall be of unlimited duration." This article makes clear that the treaty was intended as a permanent obligation. It would have been a near contradiction in terms to provide permanent obligations limited to the technology of the day.

The treaty also contains a series of clarifying and interpretive "Agreed Statements," one of which, Agreed Statement D, relates to future ABM systems. Agreed Statement D supplements Article III, which dealt exclusively with fixed land-based systems. This was made clear in its opening clause: "In order to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty . . ." Agreed Statement D goes on to provide that if future fixed land-based systems are created, their deployment "would be subject to discussion in accordance with Article XIII (procedures of the SCC) and agreement in accordance with Article XIV of the Treaty (amendment procedure)." Thus, while Agreed Statement D provides a mechanism to consider deployment of future fixed land-based ABM systems, it makes clear that deployment would require agreement and amendment of the treaty. This amendment would then have to be submitted to the Senate for its advice and consent, underscoring the fact that further deployment of systems involving exotic technologies wasd a fundamental issue that could undermine the basic objective and operation of the treaty.

HISTORY CONFIRMS THE TRADITIONAL MEANING—U.S. AND SOVIET SUBSEQUENT PRACTICE UNDER THE ABM TREATY

(By Raymond L. Garthoff)

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In justifying the Reagan administration's radical rewriting of the Antiballistic Missile (ABM) Treaty, administration spokesmen have repeatedly claimed that the Soviet Union never committed itself to the traditional interpretation. That interpretation, which goes to the very heart of the treaty, prohibits development and testing of space-based and other mobile ABM systems and components whether based on traditional ABM technology or on "other physical principles." In an article in the Harvard Law Review in 1986, State Department Legal Adviser Abraham Sofaer, the reinterpretation's chief legal champion, stated that the Soviet Union did not "begin explicitly to articulate the restrictive interpretation" until after the U.S. reinterpretation was announced in October 1985. That statement is incorrect, and the argument that flows from it is unfounded.

A number of clear and authoritative Soviet statements have spelled out the traditional view, both before and after the October 1985 announcement of the U.S. reinterpretation. In particular, Marshal Sergei Akhromeyer, Chief of the Soviet General Staff and First Deputy Minister of Defense, set out the Soviet position unequivocally in a major Pravda article which appeared months before the U.S. announced its new position. After the treaty's text, such statements of interpretation—referred to as "subsequent practice"—are the most important source of information in determining a treaty's meaning. Both U.S. and Soviet subsequent practices under the ABM Treaty unambiguously support the traditional interpretation. The traditional reading of the treaty's terms is thus binding on both parties.

THE ISSUE

On October 6, 1985, the then national security adviser, Robert McFarlane, casually announced a new interpretation of the ABM Treaty: This new "broad" interpretation would permit development and testing of space-based and other mobile ABM systems and components "based on other physical principles"—such as lasers or particle beams. In essence, the "broad" interpretation holds that such futuristic ABM systems are not "ABM systems and components" as those words are used in the treaty, and hence most of the treaty's limitations, including the Article V(I) ban on development and testing of space-based ABM systems and components, do not apply to them. If valid, the broad interpretation would open up much greater opportunities for development and testing under the administration's Strategic Defense Initiative (SDI).

The broad interpretation has been rejected by all but one of the U.S. ABM Treaty negotiators—and Paul Nitze, the one negotiator who now supports the administration's position, had previously held the traditional view. (None of the negotiators except Nitze, now a senior arms control adviser for the President and the Secretary of State, had been consulted prior to the announcement of the new interpretation.) Senator Sam Nunn (D-GA) has released an exhaustive and scathing four-part critique of the arguments put forward by State Department Legal Adviser Abraham Sofaer, the reinterpretation's chief advocate. Nevertheless, the administration continues to hold that its new interpretation is "the legally correct interpretation."

The immediate issue is whether the administration's claim that the ABM Treaty allows development and testing of space-based ABM systems and components based on other physical principles is justified. The larger question is whether the United States should support a policy that clearly violates threaty obligations which constitute the law of the land. The issue also involves the international obligations and credibility of the United States as a supporter of the rule of law. Added to these considerations are the future of arms control and the U.S.-Soviet relationship.

TREATY INTERPRETATION

How is the meaning of a treaty determined? According to the canons of legal interpretation, the first and strongest evidence is the express language of a treaty. This means the letter of a treaty, not its spirit. The purpose of the treaty is, however, relevant in determining the meaning of the language. Language must be interpreted in good faith. Only if the language is not sufficiently clear does one go on to the next step, review of subsequent practice. The term subsequent practice covers the whole range of practical implementation of a treaty as evidence reflecting the understanding of the parties as to the meaning of the treaty's terms. Both actions and statements must be considered. (The ABM Treaty ratification record is also mentioned here to provide a more complete picture of U.S. and Soviet understanding of the treaty.) Normally, only if subsequent practice is unclear does one review the negotiating record, to determine the intent and the understanding of the parties, particularly as conveyed by their negotiations as they agreed upon the language of the treaty.

The Sofaer reinterpretation violated this established process. The express language of the treaty was challenged on the basis of the logic of its construction rather than its intent. Then a reconstruction of the logic of the language was justified by a reading of parts of the negotiating record. Subsequent practice had not been given more than the most superficial review before the new interpretation was adopted. Indeed, at this writing Sofaer's study of the subsequent practice of the parties has still not been sent to the President or to the Congress. Despite the absence of any study of the subsequent practice of the parties—after the treaty's text, the most critical evidence in determining a treaty's meaning—the administration continues to claim that the broad interpretation is "fully justified."

SUBSEQUENT ACTIONS UNDER THE ABM TREATY

The United States and the Soviet Union have without exception acted in accordance with the traditional interpretation of the ABM Treaty. While both the United States and the Soviet Union have pursued military research programs in such possible ABM technologies as lasers and particle beams, neither nation's programs have yet reached the point of development or testing of mobile ABM systems or components based on other physical principles.

Both before and after the reinterpretation was announced, the Reagan administration has insisted that it is conducting its SDI program entirely within the constraints of the traditional interpretation. Similarly, while the Reagan administration has charged the Soviets with a variety of violations or probable violations of the ABM Treaty, neither the Reagan administration nor any other administration has ever alleged that the Soviets have conducted any development or testing of ABM systems and components "based on other physical principles" that would be limited under the traditional view.

Some skeptics argue that national technical means of verification may not be adequate to detect some activities going beyond the constraints imposed by the traditional interpretation. But that is a supposition, and whatever weight it may be given for other purposes, it does not provide any evidence supporting the reinterpretation.

Advocates of the reinterpretation argue that there has simply not yet been opportunity for testing advanced technologies. While that point does diminish the weight of the absence of contravening actions as an argument for the traditional interpretation, it does not provide a basis for arguing that subsequent practice lends any support to the reinterpretation.

U.S. SUBSEQUENT STATEMENTS CONCERNING THE ABM TREATY

Numerous official U.S. statements from 1972 to 1985 directly support the traditional interpretation, none assert the reinterpretation. The interpretations provided to the Senate during the ratification process clearly supported the traditional view, including authoritative statements by the Secretary of Defense, the Director of Defense Research and Engineering and the acting Chief of Staff of the U.S. Army. As a result, the Senate gave its consent to ratification, by a vote of 88-2, understanding the treaty to ban all development and testing of space-based and other mobile ABM systems and components. All U.S. administrations from 1972 to 1985, including the Reagan administration prior to October 1985, have made clear and unequivocal statements of the traditional view. As Senator Nunn has pointed out in his excellent studies of the subject, prior to 1985 there were no U.S. government statements that directly supported the reinterpretation.

What is less widely known is that the Soviet government has also unequivocally and authoritatively stated its adherence to the traditional view, even before the U.S. reinterpretation was announced. This fact fundamentally undermines the administration's case, for a primary rationale advanced for the new interpretation is that the *Soviet Union* might not consider itself bound by the traditional interpretation, and that the United States should not let itself be bound unilaterally.[1] It is important, therefore, to review Soviet statements concerning the interpretation of the ABM Treaty as it relates to development and testing of space-based and other mobile ABM systems based on other physical principles.

THE SOVIET RATIFICATION PROCESS

Unlike the U.S. ratification record, the publicly available portion of the Soviet ratification record does not provide any decisive evidence either supporting or contradicting the reinterpretation. Two statements, however, are relevant to the issue.

On September 29, 1972, in the absence of Foreign Minister Andrei Gromyko, First Deputy Minister of Foreign Affairs Vasily V. Kuznetsov, "on behalf of the Soviet Government," gave the Presidium of the Supreme Soviet of the U.S.S.R. the official Soviet government position on the ABM Treaty. He drew attention among other things to the provision that "the parties are obligated not to create and not to deploy sea-, air-, space-, or mobile- land-based anti-ballistic missile defense systems or components." While he did not specifically address the matter of future systems based on other physical principles, he presented the ban on creation (development and testing) of mobile ABM systems as an unqualified obligation.

Marshal Andrei Grechko, then Minister of Defense, also testified before the Presidium of the Supreme Soviet. He stated that the ABM Treaty "does not place any limitations on the conduct of research and experimental work directed toward solution of the problems of defense of the country against nuclear-missile strikes." That broad statement essentially asserts what adherents of both the traditional and broad interpretations agree: the treaty does not prohibit research or laboratory experimentation short of developmental testing. Even if the term "experimental work" were construed as including system or component testing, in my view not a warranted reading, it would still be entirely compatible with permitted development and testing of fixed land-based systems and components. Contrary to allegations made by some proponents of the broad interpretation, Grechko did not assert that development and testing of new types of space-based, air-based, sea-based, or mobile land-based ABM systems or components were allowed. Indeed, he made no statement about such systems, nor about future systems based on other physical principles.

SOVIET POSTRATIFICATION STATEMENTS

Sofaer has claimed that the Soviets did not "begin explicitly to articulate the restrictive interpretation" until after the U.S. reinterpretation was announced in October 1985, and dismisses all Soviet assertions of it since that date on the grounds that they are merely opposing the U.S. position. His representation of the record before October 1985 is untrue; his dismissal of statements after that date is unwarranted. If the administration argues that the reinterpretation is necessary to avoid a "double standard" binding, the U.S. but not the Soviet Union, authoritative and insistent Soviet affirmations of the traditional interpretation since October 1985, as well as before, are clearly relevant.

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[1] Footnotes at end of article.

Some advocates of the reinterpretation go so far as to argue that all Soviet statements since March 23, 1983, are irrelevant, on the grounds that they are made in opposition to SDI, launched by President Reagan's speech on that date. What such arguments conveniently overlook is that until then, there was no need for Soviet (or other) commentaries to address the matter, because there was no issue. Moreover, whatever their purpose, these statements reconfirm Soviet acceptance of the traditional interpretation.

Of particular importance would be any statements of interpretation exchanged between the two sides, although, the issue not having arisen, one would not expect to find many such direct statements, at least before 1983. There are at least two such exchanges that include significant and relevant Soviet statements.

The first was between Ambassador Viktor Karpov, one of the Soviet ABM Treaty negotiators, and his U.S. counterpart, Ambassador Ralph Earle II, during the SALT II negotiations. On March 16, 1976, when the question of use of the word "currently" was in dispute, Karpov recalled that in negotiations on Article II of the ABM Treaty the word "currently" had been appropriate because that treaty was of unlimited duration and future components could emerge, which the treaty would be expected to cover. In other words, he took for granted and espoused the traditional interpretation of Article II of the ABM Treaty.

Sofaer's assistants learned of Karpov's remark in 1985, but although William Sims, a member of Sofaer's staff, brought it to his attention, he chose to exclude it from his October 1985 report and his classified report of August 1986, submitted to the U.S. Senate.

The second statement was by Lieutenant General Viktor Starodubov, then the Soviet Commissioner on the Standing Consultative Commission, to his counterpart, General Richard Ellis, in May 1985. He stated that under the treaty ABM systems or components based on other physical principles could not be tested in space. This statement, which preceded the reinterpretation and was in accordance with the official U.S. view at the time, clearly showed Soviet adherence to the traditional interpretation. Senator Nunn has called these two statements "smoking guns" for the traditional interpretation.

In addition to these private statements, there have been numerous public Soviet statements grounded in the traditional view, both before and after the announcement of the U.S. reinterpretation.

Colonel General Nikolai Chervov, for example, the head of the General Staff directorate charged with arms control matters, including interpretation of existing agreements, objected in April 1983 that Reagan's SDI was "completely inconsistent" with the commitments of the ABM Treaty, in particular Article V(I), which he cited in full. He also specifically said that the treaty "bans both sides from developing antiballistic missile defense based on new physical principles—lasers, microwave radiation, beam weapons, and so forth." [2] Another Soviet analyst noted that "it was prohibited to create, test and deploy *other forms and types* of ABM, sea, air, space or mobile land based." [3]

Many Soviet accounts charged actual or prospective violations of the ABM Treaty by particular SDI tests. Thus, for example, several articles charged that a laser demonstration "strike" by a U.S. space-shuttle was a "test" banned by the treaty.[4] While this particular case is probably not a valid charge, since the experiment was not a test of an ABM "component," the point is that the Soviet interpretation of the treaty was the traditional one: development and testing of space-based laser ABMs is prohibited. Many other examples of this kind reflect widespread Soviet understanding of the treaty in the traditional way.

One Soviet statement made before the Reagan administration's adoption of the reinterpretation deserves particular attention. On June 4, 1985, four months before McFarlane spoke (and before Sofaer had even read the ABM Treaty), Marshal Sergei Akhromeyev, Chief of the Soviet General Staff and First Deputy Minister of Defense, published an article on the ABM Treaty in *Pravda*.[5] His elaboration of the traditional interpretation is crystal clear, even if his rhetoric is charged and some of his statements (such as research being prohibited) are unjustified:

"The ABM Treaty (Article V) forbids the creation and testing of spacebased ABM systems or components, that is, precisely the objective of the U.S. "harmless research." In practice the creation of specific models of strike space weapons and even the testing of some of them are in full swing in the United States. Lasers of various types, electromagnetic guns, interceptor missiles, and antisatellite systems are being developed in laboratories and at proving grounds. All this so-called "research work" is in contravention of the ABM Treaty.

"Representatives of the U.S. Administration, counting on the uninformed nature of the public at large, are claiming that the provisions of the ABM Treaty relate only to those ABM systems and components that existed at the time the Treaty was signed. The means now being created and tested within the framework of the "Strategic Defense Initiative," they say, cannot be ranked as "ABM components" since they are not mentioned in Article II of the Treaty.

"The provisions of the Treaty apply to any systems intended, as defined in Article II of the Treaty, to counter strategic ballistic missiles or their elements in flight trajectory. Since the ABM components being created within the framework of the "Strategic Defense initiative" are intended for precisely this purpose, that is, they are designed to replace the interceptor missiles mentioned in the Treaty, all the provisions of the Treaty fully apply to them, above all the ban on the creation, testing, and deployment of space-based ABM systems or components.

"The American authors of the "Star Wars" program are particularly zealous in propagandizing the thesis that the development of "exotic" anti-ballistic missile systems (laser and beam weapons, and so forth) is not only not forbidden by the ABM Treaty, but is even virtually encouraged by it. Thus P. Nitze, adviser to the president and the secretary of state on the Geneva talks, openly presents the creation of space-based ABM components based on other physical principles as an action permitted by the ABM Treaty. For greater cogency references are made to the Agreed Statement accompanying the Treaty (E) [D] which says that in the event ABM systems based on other physical principles and containing components capable of substituting, in particular, for interceptor missiles are created in the future, specific limitation on such systems and their components would be subject to discussion and agreement between the sides.

"On the face of it this is a clear juggling of the facts. The aforementioned Agreed Statement regarding the Treaty indeed does not rule out the possibility of the sides' acquiring anti-ballistic missile systems "based on other physical principles," but only within the framework of the limitations envisaged by the Treaty as a whole, in other words in the single authorized area. The large-scale ABM system with space-based elements that the United States is planning cannot be restricted to a single area. It is a territorial and even a global ABM system that is totally prohibited by the Treaty. Therefore, the creation of laser, beam, and other such destructive components for that system is a direct violation of the Treaty."[6]

This is the chief of the Soviet General Staff, writing in *Pravda* months *before* the U.S. reinterpretation was announced. One could hardly ask for a clearer or more authoritative statement of the Soviet position, upholding the view that development and testing of "exotic" mobile ABM systems and components such as lasers and particle beams is prohibited by the ABM Treaty.

SOVIET REACTION TO THE REINTERPRETATION

The Soviet Union was never consulted before the announcement of the Reagan administration's reinterpretation of the ABM Treaty. Under accepted international practice, a question of material interpretation of obligations under a treaty, especially if it involves change in existing practice or would have the effect of an amendment, should be discussed and agreed upon by the parties. In addition, Article XIII of the ABM Treaty had set up a body and procedures—in the Standing Consultative Commission (SCC)—expressly for considering "questions concerning compliance with the obligations assumed and related situations which may be considered ambiguous." In any case, whether through the SCC or some other diplomatic contact, the question should have been raised with the Soviet Union before the U.S. government pronouncements. Only after the White House confirmation of a new interpretation on October 8 and 14, 1985, was the Soviet Embassy routinely informed of the new American position.

According to U.S. and Soviet diplomatic sources, there was no inquiry into the Soviet interpretation and no offer to discuss the matter. On February 11, 1987, Secretary of State Shultz told the House Appropriations Committee that no negotiations on the issue would be held with the Soviets, that the administration planned to proceed on the basis of "what we think it says." Three months later, the administration released portions of the classified negotiating record, again without consulting the Soviet Union.

Nevertheless, even without the benefit of prior discussions with the Soviets, the Soviet reaction to the Reagan administration's adoption of the new, broad interpretation—prefigured in Marshal Akhromeyev's perceptive prediction—should have come as no surprise to anyone. The reply was prompt. After a brief initial objection by TASS on October 9, 1985, Marshal Akhromeyev was chosen to set forth the official Soviet position in a major article in *Pravda* on October 19.[7] Akhromeyev derided the reinterpretation as a "deliberate deceit." "Article V of the Treaty," Akhromeyev wrote, "absolutely unambiguously bans the development, testing, and deployment of ABM systems or components of space or mobile land basing, moreover, regardless of whether these systems are based on existing or 'future' technologies." He explained the relevant provisions of the treaty in considerable detail, pointing out in particular that Agreed Statement D allows "creation" only of fixed, land-based systems "based on other physical principles" and in no way amends Article V's ban on development and testing of space-based and other mobile ABM systems and components. Again, the statement could hardly be more authoritative or unambiguous.

It is not necessary to cite all the numerous other Soviet discussions since October 1985 that reaffirm the traditional interpretation and reject the broad interpretation advanced by the Reagan administration. They include statements by the then Soviet defense minister, Marshal Sergei Sokolov, who added that the restriction of Agreed Statement D to fixed land-based systems "is confirmed by those officials who participated directly in the working out of the ABM Treaty"; an analysis in the principal legal periodical *Soviet State and Law*, which was written before the U.S. reinterpretation was announced, though published after it, in November 1985; and articles by several responsible Soviet officials involved in negotiating the ABM Treaty, including the chief of the Soviet delegation, Ambassador Vladimir Semenov, the current disarmanent chief, Ambassador Viktor Karpov, and the former senior deputy foreign minister, Ambassador Georgy Kornienko.[8]

SPACE-STRIKE WEAPONS?

Inasmuch as Sofaer has not at this writing submitted his report on subsequent practice, it is not known how he will treat these statements confirming Soviet adherence to the traditional interpretation. According to some reports, he may argue that the whole Soviet effort in recent years to get a new agreement banning "space strike weapons" implies that the Soviets do not believe that the ABM Treaty bans such weapons. Such an inferential approach is seriously flawed. In particular, it ignores the simple fact that the Soviet definition of space-strike weapons includes more than space-based ABMs. It explicitly includes antisatellite weapons and weapons directed from space at targets on the earth. Space-strike weapons simply cannot be equated with ABM systems.

Moreover, even to the extent the Soviet space-strike proposal duplicates or supersedes the ABM Treaty ban on space-based ABM systems, that does not imply anything that would diminish the ABM Treaty. By analogy, both the Soviet Union and, until 1982, the United States have sought a comprehensive nuclear test ban. No one has ever contended that their interest in such a treaty implied that they did not believe some categories of nuclear testing were already banned by the existing 1963 Limited Test Ban Treaty. Yet that would be the implication if the reported Sofaer approach were applied.

CONCLUSION

The Soviet subsequent practice from 1972 to date, like that of the United States from 1972 until 1985, has fully supported the validity of the traditional interpretation, and explicitly rejected the reinterpretation, both before and after the reinterpretation was announced. The record is unambiguous The Reagan administration's continued support of its radical reinterpretation of the ABM Treaty cannot be justified.

In seeking to place the matter in perspective, one could do worse than apply "the golden rule": what would the United States have thought if after many years the Soviet Union had suddenly, unilaterally, reinterpreted the ABM Treaty (or any other) to suit a policy purpose of its own, contrary to U.S. policy and to the original clear understanding of both parties? What would the United States have thought if the Soviets had then publicly acknowledged that they had done so without examining either their own ratification record or the record of the subsequent practice of the parties, without consulting any but one of their own negotiators, and before compiling much of their own relevant negotiating records?

FOOTNOTES

[1] Of course, the best way to determine whether the Soviets consider themselves bound to the traditional restrictive interpretation would obviously have been to ask them for a clear recommitment. If they did not agree that the traditional interpretation was the correct one, the United States could then have adopted a broader reading, or sought to negotiate agreement on the traditional or any new basis to ensure that both would be bound by the same obligations. The administration did not take this path because it knew that the Soviet government would in fact strongly reaffirm the traditional interpretation, making it much more difficult for the United States to free its hands for SDI testing.

[2] Interview in *Bratislava Pravda*, April 29, 1983.

[3] A.G. Arbatov, "Limitations of ABM Systems—Problems, Lessons, Prospects," *SShA*, (USA), no. 12 (December 1984), p. 19; emphasis added.

[4] See, for example, "Projected Tests," *Pravda*, May 25, 1985.

[5] "The ABM Treaty—An Obstacle in the Path of the Strategic Arms Race," *Pravda*, June 4, 1985.

[6] Marshal Akhromeyev's attribution of the broad interpretation to Nitze and the administration was premature. In fact, in a speech made as recently as May 30, 1985, Nitze had reaffirmed the traditional interpretation explicitly (see Paul H. Nitze, "SDI and the ABM Treaty," U.S. Department of State, *Current Policy 71*, 1985, pp. 1,3). Almost certainly what Akhromeyev's staff had misinterpreted (but with coincidental uncanny premonition) was the reference to an anonymous source in the administration as the author of a Heritage Foundation "backgrounder" of April 4, 1985, which did advance a version of the new, broad interpretation just two months before Akhromeyev's statement.

[7] "Washington's Assertions and the Real Facts," *Pravda*, October 19, 1985.

[8] Marshal S. Sokolov, "Preserve that Which Has Been Achieved in the Field of Limiting Strategic Arms," *Pravda*, November 6, 1985; A. Natal'in, "The Illegality of the U.S. 'Strategic Defense Initiative'," *Soviet State and Law*, no. 11, (November 1985), pp. 113–19; V. Semenov, "The ABM Treaty and SDI," *Pravda*, February 21, 1987, first ed. only; V. Semenov and B. Surikov, "The ABM Treaty—An Obstacle to 'Star Wars'," *Mezhdunarodnayazhizn'*, no. 7, (July 1987), pp. 20–29; V. Karpov, "A Difficult 'Anniversary'" [fifteen years from signature of the ABM Treaty], *Pravda*, May 26, 1987, and "A Formula for Success—Europe without Rockets," *Novoye vremya*, no. 17 (April 24, 1987), pp. 6–7; G. Kornienko, "A Look to the Past for the Sake of the Future," *Novoye vremya*, no. 21 (May 22, 1987), pp. 3–4, and under the pseudonym "K. Georgiyev," "Against Facts and Logic," *Pravda*, October 18, 1986.●

AIR FORCE PROPOSAL TO KILL ASAT WEAPON

● Mr. KERRY. Mr. President, on Friday, the New York Times reported that the Air Force is proposing to abandon the U.S. antisatellite weapon to reduce the budget, and that Secretary of Defense Frank Carlucci is likely to accept its proposal. As a result, the public will save more than $2.5 billion over the next 5 years, a real savings which will translate to a lower budget deficit or the ability to spend the money on programs that do make sense.

Since I arrived in the Senate 3 years ago, I have come to the floor many times to argue that the Asat was an expensive lemon with serious strategic liabilities, and that the United States would be better off negotiating limits on weapons in space with the Soviets, rather than pushing Asat development forward.

Now, primarily as a consequence of budgetary pressures, the Defense Department is recognizing that it has to make choices and that marginal systems cannot be sustained forever, through changing rationales and cost overruns and regardless of strategic or arms control considerations.

I congratulate the Air Force on this proposal, which demonstrates a new realism by the Defense Department, and urge Secretary of Defense Carlucci to follow through on the decision to kill the Asat. The $2.5 billion he will save will start the process of real cuts in military spending that the Defense Department must undertake in the months ahead as move to bring the deficit crisis under control.

Indeed, the Federal deficit crisis has left no room in the budget for weapons we don't need. Americans understand that our national security must not be defined merely by how many weapons we buy, but by the strength of our economy. Unless we act decisively to cut the Federal budget deficit, our economy will continue to weaken, and we will be a less powerful nation as a consequence.

Our Nation would be far stronger today if President Reagan had recognized that the United States could not sustain the biggest military spending spree in the Nation's history and massive tax cuts simultaneously—that eventually something would have to give.

If we had decided at the outset not to spend so much money on redundant and marginal weapons, the Federal budget deficit, and the cuts required in all government spending, including military, would not be so severe now. When I ran for Senate, I said that our Government needed to make choices about such systems. At last, as a result of the budget process beginning to work, we are beginning to do so.

The decision to kill the U.S. Asat is only the second time in recent history that the Defense Department has been willing to accept a decision that a weapon hasn't worked out. The first time was the Divad. In both instances, the decision came only after enormous sums had been spent on research and development of a weapon that didn't do what it was supposed to do, and which cost more every time you looked at it.

This was evident 18 months ago, when the GAO issued a report concluding that even apart from the arms control objections to the testing of the U.S Asat, the U.S. Asat system had "limited projected operational capability, technical problems, recognized deficiencies in its readiness for production, and face[d] ever escalating costs."

The decision to develop the Asat in the first place was made by the Carter administration for the purpose of developing a bargaining chip in the process of negotiating overall limits on space weapons to eliminate loopholes left by the ABM Treaty. This was the position because our military felt we needed to get a strict legal regime to protect our satellites. In the words of former U.S. Air Force Chief of Staff Gen. Charles A. Gabriel,

> I would rather both sides not have a capability to go to geosynchronous [orbit] with an Asat. In fact, I would like to be able to agree with the Soviets that we not have any Asat's if we could verify it properly. Because we are an open society, we need our space capabilities more than they do.

Unfortunately, the Reagan administration took the position that there was no Asat restriction that would be in the interests of the United States because of our need to be able to shoot down Soviet satellites in time of war.

Yet the trade off of each side having no capabilities to shoot down high altitude satellites would favor the United States. We rely on our satellites for information that is vital to our national defense, from command and control of our military forces to early warning of nuclear attack. Our military forces are far flung: Not only do we have bases around the world, but the preponderance of our nuclear weapons are located beyond our shores. If our satellites become threatened by future improvements in Soviet capabilities, we risk the decapitation of both nuclear and conventional forces, making it difficult for the United States to maintain a credible response to a sneak attack.

The long-term damage to our strategic security from the further development of Asat technologies by both sides outweighs whatever short-term theoretical advantage gained in going ahead with the testing of our current Asat.

In the words of Prof. Donald Hafner of Boston College, an adviser to the SALT delegation and the National Security Counsel in 1977-78:

> The opportunity that the United States now has before it to place constraints upon arms competition in the broad reaches of outer space is ripe but perishable. The Asat technologies currently available to the United States and the Soviet Union are crude but suggestive. Should the momentum of Asat programs increase, it is evident that the two sides will provoke the other into expending billions of dollars, all in preparation for a "Brobdingnagian skeet shoot" from which neither side is likely to derive a net advantage in security.

So the Air Force's announced willingness to kill the United States Asat slows down the Asat race, and I consider that a good thing. But the larger problem of satellite security is not going to go away unless we negotiate further limits on space weapons with the Soviets. Both the United States and the Soviet Union are aggressively researching other forms of Asat's, including directed energy Asat's and without an agreement it is inevitable such weapons will soon be developed, tested, and deployed.

We should renew negotiations with the Soviets on antisatellite weapon constraints. Possibly this new treaty could ban all tests of Asat's against objects in space. Possibly it could be limited to the development of Asat's capable of attacking higher Earth orbits because of verification problems of stopping lower Earth orbit Asat's.

In the meantime, there are alternatives for the United States to protect itself against the threat of Soviet satellites besides an Asat, and I believe we should move aggressively forward with those alternatives.

United States and Soviet satellites use UHF, SHF, and EHF frequencies. These satellites are susceptible to uplink jamming in varying degrees and may be blinded through ground-based directed-energy weapons or high-power radio frequency transmissions. Instead of developing the U.S. Asat, this approach may be a more cost effective and militarily safe method of stopping an enemy satellite from tracking U.S. ships or engaging in other hostile activity during war.

We should also continue the process of improving the survivability features on U.S. satellites. For example, the Navstar Global Positioning System displays the kind of features, available at reasonable cost, that can make attack much more difficult, time consuming, and conspicuous.

Mr. President, I wish to extend my thanks to the 47 other Senators who joined me in voting this year to extend the moratorium of Asat testing and send a message to the administration and the Defense Department about the Asat, making possible the elimination of this marginal program. I ask that the article "Air Force Proposes Abandoning Anti-Satellite Weapon to Reduce Budget" be placed in its entirety in the RECORD.

The article follows:

[From the New York Times, Dec. 18, 1987]

AIR FORCE PROPOSES ABANDONING ANTI-SATELLITE WEAPON TO REDUCE BUDGET

(By Richard Halloran)

WASHINGTON. Dec. 17.—To help cut the Pentagon budget, the Air Force has proposed ending work on a weapon system to destroy Soviet satellites in space, Pentagon officials said today.

The officials said the Air Force saw no sense in continuing the program because for three years Congress has forbidden the Air Force to test the system in space. While Frank C. Carlucci, the Defense Secretary, has not yet made a final decision, the official suggested that the anti-satellite weapon program was dead.

Mr. Carlucci, acting under an agreement reached by the White House and Congress to reduce the Federal deficit, has ordered the armed services to cut about $33 billion from their 1989 budgets so that the Defense Department can meet its obligations.

Killing research and development of the weapon would save about $500 million in the fiscal year 1989, which starts next Oct. 1. Although, the Air Force has been instructed to come up with $8.6 billion in budget cuts.

DEMOCRATS FEAR FOR BALANCE

Each service had until late last week to draft its lists of proposed cuts. This week, leaders of each service have been meeting with the Pentagon's executive committee, the Defense Resources Board, to explain and defend recommended cuts.

The anti-satellite system envisions mounting a precision guided missile on a highpowered F-15 fighter. The fighter would climb to a high altitude and launch the missile into an orbit, where it would collide with the satellite or explode near it. Congressional Democrats opposed the program, asserting that it destabilized the military balance between the United States and the Soviet Union.

The chairman of the House Armed Services Committee, Representative Les Aspin, Democrat of Wisconsin, has been among the leaders of the opposition to the anti-satellite weapon. Another leader is Senator John Kerry, Democrat of Massachusetts.

THE SOVIET ADVANTAGE

It also seemed likely to please the Soviet Union, which has proposed a moratorium on such developments. The Soviet Union has a military space program that is more extensive than that of the United States; anti-satellite weapons would threaten that network in a conflict.

Moscow has also been seeking to develop an anti-satellite system of its own, but is believed to lag behind the United States technically.

For the United States to cancel its anti-satellite system may slow development of President Reagan's plan to deploy a defense against incoming nuclear missiles. Some anti-satellite technology might have been useful in the antimissile program.

In other budget-cutting actions, the Navy has proposed transferring several destroyers to the reserve fleet, where they would require few sailors on active duty and would be operated infrequently by reserve crews. The Navy could thus reduce personnel and operating costs.

At the same time, the Pentagon officials said, the Navy has amended its proposed cuts to come close to its goal, a $11.5 billion reduction. Earlier, the Navy came up short by nearly $1 billion, and James Webb, the Secretary of the Navy, contended that further reductions would lead to unacceptable military risks.

HOLDING PERSONNEL AT A LEVEL

The Navy has also proposed that it hold level the number of people in the ranks, meaning personnel would not be increased by the 10,000 sailors, as had been planned. Navy officers have long said they needed more people as the American fleet expanded to 600 ships.

The Pentagon officials said the Army had been resisting efforts by the Deputy Secretary of Defense, William Howard Taft 4th, who is acting as chairman of the Defense Resources Board, to reduce the number of soldiers.

Mr. Taft suggested earlier that the Army, which has held its personnel strength constant for seven years, would not be required to make deep cuts. But the Pentagon officials said that did not mean no cuts. The Army, instead, has proposed ending the program to develop a remotely piloted drone to fly over battlefields to spy on enemy forces, relaying information back to a command post through television.

The Army has also recommended reducing its annual procurement of M-1 Abrams tanks and Bradley fighting vehicles, although by how much could not be determined. In 1989, the service planned to buy 600 tanks for $1.6 billion and 618 Bradleys for $714 million.

In a related matter, Donald M. Fredericksen, a senior Defense Department official, told a Congressional committee today that the Army would add armor to the Bradley to make the disputed vehicle "50 percent more survivable" in combat.

Critics have contended that the Bradley could not survive an attack by some Soviet-made missiles. Mr. Fredericksen also said the Army would move the position of ammunition stored aboard the vehicle and redesign the fuel system to protect the crew.●

TRIBUTE TO AMERICAN FOUNDATION FOR THE BLIND

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to the American Foundation for the Blind. Since opening in 1921, the foundation has served as a national partner of local services for blind and visually impaired persons, services for whom the foundation seeks to develop, maintain, and improve.

Today, with headquarters in New York City, the foundation works in cooperation with more than 1,000 agencies, organizations, and schools nationwide. Together, new opportunities in education and rehabilitation are provided to promote independence for hundreds of thousands of blind and visually impaired persons in the United States.

To fulfill its mandate, AFB offers regional and national consultants on matters ranging from early childhood development and rehabilitation to employment and communications technology. A myriad of publications are available and messages on radio and television are aired to promote public awareness. Local, regional, and national seminars are conducted, including the annual Helen Keller Seminar held in New York City. At the national level, through its Government relations office in the Nation's Capital, AFB consults on legislative issues and represents the foundation before Congress and Government agencies.

A recent development at AFB occurred in January 1986 when the National Technology Center was opened at AFB's New York City headquarters. The center was designed to help meet the specific needs of blind and visually impaired persons in our highly complex technological environment. For their greater independence at home, school, or work, the center has begun an ongoing technological investigation into the development of mobility aids, home-use medical monitoring devices, and general adaptive equipment that help meet the same day-to-day needs as those of sighted people. Consider, for example, computer systems that speak and display information in large print; talking cash registers, calculators, thermometers, and clocks; and paperless braille tactile graphics displays. These include some of the innovative alternatives under evaluation and development at the Center.

The American Foundation for the Blind is always looking for new and better ways to help the blind and visually impaired, made possible by the philanthropy of the general public, corporations, foundations, and governmental grants. IBM recently received AFB's third annual "Corporation of the Year Award" in recognition of the company's commitment to national programs and services for blind and visually impaired persons. John F. Akers, chairman of the board of the IBM accepted the award.

IBM also received the second annual Leadership Award of the Dole Foundation, an organization deeply committed to furthering employment for individuals with all kinds of disabilities. The American people, corporate America, private organizations, and the Federal Government are joined in the belief that people with disabilities are an integral segment of our Nation's work force.

Led by chairman AFB, John S. Crowley, and executive director, William F. Gallagher, AFB's staff, national trustees, and regional advisory boards are to be commended for their dedication and service.

I am pleased to recognize the American Foundation for the Blind. We in Congress, and indeed the American people, are proud of its many accomplishments. I encourage the foundation to keep up the good work.

Thank you, Mr. President.●

RECOGNIZING THE KNOGO CORP.

● Mr. D'AMATO. Mr. President, I rise today to pay special recognition to one company that has grown from a one-man shop to an international leader in the $200 million a year electronic article surveillance industry—the Knogo Corp. on Hauppaugue, Long Island. Knogo is the founder and leader in manufacturing, marketing, and servicing antishoplifting devices to retailers around the world.

In 1966, an inventor tinkering in his Queens' garage pioneered the entire worldwide electronic article surveillance [EAS] industry with the invention of the first radio frequency "wafer." This system was designed to deter and detect shoplifting at the retail level. All of Knogo's antitheft systems work on the same principle: Merchandise is targeted so that, when it passes through Knogo's exit monitor panels in an unauthorized fashion, signals will alert store personnel.

From the humblest beginnings, Knogo has grown by leaps and bounds due to the direction of Arthur J. Minasy, president of Knogo Corp. For 21 years the company has been at the forefront of the EAS industry and providing retailer institutions with the best state-of-the-art technology available.

Knogo is moving with the times and perfecting new ideas. Some of its other systems protect mentally confused patients from straying away from nursing homes, protect works of art in museums, scrub suits and other linens in hospitals, and books and periodicals in libraries.

Knogo has a proven record of success. It experienced a 25-percent increase in revenue last year and is currently in the process of building a 68,000-square-foot facility in Hauppaugue, Long Island. Knogo's leadership in the EAS industry and the new business and employment opportunities it has provided my fellow Long Islanders are just a few of its accomplishments. I am proud of Knogo's progress and extend my congratulations on 21 years of excellence.

Thank you, Mr. President.●

SKATING SKILLS OF MARY DOCTER

● Mr. KASTEN. Mr. President, while we may seem to be skating on thin ice in compiling these mammoth budget and tax bills, I'd like to draw my colleagues attention to the solid skating skills of one of my constituents.

Mary Docter of Madison, WI, has shown remarkable pluck and determination in winning a place for herself on the U.S. Winter Olympic Team. We here in Congress would do well to emulate her perseverance.

Her story is told in an article from the Washington Post of December 21. I ask that it be entered in the Record.

Docter Skates to Berth On U.S. Olympic Team—Rushed Comeback Results in Surprise Win

(By Angus Phillips)

West Allis, Wis., Dec. 20.—Take heart, couch potatoes. You, too, will be represented at the Winter Olympics.

This weekend, in an upset that left her almost as baffled as it did the rest of the speed skating community, Mary Docter, 26, beer and cheesecake queen of Madison, Wis., won a place on the U.S. team. Not just a place either; she proved to be the top women's 3,000-meter and 5,000-meter performer at the Olympic trials here.

This is the Mary Docter who, after finishing sixth in the 1984 Olympics in Sarajevo, Yugoslavia, sold her equipment and vowed never to speed skate again, "unless I have a complete personality change."

Docter moved back to Madison went to the University of Wisconsin, ate too much, drank beer, gained weight, speed-skated not a whit and found herself on graduation last May jobless and without prospects.

She took up waitressing part-time at the Ovens of Brittany, where her cheesecake obsession flowered, she said, until the day before Halloween, when a patron scolded her. Docter recounted their fateful chat:

Customer: "Why aren't you skating?"

Docter: "It's out of my life."

"You must be talented."

"It's a lot of work."

"When are the Olympics?"

"Three or four months."

"What would it take?"

"Look, you're stirring a lot of feelings in me that I don't want."

But Docter said she quickly realized "I needed the sport. I wasn't doing anything with my life. I was going out every night, drinking loads of beer and smoking. I was in a rut."

So she intensified the occasional gym workouts she'd been doing, went roller skating on off hours and, when the Madison ice rink opened four weeks ago, strapped on a pair of speed skates for the first time in almost four years.

Entry fee for the Olympic trials here was $10. She watched some of the Olympic hopefuls "and I thought to myself, 'I think I can beat those chicks.' "

In her first race Dec. 13, Docter was second to the top U.S. 3,000-meter skater, Leslie Bader. This weekend she beat Bader by three seconds to become the top U.S. prospect at that distance, then easily won the 5,000-meter trials tonight.

"It makes all of us who trained hard just sick," said Angela Zuckerman, who lost her place on the team because of Docter. "It hurts. The only thing we can think is, she's rested."

Said Bader: "It's amazing, after such a long time. I'm happy for her, but it's hard, deep down. I did all this training and here she just blew me away."

Even Docter conceded it is "a little insulting to the women's distance program."

Coach Mike Crowe initially was distressed that someone without hard training, "skating half-throttle," as he put it, would wind up his best prospect for a medal at 3,000 meters against a strong East German women's contingent.

But this weekend he mellowed. "She definitely belongs on the team," he said after her defeat of Bader in a cold rain Saturday night. "She was far and away better than anyone else [at 3,000 meters]."

Crowe said he suspects Docter has been working out in the gym more than she admits to. But he said he hadn't talked with her during the trials. "I hadn't coached her, so I didn't know if it was my place." Now that she's on the team, he said he'd work with her, which Docter said she'd welcome.

For her part, Docter is both euphoric and bewildered.

"I don't know what's going to happen," said the frizzy-haired veteran of two Olympics. "I'm ready to train hard. I'm excited to come down here and skate."

She said 1984 was a bitter disappointment she wouldn't want to repeat.

After seven years of training, she said, "I didn't get what I trained for. I had great potential, but when the time came I was a mental, physical and emotional wreck. I was eating to much baklava and not sleeping. I couldn't maintain my mental status; my attitude was bad."

Now, she says, "Speed skating is just what I need to get out of my rut. It's the most exciting thing I've ever done."

Nor does she expect to get so wound up that she collapses at Calgary the way she did at Sarajevo. She's approaching this one very differently.

Will 1988 be Mary Docter's revenge?

"No," she said with an ear-to-ear grin, "it will be Mary's vacation."

Although Docter is a long-distance specialist, the top U.S. medal prospects all compete in shorter, sprint distance of 500, 1,000 and 1,500 meters.

The only major surprise of the trials in those distances was three-time Olympian Nancy Swider-Peltz's victory tonight in the 1,000 meters. Like Docter, Swider-Peltz, 31, wasn't planning to compete this year. She had her first child in January and couldn't train until September. By winning tonight, she becomes the first U.S. four-time speed skating Olympian.

In other sprint team selections, women's champion Bonnie Blair and the top men, world record holder Nicky Thometz and Dan Jansen, made the team easily. Thometz was ill and didn't race the 500, but has a designated spot as world-record holder at that distance. Jansen and Blair led the pack in the 500 trials, and Jansen also won the 1,000.

The team:

WOMEN

Bonnie Blair, Champaign, Ill.; Katie Class, St. Paul, Minn.; Leslie Bader, Bridgeport, Conn.; Mary Docter, Madison, Wis.; Kristen Talbot, Schulyerville, N.Y.; Peggy Classen, Roseville, Minn.; Jan Goldman, Glenview, Ill; Nancy Swider-Peltz, Park Ridge, Ill.

MEN

Nick Thometz, Minnetonka, Minn.; Dan Jansen, West Allis, Wis.; Erik Henrikson, Champaign, Ill.; Eric Flaim, Pembroke, Mass.; Dave Silk, Butte, Mont.; Marty Pierce, St. Francis, Wis.; Tom Cushman, St. Paul, Minn.; John Baskfield, Roseville, Minn.; Dave Cruickshank, Northbrook, Ill.; Mark Greenfield, Park Ridge, Ill.; Jeff Klaiber, Glenview, Ill.; Brian Waneck, Mequon, Wis.●

TEXTILE INDUSTRY

● Mr. BOSCHWITZ. Mr. President, I rise today to share with my colleagues two articles, regarding the textile industry. The first, "The Great Textile Robbery," appeared in the New York Times. The second, "Sun Finally Setting on Garment Industry," was printed in the China News. They were brought to my attention by a close friend and leader in the retail industry, Mr. Leslie H. Wexner. Les Wexner is the president and chairman of The Limited, Inc., the largest retailer of women's clothing in the world.

According to these articles, it is estimated that the U.S. textile industry employs 1.8 million workers. Although our domestic industry is diminishing in size, it remains profitable, with income of over $100 billion a year. At this time, U.S. plants are operating close to capacity without large amounts of new investment capital. Furthermore, foreign clothing imports account for only about 30 percent of the American market. In fact, in recent years the industry has experienced increased domestic sales. U.S. buyers have reduced their relliance on foreign manufacturers and are turning to American manufacturers to meet their requirements.

Those in favor of more protection for textiles here in the United States claim that the American textile industry is losing money and no longer able to compete with foreign manufacturers. They promote increased reliance on quotas and tariffs in order to remain competitive.

Frankly, I disagree with this approach. Every year legislation is introduced to protect textile-related jobs. I'm concerned that the only result is to increase clothing costs by $20 million a year. Quite frankly, protecting the textile industry is a vicious circle. Protectionist measures cause clothing costs to rise and domestic sales to fall, hurting the domestic textile industry and putting people out of work.

Mr. President, I ask that both articles be printed in the Record and I encourage my colleagues to read them.

The articles follow:

[From the New York Times, Oct. 26, 1987]

The Great Textile Robbery

It's already an outrage: Quotas and tariffs raise clothing and textile prices in America by a whopping $20 billion a year. That means the public currently pays $86,000 for every job protected.

Now Congress wants to make it worse. Last month, the House voted to allow imports to rise by only a small fraction of the expected growth in demand, and the Senate is expected to go along. According to estimates by William Cline, a researcher at the Institute for International Economics, the added restrictions would double the current consumer cost by the year 2000. The only consolation is that the bill is certain to be vetoed by President Reagan.

The protectionists' case is simple. Apparel and cloth manufacturers employ 1.8 million and generate some $100 billion in income. If imports aren't tightly checked, the industry says, American producers will be unable to compete with foreign companies that pay pennies a day for workers. Even the best-run domestic manufacturers will fail, devastating families and communities.

It's a simple argument but it's disingenuous. In spite of their labor cost disadvantage, highly automated U.S. textile mills have remained competitive in world markets. The mills are currently operating close to capacity, and imports account for only 10 percent of domestic consumption.

Apparel manufacturers, who have invested very little in mechanization, have been pressed by imports. But foreign clothing still has only 30 percent of the American market. And thanks to rapid growth in total demand, domestic sales and profits have never been higher.

The House measure, restricting import growth to 1 percent annually, would check the slow decline in industry employment—but only at an incredible price to consumers. According to Mr. Cline, each of the 179,000 jobs saved would 10 years later add even more to Americans' clothing bills. And seen simply as a make-work program, it's far from clear that those jobs would be worth preserving at any price.

Apparel and textile wages average less than $7 an hour, $2 less than the average private sector wage. Moreover, with unemployment now below 6 percent and labor shortages forecast for the next decade, there is every reason to believe that workers laid off by the industry will be able to find jobs at comparable pay.

A plausible argument can be made for preventing high-tech industries from being overwhelmed by imports. Reasonable people can debate the merits of creating an effective safety net for workers and communities affected if any large employers collapse. But there is no basis for asking Americans to pay tens of billions more to save a relatively small number of poorly paid jobs in highly profitable industries.

Congressional eagerness to pander to the textile and apparel makers is sad evidence of the power of well-organized, big-money lobbying. It's hard to remember when legislation so richly deserved a veto.

[From the China News, Nov. 9, 1987]

SUN FINALLY SETTING ON GARMENT INDUSTRY

The garment industry is about to enter the Dark Ages. Industry sources say total future orders and unit prices are looking "pessimistic."

The industry has forecast a shrinking business volume ever since the NT dollar began to rise against the U.S. dollar last year. Yesterday, industry representatives said the Dark Ages are finally coming.

The most convincing evidence for the grim future, they said, is that export orders received for between April and June next year are only 30 percent of the actual export amount for this year.

The buying will of the American public has diminished with the instability of the stock market, a spokesman of the Garment Maker's Association said.

Buyers from the United States either are buying less or are simply turning their backs on local manufacturers after hearing price quotations on routine visits to Taipei.

Price is another factor causing the industry to recede. Knit wear makers complain they used to sell by the piece. Now, they are requested to quote prices by the dozen.

In view of the bleak outlook, many garment makers are seriously considering transferring factories to the Philippines and Indonesia where labor is cheaper and quota restrictions are less tight.

According to a survey made by the Garment Makers' Association on export orders for the coming six months, shirt makers stand out as they claim to have received orders equivalent to 70 percent of last year's orders. Makers of jackets, one-piece garments, trousers and wind breakers are reporting 40 percent to 50 percent of orders compared to the same period last year.●

OLD MAIN—A SUCCESS STORY

● Mr. BOSCHWITZ. Mr. President, I rise today to share with my fellow Senators a tale of success about a building called "Old Main" in Mankato, MN, from an article in the "Minnesota Real Estate Journal." The Federal Government is often criticized—many times deservedly—for dragging its feet on important decisions. But the story I'd like to share is one of prompt action and cooperation.

"Old Main," which was placed on the National Register in 1983, is the last remnant of the old Mankato State Teachers College. It was built in 1923-24 and is a fine example of the academic style of architecture. Now "Old Main" is being renovated to provide 85 units of senior housing.

I was proud to be at the ground breaking some time ago.

Curt Fisher, of Fisher Commercial Real Estate in Mankato, together with many others, was a leader in the fight to save this building from the wrecking ball. Curt recognized the needs of the community, particularly the need for senior housing, and worked hard with the citizens of Mankato to make the vision a reality. The city of Mankato pitched in by purchasing the building from a developer using proceeds from a tax increment financing (TIF) district, and then selling it to the nonprofit Senior Development Corp.

But it wasn't easy going. Provisions of the Tax Reform Act of 1986, which was signed into law while financing and planning of the renovation was still being worked out, could well have stopped the project. The cut in the historic preservation tax credit from 25 to 20 percent, as well as the limitation on passive losses for partnerships, could have killed the project. I went to work and obtained an amendment to the Tax Reform Act exempting the project and putting it back on track.

I think the story of the renovation of "Old Main," which will be completed by next May, is a fitting example of the benefits of cooperation between private investors, and local, State and Federal Governments. "Old Main" will provide much needed housing for seniors, while preserving the historic heritage of Mankato.●

CHILD CARE SERVICES IMPROVEMENT ACT

● Mr. DURENBERGER. Mr. President, I am pleased to join my colleague from Utah, Senator HATCH, in supporting S. 1678, the Child Care Services Improvement Act of 1987, a bill that addresses one of the fastest growing problems that our Nation faces. The need for quality child care in this country far outstrips the supply, a reality that all parents of young children struggle with on a daily basis. The poor face the double problem of supply and affordability leading them to take the chances that sometimes result in neglect and tragedy.

Moderate income families often deal with the continuing stress of maintaining adequate child care and also seeing most of their net income going to pay for child care that is less than satisfactory. For all, child care is a constant hassle which affects their work productivity and their mental health which in turn may further affect the quality of time they spend with their children.

Child care has become a national issue for many reasons but the simplest and most obvious is that the number of women who work outside the home as well as in the home has grown dramatically. Simultaneously the number of women in childbearing years has grown. So demand for child care facilities and programs has increased proportionately. The need for quality child care will be with us for many years, so we must move quickly. Already half of all married mothers with infants younger than 1 year are in the work force—a 108 percent increase. By 1995, two-thirds of all preschool children will have mothers in the work force.

Quite literally, the Nation's most precious resource, its children, are being put at risk without safe, mentally and physically nurturing environments. Just as the Nation once long ago determined that public education was something that society and the community should ensure, it is clear that with changing work patterns for women and men, it is in the interests of the Nation to make certain that children are given the right developmental start in life. For later elementary education, there is also evidence among large numbers of disadvantaged children, some of which are growing up homeless, that quality day care gives them a better chance in life—just as Operation Headstart did beginning in the Mid 1960's. In fact, good day care for children in poverty can be an opportunity to partially compensate for cognitive deficits in their environment, nutritional inadequacies in the home, and the absence of health care (especially preventive health care.)

As a nation, we must make this investment in our children. Of today's children, who will make up our future labor force, according to the Children's Defense Fund:

One in four is poor.

One in three is nonwithe, and, of these, 40 percent are poor.

One in five is at risk of becoming a teen parent.

One in seven is at risk of being a drop-out.

There is evidence that preschool and other programs can help low-income children (who often have many barriers to overcome) succeed in school.

Government cannot and should not be the main source of child care, or of its financing. Even if the Nation were not facing large Federal deficits and a crushing national debt that could be left to these same children, parents must contribute to their children's care according to their ability to pay. They have the greatest stake in the care because they are the parents. Parents must remain responsible for ensuring quality care and proper early development. But, it is clear that governments at all levels have roles to play in quality assurance, consumer information and protection, assistance with the vexing liability insurance problem, and as financial catalysts for demonstrations, and significant sources of funds for State programs, and extra assistance to low-income families. Like education, child care is most appropriately a State and local responsibility but the Federal Government can and should help. Parents, concerned citizens, educators, organizations and Government agencies have important distinctive interests and roles and all will need to work together to protect our young people. Moreover, we want to maximize the opportunities for choice—choice of kinds of child care, choice of mixture of financing and choice of governance. But without adequate supply of child care options, there is no real choice. We must stimulate supply expansion and enhance choice for all Americans.

In addition to the broad need for good day care, it is obvious that welfare reform will flounder if we do not move ahead to increase the supply of day care for the young women and men who must get an education or work training to get jobs or need day care to even get the chance to develop a solid work history.

The lack of affordable, decent day care could make a mockery of all of our efforts to develop independence, to provide good training and open the door to economic opportunities. If middle-income mothers with cars and adequate though not lavish salaries have the constant battles with sitters and child care that this Senator hears about, imagine what it must be like with all of the strikes against them that many young mothers on AFDC face. In an excellent project in Hennepin County, in which AFDC mothers are given intensive services to help them cope, many of the welfare recipients barely make it on a daily basis for so many factors that drag them down, including lack of child care and transportation.

Neither this bill nor others that deserve support, such as Senator DODD's "New School Childcare Demonstration Projects Act of 1987" which I also am cosponsoring, will solve all of the child care supply problems that we will face in the next 5 years, but both bills are important, thoughtful steps that must be taken as soon as possible. A year or even 3 years is not long in Congress or for any of us as older adults—indeed the years seem to move much too swiftly—but even a year is a critical period in the development of a child. We cannot let that valuable time for shaping a child be wasted or allow children to have their development stunted or twisted. We must move quickly. I urge my colleagues to join me in working with Senator HATCH to bring this bill to final passage.●

AFTER INF: THE NATO DEFENSE INITIATIVE

● Mr. QUAYLE. Mr. President, the benefits of the INF agreement are clear: For the first time the United States and the Soviet Union will actually be eliminating an entire class of nuclear weapons systems. This is why the treaty and its ratification are virtually irresistable.

What's not so well understood, however, is how the elimination of NATO's INF missiles will further undermine NATO's strategy of flexible response and how NATO must now take prudent action to revitalize its defenses. In fact, NATO's strategy is at a crossroads. Either NATO will correct the deficiencies that destruction of its INF missiles will compound or it will let its strategy of flexible response deteriorate until NATO comes undone.

Today I intend to clarify this crisis and propose a 5- to 15-year package of NATO-coordinated programs—the NATO Defense Initiative [NDI]—that can address these problems without bankrupting either us or our allies. I have spoken to the administration about this initiative and believe they should support it either by including all or part of it in the fiscal year 1989 Defense budget or, if this is not possible, by presenting it in the form of a supplemental request prior to the INF Treaty's ratification.

Before I detail the specifics of the NDI package, though, I think it's necessary to clarify the problem it's intended to address—the deterioration of NATO's strategy of flexible response.

This strategy of flexible response has three components:

First, direct or forward conventional defenses to check an initial Soviet conventional assault; second, deliberate escalation with tactical and theater nuclear weapons to deter Warsaw Pact use of nuclear weapons and to block any Pact breakthroughs against NATO's forward conventional defenses; and, third, general nuclear response with theater or strategic nuclear weapons to deter any further aggression by credibly threatening to initiate a nuclear strike against the Soviet Union itself.

Clearly, the last component is the one most directly affected by the elimination of NATO's INF missiles. NATO still has its dual-capable aircraft to deliver nuclear weapons but these are located on only a handful of bases that are becoming increasingly vulnerable to nonnuclear missile and air attacks. These planes also are themselves increasingly vulnerable to Warsaw Pact air defenses.

As for United States nuclear forces based outside of Europe, NATO and the Soviets have every reason to doubt that these forces would be used particularly if the Soviets were winning a limited conventional war against only one or two of NATO's members. Nor is clear that NATO's shorter range battlefield nuclear weapons would be used to block conventional Pact breakthroughs.

Here again, the reason is tied to the capabilities surrendered under INF. NATO's ground-launched cruise missiles and Pershing II's and I's, after all, were also deployed to address the vulnerability, lack of range, and increasing obsolence of NATO's battlefield nuclear forces dual-capable artillery and Lance missile batteries.

The key difficulty with these systems is their lack of range. None of them can shoot much beyond 50 miles and most cannot reach beyond 25 miles. Because they are deployed near the battlefront, they are vulnerable to being overrun in a Soviet assault. Yet, if they are used, they are will be targeted against Soviet units operating within NATO territory—a prospect that argues against these weapons' use.

This finally brings us to NATO's forward or direct conventional defenses, whose own viability turns on the vitality of the other two components of NATO's strategy. Here the credible threat of direct escalation with battlefield and short-range nuclear weapons, is not just desirable for forward defense, it's a prerequisite.

First, it is the credible threat of nuclear escalation that prevents the Pact from concentrating its conventional ground forces in the easiest fashion to launch an attack. The Soviets understand that if they mass their conventional ground forces to achieve a favorable ratio of forces against NATO, they also create a lucrative target that can easily be wiped out with a fairly discriminate, low risk NATO nuclear strike.

Take away the credibility of NATO's threat to target Soviet forces with nuclear weapons, though, and you give the Soviets every incentive to mass their conventional forces as they did so successfully in World War II. In short, you eliminate any hope of being able to deter or win against the pact conventionally.

This is true even if you are somehow able to get the Soviets to agree to reduce to NATO conventional force levels. Again, if the enemy can concentrate his forces at will, he will have an offensive advantage. Thus, in 1940 Hitler was able to prevail against nearly equal French forces despite superior French armor and extensive prepared French defenses.

The point is even more telling in the Soviets' case since as a land power it has the advantage of being able to use interior lines of communication to reinforce its armies whereas the alliance depends on United States forces located an ocean away. While the United States must struggle to introduce additional divisions into Europe from across the Atlantic, the Soviets can move two divisions a day to Western Europe over seven or more East European rail lines.

Even NATO's Follow-on Forces Attack [FOFA] concept, which we are now promoting, assumes NATO's nuclear threat is credible enough to force Pact forces to be dispersed in waves or echelons. The aim of FOFA is to delay or disrupt these echelons' movement toward the battle front sufficiently to stave off an attack or at least to prevent the Soviets from capitalizing on any initial successes against NATO's forward defenses. Remove the credibility of NATO's battlefield nuclear forces and FOFA, even if fully funded, falls as well.

Second, and finally, without modern nuclear forces effective and survivable enough to threaten a credible deliberate nuclear escalation, NATO would be unable to deter pact offensive nuclear assaults. This would only further seal the fate of NATO's conventional forces.

This, then, brings us to what needs to be done and the detail of the three efforts proposed under the NATO Defense Initiative. First, NATO must increase the credibility of its nuclear forces not by increasing their number but by modernizing what it has. Second, NATO must strengthen its forward conventional forces by protecting its air assets against pact air and missile attacks and by giving its ground forces greater battle depth and resilience through longer range improved battlefield fire support. Third, NATO must base its flexible response more on conventional missiles of various ranges than on nuclear weapons of any sort.

NUCLEAR MODERNIZATION

Although each of the efforts independently will strengthen one or another specific components of NATO's strategy, modernizing its nuclear arsenal is critical directly or indirectly to all three components.

What specifically needs to be done to modernize NATO's nuclear weapons? At least four things: First, NATO's nuclear artillery needs to be upgraded with shells of increased accuracy and range. NATO has many 8-inch and 155mm artillery tubes already deployed. Recent advances in electrothermal technology suggest that we could soon have shells that could increase NATO's artillery range severalfold.

This would allow NATO to move these artillery units further back in less vulnerable positions than where they are currently deployed. Also, with extended range, NATO artillery will be able to concentrate its fire easier. This, in turn, should reduce the need for nuclear shells.

Second, NATO needs to develop and deploy a longer range follow-on to the now obsolete Lance ground-launched nuclear missile system. This replacement should extend close to the very edge of the INF range limits—499 kilometers—and should be made dual-capable. This later characteristic should increase the weapon's value in conventional conflict and again reduce the need for more nuclear shells—if the Soviets are faced with many dual capable missiles, NATO does not need to deploy as many nuclear shells to assure their survivability.

Third, NATO needs to make whatever dual-capable aircraft it has more survivable on the ground and against Warsaw Pact air defenses.

Finally and related to the previous point, NATO needs to replace its nuclear gravity bombs with air-to-surface nuclear standoff missiles that will increase the survivability of its dual-capable aircraft by allowing these planes to deliver their weapons without having to fly over the target's air defenses.

Each of these efforts when taken in conjunction to reassigning existing United States strategic nuclear warheads to NATO missions will go a long way to keep its overall strategy intact. It will not, however, take the place of additional conventional improvements. The reason why is simple: the Soviets have theater nuclear weapons too. Unlike the 1950's when NATO had a relative monopoly in theater nuclear weapons, NATO can no longer plan to use nuclear weapons to block a Soviet conventional success without bringing on a more devastating nuclear response within Europe.

Nuclear weapons will still be useful. They can help couple NATO's defense to a strategic nuclear exchange between the United States and the Soviet Union. They can assure that the Warsaw Pact will not risk concentrating their conventional forces as they did in offensives during the Second World War. And they can help deter Soviet use of nuclear weapons against NATO.

They can do all these things. But they can do no more. If NATO wishes to prevent the pact from breaking though NATO's forward defenses, it must strengthen its forward defenses conventionally. Similarly, if NATO wishes to deter or stop persistent Pact offensives without dragging the alliance into a nuclear strategic exchange between the United States and the Soviet Union, it can no longer count on nuclear weapons, but must develop a conventional flexible response to do the job.

STRENGTHENING NATO'S FORWARD DEFENSES

What does this mean in specific? To strengthen NATO's conventional forward defenses at least three specific efforts are required. First, NATO must improve its passive ground defenses to absorb the shock of an intitial pact ground assault. Work that has now begun to develop pre-prepared terrain enhancements and barriers must continue. This can help slow and channel initial Pact armor attacks.

Second, NATO must deploy relatively deep battlefield weapons that can rapidly and precisely place mine fields to block further Soviet armor and advances and mass firepower to help keep these advances blocked. Also, by at least doubling or tripling the range of such fire units, NATO will be able to double or triple the battle depth in which NATO forward defense units are deployed. This, in turn, should increase the resiliency of NATO's forward defenses by giving them more room to manuever and counter atttack against a focused pact assault.

The weapons in question would include munitions compatible with systems such as the Multiple Launch Rocket System, which is now being deployed; ATACM missiles now under production; JTACM missiles that soon will be deployed; shorter range modular standoff weapons, a NATO cooperative cruise missile that could soon go into production; dual-capable aircraft; smart extended range artillery shells; and the like.

Third, NATO must extend defense of its air assets, which ultimately are dedicated to supporting NATO's efforts on the ground. Currently, our air fields, air defense batteries, and air control centers lack adequate defenses against nonnuclear pact air forces and tactical missiles such as the SCUD and the SS-21. If NATO allow this vulnerability to continue to grow, it will have to plan on losing control of the air, which, in turn, would make any conventional defense of Europe impossible.

In the near-term NATO must address this concern with improved passive defenses such as hardening and decoys to protect both our airplanes and air defense units. It also must upgrade existing Patriot and Hawk air defense batteries and begin work in earnest on an active low-cost antitactical missile defense.

In the longer term, NATO will have to deploy an extended air defense system capable of coping not only with low-flying cruise missiles, but tactically ballistic missiles as well. It also must consider how it might reduce its reliance on airplanes by assigning unmanned systems for certain air defense and air interdiction missions.

DEPLOYING A FLEXIBLE CONVENTIONAL RESPONSE

NATO's direct or forward defense, of course, will only be as good as its backup. As noted before, NATO's current strategy is to back its forward defense forces with the threat of deliberate nuclear escalation, a threat that is no longer very credible. The answer to this problem is not to build more nuclear weapons but rather to develop a flexible conventional response that will allow NATO to halt a Soviet attack without destroying the territory NATO is trying to defend.

In specific, NATO must deploy nonnuclear cruise missiles launched from the air, sea, and land to strike deep against pact airfields, air defense units, command and control bunkers, train transloading spots, nuclear depots, and military transport choke points such as tunnels, bridges, and train lines and to jam and confound pact command, control and communications. The focus here would not be on moving targets, such as armor, but rather on the fixed assets these moving targets depend upon to get where they want to go.

The missiles NATO would need to do this job could carry chemical warheads, electronic jammers, antiradiation homing devices, scatterable mines, earth penetrating warheads, fuel air explosives, antiarmor munitions, runway busters, or other improved conventional payloads. They would have ranges of at least 100 kilometers and go beyond 1,000 kilometers. They would include, longer range modual stand off weapons, existing and improved conventional Tomahawk land attack missiles [TLAM-C's], conventional air launched cruise missiles [ALCM-C's], antiradiation missiles such as Tacit Rainbow, remotely piloted drones for surveillance and antiradar missions [RPV's], a dual-capable Lance surface-to-surface missile follow-on and the like.

To make sure that these missiles arrived on target on time in the right number, NATO would also have to develop and adapt its command, control, communication and intelligence network to take on this task.

COSTS AND COOPERATION

None of these upgrades will be free. It would be a mistake, however, to assume that they will bankrupt the alliance particularly when it is understood that the costs of the NDI will be spread over a 15-year period. The most expensive component of the NDI package—the deployment of a conventional flexible response capability and the forward defense improvements—could be done for no more than 5 percent of what NATO will spend on its defense over the next 15 years—$75 billion—and would in all likelihood cost much less.

As for the nuclear modernization, these were already agreed to in principle by NATO at Montebello in 1983. Moreover, savings that might be achieved by pulling out our INF missiles could be used to cover these costs.

Given the importance of these improvements, it may be necessary to cover these costs by cutting other less critical accounts or by making modest increases in defense spending, which is now declining. In any case, they ought not to be made without burden sharing within the alliance. The United States ought to fence money for a good number of the NDI buys pending NATO nations' willingness to chip in.

What should the specifics of such burden sharing be for these off-the shelf or nearly developed weapons systems? How many of what weapons within the NDI package should be bought when? In the first instance, not Congress but rather our Secretary of Defense should supply the answers. In a sense he is already bound to do this in at least two places: The upcoming annual Defense Department report, which must consider NATO's security requirements and in the Defense authorization report on requirements for maintaining NATO's strategy of deterrence requested by myself and the majority leader, which is due when the INF Treaty is submitted to Congress.

With the Secretary's recommendations before us, Congress could cooperate in offering its own suggestions and revisions. One way or another, however, a package of NDI programs will be recommended.

I believe the package I have presented is the one that is needed to revitalize the alliance. It will make NATO's strategy of flexible response reasonable again and yet reduce NATO's reliance on nuclear weapons. It will reduce the likelihood of a pact breakthrough of NATO's forward defenses and make it possible to disrupt any breakthrough without having to resort to nuclear weapons. Finally, by modernizing and integrating NATO's nuclear weapons with its conventional forces to assure continued dispersion of pact conventional forces, it should make any conventional arms control effort less risky than it otherwise might be.

Mr. President, I believe if we are serious about our defense after the INF Treaty and about moving away from so heavy a reliance on nuclear weapons, the NDI is the proper course to take. Indeed, in the end, the costs of taking any course would only be higher, and could easily cost us our alliance as well. Certainly, without the improvements I have outlined, the INF Treaty could easily prove to be a liability rather than a boom to NATO's security.●

FIRST SESSION—100TH CONGRESS

SENATE ACCOMPLISHMENTS, PUBLIC LAWS ENACTED, VETOED BILLS, AND DIGEST OF LEGISLATIVE ACTIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the following materials detailing Senate accomplishments, public laws enacted, vetoed bills, and a digest of legislative actions of the Senate during the first session of the 100th Congress be made a part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE ACCOMPLISHMENTS—100TH CONGRESS, FIRST SESSION

MAJOR PUBLIC LAWS ENACTED

H.R. 1, Clean Water (veto overridden), PL 100-4, without approval.

H.J. Res. 102, Emergency Food and Shelter Supplemental/Federal Pay Disapproval, PL 100-6.

H.J. Res. 153, Asbestos School Hazard Abatement, PL 100-11.

S. 83, Energy Standards for Applicances, PL 100-12.

H.R. 2, Federal Aid Highway Authorization (veto overridden), PL 100-17, without approval.

H.R. 1983, Surface Mining Control and Reclamation, PL 100-34.

H.R. 1941 (S. 85), Power Plant and Industrial Fuel Use, PL 100-42.

S. 1177, Thrift Savings Fund Investment Procedures, PL 100-43.

H.R. 1157, Wheat Acreage Diversion and Disaster Assistance, PL 100-45.

H.R. 1085, New GI Bill Continuation, PL 100-48.

H.R. 1827, Supplemental Appropriations, FY 1987, PL 100-71.

H.R. 558, Homeless Relief Act, PL 100-77.

H.R. 27 (S. 790), Federal Savings and Loan Insurance Corporation Recapitalization, PL 100-86.

H.R. 1444, Medicare and Medicaid Patient and Program Protection, PL 100-93.

S. 769, Minority Health Education and Care, PL 100-97.

S. 1596, Child Abuse and Neglect Assistance Extension, PL 100-117.

H.J. Res. 324, Public Debt Limit Increase, PL 100-119.

H.R. 1744, Historic Preservation Fund Three-Year Extension, PL 100-127.

S. 1417, Developmental Disabilities Assistance, PL 100-146.

H.R. 2782, NASA Authorization, PL 100-147.

H.R. 317, Wild and Scenic Rivers Act, PL 100-149.

H.R. 1451, Older Americans Act Amendments, PL 100-175.

H.R. 2112, Intelligence Authorization, FY 1988-89, PL 100-178.

H.R. 1748, DOD Authorization, FY 1988, PL 100-180.

H.R. 2939, Independent Counsel Reauthorization, PL 100-191.

H.R. 2689, Arms Control and Disarmament Agency Authorization, PL 100- .

H.R. 1777, Department of State Authorization, PL 100- .

H.R. 2310, Airport and Airway Capacity Expansion Act, PL 100- .

H.R. 2974, Military Retirement Reform Amendments. PL 100- .

H.R. 2945, Veterans' Compensation COLA Adjustment. PL 100- .

H.R. 3030, Farm Credit Act, PL 100- .

H.R. 1340, Feeding Programs Distribution Reform, PL 100- .

H.R. 3674, U.S.-Japan Fishery and Marine Pollution Agreement PL 100- .

H.R. 3545, Budget Reconciliation, PL 100- .

H.J. Res. 395, Continuing Resolution, FY 1988, PL 100- .

S. 825, Housing Authorization, PL 100- .

H. Con. Res. 93, Congressional Budget Resolution. Action completed, does not require President's signature.

BILLS IN CONFERENCE

H.R. 3, Omnibus Trade and Competitiveness Act.

S. 677, FTC Authorization.

S. 1174, DOD Authorization, FY 1988.

S. 864, Military Procurement Authorization (House conferees not yet appointed).

S. 865, DOE National Security Programs Authorization (House conferees not yet appointed).

S. 866, Military Construction Authorization (House conferees not yet appointed).

H.R. 3051, Air Passenger Protection Act.

H.R. 1900, Child Abuse Prevention, Adoption, and Family Services.

H.R. 5, Elementary and Secondary Education Improvement (House conferees not yet appointed).

H.R. 2470, Medicare Catastrophic Loss Prevention Act (Senate conferees not yet appointed).

BILLS PASSED BY BOTH HOUSES

H.R. 431, Garn-St Germain Depository Institutions Act Extension (House disagreed to Senate amendments; Message on House action received 3/23, and held at desk).

S. 742, Fairness in Broadcasting Doctrine (veto message referred to Senate Commerce Committee, 6/23).

S. 999 and H.R. 1504, Veterans Employment and Education Amendments.

H.R. 1340, Commodity Distribution Reform Act (House concurred in Senate amendments, with amendments, 12/17).

H.R. 2616, Omnibus Veterans' Benefits (message on Senate action sent to House, 12/8).

H.R. 2907, Treasury, Postal Service, and General Government Appropriations. See H.J. Res. 395.

H.R. 2712, Department of the Interior Appropriations. See H.J. Res. 395.

H.R. 2713, District of Columbia Appropriations. See H.J. Res. 395.

H.R. 2714, Legislative Branch Appropriations. See H.J. Res. 395.

H.R. 3058, Labor, HHS, and Education Appropriations. See H.J. Res. 395.

H.R. 2783, HUD Appropriations. See H.J. Res. 395.

H.R. 2763, Commerce, Justice, and State Appropriations. See H.J. Res. 395.

H.R. 2906, Military Construction Appropriations. See H.J. Res. 395.

H.R. 2890, DOT Appropriations. See H.J. Res. 395.

H.R. 2700, Energy and Water Development Appropriations. See H.J. Res. 395.

S. 1539 and H.R. 3743, Railroad Safety Act.

SIGNIFICANT BILLS PASSED BY SENATE AND AWAITING HOUSE ACTION

S. 341, Emergency Agricultural Assistance.

S.J. Res. 34, Federal Pay Increase Disapproval.

S.J. Res. 42, Federal Pay Increase Rescission.

S. 477, Homeless Veterans Assistance.

S. 514, Jobs for Employable Dependent Individuals.

S. 659, Agricultural Aid and Trade Missions.

S. 778, Star Schools Program.

S. 853, National Highway Safety Administration Authorization.

S. 623, Independent Safety Board Authorization.

S. 836, Strategic Petroleum Reserve Protection.

S. 744, Exposure to Radon Health Threat.

S. 548, Retiree Benefits Bankruptcy Protections.

S. 938, Department of Justice Authorization.

S. 945, Abandoned Infants Assistance.

S. 1402, Nursing Shortage Reduction.

S. 1196, Marine Science, Technology, and Resources Development.

S. 1441, Infant Mortality Amendments.

S. 1628, Aviation Insurance Program.

S. 1748, Prohibition of Imports of Products from Iran.

S. 328, Prompt Payment Act Amendments.

S.J. Res. 194, Persian Gulf War.

OTHER MAJOR ITEMS PASSED BY SENATE (NOT REQUIRING PRESIDENT'S SIGNATURE):

S. Res. 23, Select Committee on Iran/Contra Affair.

S. Res. 94, Soviet/U.S. Arms Control Resolution.

S. Con. Res. 24, Central America Initiative Support.

S. Res. 190, Acquired Immune Deficiency Syndrome Research.

S. Res. 31, Soviet Occupation of Afghanistan.

S. Con. Res. 27, Veterans' Administration Health Care Funding Levels.

S. Res. 255, Missing in Action Negotiations.

S. Con. Res. 29, American Relatives in the Soviet Union.

S. Res. 261, Site of the Soviet Embassy in Washington.

S. Res. 279, Conduct of Senate Political Committees.

S. Res. 282, Support for the Philippines.

S. Res. 348, Arms Control Treaty Review Support Office in Senate.

PUBLIC LAWS, 100th CONGRESS, 1ST SESSION

(January 6, 1987—December 30, 1987)

Public Law Number, Bill Number, title, and date approved:

100-1, H.J. Res. 88, Joint Economic Report Submission Extension, Jan. 28, 1987.

100-2, H.J. Res. 93, Long Island Railroad Labor Dispute, Jan. 8, 1987.

100-3, S.J. Res. 24, National Challenger Center Day, Jan. 8, 1987.

100-4, H.R. 1, Clean Water, Feb. 4, 1987.

100-5, H.J. Res. 131, Americas Cup (Congratulating Dennis Connor), Feb. 11, 1987.

100-6, H.J. Res. 102, Emergency Food and Shelter Program Appropriations FY 1987/Federal Pay Raise Disapproval, Feb. 12, 1987.

100-7, H.J. Res. 3, Hatch Act 100th Anniversary, Mar. 5, 1987.

100-8, H.J. Res. 53, Federal Employees Recognition Week, Mar. 6, 1987.

100-9, S.J. Res. 20, Women's History Month, Mar. 12, 1987.

100-10, S.J. Res. 46, Arizona Diamond Jubilee Year, Mar. 12, 1987.

100-11, H.J. Res. 153, Asbestos School Hazard Abatement, Mar. 17, 1987.

100-12, S. 83 Energy Standards for Appliances, Mar. 17, 1987.

100-13, S.J. Res. 65, National Know Your Cholesterol Week, Mar. 20, 1987.

100-14, H.J. Res. 1056, Ginnie Mae Guaranty Fee Limitation, Mar. 24, 1987.

100-15, S.J. Res. 19, National Energy Education Day, Mar. 25, 1987.

100-16, S.J. Res. 63, Afghanistan Day, Mar. 27, 1987.

100-17, H.R. 2, Federal-Aid Highway Authorization, Apr. 2, 1987.

100-18, S. 632, Independent Safety Board Authorization, Apr. 3, 1987.

100-19, S.J. Res. 96, Interstate Commerce Commission Day, Apr. 3, 1987.

100-20, H.J. 1505, Federal Employees Retirement System—Technical Corrections, Apr. 7, 1987.

100-21, S.J. Res. 47, National POW Recognition Day, Apr. 8, 1987.

100-22, S.J. Res. 18, National Fishing Week, Apr. 10, 1987.

100-23, S.J. Res. 64, Older Americans Month, Apr. 10, 1987.

100-24, S.J. Res. 74, National Cancer Institute Month, Apr. 10, 1987.

100-25, H.J. Res. 200, Education Day, U.S.A, April 17, 1987.

100-26, H.R. 1783, Defense-Related Laws—Technical Corrections, Apr. 21, 1987.

100-27, H.J. Res. 119, National Minority Cancer Awareness Week, Apr. 21, 1987.

100-28, H.R. 1123, Food Security Act Amendments, Apr. 24, 1987.

100-29, S.J. Res. 58, National Child Abuse Prevention Month, Apr. 29, 1987.

100-30, S.J. Res. 89, National Organ and Tissue Donor Awareness Week, Apr. 29, 1987.

100-31, S.J. Res. 57, National Older Americans Abuse Prevention Week, May 5, 1987.

100-32, S.J. Res. 67, National Digestive Diseases Awareness Month, May 5, 1987.

100-33, H.R. 14 Wild and Scenic Rivers Study—New Jersey, May 7, 1987.

100-34, H.R. 1963, Surface Mining Control and Reclamation, May 7, 1987.

100-35, H.R. 240, Santa Fe National Historic Trail, May 8, 1987.

100-36, S.J. Res. 55, National Osteoporosis Prevention Week, May 12, 1987.

100-37, S.J. Res. 124, Just Say No to Drug Week, May 12, 1987.

100-38, S. 1167, Stewart B. McKinney National Wildlife Refuge (Designation), May 13, 1987.

100-39, H.J. Res. 67, Jewish Heritage Week, May 14, 1987.

100-40, H.R. 2360, Public Debt Limit Increase, May 15, 1987.

100-41, S. 903, Bankruptcy Code Amendment (LTV), May 15, 1987.

100-42, H.R. 1941, Federal Savings and Loan Insurance Corporation Recapitalization, May 21, 1987.

100-43, S. 1177, Thrift Savings Fund Investment Procedures, May 22, 1987.

100-44, H.J. Res. 290, National Day of Mourning for the Victims of the U.S.S. *Stark*, May 23, 1987.

100-45, H.R. 1157, Wheat Acreage Diversion Program and Disaster Assistance, May 27, 1987.

100-46, H.J. Res. 270, 150th Anniversary of the Department of Agriculture, May 29, 1987.

100-47, S. 942, Tuscon Wage Area Pay Retention, May 29, 1987.

100-48, H.R. 1085, GI Bill Continuation, June 1, 1987.

100-49, S.J. Res. 70, 40th Anniversary of the Marshall Plan, June 1, 1987.

100-50, H.R. 1846, Higher Education—Technical Amendments, June 3, 1987.

100-51, H.J. Res. 280, 300th Commencement Exercise at Ohio State University, June 16, 1987.

100-52, S.J. Res. 5, Baltic Freedom Day, June 16, 1987.

100-53, H.R. 1947, U.S. Bankruptcy Judges and Magistrates Retirement Party, June 18, 1987.

100-54, H.J. Res. 283, Hon. Wilbur J. Cohen Commendation, June 18, 1987.

100-55, S. 626, Statue of Liberty Entrance Fees, June 19, 1987.

100-56, H.J. Res. 106, American Gospel Arts Day, June 23, 1987.

100-57, H.J. Res. 17, National Dairy Goat Awareness Week, June 25, 1987.

100-58, H.J. Res. 178, National Catfish Day, June 25, 1987.

100-59, H.R. 2243, Thomas P. O'Neill, Jr. Federal Building, June 29, 1987.

100-60, H.R. 2100, Kenneth G. Ward Border Station, June 29, 1987.

100-61, H.J. Res. 284, National Outward Bound Week, June 29, 1987.

100-62, S.J. Res. 86, National Immigrants Day, June 29, 1987.

100-63, H.R. 191, Peace Garden Establishment, June 30, 1987.

100-64, S.J. Res. 117, National Literacy Day, July 6, 1987.

100-65, H.R. 626, Land Conveyance—Alabama, July 10, 1987.

100-66, H.R. 2480, Extension of U.S.-Korea International Fisheries Agreement, July 10, 1987.

100-67, H.J. Res. 181, Northwest Ordnance of 1787 Bicentennial, July 10, 1987.

100-68, S.J. Res. 15, National Alzheimer's Disease Month, July 10, 1987.

100-69, S.J. Res. 51, National Czech-American Heritage Week, July 10, 1987.

100-70, S.J. Res. 75, National Podiatric Medicine Week, July 10, 1987.

100-71, H.R. 1827, Supplemental Appropriations, FY 1987, July 11, 1987.

100-72, H.R. 2166, Small Business Amendments, July 11, 1987.

100-73, S.J. Res. 138, U.S. Olympic Festival Day, July 15, 1987.

100-74, H.R. 436, Warren F. Burger Federal Building, July 17, 1987.

100-75, S.J. Res. 85, International Special Olympics Day, July 20, 1987.

100-76, H.J. Res. 122, Snow White Week, July 21, 1987.

100-77, H.R. 558, Urgent Relief for the Homeless, July 22, 1987.

100-78, S.J. Res. 88, Geography Awareness Week, July 24, 1987.

100-79, S.J. Res. 160, Clean Water Day, July 28, 1987.

100-80, H.R. 3022, Public Debt Limit Extension (through August 7, 1987), July 30, 1987.

100-81, S.J. Res. 76, Mental Illness Awareness Week, July 31, 1987.

100-82, S.J. Res. 151, Helsinki Human Rights Day, Aug. 4, 1987.

100-83, S. 1020, Librarian of Congress Emeritus, Aug. 4, 1987.

100-84, H.R. 3190, Public Debt Limit, Aug. 10, 1987.

100-85, S. 958, North Cascades National Park, Washington Designation to Senator Henry M. Jackson, Aug. 10, 1987.

100-86, H.R. 27, Federal Savings and Loan Insurance Corporation Recapitalization, Aug. 10, 1987.

100-87, S.J. Res. 121, National Neighborhood Crime Watch Day, Aug. 11, 1987.

100-88, H.J. Res. 313, National Child Support Enforcement Month, Aug. 13, 1987.

100-89, H.R. 318, Ysleta del Sur Pueblo, the Alabama, and Coushatta Tribes of Texas Restoration, Aug. 18, 1987.

100-90, H.R. 348, Postal Service Employee Appeal Rights, Aug. 18, 1987.

100-91, H.R. 921, Aircraft Altitude Over National Parks, Aug. 18, 1987.

100-92, H.R. 1403, John E. Grotberg Post Office Building, Charles, Illinois, Aug. 18, 1987.

100-93, H.R. 1444, Medicare and Medicaid Patient and Program Protection, Aug. 18, 1987.

100-94, H.R. 2309, Christopher Columbus Quincentenary Amendments, Aug. 18, 1987.

100-95, H.R. 2855, Gay Head Indian Lands Settlement, Aug. 18, 1987.

100-96, H.J. Res. 216, Iran-Iraq Ceasefire, Aug. 18, 1987.

100-97, S. 769, Minority Health Education, Aug. 18, 1987.

100-98, S. 1371, Wilbur J. Cohen Federal Building, Washington, D.C., Aug. 18, 1987.

100-99, S. 1577, Bankruptcy Protections Extension, Aug. 18, 1987.

100-100, S. 1597, Ethanol Cost Effectiveness Study Extension, Aug. 18, 1987.

100-101, S.J. Res. 44, National Diabetes Month, Aug. 18, 1987.

100-102, S.J. Res. 49, National POW/MIA Recognition Day, Aug. 18, 1987.

100-103, S.J. Res. 87, National Community Education Day, Aug. 18, 1987.

100-104, S.J. Res. 108, German-American Day, Aug. 18, 1987.

100-105, S.J. Res. 109, National School Yearbook Week, Aug. 18, 1987.

100-106, S.J. Res. 157, Lupus Awareness Month, Aug. 18, 1987.

100-107, H.R. 812, Malcolm Baldridge National Quality Award, Aug. 20, 1987.

100-108, H.R. 2971, Cotton Classing Fees, Aug. 20, 1987.

100-109, H.R. 3085, Water Projects Amendment—Lock Haven, PA, Aug. 20, 1987.

100-110, S.J. Res. 335, National Reye's Syndrome Awareness Week, Aug. 20, 1987.

100-111, S. 1591, Documentation of Foreign-Built Fish-Processing Vessels, Aug. 20, 1987.

100-112, S.J. Res. 175, U.S. Soccer Federation World Cup, Aug. 20, 1987.

100-113, S. 1550, Federal Triangle Development, Aug. 21, 1987.

100-114, H.J. Res. 134, Emergency Medical Services Week, Sept. 23, 1987.

100-115, S.J. Res. 22, National Historically Black Colleges Week, Sept. 24, 1987.

100-116, H.J. Res. 224, Benign Essential Blepharospasm Awareness Week, Sept. 28, 1987.

100-117, S. 1596, Child Abuse and Neglect Assistance Extension, Sept. 28, 1987.

100-118, S.J. Res. 135, Polish American Heritage Month, Sept. 28, 1987.

100-119, H.J. Res. 324, Public Debt Limit/Gramm-Rudman-Hollings Budget Amendment, Sept. 29, 1987.

100-120, H.J. Res. 362, Continuing Appropriations 1988, Sept. 30, 1987.

100-121, H.R. 1163, Aviation Reports and Records Offenses Penalties, Sept. 30, 1987.

100-122, S.J. Res. 191, Housing and Community Development Programs Extension, Sept. 30, 1987.

100-123, S. 1532, Congressional Telecommunications Services, Oct. 5, 1987.

100-124, S.J. Res. 84, National Down's Syndrome Month, Oct. 5, 1987.

100-125, H.J. Res. 355, Gold Star Mothers Day, Oct. 8, 1987.

100-126, S.J. Res. 142, Medical Research Day, Oct. 8, 1987.

100-127, H.R. 1744, Historic Preservation Fund Authorization, Oct. 9, 1987.

100-128, S.J. Res. 72, National Jobs Skills Week, Oct. 14, 1987.

100-129, S.J. Res. 110, World Food Day, Oct. 14, 1987.

100-130, H.R. 242, Land Conveyance—Oconto and Marinette Counties, Wisconsin, Oct. 14, 1987.

100-131, H.J. Res. 338, National Safety Belt Use Day, Oct. 14, 1987.

100-132, H.R. 797, Gettysburg National Military Park Land Acquisition, Oct. 16, 1987.

100-133, H.R. 1205, Reversionary Land Interest, Putnam County, Florida, Oct. 16, 1987.

100-134, H.R. 2035, Lowell National Historical Park Authorization Increase, Oct. 16, 1987.

100-135, H.R. 2249, Library of Congress Security Employees, Oct. 16, 1987.

100-136, S. 1691, Veterans' Administration Housing Loan Fees, Oct. 15, 1987.

100-137, S. 1574, Senator's Clerk Hire Allowance, Oct. 21, 1987.

100-138, H.R. 3226, White House Conference for a Drug Free America Travel Expenses, Oct. 23, 1987.

100-139, H.R. 1567, Cow Creek Band of Umpqua Indians Judgment Fund Distribution, Oct. 26, 1987.

100-140, S. 1666, Physicians' Comparability Allowances, Oct. 26, 1987.

100-141, H.R. 2741, 1988 Olympic Gold Coins, Oct. 28, 1987.

100-142, H.J. Res. 234, National Hospice Month, Oct. 28, 1987.

100-143, S.J. Res. 163, National Family Bread Baking Month, Oct. 28, 1987.

100-144, S.J. Res. 168, National Adult Immunization Awareness Week, Oct. 28, 1987.

100-145, S.J. Res. 198, National Tourette Syndrome Awareness Week, Oct. 28, 1987.

100-146, S. 1417, Developmental Disabilities Assistance Act Extension, Oct. 29, 1987.

100-147, H.R. 2782, NASA Authorization, FY 1988, Oct. 30, 1987.

100-148, S. 1628, Aviation Insurance Program Extension, Oct. 30, 1987.

100-149, H.R. 317, Wild and Scenic Rivers Designation: Merced River, California, Nov. 2, 1987.

100-150, H.R. 799, Wild and Scenic Rivers Designation: Kings River, California, Nov. 3, 1987.

100-151, H.R. 2893, Fisherman's Protective Act, Nov. 3, 1987.

100-152, H.R. 3325, Road Designation—Alabama: Robert E. Jones, Jr., Highway, Nov. 3, 1987.

100-153, H.R. 2937, Indians Laws Technical Amendments, Nov. 5, 1987.

100-154, S.J. Res. 209, Housing Programs Extensions, Nov. 5, 1987.

100-155, S.J. Res. 171, National Women Veterans Recognition Week, Nov. 6, 1987.

100-156, H.R. 307, Charels E. Chamberlain Federal Building, Lansing Michigan (Designation), Nov. 9, 1987.

100-157, H.R. 1366, Land Transfer—Arizona, Nov. 9, 1987.

100-158, H.J. Res. 309, Speaker's Civic Award Program, Nov. 9, 1987.

100-159, S. 442, Semiconductor Chip Protection Extension, Nov. 9, 1987.

100-160, H.R. 614, Hugo L. Black U.S. Courthouse, Birmingham, Alabama (Designation), Nov. 10, 1987.

100-161, H.J. Res. 368, National Food Bank Week, Nov. 10, 1987.

100-162, H.J. Res. 394, Further Continuing Appropriations, FY 1988, Nov. 10, 1987.

100-163, S.J. Res. 154, National Arts Week, Nov. 12, 1987.

100-164, H.J. Res. 97, Disabled American Vietnam Veterans National Memorial Recognition, Nov. 13, 1987.

100-165, H.J. Res. 130, National Family Caregivers Week, Nov. 13, 1987.

100-166, S.J. Res. 66, National Family Week, Nov. 13, 1987.

100-167, H.R. 3428, Distribution of USIA Film: "America The Way I See It", Nov. 17, 1987.

100-168, S.J. Res. 174, African American Education Week, Nov. 17, 1987.

100-169, S.J. Res. 205, U.N. General Assembly Resolution 3379 Overturn, Nov. 17, 1987.

100-170, S.J. Res. 220, Housing and Community Development Programs Extension, Nov. 17, 1987.

100-171, S.J. Res. 53, American Indian Week, Nov. 19, 1987.

100-172, S.J. Res. 97, National Adoption Week, Nov. 19, 1987.

100-173, H.R. 3457, Poultry Producers Assistance, Nov. 23, 1987.

100-174, S. 247, Wild and Scenic River Designation: Kern River, Nov. 24, 1987.

100-175, H.R. 1451, Older American Programs Authorization, Nov. 29, 1987.

100-176, S.J. Res. 98, National Home Health Care Week, Nov. 30, 1987.

100-177, S. 1158, Public Health Service Amendments, Dec. 1, 1987.

100-178, H.R. 2112, Intelligence Activities Authorization, Dec. 2, 1987.

100-179, H.J. Res. 404, Housing and Community Development Programs Extension, Dec. 3, 1987.

100-180, H.R. 1748, DOD Authorization, FY 1988-89, Dec. 4, 1987.

100-181, S. 1452, SEC Authorization and Securities Laws Amendments, Dec. 4, 1987.

100-182, S. 1822, Sentencing Reform Amendments, Dec. 7, 1987.

100-183, S.J. Res. 105, National Pearl Harbor Remembrance Day, Dec. 7, 1987.

100-184, H.R. 148, Michigan Wilderness, Dec. 8, 1987.

100-185, H.R. 3483, Criminal Fines, Dec. 11, 1987.

100-186, S. 860, National March "Stars and Stripes Forever", Dec. 11, 1987.

100-187, S. 1297, DeSota National Trail Study, Dec. 11, 1987.

100-188, S.J. Res. 136, National Drunk and Drugged Driving Awareness Week, Dec. 11, 1987.

100-189, S.J. Res. 146, National Skiing Day, Dec. 11, 1987.

100-190, S.J. Res. 35, National Day of Excellence, Dec. 14, 1987.

100-191, H.R. 2939, Independent Counsel Reauthorization, Dec. 15, 1987.

100-192, S. 578, National Trail Designation: Trail of Tears, Dec. 16, 1987.

100-193, H.J. Res. 425, Further Continuing Appropriations, FY 1988, Dec. 16, 1987.

100-194, H.J. Res. 412, 60th Birthday Congratulations to King Bhumibol Adulyadej (Thailand), Dec. 17, 1987.

100-195, H.J. Res. 199, Actors' Fund of America Appreciation Month, Dec. 18, 1987.

100-196, S. 649, Oroville-Tonasket Unit, Washington, Irrigation Project, Dec. 18, 1987.

100-197, H.J. Res. 431, Continuing Appropriations, FY 1988, Dec. 20, 1987.

VETOED BILLS, 100TH CONGRESS—1ST SESSION

(Those vetoes which were overridden and became law are printed in italic; Numbers in parenthesis indicate Senate Record Vote on override.)

1. January 30, 1987, H.R. 1: Clean Water (House overrode veto February 3, 1987; Senate overrode veto February 4, 1987—Vote No. 19). Became Public Law 100-4, without approval February 4, 1987.

2. March 23, 1987, H.R. 2: Federal-Aid Highway Authorization (House overrode veto March 31, 1987; Senate overrode veto April 2, 1987, upon reconsideration—Vote No. 60). Became Public Law 100-17, without approval April 2, 1987.

3. June 19, 1987, S. 742: Fairness in Broadcasting Doctrine.

DIGEST OF SENATE LEGISLATIVE ACTIONS, 100TH CONGRESS—1ST SESSION

(January 6, 1987—December 21, 1987)

(Includes all bills except for land conveyances, interstate compacts, medals, memorials, and proclamations. Record vote numbers for Senate action on final passage, a conference report, or a veto override are indicated in parentheses immediately following the status of a bill. Where there are no vote numbers, action was completed by voice vote.)

AGRICULTURE

Agricultural Aid and Trade Missions: S. 659—Passed Senate April 9, 1987.

Establishes agricultural aid and trade missions to visit eligible developing countries to promote U.S. food aid and trade programs and seek firm proposals or agreements to implement these programs; expands agricultural exports and markets through greater participation of private voluntary organizations (PVO's) and cooperatives, increased use of foreign currency proceeds by PVO's and cooperatives for development purposes, increased use of section 108 programs in Title I agreements, and expanded reporting and expediting of PVO and cooperative activities under P.L. 480 Title II and section 416 of the Agricultural Act of 1949; approves multiyear agreements under the Food for Progress program; and requires the Secretary to report to Congress on the performance of the Intermediate Export Credit Program.

Agricultural Export Enhancement Program: S. Con. Res. 67—Senate agreed to July 22, 1987.

States the sense of the Congress that the Secretary of Agriculture should ensure that the Export Enhancement Program is adequately funded (with either cash or PIK commodities) in FY 1987-90.

Agricultural Markets in Developing Countries: H. Con. Res. 151—Action completed August 7, 1987.

Makes the development of agricultural markets in developing countries a high priority of the foreign economic policy of the U.S.

Alternative Agricultural Products Research: S. 970—Passed Senate July 29, 1987.

Authorizes $75 million annually in FY 1988-2007 for research to develop new crops or modify existing crops and crop materials to produce new marketable commercial and industrial products.

Cotton Classing Fees: H.R. 2971—Public Law 100-108, approved August 20 1987.

Extends through FY 1992, the Secretary of Agriculture's authority to recover costs associated with cotton classing services; prescribes methods for determining the classification fee for each crop year and requires the Secretary to announce the uniform fee, and any surcharge, by June 1 of each crop year; authorizes an increase in the operating reserve from 20 to 25 percent; and requires the Secretary of Agriculture to report to Congress on the differences between processing efficiency and product quality for Light Spotted and White grade cottons.

Emergency Agriculture Assistance: S. 341—Passed Senate January 29, 1987.

Requires the Secretary to (1) make disaster payments to all wheat producers who were prevented in 1986 from planting the 1987 wheat crop in time to assure normal crop production, and (2) provide cost estimates by February 17 regarding the extension of disaster relief to cotton, feed grain and soybean producers whose crop value was reduced because of flooding and other related moisture problems; places an overall cap of $1 million on this assistance; and limits to $20,000 the maximum amount that would be provided to any individual producer of hay and straw.

Farm Credit Amendments: H.R. 3030—Public Law 100- , approved . (397, 415)

Revises the Farm Credit System (FCS) which provides credit to farmers, ranchers, and farm cooperatives; requires FCS lenders to restructure the loans of financially-stressed farmer-borrowers; imposes similar requirements on FmHA farm loans; requires FCS institutions to retire farmer-held stock at par value; authorizes $7.5 million annually for matching grants to States for the operation of farm mediation programs; establishes the Farm Credit Assistance Board to provide financial assistance to FCS institutions and a related Financial Assistance Corporation (FAC) which would be authorized to sell up to $4 billion in 15 year obligations to raise funds for system assistance; provides for initial funding of the FAC through a one-time assessment on FCS institutions; establishes an insurance program for system institutions; establishes a new secondary market for agricultural loans; and provides for the mandatory merger of the Federal Land Banks and the Federal Intermediate Credit Banks in each of the 12 Farm Credit Districts.

Farm Credit System: S. Res. 185—Senate agreed to April 8, 1987.

States the sense of the Senate that the Farm Credit Administration (FCA) and the Farm Credit System (FCS) should use their authorities to ensure the availability of reasonable credit rates and terms and protect borrowers' stock or allocated equities from impairment; and that the FCA should certify the FCS' need for financial assistance.

Food Security Act Amendments: H.R. 1123—Public Law 100-28, approved April 24, 1987.

Extends until March 31, 1988, the date by which the National Commission on Dairy Policy must report to the Secretary of Agriculture and Congress on matters relating to the domestic milk production industry and the Federal milk price support programs; and gives alfalfa producers, in rotation practice during the 1981-85 crop years, until June 1, 1988, to fully comply with the Highly Erodible Land Conservation provisions of the Act.

Poultry Producers Financial Protection: H.R. 3457—Public Law 100-173, approved November 23, 1987.

Specifies that the FTC has jurisdiction over marketing practices for poultry products and the Secretary of Agriculture has jurisdiction over live poultry transactions; establishes a statutory trust, for the benefit of unpaid cash sellers or poultry growers, on the assets of live poultry dealers with average annual sales or value of live poultry obtained by purchase or by poultry growing arrangement, greater than $100,000; authorizes a cause of action for poultry sellers and growers damaged by Act violations or orders of the Secretary, related to the purchase or sale of poultry or to a poultry growing arrangement; provides for prompt payment in the sale or delivery of poultry; and repeals Title V of the Packers and Stockyards Act of 1921 relating to dealers and handlers of live poultry.

Renewable Resources Extension Authorization: H.R. 2401—Passed House July 27, 1987; Passed Senate amended December 19, 1987.

Reauthorizes the Renewable Resources Extension Act for 12 years, through 2000, at its current funding level of $15 million annually and requires the Agriculture Department, to include in its five-year Renewable Resources Extension Program plan an evaluation of the progress made toward accomplishing the goals and objectives set forth in the preceding plan, both for each State and for the country as a whole.

Rural Crisis Recovery Program: H.R. 3492—Public Law 100- , approved , 1987.

Directs the Secretary of Agriculture to provide special grants for programs to develop educational, retraining, and counseling assistance for farmers, dislocated farmers, and rural families who have been adversely affected by the current farm and rural economic crisis.

Wheat Diversion Program and Acreage Limitation Level: S. Res. 237—Senate agreed to June 19, 1987.

States the sense of the Senate that it is in the best interests of U.S. wheat producers to immediately receive the details of the 1988 wheat program which should include no more than a 27.5 percent acreage limitation level.

Wheat Diversion Program and Disaster Assistance: H.R. 1157—Public Law 100-45, approved May 27, 1987.

Provides for a winter wheat diversion program for the 1987 crop year under which producers could set aside 100 percent of their acreage and receive 92 percent of their deficiency payment; authorizes disaster payments for producers of 1987 crops of cotton, spring wheat, and rice who were prevented from planting because of disasters occurring in 1986; expresses the sense of the Congress that the Secretary of Agriculture should establish a sunflower price support program if a soybean price support is initiated; makes the deficiency payments for the 1986 feed grains crop immediately available and payable in negotiable certificates; authorizes the issuance of additional Commodity Credit Corporation commodity certificates to cover the full amount of claims submitted by farmers under the 1986 special farm disaster program, subject to advance appropriations, and requires appointment of the ethanol panel within 30 days of enactment.

APPROPRIATIONS—FY 1987

Emergency Food and Shelter Program/Federal Pay Increase Disapproval: H.J. Res. 102—Public Law 100-6, approved February 12, 1987. Note: (The House, on February 4, 1987, agreed to the Senate amendments, thus clearing the bill for the President. Because the House did not act prior to the midnight, February 3, 1987, deadline, the Federal pay raise went into effect.) (12)

Transfers $50 million from the Federal Emergency Management Agency's (FEMA's) disaster relief program to its emergency program to feed and shelter the homeless, especially during the bitter cold months, $5 million of which would be transferred to the Veterans' Administration for homeless veterans with chronic mental illness; rescinds $7.5 million in FEMA disaster relief funds; disapproves the $28 million deferral for the Temporary Emergency Food Assistance Program; and disapproves the automatic salary increase for Members of Congress, Federal judges, and top executive branch officials, as recommended by the President in his FY 1988 Budget, transmitted to Congress on January 5, 1987.

Supplemental: H.R. 1827—Public Law 100-71, approved July 11, 1987. (145)

Makes supplemental appropriations for FY 1987 totaling $9,377,119,976 in new budget authority, which includes $408,536,000 for increased pay costs, $1,163,781,000 to fund the homeless initiative, $5,553,189,000 to reimburse the CCC for net realized losses, $747,500,000 for DOD, $257,813,486 for U.S. contributions to international financial institutions, and $137,216,000 for the Immigration and Naturalization Service.

APPROPRIATIONS—FY 1988

Commerce-Justice-State: H.R. 2763—Passed House July 1, 1987; Passed Senate amended October 15, 1987; Provisions in H.J. Res. 395, Public Law 100- . (333)

Appropriates $14,194,813,933 in new budget authority for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies which includes $2,536,233,933 for the Department of Commerce, $5,303,943,000 for the Department of Justice, $2,457,726,000 for the Department of State, $1,405,108,000 for the Judiciary, and $2,525,703,000 for related agencies; establishes a commission to determine the proper U.S. contribution to international agencies; includes $17.8 million for the National Endowment for Democracy of which $250,000 is for the free press, free radio, and peaceful civic opposition, in Nicaragua; prohibits use of funds to require or facilitate in any way the performance of any abortion; prohibits further obligation of funds for construction of the new U.S. embassy in Moscow, except for demolition of the upper eight floors; prohibits the Soviets from occupying their new chancery in Washington, D.C., until there is a new secure U.S. chancery in Moscow suitable for U.S. embassy operations, and the Soviets have reimbursed the U.S. for damages resulting from the present building; prohibits the sale to third parties of disaster assistance direct loans and SBA-guaranteed debentures issued by certified development companies and small business investment companies which were held by the Federal Financing Bank on September 30, 1987; prohibits SBA from implementing any new or additional user, guaranty, or examination fees and the Equal Employment Opportunity Commission during FY 1988 from enforcing its regulation permitting employees to waive their rights under the Age Discrimination in Employment Act; reinstitutes normal immigration from Cuba and third countries; and establishes quotas for annual Indochinese refugee admissions in FY 1988-90.

Continuing: H.J. Res. 362—Public Law 100-120, approved September 30, 1987. (274)

Makes continuing appropriations to remain available at their current level from October 1, 1987, until November 10, 1987, or enactment of the applicable appropriation bill, whichever occurs first, for all programs and activites funded under the 13 major appropriations bills, except foreign assistance, which is funded at the current level or the President's budget request, whichever is lower, and except for aid to the Contras which is funded only for humanitarian assistance at the rate of $2.65 million per month.

H.J. Res. 394—Public Law 100-162, approved November 10, 1987.

Extends the continuing resolution, Public Law 100-120, which is due to expire on November 10, 1987, until December 16, 1987, or enactment of the applicable appropriation bill, whichever occurs first.

H.J. Res. 425—Public Law 100-193, approved December 16, 1987.

Extends the continuing resolution, Public Law 100-162, which is due to expire on December 16, 1987, until December 18, 1987, or enactment of the applicable appropriation bill, whichever occurs first.

H.J. Res. 431—Public Law 100-197, approved December 20, 1987.

Extends the continuing resolution, Public Law 100-162, which expired on December 18, 1987, until December 21, 1987, or enactment of the applicable appropriation bill, whichever occurs first.

H.J. Res. 395—Public Law 100- , approved 1987. (414)

Makes further continuing approporiations to remain available from December 21, 1987, through September 30, 1988, or enactment of the applicable appropriation bill, whichever occurs first, for all programs and activities funded under the 13 major appropriations bills as follows: Commerce-Justice-State-Judiciary; District of Columbia, Energy-Water, HUD, Interior, Labor-HHS, Legislative, Military Construction, Transportation, and Treasury-Postal Service at the Senate-passed level, as adjusted to reflect the budget summit agreement, and Agriculture, Defense, and Foreign Assistance at the Senate-reported level, as adjusted to reflect the budget summit agreement; allows apportionment on a deficiency basis as necessary to permit payment of such pay increases granted pursuant to law, making executive and military pay consistent with wage-rate pay increases; provides authority for a civilian and military pay raise of 2 percent effective January 1, 1988; and prohibits pay increases for Members of Congress, judges, and senior members of the executive branch and District of Columbia government.

District of Columbia: H.R. 2713—Passed House June 26, 1987; Passed Senate amended September 30, 1987; Provisions in H.J. Res. 395, Public Law 100- . (291)

Appropriates $564,618,000 in Federal funds and approves $2,627,742 in District of Columbia funds, making a combined total of $3,192,360,000 available for the District of Columbia in FY 1988; restates the prohibition on the use of Federal funds to perform abortions except in cases of rape or incest, or where the life of the mother is endangered and includes language allowing Federal funds to be used for medical procedures necessary to terminate ectopic pregnancies; and prohibits the use of Federal funds appropriated to the District after December 31, 1987, if the D.C. Council has not repealed D.C. Law 6-170 which prohibits insurance companies from requiring AIDS tests, using the test to alter insurance coverage, and raising premiums for individuals who test positive.

Energy-Water: H.R. 2700—Passed House June 24, 1987; Passed Senate amended November 18, 1987; Provisions in H.J. Res. 395, Public Law 100- . (383)

Appropriates $15,919,912,000 in new budget authority for energy and water development for FY 1988; directs the Secretary of Energy to select by January 1, 1989, one of the three candidate nulcear waste repository sites now under consideration for "detailed site characterization work" and halt work on the other sites unless the one chosen proves unacceptable; and suspends further site-specific work on a second repository in the eastern U.S. as required by the Nuclear Waste Policy Act of 1982.

HUD: H.R. 2783—Passed House September 22, 1987; Passed Senate amended October 15, 1987; Provisions in H.J. Res. 395, Public Law 100- . (332)

Appropriates $57,216,459,000 in new budget authority for the Department of Housing and Urban Development, Veterans' Administration, National Aeronautics and Space Administration, Environmental Protection Agency, National Science Foundation, and other agencies, commissions, boards, corporations, institutes, and offices of which $13,089,649,000 is for HUD and $44,126,810,000 for the related agencies; rescinds $2.0 million in contract authority and $52.0 million in budget authority for the Rental Housing Assistance Program; places a $150 billion limitation on GNMA loan guarantee commitments; contains $225.0 million for UDAG, $1.5 billion for public housing operating subsidies, $3.0 billion for Community Development Block Grants, $5.3 billion for EPA, $653.3 million for FEMA, $9.1 billion for NASA, $1.9 billion for the NSF, and $27.1 billion for the VA.

Interior: H.R. 2712—Passed House June 25, 1987; Passed Senate amended September 30, 1987; Provisions in H.J. Res. 395, Public Law 100- . (288)

Appropriates $10,019,754,000 in new budget authority for the Department of the Interior and related agencies including $1.1 billion for the Bureau of Indian Affairs, $1.7 billion for the Forest Service, and $2.2 billion for the Department of Energy of which $164.2 million is for Strategic Petroleum Reserve (SPR) construction, and $806.9 million is for SPR petroleum acquisition and transportation; establishes SPR fill rates to provide a total inventory of 568 million barrels of crude oil in the Federal reserve by the end of FY 1988; continues the prohibition on the export of timber harvested on National Forest Service lands and on the use of funds to process or issue leases for coal, oil, gas, oil shale, or geothermal resources on certain wilderness lands; and prohibits the use of funds to produce literature or otherwise promote public support for a legislative proposal on which legislative action is incomplete.

Labor-HHS-Education and Related Agencies: H.R. 3058—Passed House August 5, 1987; Passed Senate amended October 14, 1987; Provisions in H.J. Res. 395, Public Law 100- . (326)

Appropriates $129,404,328,930 in new budget authority for the Departments of Labor, Health and Human Services, and Education and related agencies including $5,437,112,000 for the Department of Labor, $15,999,768,000 for HHS, $16,711,943,930 for the Department of Education, and $7,035,912,000 for related agencies; contains a total of $946.4 million for HHS research, prevention, information, and education activities for Acquired Immune Deficiency Syndrome (AIDS)-related programs; prohibits the Centers for Disease Control from using funds to provide AIDS education, information, or prevention materials and activities that promote or encourage, directly or indirectly, homosexual activities or the intravenous use illegal drugs; requires NIH to expedite the availability of experimental drugs for AIDS treatment that have shown some effectiveness in clinical trials and to enroll as many individuals with AIDS and the AIDS-related complex as feasible; precludes multiyear or forward funding of FY 1988 NIH grants, except as specifically required because of program or agency needs; requires a uniform percentage reduction of all travel expense accounts to achieve a total outlay reduction of $22.6 million; extends the moratorium on Job Corps center closings through January 1, 1989, and on the contracting of civilian conservation centers through program year 1988; requires reports on retired older Americans trying to reenter the workforce.

Legislative: H.R. 2714—Passed House June 29, 1987; Passed Senate amended September 30, 1987; Provisions in H.J. Res. 395, Public Law 100- . (293)

Appropriates $1,802,954,300 for the legislative branch in FY 1988 which includes $1.235 billion in Title I for the Senate, House, and joint items, as well as the Office of Technology Assessment, CBO, CRS, and Congressional printing done by GPO and a total of $568.0 million in Title II for other agencies which includes the Botanic Garden Library of Congress, GAO, and the Copywright Royalty Tribunal; requires an affirmative vote of Congress before any pay raise for Members of Congress could take effect; transfers maintenance of Library of Congress grounds from the Architect of the Capitol to the Librarian of Congress; and contains several administrative provisions of a technical or housekeeping nature relating to the Senate and House.

Military Construction: H.R. 2906—Passed House July 14, 1987; Passed Senate amended October 27, 1987; Provisions in H.J. Res. 395, Public Law 100- . (349)

Appropriates $8,280,698,000 in new budget authority for DOD military construction programs; contains $36.5 billion for construction activities, $15.5 billion for family housing operations, and $378 million for the NATO infrastructure program; permits the authorization of up to $100 million for construction to support a mobilization and requires the Secretary of Defense to report to the Appropriations Committees within 24 hours of invoking this authority; provides the full budget request for the Navy strategic homeporting initiative; restricts funding for projects in the Philippines only to those which are of an urgent, operational, or safety nature; prohibits the use of projects in the U.S. that use engineering, architectural, and construction services from foreign countries which do not provide the U.S. reciprocal access to its markets, prohibits funds to initiate design on the proposed Pentagon II complex and for facility construction to relocate the 401st; directs DOD to resubmit the FY 1989 military construction budget and to insure that future budget submissions do not contain lump sum requests for new construction; and requires the Secretary to report by February 15, 1988, on the specific actions that will be taken during the fiscal year to encourage improved burden sharing by member NATO nations and Japan.

Transportation: H.R. 2890—Passed House July 13, 1987; Passed Senate amended October 29, 1987; Provisions in H.J. Res. 395, Public Law 100- . (358)

Appropriates $11,104,718,569 in new budget authority for the Department of Transportation and related agencies in FY 1988; includes a $1.3 billion obligation limitation on the use of contract authority for the Airport Grants program, a $212.2 million limitation on Federal Highway Administration general operating expenses, a $12.2 billion limitation on Highway Trust Fund obligations, and a $13.4 billion limitation on Trust Fund liquidation of contract authority; requires the Urban Mass Transportation Administration to publish grant announcements in the Federal Register within seven calendar days of obligation; establishes, effective four months after enactment, a three-year prohibition on smoking on scheduled domestic flights of two hours or less and imposes a civil penalty of up to $1,000 for each violation; prohibits tampering with or disabling smoke alarms and imposes a civil penalty of up to $2,000 for each violation; allows a 65-miles-per-hour speed limit modification on highways that meet interstate standards and are not currently classified as interstates; specifies the tax status of certain Amtrak activities; ensures that grant applicants for airways science programs will not be penalized for having received funds in prior years; denies funds for transportation projects in the U.S. that use the engineering, architectural, and construction services of any foreign country that does not offer U.S. firms the same reciprocity with respect to bidding on projects in that country.

Treasury-Postal Service: H.R. 2907—Passed House July 1987; Passed Senate amended September 25, 1987; Provisions in H.J. Res. 395, Public Law 100- . (272)

Appropriates $15,067,250,000 in new budget authority for the Treasury Department, the U.S. Postal Service, the executive office of the President, and certain independent agencies for FY 1988, including $11 million in reappropriations resulting from enactment of the Supplemental Appropriations Act of 1987 (P.L. 100-71); precludes the Customs Service from reducing the number of Customs regions below the current level of seven during FY 1988; requires that any proposed interagency agreement for the transfer of appropriated funds of $500,000 or more be reported to the Appropriations Committees and that any proposed transfer of $1 million or more must be approved in advance by the Committees; and directs GSA and OPM to respond expeditiously to priority requests related to Federal efforts to combat Acquired Immunodeficiency Syndrome (AIDS) from the Directors of the Centers for Disease Control or the National Institute of Allergy and Infectious Diseases.

BUDGET

Budget Reconciliation, 1988: H.R. 3545—Public Law 100- , approved 1987.

Implements the November 20 budget summit agreement between the President and the Congressional leadership; provides for about $23 billion in revenue increases over the next two years and some $25 billion in entitlement and other savings. Combined with the $21 billion in defense and domestic spending reduction contained in the Continuing Resolution, the bill reduces the deficit by about $76 billion over the next two years.

First Concurrent Budget Resolution, 1988: H. Con. Res. 93—Action completed June 25, 1987. (97, 157)

Sets forth the recommended levels of total new budget authority, outlays, and revenues for the U.S. government for FY 1988-90, respectively, as follows: Budget Authority—$1,153.2 billion, $1,217.9 billion, $1,261.6 billion; Outlays—$1,040.8 billion, $1,083.85 billion, $1,117.05 billion; and Revenues—$932.8 billion, $993.95 billion, $1,066.75 billion; establishes deficit and public debt limits for FY 1988-90, respectively, as follows: Deficit—$108.0 billion, $89.9 billion, $50.3 billion; and Public Debt Limit—$2,565.1 billion, $2,777.1 billion, $2,964.2 billion.

CONGRESS

Capital Art/Old Executive Office Building Renovation: H.R. 60—Passed House July 21, 1987; Passed Senate amended December 19, 1987.

Permits the Architect of the Capitol to accept gifts of money for the purchase of works of fine art for the Capitol, and authorizes the Office of Administration to receive gifts from the public to help renovate and refurbish the Old Executive Office Building.

Civic Achievement Awards: H.J. Res. 309—Public Law 100-158, approved November 9, 1987.

Appropriates $680,000 in each FY 1988-89, to establish and support a Civic Achievement Award Program in honor of the Office of the Speaker of the House of Representatives to reward proficiency in civics by students, classes, and schools in grades five through eight to be administered by the Close Up Foundation in conjunction with the National Association of Elementary School Principals and under the direction of the Librarian of Congress.

DEFENSE-NATIONAL SECURITY

Coast Guard Authorizations: H.R. 2342—Passed House July 8, 1987; Passed Senate amended October 13, 1987; House agreed to Senate amendment with an amendment December 18, 1987.

Authorize $2.6 billion in FY 1988 and $2.8 billion in 1989 for Coast Guard O&M, acquisition, construction, improvement of equipment and facilities, R&D, retirement pay, and the alteration of bridges obstructing navigable waters; prohibits foreign construction of Coast Guard vessels; and calls for a study on the merits of acquiring a mobile semisubmersible facility for drug interdiction.

DOD Authorization: H.R. 1748—Public Law 100-180, approved December 4, 1987. (300, 384)

Authorizes funds for FY 1988-89 for military activities of the Department of Defense, military construction, and Department of Energy defense activities pegged to a $289 billion defense budget, or, if Congress authorizes a defense budget above that level, to a level pegged to a $296 billion defense budget; restricts FY 1988 nuclear weapons tests of those included on a list submitted to Congress in conformance with the narrow interpretation of the ABM Treaty; requires that a Poseidon missile submarine be taken out of service in order to comply with SALT II; authorizes $3.9 billion for SDI at both budgetary levels, including $279 million in DOE funds; places a moratorium on testing of the Space Defense System anti-satellite missile (ASAT); removes unitary chemical weapons from NATO Europe only upon their replacement with binary chemical weapons; authorizes 12 MX missiles for the test program to support the 50 silo-based missiles already funded; authorizes at the high budget level, $1.5 billion and $300 million for the Midgetman and rail mobile MX, respectively, and at the lower level, $700 million and $100 million, respectively; authorizes $380 million for procurement and R&D of the B1-B bomber and limits the use of funds to continue the B-1 test program and procure spare parts for portions of the aircraft not experiencing problems; and imposes procurement restrictions on the Bradley fighting vehicle program and requires a plan for correcting all deficiencies.

Intelligence Authorizations: H.R. 2112—Public Law 100-178, approved December 2, 1987.

Authorizes a classified amount of funds for U.S. intelligence activities in FY 1988, at a level pegged to a $289 billion defense budget, or, if Congress authorizes a defense budget above that level, to a level pegged to a $296 billion defense budget; authorizes $23.6 million for the Intelligence Community Staff and $134.7 million for the CIA Retirement and Disability System; limits military or paramilitary assistance to the Nicaraguan Contras to that specifically authorized by law; prohibits use of funds from the CIA's Reserve for Contingencies to support military or paramilitary operations of the Contras and requires Congressional approval of any unauthorized transfer of funds to support such operations; permits the provision of intelligence information and advice to the Contras; requires the Attorney General to report annually to Congress any cases where Soviet diplomats have been admitted to the U.S. over the objections of the FBI Director; extends through FY 1989 the Secretary of Defense's authority to terminate any civilian officer or employee of the Defense Intelligence Agency (DIA) without regard to normal Federal personnel procedure; exempts the DIA from executive branch personnel reporting requirements; provides retirement benefits and death-in-service benefits to certain former spouses of CIA employees; requires the CIA Director to contract with the National Academy of Public Administration to perform an objective classified study of personnel management and compensation systems affecting civilian personnel of the U.S. intelligence community; requires the Secretary to report to Congress an assessment of the Soviet Union's current and potential capabilities to intercept U.S. communications from the Soviet diplomatic facilities on Mount Alto in the District of Columbia and a determination of its effects on U.S. national security.

Military Retirement Reform Technical Correction: H.R. 2974—Public Law 100- , approved 1987.

Restores the original definition of "active duty" for determining eligibility for retirement benefits to exclude any active duty for training periods and makes several minor modifications in the COLA mechanism to ensure the accurate and uniform implementation of the changes in the Military Retirement Reform Act.

Persian Gulf War: S.J. Res. 194—Passed Senate October 21, 1987.

States that the circumstances in the Persian Gulf region including the incidents involving U.S. military forces on September 21, October 8, and October 19, 1987, justify an Administration report and a comprehensive Congressional review of the use of U.S. military forces in that region; requires the President to report to Congress within 30 days of enactment a review of the range of U.S. commitments and military involvements in the Persian Gulf region; provides the expedited consideration, within 90 days of enactment, of any resolution dealing with U.S. policy and commitments in the Persian Gulf which may be introduced within three session days after Congress receives the President's report; and states that nothing in this resolution should be construed as: limiting the President's constitutional powers as commander-in-chief to utilize U.S. military forces in self defense operations or urging the withdrawal of U.S. military forces from the Persian Gulf region; complying with, modifying or negating the War Powers Resolution of 1973 (P.L. 93-148); or being inconsistent with the proposition that the U.S., as a maritime power, has a preeminent interest in the freedom of the seas and in taking such actions as necessary to maintain such freedom.

DISTRICT OF COLUMBIA

Federal Triangle Development: S. 1550—Public Law 100-113, approved August 21, 1987.

Authorizes development of a Federal office complex and international Cultural and Trade Center on the Federal Triangle site in the District of Columbia to be built on a "lease-to-own" plan under which Federal lease payments over 30 years will pay for the building construction.

ECONOMY-FINANCE

Ex-Im Bank Soft Loans: H.R. 3289—Public Law 100- , approved , 1987.

Permits the Export-Import Bank to use a 100 percent soft loan for support of a transaction under the tied aid credit program in FY 1987-88, which is the same authority it had in FY 1986.

Federal Savings and Loan Insurance Corporation Recapitalization: S. 790—Passed Senate March 27, 1987. (44) H.R. 27—Public Law 100-86, approved August 10, 1987. (226)

Recapitalizes, at $10.825 billion, the Federal Savings and Loan Insurance Corporation (FSLIC); provides for the refund of contributions by thrift institutions to the FSLIC secondary reserve; closes the nonbank bank loophole as of March 5, 1987, and restricts the expansion of grandfathered nonbank banks; imposes a moratorium through March 1, 1988, on certain securities and insurance activities of banks or bank holding companies; requires thrift institutions to use generally accepted accounting principles instead of the regulatory accounting system; allows emergency interstate bank acquisitions; allows regulators to operate failed banks for up to three years while seeking purchasers for those institutions; establishes a new program to facilitate the recovery of troubled, but well-managed thrifts; regulates consumer checkholds; streamlines credit union operations; provides for the seven-year amortization of farm loans in agricultural banks; and reaffirms the sense of the Congress that Federally-insured deposits are backed by the full faith and credit of the U.S. government.

Garn-St Germain Depository Institutions Act Extension: H.R. 431—Passed House February 4, 1987; Passed Senate amended March 3, 1987; House disagreed to Senate amendment, March 12, 1987.

Extends until September 15, 1987, the emergency merger acquisition provisions of the Garn-St Germain Depository Institutions Act of 1982.

Malcolm Baldrige National Quality Award Program: H.R. 812—Public Law 100-107, approved August 20, 1987.

Establishes the Malcolm Baldrige National Quality Award Program under which awards would be presented periodically to companies for improving their product quality.

Public Debt Limit: H.R. 2360—Public Law 100-40, approved May 15, 1987.

Increases and extends the current temporary debt limit of $2.3 trillion (which expired on May 15, 1987) to $2.32 trillion until July 17, 1987, after which it will revert to the permanent level of $2.111 trillion.

H.R. 3022—Public Law 100-80, approved July 30, 1987.

Extends the temporary debt limit of $2.32 trillion (which expired on July 17, 1987) until August 6, 1987, after which it will revert to the permanent level of $2.111 trillion.

H.R. 3190—Public Law 100-84, approved August 10, 1987. (233)

Increases and extends the current temporary debt limit of $2.32 trillion (which expired on August 6, 1987) to $2.352 trillion until September 23, 1987, after which it will revert to the $2.111 trillion permanent level.

Public Debt Limit/Gramm-Rudman-Hollings: H.J. Res. 324—Public Law 100-119, approved September 29, 1987. (224, 262)

Increases the permanent debt limit to $2.8 trillion; reinstates and revises the automatic sequestration process of the original Gramm-Rudman-Hollings bill; revises the deficit targets to $144 billion for FY 1988, $136 billion for 1989, $100 billion for 1990, $64 billion for 1991, $28 billion for 1992, with a $10 billion cushion for each of those fiscal years and a balanced budget by 1993; revises the timetable for sequestration; sets the maximum sequester at $23 billion in 1988 and $36 billion in 1989, and an amount necessary to reach the fixed deficit targets each year thereafter, with limitations on the amounts that an account can be cut by a sequester; prohibits the use of asset sales and date shifting as deficit reduction tools; requires the use of one set of economic assumptions when considering the Congressional budget resolution; grants OMB the authority to make the final determination of the sequester order; establishes expedited procedures for Congressional modification of the final sequester order if Congress disagrees with OMB's determinations; allows the President to exempt military personnel from sequester if he notifies Congress by a date certain; specifies that the total amount sequestered from defense cannot be modified; permits the President to submit a single proposal to Congress to redistribute defense reductions within and across defense accounts; prohibits any increase in a defense program, project, or activity above the appropriated level; and requires Congressional affirmation of the President's defense sequestering proposal by an amendable joint resolution considered under expedited procedures.

SBA Authorization: H.R. 2166—Public Law 100-72, approved July 11, 1987.

Makes minor amendments, without any net increase in budget authority, to SBA program levels and authorizations as follows: increases by $108 million, to $1.25 billion, the FY 1988 Surety Bond Guarantees Program level; requires that $425 million of the $450 million previously authorized for guarantees of debentures issued by development companies in each of FY 1987-88 be sold to private investors rather than to the Federal Financing Bank; and authorizes $16 million for the pollution control contract guarantees program to pay losses on previously issued guarantees.

SEC Authorization and Securities Law Amendments: S. 1452—Public Law 100-181, approved December 4, 1987.

Authorizes $158.6 million in FY 1987 and $172.2 million in 1988 for the Securities and Exchange Commission (SEC); clarifies and expands the enforcement capabilities of the SEC and other Federal regulatory agencies for registered transfer agents and their associated professionals; authorizes the SEC to delegate its functions to an SEC division, individual Commissioner, administrative law judge, or employee or employee board, with the SEC to retain a discretionary right to review any actions taken by the delegated authority; limits funding and adds reporting and certification requirements for the SEC regarding the ongoing development of the Electronic Data Gathering Analysis and Retrieval project; and makes technical, clarifying, and conforming amendments to securities laws, including provisions to eliminate the requirement that regulated savings and loans and similar institutions limit their fees for issuing securities to three percent of the security's face value in order to qualify for registration exemption; and codifies the SEC's authority to bring administrative proceedings against persons that are, or seek to be, associated with a broker-dealer, municipal securities dealer, or investment adviser at the time they commit an alleged Federal securities violation.

Small Business Investment Act Loan Prepayments: S. 437—Passed Senate December 19, 1987.

Amends the Small Business Investment Act of 1958 to permit prepayment of State and local development company loans financed through the sale of debentures purchased by the Federal Financing Bank (FFB) and permits the FFB to impose a prepayment penalty on issuers of debentures who elect to pay them before maturity.

Thrift Savings Fund Investment Procedures: S. 1177—Public Law 100-43, approved May 22, 1987.

Permits the Treasury Department to make up any loss of earnings to the Federal Employee's thrift savings plan resulting from suspension of Treasury's borrowing authority because the debt limit has been reached.

EDUCATION

Elementary and Secondary Education Improvement: H.R. 5—Passed House May 21, 1987; Passed Senate amended December 1, 1987; Senate insisted on its amendments and requested a conference December 1, 1987. (390)

Reauthorizes through FY 1993 the following Federal elementary and secondary education programs: Chapter 1 of the Education Consolidation and Improvement Act (ECIA), compensatory education for disadvantaged children (formerly Title I of the Elementary and Secondary Education Act), Chapter 2 of ECIA, elementary and secondary education block grants to States, the Magnet Schools Assistance Program, the Impact Aid Program, the Adult Education Act, the Education for Economic Security Act, the Bilingual Education Act, the Women's Educational Equity Act, and the Allen J. Ellender Fellowship Program, and the territorial assistance programs for teacher training and for general assistance to the Virgin Islands; targets additional Chapter 1 funds to preschool and secondary school levels; creates new programs to address the needs of at-risk students, national priorities, and program quality and innovation; authorizes multiyear funding for comprehensive child development projects which provide support services to benefit the infants and young children of low-income families; and bans "dial-a-porn" operations.

Higher Education—Technical Amendments: H.R. 1846—Public Law 100-50, approved June 3, 1987.

Makes the following technical and clarifying amendments to the 1986 Higher Education Act amendments: clarifies the discretionary authority of financial aid administrators to make student aid eligibility determinations on a case-by-case basis; modifies the needs analysis provisions and mandates the simplification of the needs analysis application form; allows schools to submit guaranteed loan applications to financial institutions, but requires the applicant to indicate his/her choice of lender; makes certain nondegree candidates eligible for Guaranteed Student Loans (GSL's); requires loan counseling for loan consolidations; and directs the Advisory Commission on Student Financial Assistance to study multiple applications processing and the appropriateness of reinstating limitations on schools which want to serve as lenders in the GSL program.

Native Hawaiians Education Improvement: S. 360—Passed Senate April 22, 1987.

Authorizes $9.9 million for supplemental education programs to benefit Native Hawaiians, including implementation of model educational curricula, the establishment of family-based preschool education centers, higher educations programs, and gifted, talented, and special education programs.

Quality Daily Physical Education for Schoolchildren: H. Con. Res. 97—Action Completed December 11, 1987.

Encourages State and local governments and educational agencies to provide high quality daily physical education programs for all children in kindergarten through grade 12.

Secondary School Graduation Requirements: S. Con. Res. 92—Senate agreed to December 1, 1987.

Encourages State and local governments and educational agencies to include among the requirements for secondary school graduation a thorough knowledge and understanding of the U.S. founding documents.

Star Schools Program: S. 778—Passed Senate April 23, 1987. (80)

Authorizes $100 million over FY 1988-92 for the Star Schools Program under which demonstration grants would be awarded to certain State and multistate telecommunications partnerships to use telecommunications technology to deliver courses to elementary and secondary schools in mathematics, science, and foreign languages and possibly other subject areas; limits annual appropriations to $60 million and individual grants to $20 million; makes Bureau of Indian Affairs schools eligible for telecommunications partnerships; reserves 50 percent of annual appropriations for Chapter I eligible elementary and secondary school districts; further targets the funding to the neediest children within the Chapter I districts; gives priority to network partnerships which serve multiple States, secure the cooperation of public and private educational institutions, State and local governments, and industry in planning the network, or will serve the broadest range of institutions; requires an equitable geographic distribution of grants; and requires the Office of Technology Assessment, upon request, to evaluate the telecommunications networks supported by the demonstration grants and to study the feasibility of building and launching a satellite dedicated to educational purposes.

White House Conference on Libraries and Information Sciences/Education Program Amendments: H.J. Res. 90—Passed House June 8, 1987; Passed Senate amended December 15, 1987.

Authorizes $5 million, to be funded only from title III of the Library Services and Construction Act, for a White House Conference on Library and Information Services to be held not earlier than September 1, 1989, and not later than September 30, 1991, to provide recommendations for improving the Nation's library and information sciences; reauthorizes the Drug Free Schools and Communities Act at $250 million in FY 1989, and such sums as necessary in 1990-93; authorizes an additional $3 million for the Constitutional Bicentennial Education Program to train elementary and secondary teachers in history, geography, and subjects related to the U.S. Constitution; modifies the Income Contingent Loan Demonstration Program to permit the participation of 10 additional institutions, including a consortia of institutions within a State, permit higher education institutions to pay students' in-school interest on student loans, make professional and graduate students eligible for the program, and decrease the interest rate from the Treasury bill rate plus three percent to the Treasury bill rate plus .05 percent; requires Guaranteed Student Loan (GSL) guaranty agencies to share information with colleges concerning former students in default on their GSL loans; and authorizes $15.2 million for special projects at various higher education institutions.

ENERGY

Continental Scientific Drilling and Exploration: S. 52—Passed Senate June 17, 1987.

Directs the Secretaries of Energy and Interior and the Director of the National Science Foundation to cooperate in implementing a Continental Scientific Drilling Program (CSDP) to enhance the fundamental understanding of the composition, structure, dynamics, and evolution of the continental crust and its effect on natural phenomena and report to Congress, within 180 days of enactment, on the CSDP including long- and short-term policy objectives, projected schedules of certain scientific and engineering events, the extent and duration of resources and funding required, possible program benefits, and other information or recommendations deemed appropriate.

Energy Standards for Appliances: S. 83—Public Law 100-12, approved March 17, 1987. (28)

Establishes national energy conservation standards for major residential appliances.

Ethanol Cost Effectiveness Study Extension: S. 1597—Public Law 100—100, approved August 18, 1987.

Amends the Farm Disaster Assistance Act of 1987 to extend the reporting date for the ethanol cost-effectiveness study from 90 to 180 days.

Federal Energy Management Program: S. 1382—Passed Senate December 18, 1987.

Strengthens efforts to promote the conservation and efficient use of energy by the Federal government by requiring Federal agencies to establish incentive programs under which an agency would be permitted to retain all savings resulting from its energy efficiency improvement efforts; establishing discretionary energy conservaton targets for Federal buildings and automobiles; establishing a Federal Energy Management "Task Force" to collect and disseminate relevant energy efficiency information within the Federal government; allowing for a discount rate under National Energy Conservation and Policy Act (NECPA) as determined by the Secretary and assuring that life cycle cost calculations will accurately reflect present values; and consolidating the reporting requirements of the Energy Policy and Conservation Act and the NECPA with regard to Federal energy management.

Federal Onshore and Indian Oil and Gas Lease Royalty Payments: H.R. 3479—Passed House November 3, 1987; Passed Senate amended December 9, 1987; House agreed to Senate amendment with an amendment December 18, 1987.

Allows the Secretary of the Interior to clarify the amount of royalty payments owed for gas produced from certain onshore Federal and Indian leases from January 1, 1982, through July 31, 1986; authorizes the collection of any royalty underpayments; provides for the refund of royalty overpayments up to a total of $2 million from future Federal mineral receipts; and requires a case-by-case review of royalties payable, in accordance with lease terms and applicable regulations, and that claimants provide written documentation of royalty payments.

Powerplant and Industrial Fuel Use: S. 85—Passed Senate April 8, 1987; H.R. 1941—Public Law 100-42; approved May 21, 1987.

Amends the Powerplant and Industrial Fuel Use Act of 1987 (FUA) (P.L. 95-620) to repeal the prohibition on the use of natural gas or petroleum as the primary fuels used in new electric powerplants or in new large industrial boiler facilities; substitutes, for the FUA requirement that all new electric powerplants be capable of using coal or another alternative fuel, a requirement that new electric baseload powerplants have the design capability to be converted from natural gas or oil to coal, or another alternative fuel, as market conditions warrant; repeals several provisions including the discretionary authority of the Secretary of Energy to prohibit the boiler use of natural gas for space heating, the ban on the use of natural gas for outdoor decorative lighting, restrictions on increased petroleum use by certain existing powerplants which have used coal or another alternative fuel as a primary energy source, optional compliance mechanisms for certain existing electric powerplants and annual reporting requirements with respect to domestic coal reserves and Federal agency compliance under the Act; and amends the Natural Gas Policy Act of 1978 (P.L. 95-621) to repeal the incremental pricing requirements in Title II.

Strategic Petroleum Reserve (SPR) Security: S. 836—Passed Senate June 25, 1987.

Authorizes the Department of Energy to arm its protective force personnel at SPR sites and to empower them in certain instances to make arrests without warrants for violations of Federal law, and establishes a Federal offense of trespass on Federally-owned SPR sites.

ENVIRONMENT

Clean Water: H.R. 1—Vetoed January 30, 1987. House overrode veto February 3, 1987; Senate overrode veto February 4, 1987; Became Public Law 100-4, February 4, 1987, without approval. (4, 19)

Authorizes a total of $18 billion through FY 1994 for water treatment projects of which $8.4 billion is for a new revolving fund to provide loans to States for up to 100 percent of a project's cost (funded from 1989-94) and $9.6 billion is for the Title II construction grant program (funded from 1986-90); provides a process for States to develop and implement programs for control of nonpoint source pollution allowing them to use both grants and revolving funds for this purpose and earmarks $400 million over four years for nonpoint source pollution remedies; authorizes an increased Federal share for certain wastewater treatment projects; and makes various amendments to the construction grant program and the standards and enforcement provisions of the Act.

National Fish and Wildlife Foundation: S. 1389—Passed Senate December 18, 1987.

Amends the National Fish and Wildlife Foundation Establishment Act to expand the role of the National Fish and Wildlife Foundation to include participation with foreign governments, entities, and individuals to conserve fish, wildlife, and plants in other countries and to allow the Foundation to conduct business abroad and use Federally-appropriated funds for projects in other countries; authorizes an increase in the Foundation's appropriations from $1 million over 10 years to $5 million annually in FY 1988-92 in order to match private and other non-Federal contributions and to provide administrative services; and places restrictions on the use of Federal funds for land acquisition to protect the Federal interest in any lands acquired with Federal matching funds and to prevent the Foundation from becoming a significant Federal land-holding entity.

NOAA—Satellite Program Authorization: S. 1667—Passed Senate September 10, 1987; Passed House amended November 20, 1987.

Authorizes a total of $848.2 million for FY 1988, and $1.0 billion for 1989 for atmospheric, satellite, and environmental data programs of the National Oceanic and Atmospheric Administration.

NOAA—Sea Grant Program: S. 1196—Passed Senate August 5, 1987.

Authorizes $250 million in FY 1988-92 for NOAA's National Sea Grant core program, $5 million for the Sea Grant international program, and $64 million for a new Strategic Marine Research Program with program spending limited to 50 percent of appropriations for the National Sea Grant College Program Act; expands fellowship eligibility to postgraduates; requires that grant administration minimize Federal prior approval requirements; and clarifies activities authorized under the international program.

Organotin-Based Antifoulant Paint Control: H.R. 2210—Passed House November 9, 1987; Passed Senate amended December 11, 1987; House agreed to Senate amendment with an amendment December 18, 1987.

Prohibits the use of organotin-based paints for any vessel 25 meters or less, except for aluminum boats and outboard motors; prohibits the use of all organotin paints with a release rate of more than three micrograms per centimeter per day and sunsets the established release rate if the EPA takes final action to establish a release rate under alternative legislative authority; bans the sale of the organotin tributyltin for the purposes of making an antifouling paint; requires the EPA Administrator to monitor coastal waters and assist the States in monitoring waters for the presence of organotins; and requires the Secretary of Navy to test the home port waters of Navy ships for organotin contamination.

Surface Mining Control and Reclamation: H.R. 1963—Public Law 100-34, approved May 7, 1987.

Amends the Surface Mining Control and Reclamation Act of 1977 (SMCRA) to permit States to set aside in a special trust fund up to 10 percent of their annual appropriated allocations of Abandoned Mine Land Reclamation Funds for future abandoned mine reclamation; and repeals the provision exempting surface coal mining operations that affect two acres or less and extract coal for commercial purposes from all provisions of SMCRA.

FISHERIES

Commercial Fishing Vessel Anti-Reflagging: H.R. 2598—Passed House November 9, 1987; Passed Senate amended December 17, 1987.

Amends the Magnuson Fishery Conservation and Management Act to make changes to the vessel documentation laws to prohibit foreign-built and foreign-rebuilt vessels from operating as U.S. vessels in the processing, storing, transporting or catching of fish in the U.S.'s 200-mile exclusive economic zone or navigable waters; contains transition provisions to lessen the impact on the owners and operators of affected vessels; and requires a U.S. flag fishing vessel, regardless of its port of departure, to comply with the Immigration and Nationality Act for all members of its crew.

Documentation of Foreign-Built Fish-Processing Vessels: S. 1591—Public Law 100-111, approved August 20, 1987.

Prohibits until October 15, 1987, the certification of any application submitted after July 20, 1987, for the documentation of a foreign-built fish-processing vessel.

Fishermen's Protective Act: H.R. 2893—Public Law 100-151, approved November 3, 1987.

Reauthorizes until October 1, 1988, the fishermen's guaranty fund, which is a self-insurance program under which fishing vessel owners are reimbursed for certain losses resulting from the improper seizure of U.S. fishing vessels by foreign countries; extends from October 15, 1987, until November 15, 1987, the prohibition on the certification of any application submitted after July 20, 1987, for the documentation of a foreign-built fish-processing vessel; and extends until October 22, 1989, the authority for the non-profit group Life International to use three surplus Naval vessels for worldwide humanitarian services and removes the restriction that the vessels be used only to assist developing countries in order to allow domestic use.

International Fishery Agreement with Japan/Marine Pollution: H.R. 3674—Public Law 100- , approved , 1987.

Brings into effect the Governing International Fishery Agreement between the U.S. and Japan that was reported by the President to the Congress on November 17, 1987; implements Annex V to the International Convention for the Prevention of Pollution from Ships, including provisions to regulate the disposal of plastics both at sea and port reception facilities; reauthorizes and amends the National Sea Grant College Program Act; establishes a mechanism for monitoring, assessing, and controlling drift-net fishing on the high seas; and provides for the operation of certain sludge and launch barges in the U.S. Exclusive Economic Zone.

U.S.-Korea International Fisheries Agreement Extension: H.R. 2480—Public Law 100-66, approved July 10, 1987.

Extends from July 1, 1987, to November 1, 1987, the governing international fishery agreement between the U.S. and Korea, and confirms the legal status of the one-year Congressional and executive branch fellowships awarded under the Sea Grant Act.

GENERAL GOVERNMENT

Abandoned Shipwrecks: S. 858—Passed Senate December 19, 1987.

Asserts Federal title to certain abandoned shipwrecks and transfers title to the State on whose submerged lands the shipwreck is located unless the shipwreck lies within the boundaries of lands administered by the National Park Service (NPS); and directs the NPS to develop guidelines on managing shipwrecks and providing public access.

Christopher Columbus Quincentenary Amendments: H.R. 2309—Public Law 100-94, approved August 18, 1987.

Increases the annual contribution limitations for individuals and corporations to $250,000 and $1 million, respectively; permits broader use of the Christopher Columbus Quincentenary Logo; adds a third non-voting member from a Caribbean country to the Commission; and extends the Commission's termination date from November 15, 1992, until December 13, 1993.

Computer Matching and Privacy Protection: S. 496—Passed Senate May 21, 1987.

Allows Federal agencies to enter into computer matching agreements and establishes criteria and procedures for their implementation; requires participating Federal agencies to establish internal Data Integrity Boards; and prohibits an agency from terminating any person's benefits or taking other adverse action without verifying the relevant matching data and providing the individual an opportunity to contest the data.

Contracts Disputes Amendments: S. 345—Passed Senate May 21, 1987.

Requires the competitive selection of Board of Contract Appeals members (BCA judges) and provides for their removal only if "good cause" can be shown at a hearing before the Merit Systems Protection Board; and exempts BCA judges from agency performance evaluations and provides for guaranteed periodic salary increases.

Jazz Designated a National Treasure: H. Con. Res. 57—Action completed December 4, 1987.

Designates jazz as an American national treasure.

Librarian of Congress Emeritus; S. 1020—Public Law 100-83, approved August 4, 1987.

Creates the Office of Librarian of Congress Emeritus and provides that each duly appointed Librarian of Congress shall, upon retirement, be designated Librarian of Congress Emeritus.

National March—"Stars and Stripes Forever": S. 860—Public Law 100-186, approved December 11, 1987.

Designates "The Stars and Stripes Forever" as the national march of the U.S.

NASA Authorizations: S. 2741—Public Law 100-147, approved October 28, 1987.

Authorizes $9.6 billion for NASA activities in FY 1988 of which $3.7 billion is for research and development, $4.0 billion is for space flight control and data communications, $216.4 million is for facilities construction, and $1.6 billion is for research and program management; includes $767 million to initiate development of the space station and contains language ensuring that the station will be used for peaceful purposes with a prohibition on its use to place nuclear or other mass destruction weapons into orbit; calls for the development of an advanced solid rocket motor; and restates the statutory provision permitting NASA to accept donations for the construction of a space shuttle orbiter.

Olympic Games Commemorative Coins: S. 2741—Public Law 100-141, approved October 28, 1987.

Authorizes the minting of commemorative coins to support the training of American athletes participating in the 1988 Olympic Games.

Prompt Payment Act: S. 328—Passed Senate October 9, 1987. (318)

Amends the Prompt Payment Act of 1982 to require the Federal government to automatically pay interest on overdue payments; extends coverage of the Act to subcontractors under Federal construction contracts, Commodity Credfit Corporation operations, and contract payments for dairy products, and edible fats and oils, and their food products; and establishes a Presidential Advisory Panel for Coordination of Government Debt Collection and Delinquency Prevention Activities.

Public Buildings Authorizations: *S. 1502—Passed Senate July 23, 1987.*

Authorizes $2.93 billion in FY 1988 for the GSA's Public Buildings Service which includes repair and alterations, design and construction services, leasing, real property operations, and construction and acquisition.

U.S. Golf Association Rules: S. Res. 247—Senate agreed to July 10, 1987.

States the sense of the Senate that the U.S. Golf Association should review its rules and procedures and consider nondiscriminatory flexibility to allow qualified disabled individuals to effectively compete in its sanctioned tournaments.

GOVERNMENT EMPLOYEES

Air Traffic Controllers Annuity Computations: H.R. 1403—Public Law 100-92, approved August 18, 1987.

Specifies that pre-1987 service as an air traffic controller would be included in the air traffic controllers retirement annuity computations.

Federal Employees Retirement System—Technical Corrections: H.R. 1505—Public Law 100-20, approved April 7, 1987.

Makes technical corrections to the Federal Employees Retirement System (FERS) which: (1) allow prior creditable service under the Civil Service Retirement System (CSRS) to be creditable toward the 18-month service requirement for survivor's benefits under FERS for employees with more than five but less than ten years service under CSRS who die within 18 months of transferring to FERS; and (2) change, from January 1, 1988, to April 1, 1987, the thrift savings plan participation eligibility date for employees who were automatically covered under FERS on January 1, 1987, but did not have CSRS contributions withheld during 1984-86.

Federal Pay Increase Disapproval: S.J. Res. 34—Passed Senate January 29, 1987. (9)

Disapproves the automatic salary increase for Members of Congress, Federal judges, and top executive branch officials, as recommended by the President in his FY 1988 Budget, transmitted to Congress on January 5, 1987. NOTE: (The proposed pay increase [under which salaries of Members of Congress would be raised from $77,400 to $89,500] automatically becomes effective on March 1, 1987, unless a joint resolution of disapproval is passed by both Houses and signed into law by the President within 30 days. The 30-day period expired at midnight, February 3, 1987. The House did not disapprove the pay increase until February 4, 1987.)

Federal Pay Increase Rescission: S.J. Res. 42—Passed Senate February 4, 1987.

Rescinds the salary increase for Members of Congress, Federal judges, and top executive branch officials, as recommended by the President in his FY 1988 Budget, transmitted to Congress on January 5, 1987, and which became effective on February 4, 1987.

Library of Congress Security Employees: H.R. 2249—Public Law 100-135, approved October 16, 1987.

Change the title of employees designated by the Librarian of Congress for police duty and makes their rank and pay the same as the Capitol Police.

Postal Service employee Appeal Rights: H.R. 348—Public Law 100-90, approved August 18, 1987.

Extends the right of appeal adverse personnel actions to the Merit Systems Protection Board to nonveteran postmasters and supervisors and Postal Service employees engaged in confidential personnel work with one year of continuous service.

Residence/Travel Expense Reimbursement of Federal Employees: S. 1750—Passed Senate October 8, 1987.

Liberalizes certain provisions authorizing reimbursement for expenses of the sale and purchase of a transferred Federal employee's residence, and provides for the payment of certain travel and transportation expenses of civil service career appointees.

Retirement System Technical Corrections: H.R. 3395—Passed House October 19, 1987; Passed Senate amended December 19, 1987.

Makes numerous amendments, generally technical in nature, to provisions of law relating to the Civil Service Retirement System (CSRS), the Federal Employees Retirement System (FERS), the Foreign Service Retirement System (FSRS), and the Foreign Service Pension System (FSPS) in order to address problems discovered during implementation of the Federal Employees' Retirement System Act of 1986 (FERSA).

Tuscon Wage Area Pay Retention: S. 942—Public Law 100-47, approved May 29, 1987.

Makes Federal wage employees in the Tucson, Arizona, wage area whose salaries were reduced as a result of a wage survey conducted during FY 1986 eligible for pay retention retroactive to the effective date of the reduction.

HEALTH

Acquired Immune Deficiency Syndrome (AIDS): S. Res. 190—Senate agreed to April 10, 1987.

States the sense of the Senate that the Nation makes a major commitment of resources consistent with the National Academy of Science's recommendation for health care, research, and education relating to AIDS, and that a Presidential Commission be created to assist in establishing priorities and developing comprehensive plans to deal with the domestic and international problems relating to AIDS.

Asbestos School Hazard Abatement: H.J. Res. 153—P.L. 100-11, approved March 17, 1987.

Requires EPA to award Asbestos School Hazard Abatement program grant and loans in time to ensure that eligible local educational agencies can complete asbestos abatement work in schools during the 1987 summer recess.

Developmental Disabilities Assistance and Bill of Rights Amendments: S. 1417—Public Law 100-146, approved October 29, 1987.

Updates terminology in the Act to focus on the competence and preferences, rather than the limitations, of developmentally disabled persons, and amends the Act as follows: the basic State grant program—authorizes $209.5 million in FY 1988-90; increases the minimum State allotment to $350,000, when appropriations reach $60 million; clarifies and strengthens the independence of State Planning Councils and requires the Councils to review the scope and effectiveness of State services provided to developmentally disabled persons; and increases State flexibility in determining program priorities; protection and advocacy system—authorizes $66.2 million in FY 1988-90; increases the minimum State allotment to $200,000, when appropriations reach $20 million; requires that State systems address the needs of racial and ethnic minorities, establish a grievance procedure, provide for public comment on established system priorities, and be authorized to investigate reported incidences of abuse and neglect and pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection and advocacy for developmentally disabled persons; university affiliated programs (UAP's)—authorizes $30.6 million in FY 1988-90 for existing UAP's and $15 million in FY 1988-90 for training grants in areas of emerging national significance related to developmentally disabled persons; allows the use of funds to study the feasibility of establishing new UAP's and satellite centers and directs the Secretary of HHS to consider expanding into unserved States; and requires that a UAP applicant demonstrate coordination between its activities and those conducted under the State plan; projects of national significance—authorizes $3.65 million annually in FY 1988-90 for the Secretary of HHS to make grants to, or contract with, agencies and nonprofit entities for projects of national significance related to developmentally disabled persons and to educate policymakers, develop a data collection system, determine the feasibility of developing a nationwide information and referral system, and pursue interagency initiatives and other projects which expand opportunities for the developmentally disabled.

Infant Mortality: S 1441—Passed Senate August 6, 1987.

Increased the FY 1988 authorization for Migrant Health Centers by $3 million and for the Community Health Centers program by $35 million to expand and improve maternal and child health services to combat high rates of infant mortality; requires the Secretary of HHS, to give priority to rural areas designated as frontier areas and to use FY 1988 appropriations in excess of $418 million for grants to support special prenatal services and coordinated projects; increases the FY 1988 authorization for the Area Health Education Centers program by $3 million and requires that an equal amount of FY 1988 appropriations be used for contracts to support programs to train maternal and child health care personnel to work in underserved areas, frontier areas, the Pacific Basin region, and areas with disproportionately high infant mortality and low birthweight rates; and authorizes $4 million in FY 1988 for a new grant program for nonprofit nursing schools to operate fellowship programs for training nurse midwives and pediatric, family obstetric, and gynecologic nurse practitioners with priority given to applicants employed by Community, Migrant Health, Indian, or Native Hawaiian health centers.

Minority Health Education: S. 769—Public Law 100-97, approved August 18, 1987.

Authorizes $10 million in FY 1988, and such sums as necessary in 1989-91, to the Secretary of HHS for grants to centers for minority health professions education.

Nursing Shortage Reduction: S. 1402—Passed Senate August 5, 1987.

Establishes initiatives to reduce nursing shortages including, a special advisory committee of health care professionals to develop long-term solutions to the problems of recruiting and retaining professional nurses; a matching grant to a nonprofit private entity to demonstrate and evaluate innovative hospital nursing practice models designed to reduce vacancies in hospital nursing positions; grants and contracts with collegiate nursing schools to demonstrate and evaluate innovative nursing practice models to provide long-term health care; and grants and contracts to develop, establish, and operate regional model professional nurse recruitment centers.

Physician Comparability Allowance Extension: S. 1666—Public Law 100-140, approved October 26, 1987.

Reauthorizes the Federal Physicians Comparability Allowance Act through FY 1991; increases the minimum annual physicians comparability allowance from $7,000 to $10,000 and the maximum allowance from $10,000 to $20,000; and provides special pay for psychologists in the commissioned corps of the Public Health Service.

Public Health Service Amendments: S. 1158—Public Law 100-177, approved December 1, 1987.

Reauthorizes programs and activities under Title II of the Public Health Service Act for three years through FY 1990 which include the National Center for Health Services Research and Health Care Technology, the National Center for Health Statistics, immunization grants, vaccine stockpiles, tuberculosis grants, the National Health Service Corps (NHSC), the Council on Health Care Technology, and NHSC Scholarships; authorizes the Centers for Disease Control to maintain a six-month vaccine stockpile; establishes a NHSC Loan Repayment Program to pay up to $20,000 of a health care provider's student loans in exchange for service in a Corps health manpower shortage area, and authorizes the Secretary to make loans to a Corps member who agree to enter into full-time private practice in a health manpower shortage area; authorizes a new three-year NHSC grant program for State loan repayment programs; requires the Secretary of HHS, in assigning Corps personnel, to give priority to the Indian Health Service, and in assigning NHSC family practitioners, to consider the geographic isolation of the area, the economic need of the population, and the infant mortality rate; and prohibits the discharge in bankruptcy of any payback requirement under the NHSC Scholarship Program unless the Bankruptcy Court finds that nondischarge would be unconscionable.

Radon Program Development: S. 744—Passed Senate July 8, 1987.

Directs EPA to assist States in developing and implementing radon programs and authorizes $10 million annually in FY 1988-90 for State grant assistance; authorizes $1.5 million to expand and improve EPA's radon training and proficiency testing programs and $1.5 million for an EPA survey of radon contamination in public schools; and requires the Department of Agriculture, Interior, and Defense, the GSA and VA to conduct studies on radon contamination in Federal buildings.

HOUSING

Ginnie Mae Guaranty Fee Limitation: H.R. 1056—Public Law 100-14, approved March 24, 1987.

Limits to six basis points the fee that the Government National Mortgage Association (Ginnie Mae) may charge for the guaranty of mortgage-backed securities insured by the FHA, VA, or FmHA.

Housing and Community Development Programs Extension: S. 825—Public Law 100- , approved , 1987. (49)

Extends for through FY 1989 programs authorized under the Housing and Community Development Act of 1974; and makes other modifications to the Act.

S.J. Res. 191—Public Law 100-122, approved September 30, 1987.

Extends through October 31, 1987, certain programs authorized under the Housing and Community Development Act of 1974, including the Federal Housing Administration Mortgage Insurance Programs, the Rehabilitation Loan Program, the Rural Housing Programs, the Community Development

Block Grant Program, and the contract authority for the National Flood Insurance policies; also extends through October 31, 1987, the Solar Energy and Energy Conservation Bank authorization, the authority for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation to purchase second mortgages, the limitation on amounts to be insured under the National Housing Act, and the Farmers Home Administration prepayment moratorium.

S.J. Res. 209—Public Law 100-154, approved November 5, 1987.

Provides an additional extension, through November 15, 1987, for the programs authorized under the Housing and Community Development Act of 1974, and previously extended under Public Law 100-122, which expired on October 31, 1987.

S.J. Res. 220—Public Law 100-170, approved November 18, 1987.

Provides an additional extension, through December 2, 1987, for the programs authorized under the Housing and Community Development Act of 1974, and previously extended under Public Law 100-154, which expired on November 15, 1987.

H.J. Res. 404—Public Law 100-179, approved December 3, 1987.

Provides an additional extension, through December 16, 1987, for the programs authorized under the Housing and Community Development Act of 1974, and previously extended under Public Law 100-170, which expired on December 2, 1987.

H.J. Res. 427—Public Law 100- , approved , 1987.

Provides an additional extension, through March 15, 1988, for the programs authorized under the Housing and Community Development Act of 1974, and previously extended under Public Law 100-179, which expired on December 16, 1987.

Section 515 Prepayment Moratorium: S. 1430—Passed Senate June 26, 1987.

Imposes a moratorium until January 1, 1988, on prepayments under section 515 of the Housing Act of 1949, unless the loan was made or insured (1) at least 20 years prior to the date of prepayment, or (2) made or issued pursuant to a contract entered into before December 21, 1979, and the Secretary determines that the prepayment or refinancing will not result in a substantial rent increase or the displacement of tenants.

INDIANS

Alaska Native Claims Settlement: H.R. 278—Passed House March 31, 1987; Passed Senate amended October 30, 1987.

Amends the Alaska Native Claims Settlement Act to provide Alaska Natives with certain options for the continued ownership of lands and corporate shares received pursuant to the Act.

Brown-Stevens Act Repeal: H.R. 2639—Public Law 100- , approved , 1987.

Repeals the Brown-Stevens Act which authorizes State and local taxation of Indian allotted lands on the Omaha and Winnebago Indian Reservations in Nebraska, retroactive to January 1, 1951, and extends for one year until March 12, 1989, the deadline for the Bureau of Indian Affairs to compile and publish the final list of land allotments or interests within certain claim categories on the White Earth Indian Reservation.

Cow Creek Band of Umpqua Indians Judgment Fund Distribution: H.R. 1567—Public Law 100-139, approved October 26, 1987.

Provides for the distribution and use of the $1.5 million (already appropriated) judgment awarded to the Cow Creek Band of Umpqua Indians in Oregon; provides for the funding of various tribal programs and expenses from the interest paid on the trust fund including elderly assistance, higher education and vocational training, housing assistance, and economic development programs; and provides guidelines for establishing the tribal membership, governing documents, and the governing body of the tribe.

Gay Head Indian Lands Settlement: H.R. 2855—Public Law 100-95, approved August 18, 1987.

Settles the land claims of the Wampanoag Tribal Council of Gay Head, Inc. in the town of Gay Head, Massachusetts, by providing that certain lands will be transferred to, or acquired for, the Council by the Federal government and the State of Massachusetts and authorizes $2.2 million of the Federal share of land acquisition costs.

Indian Health Service (IHS) Clinical Staffing Recruitment and Retention: S. 1475—Passed Senate November 18, 1987, 1987.

Directs the Secretary of HHS to establish and implement a staff recruitment and retention program which will ensure an adequate supply of clinical staff for the Indian Health Service (IHS), including a loan repayment program which would authorize the IHS to recruit health professionals who agree to serve with the IHS and receive up to $25,000 in student loans per year in exchange for each year of obligated service, and programs, to enhance personnel recruitment and retention which include a retention bonus of $12,000 to $25,000 per contract year for employees who commit to additional years of service after three years; establishes an advisory panel of health professionals to review and report on policies and procedures, including pay scales, which impede recruitment and retention; and extends the Federal Tort Claims Act to Indian tribes or tribal organizations having contracts with HHS to operate IHS facilities or health delivery programs.

Indian Financing: S. 1360—Passed Senate November 17, 1987.

Amends the Indian Financing Act of 1974 to: increase the loan guarantee authority ceiling from $200 million to $500 million; raise the ceiling on loans to individual Indians or economic enterprises from $350,000 to $500,000; eliminate the restriction on the sale or assignment of loans only to State or Federally-regulated banks; require the Secretary of the Interior to seek supplementary appropriations if insufficient funds are available to pay losses on the guaranteed loan program; and permit surety bond guarantees of up to 90 percent of the contract amount, proportionate to the percentage of Indian ownership, or a maximum $1.25 million.

Indian Fishing Rights: S. 727—Passed Senate May 13, 1987.

Specifies that income derived by Indians from the exercise of fishing rights secured by treaty, Executive Order, or act of Congress is tax exempt.

La Jola, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians, California, Water Rights Claims Settlement: S. 795—Passed Senate December 19, 1987.

Provides for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, and for a sufficient amount of water to be made available in the San Luis Rey River basin to satisfy the needs of all water users.

Laws Relating to Indians—Technical and Minor Amendments: H.R. 293—Public Law 100-153, approved November 5, 1987.

Makes miscellaneous technical and minor amendments to various statutes relating to Indians.

Seminole Indian Land Claims Settlement, Florida: S. 1684—Public Law 100- , approved , 1987.

Settles a dispute arising out of a State grant of a water flowage easement over lands in the East Big Cypress State Reservation of the Seminole Tribe of Florida.

Ysleta del Sur Pueblo, Alabama, and Coushatta Tribes of Texas Restoration: H.R. 318—Public Law 100-89, approved August 18, 1987.

Restores the Federal trust relationship to the Alabama and Coushatta Indian Tribes and the Ysleta del Sur Pueblo Tribe located in Texas.

INTERNATIONAL (SEE ALSO TREATIES)

Anti-Drug Effort Certifications Disapproval—Panama: S.J. Res. 91—Passed Senate April 3, 1987.

NOTE: (On the same day, the Senate tabled similar resolutions with respect to Mexico and the Bahamas.) (63)

Disapproves the President's certification, as required by Section 481(h) of the Foreign Assistance Act of 1961, that Panama has cooperated fully in matters related to drug interdiction and eradication efforts and in preventing and punishing the laundering of drug-related profits or moneys. NOTE: (Under the Anti-Drug Abuse Act of 1986 (P.L. 99-570) the President is required to certify to Congress by March 1 of each year that 24 specified countries, which are recipients of U.S. aid, have in the past year cooperated fully with the U.S. in its effort to eradicate the drug problem or be subject to stiff sanctions, including a 50 percent reduction in U.S. foreign aid. The Act further provides for Congressional disapproval of any certification by passage of a joint resolution of disapproval, within 30 calendar days of its receipt, under expedited procedures. The President submitted the required certification with respect to Panama on March 1. Because Congress did not act before the expiration of the 30-day period, or April 2, the disapproval resolution would have no punitive effect.)

Arias Nobel Peace Prize: S. Con. Res. 83—Senate agreed to October 15, 1987.

Congratulates President Arias as the recipient of the Nobel Peace Prize; recognizes the August 7 Guatemala Peace Accord as an historic achievement; urges the parties to the peace accord to implement its provisions in good faith; and pledges Congressional support and full cooperation with respect to the good faith implementation of the August 7, 1987, Central America peace agreement.

Arms Control and Disarmament Agency (ACDA) Authorization: H.R. 2689—Public Law 100-. , approved , 1987.

Authorizes $29 million for the ACDA in FY 1988 (the same as its FY 1987 level) and $29.8 million in 1989; earmarks $780,000 for external research on possible new systems, devices, and capabilities for arms control verification; limits funding for other external research programs to a total of $3 million and $1.560 million for each project; earmarks $7.063 million for expenses related to the Geneva negotiations and $310,000 for the William C. Foster Fellows Program; requires the U.S. Commissioner of the Standing Consultative Commission to report annually to Congress on strategic arms treaty compliance questions and related issues; clarifies and expands the requirements of the annual Presidential report on compliance by the U.S. and other nations with arms control agreements; requires the ACDA Director to report annually to Congress on arms control and disarmament issues including a comprehensive list of related R&D and other studies performed for and by the government; establishes an Office of the Inspector General at ACDA and requires the Inspector General to report to the ACDA Director and Congress on agency security procedures and practices.

Central American Initiative Support: S. Con. Res. 24—Senate agreed to March 12, 1987. (30)

States that Congress (1) appreciates the recent bold initiative by the heads of state of Costa Rica, El Salvador, Guatemala, and Honduras (the Arias Proposal), and congratulates them on their significant contributions toward ending armed conflict and reinforcing democracy in Central America; and (2) supports the thrust of this initiative and looks forward to the May summit meeting in Esquipulas, Guatemala.

Contra Aid Disapproval: S.J. Res. 81—Senate rejected March 18, 1987. (31)

Disapproves the provision of additional assistance ($40 million) to the Nicaraguan Democratic Resistance, pursuant to title II of the Military Construction Appropriations Act of 1987, except as provided in section 211(b) thereof within the limits of funds previously made available. NOTE: (Section 211(b) limits assistance to the Contras to humanitarian assistance, logistics advice and assistance, support for democratic political and diplomatic activities, intelligence gathering activities, and equipment and supplies necessary for defense against air attacks.)

European Community Certification of U.S. Meat Plants: S. Con. Res. 77—Senate agreed to September 18, 1987.

States the sense of the Congress that the Administration should: vigorously oppose the implementation of the European Community (EC) directive which will limit U.S. access to EC agricultural markets; adopt strong and immediate countermeasures if the EC denies U.S. meat imports based on standards which are scientifically unsubstantiated or are not applied to intracountry trade within all EC member states; and communicate to the EC that the U.S. views the directive as inconsistent with the EC's obligations under GATT.

Fiji Democracy: S. Res. 302—Senate agreed to December 18, 1987.

Expresses Senate support for the rapid return to a democratic constitutional government in Fiji; deplores the creation of any political system which would give citizens of a nation more or less political influence based simply on ethnic identity; urges the Administration to undertake vigorous diplomatic efforts to convince the current government of Fiji to return to constitutional democracy; and supports the continued cessation of U.S. foreign assistance to Fiji until it has a constitutional and democratic government.

Haitian Election Collapse: S. Res. 336—Senate agreed to December 4, 1987.

States that the Senate deplores the failure of the Haitian imterim government to bring about democratic elections; condemns the disbanding of the constitutionally mandated Provisional Electoral Council; holds the National Governing Council responsible for the attacks on innocent civilians and disruption of the election process; supports the U.S government's decision to suspend all nonhumanitarian aid to Haiti and withdraw all military training personnel; and calls on the U.S. and all nations to cut off all aid and sale of arms to the Haitian government and to provide humanitarian aid through nongovernmental organizations.

Haitian Presidential Election: S. Res. 330—Senate agreed to November 20, 1987.

States the sense of the Senate that all parties in Haiti should refrain from violence and that the National Governing Council should act on its pledge to apprehend and bring to justice persons responsible for violent attacks against the Provisional Electoral Council, the National Governing Council should cooperate with the Provisional Electoral Council to assure a free and fair election and provide security and protection to the Electoral Council and presidential candidates, and the President of the U.S. should suspend all military assistance to Haiti if the National Governing Council fails to take appropriate steps to fulfull these recommendations.

Haitian Human Rights: S. Res. 248—Senate agreed to July 30, 1987.

States the sense of the Senate that: the President should make clear U.S. support for a full and functioning democracy in Haiti; the National Council of Government should abide by the constitution which mandates an independent body to organize and conduct elections, be responsive to the conditions of U.S. economic and military assistance established in the Foreign Assistance Act of 1986 (P.L. 99-529), and redouble its efforts to demonstrate progress in investigations into past human rights abuses by the Haitian armed forces and safeguard against future abuses; the Haitian armed forces should respect human rights and exercise restraint; and all Haitians should work to avoid further violence in the transition to democracy.

Iran-Iraq Ceasefire: H.J. Res. 216—Public Law 100-96, approved August 18, 1987. (231)

States Congressional findings that continuation of the Iran-Iraq war would produce unacceptable levels of death and destruction incompatible with the humanitarian concerns and values of the American people and could result in an Iranian breakthrough which would threaten the stability of the entire region and would not be in the U.S. strategic interest; states U.S. policy in support of a ceasefire and negotiated solution to the conflict, including a withdrawal to the internationally recognized border, and the establishment of an international tribunal to investigate the origins of the conflict; and expresses the sense of the Congress that if either party to the conflict rejects peace negotiations and an internationally sanctioned ceasefire, including a withdrawal to the internationally recognized border, the U.S. should support internationally approved political and economic measures against that country and maintain existing limitations on trade.

Iranian Imports Ban: S. 1748—Senate agreed to October 6, 1987. (301)

Prohibits the importation of all products into the U.S. from Iran; permits the President to delay implementation of the prohibition for up to 180 days if he submits a report to Congress explaining his reasons for doing so and specifying how the national interest would be jeopardized by the prohibition's implementation; and makes the prohibition effective following any 180-day delay unless further extended by enactment of a joint resolution.

Korean Democracy: S. Res. 241—Senate agreed to June 27, 1987. (165)

States the sense of the Senate that the U.S.: supports Korean efforts to establish fair and free elections and peacefully evolve to a full democratic government; recognizes President Chun Doo Hwan's commitment to initiate the first peaceful transition of power in Korea by stepping down in March 1988; calls upon all parties in Korea to resume the search for peaceful democratic reform; and that the President of the U.S. should undertake all possible efforts to facilitate dialogue and negotiation among all parties to achieve democracy in the Republic of Korea.

Latvian Independence Day: S. Con. Res. 87—Senate agreed to November 6, 1987.

Supports the right of the Latvian people to peaceably assemble to commemorate important dates in their history and urges the Soviet government to allow the Latvian people to publicly commemorate their independence day on November 18, 1987, halt immediately the harassment of members of Latvian human rights groups, and release all Latvian prisoners of conscience prior to independence day; and states that the President and the Secretary of State should raise the issues of human rights and self-determination in the Baltic states during the next U.S.-Soviet summit.

Lithuanian Human Rights: S. Res. 232—Senate agreed to July 1, 1987.

Deplores Soviet denial of religious liberty and other human rights in Lithuania and elsewhere, and sends the Senate's greetings on the occasion of the 600th anniversary of Christianity in Lithuania; urges the President, the Secretary of State, and the U.S. delegation to the Vienna Review Meeting of the Conference on Security and Cooperation in Europe to continue speaking out against violations of religious liberty everywhere and specifically in Lithuania; and calls upon the Soviet Union to abide by the Universal Declaration of Human Rights, and the Final Act of the Conference on Security and Cooperation in Europe, including the religious liberty provisions.

Montreal Protocol to Control Ozone Depleting Substances: S. Res. 312—Senate agreed to November 2, 1987.

States the sense of the Senate that the U.S. should take a leadership role and set an example for the rest of the world to protect the environment by ratifying the Montreal Protocol to Control Ozone Depleting Substances as quickly as possible and the President should immediately call upon a sufficient number of countries to ratify the Protocol so that it may enter into force.

Ozone Negotiations Resolution: S. Res. 226—Senate agreed to June 5, 1987. (147)

Urges the President to endorse the U.S. original position in ongoing international negotiations to protect the earth's ozone layer and continue to seek an immediate freeze in the production of major ozone-depleting chemicals at 1986 levels, a prompt automatic reduction of not less than 50 percent in the production of such chemicals, and the virtual elimination of such chemicals; and states that the agreement should provide for regularly scheduled assessments of scientific, economic, and technological factors.

Pakistan Assistance: S. Res. 266—Senate agreed to July 31, 1987.

Expresses the sense of the Senate in support of the President's forthcoming efforts to gain Pakistan's compliance with its past commitments, including those not to produce weapon-grade nuclear materials and urges the President to (1) inform Pakistan that its verifable compliance with these commitments is vital to further U.S. military assistance, and (2) pursue an agreement by India and Pakistan for simultaneous accession to the Nuclear Non-Proliferation Treaty and acceptance of the International Atomic Energy Agency safeguards for all nuclear installations, mutual inspection of each other's nuclear installations, renunciation of nuclear weapons through a joint declaration, and the establishment of a nuclear weapons free zone in the sub-continent.

Panamanian Democracy: S. Res. 239—Senate agreed to June 26, 1987. (163)

Expresses the sense of the Senate that the Panamanian government should: restore suspended Constitutional guarantees to its people; establish genuine autonomy for civilian authorities and remove the Panamanian Defense forces from non-military activities; provide for an impartial investigation of the allegations against certain officials of the Panamanian defense forces; take specific steps to ensure free and fair elections, the establishment of an independent judicial system, and the guarantee of a professional, nonpolitical military establishment under civilian control; and in accord with the Judicial Code of Panama, direct the current commander of the Panamanian defense forces and any other implicated officials to relinquish their duties pending the outcome of the investigation.

Philippines Resolution: S. Res. 103—Senate agreed to February 19, 1987. (29)

Reaffirms U.S. Support for the government of the Philippines under the leadership of President Corazon Aquino on the occasion of the approval of the new constitution by the Philippine people; commends President Aquino for the progress toward democracy and justice she has achieved in her first year in office; and praises the continued commitment of the Philippine government and people to strengthen their democracy and achieve significant economic, political, and military reform.

Philipppine Support: S. Res. 282—Senate agreed to September 11, 1987. (241)

Sends the Senate's congratulations to the Philippine people and the loyal Philippine military for their commitment to democracy; renews the Senate's full support for the efforts of President Aquino in the development of democratic institutions and the stability in the Philippines; recognizes the overriding importance of defeating the communist insurgency and that economic recovery based on free enterprise is crucial to the attainment of a stable democracy; notes that U.S. law requires the suspension of aid if an elected head of state is overthrown; and urges the government to address the problems of corruption within the government.

Silkworm Missiles Transfer: S. Res. 84—Senate agreed to October 22, 1987.

States the sense of the Congress that: the U.S. should review all transfers of U.S. military related technology to the Peoples Republic of China until that government indicates its willingness to support an arms embargo if U.N. negotiations with Iran and Iraq fail to gain Iran's acceptance of Security Council Resolution 598; the Administration should strongly represent to the Chinese government that the continued transfer of Silkworm missiles to Iran seriously jeopardizes U.S.-China relations; and the Administration should report to Congress, within 30 days of enactment, whether such representation has been received, and the Chinese government's response.

Soviet Embassy Site: S. Res. 261—Senate agreed to July 30, 1987.

Declares that the President should void the current embassy site and construction agreements with the Soviet Union and enter into negotiations for a new agreement under which the Soviets will move their new embassy to a site in the District of Columbia that is no more than 90 feet above mean sea level.

Soviet Emigration of Individuals with U.S. Spouses: H.R. Res. 100—Public Law 100- , approved, 1987.

Welcomes the recent granting by the Soviet Union of permission to emigrate to several Soviet citizens who have been divided for many years from their American spouses and fiancés; calls upon the Soviet union to immediately grant to all those who wish to join spouses or fiancés in the U.S. permission to emigrate with their family members and to give special consideration to cases that have remained unresolved for many years.

Soviet Human rights: S. Con. Res. 8—Senate agreed to January 21, 1987. (5)

Protests continued human rights repression in the Soviet Union; declares that these abuses seriously affect the atmosphere for productive negotiations on U.S.-U.S.S.R. bilateral relations; calls on Soviet authorities to permit the release and emigration of "refuseniks"; and makes Congressional support of the restortation of human rights to all Soviet citizens, especially the internationally recognized right of Soviet Jews and others to emigrate, a priority of the 100th Congress.

Soviet Occupation of Afghanistan: S. Res. 31—Senate agreed to January 6, 1987. (2)

Renews Senate condemnation of the Soviet invasion and continued occupation of Afghanistan and its commitment to support the Afghan people through the provision of appropriate material support.

Soviet Release of Igor V. Ogurstov: S. Res. 98—Senate agreed to March 11, 1987.

Expresses the sense of the Senate that the Soviet Union should release Igor V. Orgurstov from internal exile and allow him to emigrate to the West without renouncing his views.

Soviet-U.S. Arms Control: S. Res. 94—Senate agreed to February 17, 1987. (27)

Expresses the Senate's support for the President's commitment to achieve mutual, equitable, verifiable, and stablilizing nuclear arms reduction agreements with the Soviet Union; encourages both nations to use determined and creative diplomacy to resolve their differences; cautions the Soviet Union against pursuing strategies designed to exploit American domestic politics or to divide the U.S. from its allies in an effort to secure advantages on arms reduction matters; urges the Soviet Union not to condition progress in all arms control matters on strategic defense technologies related issues; declares that an important obstacle to the achievement of acceptable arms control agreements with the Soviet Union has been that nation's violations of existing agreements and calls for rectification of the violations; and urges the President to closely consult with America's allies and the Senate in the construction of sound arms reduction agreements.

Soviet/U.S. Family Visitations: S. Con. Res. 29—Senate agreed to July 29, 1987; H. Con. Res. 68—Action completed November 4, 1987.

States the sense of the Congress that the promotion of unrestricted family visits between related people of the U.S. and the Soviet Union is an essential part of American policy toward the Soviet Union, and that the Administration should raise this issue in discussions with the leadership of the Communist Party and the Soviet government.

State Department Authorization: H.R. 1777—Passed House June 23, 1987; Public Law 100-approved——,——, 1987. (315)

Authorizes a total of $,121,344,000 in FY 1988 and $4,222,752,000 in 1989 for the foreign affairs functions of the United States which includes $3,100,821,000 in 1988 and $3,162,837,000 in 1989 for the Department of State, $437.4 million in 1988 and $446.3 million in 1989 for the United States Information Agency (USIA), and $186 million in 1988 and $207.4 million in 1989 for the Board for International Broadcasting (which makes grants to Radio Free Europe/Radio Liberty); authorizes the Secretary of State to implement a counterintelligence polygraph examination program for Diplomatic Security Service members; restricts the acquisition of real property in the U.S. by or on behalf foreign missions for certain countries if it would substantially improve that country's ability to engage in intelligence activities hostile to the U.S.; requires the U.S. to withdraw from the construction and site exchange agreements with the Soviet Union governing the new embassies of both countries, unless the President reports to Congress, six months after enactment, that all feasible and affective steps are being or will be taken to secure the U.S. embassy in Moscow and remove the threat to the U.S. security from the Soviet occupation of the Mount Alto, D.C. site; contains a number of provisions addressing the new U.S. embassy in Moscow and dealing with the security of U.S. embassies overseas generally; expresses the sense of the Congress with respect to the Soviet ICBM test off Hawaii; limits pay out of the U.S. contribution to the United Nations pending U.N. implementation of the consesus-based decision-making process; states that, if Israel is denied its legal right to participate in the U.N., the U.S. will suspend participation in all U.N. activities, except the Security Council and the International Atomic Energy Agency safeguards program, until the action is reversed; requires that the negotiation of updated extradition treaties to ensure that narcotics traffickers can be extradited to the U.S. be made a priority in the country plan for U.S missions in each drug producing or transiting country; requires that the Secretary of Commerce certify that foreign bidders are not receiving direct subsidies that would disadvantage U.S. citizens bidding on Voice of America's facilities modernization program projects; reinstitutes normal immigration from Cuba and third countries; calls on the President to work with the EPA Administrator to develop and propose to Congress a coordinated national policy on global climate change; tightens certain statutory provisions relating to diplomatic immunity to provide legal recourse for U.S. citizens injured in automobile accidents involving foreign diplomats; and prohibits the solicitation or receipt of funds to provide living quarters for the Secretary of State.

Transfer of F-15 Aircraft to Saudi Arabia: H.R. 3282—Passed House October 19, 1987; Passed Senate amended December 9, 1987.

Establishes the terms and conditions for the sale or other transfer of F-15 aircraft to Saudi Arabia; and allows the obsolete submarine U.S.S. Turbot to be transferred to Dade County, Florida, before the expiration of the applicable 60-day Congressional review period.

U.N. International Conference on Drug Abuse and Illicit Trafficking: S. Res. 238—Senate agreed to June 26, 1987. (159)

States that the Senate strongly urges the U.S. delegation to the International Conference on Drug Abuse and Illicit Trafficking to secure firm commitments from the governments of drug-producing and drug-transit countries to: make drug abuse and trafficking priorities in their domestic governments as well as international policy; reduce illicit drug crop production and transshipment; design and participate in more effective methods of sharing intelligence and information for cooperative international drug law enforcement; negotiate extradition treaties and mutual legal assistance treaties for mutual enhancement of efficient drug enforcement; and support the initative to develop a new convention to combat illicit narcotic traffic.

U.N. Resolution on Zionism: S.J. Res. 205—Public Law 100-169, approved November 18, 1987.

Declares that the U.N. General Assembly Resolution 3379, which equates Zionism with racism, should be overturned.

U.S. Foreign Language Skills: S. Con. Res. 26—Senate agreed to March 6, 1987.

Expresses the sense of the Congress that a cooperative effort to improve the foreign language skills and international awareness of the American people will help the U.S. compete economically.

Venice Economic Summit: S. Res. 220—Senate agreed to June 4, 1987.

States the sense of the Senate that the President should make agricultural issues a priority of the Venice Economic Summit in June and that the participating nations should make a coordinated effort to reduce surplus agricultural supplies and eliminate agricultural export subsidies.

S. Res. 225—Senate agreed to June 4, 1987. (146)

States the sense of the Senate that the President should encourage the Allies at the upcoming Venice Economic Summit to cooperate in diplomatic and military measures to ensure Western security interests in the Persian Gulf and seek commitments from: (1) Germany and Japan to reduce their trade surpluses by substantially increasing their imports; (2) the European Community and Japan to liberalize their agricultural import policies; and (3) other participants at the summit to contribute and cooperate with the U.S. and international efforts to combat and prevent the spread of AIDS.

Vietnam MIA Negotiations: S. Res. 255—Senate agreed to July 28, 1987. (213)

Expresses the Senate's support for General Vessey in his forthcoming negotiations to determine the fate of those Americans missing in action in Southeast Asia, facilitate the return of the recoverable remains of those missing in action, and discuss the remaining humanitarian issues affecting both nations; and calls on Vietnam to respond positively to these concerns in a humanitarian context.

Vietnam Political Prisoners: S. Res. 205—Senate agreed to May 1, 1987.

States the sense of the Senate that Vietnam should immediately release prisoners held because of their association with the South Vietnamese government before 1975, and fulfill its commitment to negotiate their humane resettlement abroad or to rejoin family members outside of Vietnam; and immediately resume processing family reunification cases under the U.N. High Commissioner for Refugees' Orderly Departure Program.

JUDICIARY AND ADMINISTRATION OF JUSTICE

Child Abuse Prevention and Treatment: H.R. 1900—Passed House June 8, 1987; Passed Senate amended November 3, 1987; in conference.

Reauthorizes, for four years, the Child Abuse Prevention and Treatment program at $48 million in FY 1988, $55 million in 1989, $60 million in 1990, and $66.5 million in 1991, the Adoption Opportunities program at $7 million in 1988, and such sums as necessary in 1989-91, and the Family Violence Prevention and Services program at $26 million in FY 1988, and such sums as necessary in 1989-91; requires establishment of a national data collection and analysis program on, and, national resources centers addressing issues of, child abuse and neglect; extends waivers through FY 1988, to States which do not have in place procedures or programs to report medical neglect, and are making a good faith effort; calls for studies on legal representation in child abuse and neglect cases in each State and on the incidence of abuse among handicapped children; targets demonstration grants for training to interagency demonstration programs and those targeted at the prevention and treatment of alcohol-related child abuse and neglect, home health visitor programs, and a parent self-help program of demonstrated effectiveness and national scope; establishes a Presidential Commission on Child and Youth Deaths, authorizes new demonstration grant priorities in the Adoption Opportunities program to fund programs designed to increase the placement of minority children in adoptive families, with a special emphasis on recruiting minority families, and to award grants to agencies to provide post-legal adoption services to adoptive families of special needs children; authorizes new discretionary grants to provide bonus payments of up to $1 million to States which increase the number of permanent adoptive placements for legally adoptable foster care children; and strikes the prohibition on awarding Family Violence Prevention and Services program demonstration grants to a shelter for more than three fiscal years.

Clayton Act Amendments: S. 1068—Passed Senate July 31, 1987.

Amends section 8 of the Clayton Act, which prohibits individuals from serving on the boards of competing corporations, to raise its jurisdictional threshold for application to corporations having a net worth of $10 million (rather than $1 million as at present) to be adjusted annually based on GNP growth; creates three *de minimis* exceptions to Clayton Act application in cases of insignificant competitive overlaps; expands coverage to officers elected or chosen by the board of directors; modifies the antitrust premerger notification system of the Act to include within the definition of a "person," for purposes of premerger notification requirement, a general and controlling partner with an equity interest of 50 percent of more; increases the monetary threshold requirements to require the reporting of transactions if the annual net sales or total assets of the smaller of the involved parties equals $15 million or more and the acquiring party would hold more than $20 million worth of the acquired party's voting securities and assets; lengthens from 25 to 40 days the period which antitrust enforcement agencies have to review cash-tender merger offers; and allows the antitrust enforcement agencies to petition to courts for up to 25 additional days to review complex mergers.

Criminal Fines: H.R. 3483—Public Law 100-185, approved December 11, 1987.

Establishes maximum fines for convicted individuals and organizations; outlines certain factors to be considered in imposing a fine and various payment methods for paying the fine; establishes interest and penalty rates if the defendant fails to pay the imposed fine within established deadlines; and allows the Attorney General to waive all or part of any interest or penalty if he/she determines that reasonable collection efforts would be ineffective.

Independent Counsel Authorization: H.R. 2939—Public Law 100-191, approved December 15, 1987. (365, 386)

Reauthorizes for five years the independent counsel statute under Title VI of the Ethics in Government Act of 1978, and clarifies and modifies certain provisions governing the independent counsel process.

Justice Department Authorization: S. 938—Passed Senate July 31, 1987.

Authorizes $5.5 billion for Department of Justice activities in FY 1988-89 including funding for general administration, the Federal Bureau of Investigation, the Drug Enforcement Agency, the Immigration and Naturalization Service, and the U.S. Marshals Service; permanently enables the DOJ's financial management authorities; and contains authorizations and exemptions, which shall expire on October 1, 1989, for the conduct of undercover investigations.

Retirement Benefits Bankruptcy Protections: S 903—Public Law 100-41, approved May 15, 1987.

Extends from May 15, 1987, until September 15, 1987, certain provisions under title 11 of the Bankruptcy Code relating to the protection of retiree health benefits when companies file for bankruptcy.

S. 548—Passed Senate July 24, 1987.

Amends the Bankruptcy Code to require companies which file for bankruptcy to continue the insurance benefits payments of retirees who had gross incomes of less than $250,000 during the 12-month period preceding the bankruptcy filing; establishes procedures for petition or modification of the benefits payments; provides for the conversion from chapters 11 or 13 to chapter 12 bankruptcy proceedings of eligible family farm bankruptcy cases commenced before November 26, 1986, which are pending or reviewable; prohibits the discharge in bankruptcy of an individual debtor's Guaranteed Student Loan obligations and any debt arising from a judgment or consent decree which requires restitution for violating a State law; and provides for an additional bankruptcy judge in each of the judicial districts of Colorado and Arizona.

S. 1577—Public Law 100-99, approved August 18, 1987.

Extends from September 15, 1987, until October 15, 1987, certain provisions under title 11 of the Bankruptcy Code relating to the protection of retiree health benefits when companies file for bankruptcy.

S. 1783—Passed Senate October 14, 1987.

Extends from October 15, 1987, until November 15, 1987, certain provisions under title 11 of the Bankruptcy Code relating to the protection of retiree health benefits when companies file for bankruptcy.

H.R. 2969—Passed House October 13, 1989; Passed Senate amended October 30, 1987.

Extends from November 15, 1987, until enactment of this Act or December 31, 1987, whichever is earlier, certain provisions under title 11 of the Bankruptcy Code, relating to the protection of retiree health benefits when companies file for bankruptcy; amends the Bankruptcy Code to require companies which file for bankruptcy to continue the insurance benefits payments of retirees who had gross incomes of less than $250,000 during the 12-month period preceding the bankruptcy filing; establishes procedures for petition or modification of the benefits payments; provides for the conversion from chapters 11 or 13 to chapter 12 bankruptcy proceedings of eligible family farm bankruptcy cases commenced before November 26, 1986, which are pending or reviewable; prohibits the discharge in bankruptcy of an individual debtor's Guarantee Student Loan obligations and any debt arising from a judgment or consent decree which requires restitution for violating a State law; and provides for an additional bankruptcy judge in each of the judicial districts of Colorado and Arizona.

Semiconductor Chip Protection Extension: S. 442—Public Law 100-159, approved November 9, 1987. (366)

Extends, from November 8, 1987, until July 1, 1991, the authority of the Secretary of Commerce to issue interim orders providing protection in the U.S. to semiconductor chip designs first commercially exploited outside the U.S.; requires the Secretary, in consultation with the Register of Copyrights, to report to Congress by July 1990, on the status of international laws protecting semiconductor chips; and codifies the authority of the President to suspend, revise, or revoke proclamations issued pursuant to the Semiconductor Chip Protection Act of 1984.

Sentencing Reform Amendments: S. 1822—Public Law 100-182, approved Devember 7, 1987.

Amends the Sentencing Reform Act of 1984 to provide for the implementation of the Federal sentencing guidelines effective November 1, 1987, including provisions which clarify the standards for departure from the guidelines; authorizes the Sentencing Commission to promulgate emergency guidelines when a previously promulgated guideline has been invalidated or Federal law is amended; extend the maximum terms of supervised release which an offender may be required to serve; establish guidelines for the sentencing and parole prisoners transferred from foreign countries, pursuant to treaties with the U.S.; eliminate the requirement for sentencing guidelines for petty offenses; postpone for one year the deadline for the Commission's report on the grading and penalties for offenses; and eliminate the requirement that the Commission respond to defendant petitions for guideline modifications.

U.S. Bankruptcy Judges and Magistrates Retirement Parity: H.R. 1947—Public Law 100-53, approved June 8, 1987.

Modifies Civil Service Retirement System provisions relating to U.S. magistrates and bankruptcy judges.

Venue Selection for Multiple Appeals of , approved, , 1987. S. 1134—Passed Senate December 19, 1987.
December 19, 1987.

Simplifies the selection of the proper court to handle the judicial appeal of an agency order in those cases where petitions for review are filed in more than one court of appeals.

NATURAL RESOURCES—HISTORIC SITES (SEE ALSO ENVIRONMENT)

Aircraft Altitude Over National Parks: H.R. 921—Public Law 100-91, approved August 18, 1987

Requires the Secretary of Interior to report to Congress, within three years, on the appropriate minimum altitude for aircraft flying over national parks, and sets interim limitations on flights over the Yosemite, Grand Canyon, and Haleakala National Parks.

Big Bend National Park: H.R. 2325—Public Law 100- , approved , 1987.

Directs the Secretary of the Interior to accept the donation of approximately 67,125 acres for inclusion in the Big Bend National Park in Texas.

Big Cypress National Preserve Addition: S. 90—Passed Senate December 11, 1987.

Authorizes such sums as necessary for the Secretary of the Interior to acquire 146,000 additional acres for the Big Cypress National Preserve Addition in Florida; requires the Secretary to report to Congress, within one year of enactment, on the public use and the status of land acquisition at the Preserve, and the effectiveness of the Preserve's regulation and management and recommendations for their improvement; and requires the Secretary to promulgate regulations, within nine months of enactment, relating to the exploration, development, and production of oil and gas resources within the Preserve or on private property which require access rights through the Preserve.

City of Rocks National Reserve: S. 1335—Passed Senate December 11, 1987.

Authorizes $2 million for the establishment of the City of Rocks National Reserve encompassing approximately 14,320 acres in Idaho and authorizes periodic grants to the State and local government to cover up to 50 percent of the operation and maintenance costs.

Chickamauga and Chattanooga National Military Park: H.R. 2121—Public Law 100- approved , 1987.

Directs the National Park Service to assist in relocating a highway affecting the Chickamauga and Chattanooga National Military Park in Georgia.

Delta Region Preservation Commission: H.R. 2566—Passed House September 29, 1987; Passed Senate amended December 19, 1987.

Extends the term of the Delta Region Preservation Commission from 10 to 20 years, and provides specific authority to the Department of Interior to obligate funds for the construction of Acadian Folklife Centers in the Jean Lafitte National Historical Park.

El Malpais National Monument, New Mexico: H.R. 403—Public Law 100- , approved , 1987.

Establishes a 114,000-acre national monument to be managed by the National Park Service and a 262,690-acre national conservation area managed by the Bureau of Land Management in the El Malpais area of western New Mexico; provides for designation of existing roads linking a variety of prehistoric and historic cultural sites in New Mexico and eastern Arizona as the Masau Trail; designates two areas within the conservation area as wilderness—the Cebolla Wilderness consisting of approximately 60,000 acres and the West Malpais Wilderness consisting of approximately 38,210 acres; calls for a study of roadless areas of the national monument and the restudy of the Chain of Craters for possible designation as wilderness; and contains a number of provisions to protect the rights of Indians, particularly the Acomas.

Gettysburg National Military Park: H.R. 797—Public Law 100-132, approved October 16, 1987.

Directs the Secretary of the Interior to accept the donation of approximately 31 acres of land for inclusion in the Gettysburg National Military Park in Pennsylvania and conduct a study and report recommendations to Congress, within one year of enactment, on the final development of the park.

Hagerman Fossil Beds National Monument: S. 1675—Passed Senate December 11, 1987.

Authorizes $5 million for the establishment of the Hagerman Fossil Beds National Monument consisting of approximately 4,394 acres in Idaho.

History Preservation Fund Authorization: H.R. 1744—Public Law 100-127, approved October 9, 1987.

Extends the authorization for the Historic Preservation Fund, which is currently authorized at not to exceed $150 million annually, from FY 1987-92.

Jimmy Carter National Historic Site and Preservation District: H.R. 2416—Public Law 100- , approved , 1987.

Authorizes such sums as necessary, but not more than $3.5 million for the acquisition of real and personal property, preservation easements, and development of the Jimmy Carter National Historic Site and Preservation District in Georgia.

Lowell National Historical Park: H.R. 2035—Public Law 100-134, approved October 16, 1987.

Increases the authorization for the Lowell National Historical Park from $18.5 million to $19.8 million and for the Lowell Historic Preservation Commission from $21.5 million to $33.6 million, and extends the authorization of the Commission for seven years.

Peace Garden Establishment: H.R. 191—Public Law 100-63, approved June 30, 1987.

Authorizes the establishment of a Peace Garden on a Federal land site in the District of Columbia to be selected by the Secretary of the Interior.

Pinelands National Preserve: S. 1165—Passed Senate December 11, 1987.

Authorizes $1 million for the planning and design of a visitor and environmental education center in the Pinelands National Preserve in New Jersey, $5 million for its construction, and $21.2 million for additional land acquisition in the Pinelands.

National Historic Trails Designations—Santa Fe: H.R. 240—Public Law 100-35, approved May 8, 1987.

Designates the Santa Fe Trail for inclusion in the national historic trails system. The Trail extends from Missouri, through Kansas, Oklahoma, and Colorado, to Santa Fe, New Mexico.

National Historic Trails Designations—Trail of Tears: S. 578—Public Law 100-192, approved December 16, 1987.

Designates the Trail of Tears, the route taken by the Cherokee Indians when they were moved to Oklahoma, as a national historic trail. The route extends from North Carolina, through Georgia, Alabama, Tennessee, Kentucky, Illinois, Missouri, and Arkansas, to Oklahoma.

National Historic Trails Studies—DeSoto Trail: S. 1297—Public Law 100-187, approved December 11, 1987.

Directs the Secretary of the Interior to study the DeSoto Trail for possible inclusion in the national historic trails system. The Trail extends from Florida, through Georgia, South Carolina, North Carolina, Tennessee, Alabama, and Mississippi, concluding in Arkansas.

Reclamation Amendment—Oroville-Tonasket, Washington, Irrigation Project: S.

649—Public Law 100-196, approved December 18, 1987.

Amends the Reclamation Authorization Act of 1976 to increase the authorization level for the Oroville-Tonasket Irrigation Project, Washington, from $39.4 million (January 1976, prices) plus or minus such amounts, if any, to $88 million (January 1987, prices) of which only $18 million may be adjusted based on changes in construction costs.

San Francisco Bay National Wildlife Authorization: H.R. 2583—Public Law 100- , approved , 1987.

Authorizes funds for the San Francisco Bay National Wildlife Refuge.

St. Johns River Valley Historic and Prehistoric Sites: H.R. 1983—Passed House July 21, 1987; Passed Senate amended December 11, 1987.

Directs the Secretary of the Interior to construct and maintain a museum at the Fort Caroline National Memorial in Florida and to preserve certain wetlands and historic and prehistoric sites in the St. Johns River Valley, Forida, through the establishment of the Timucuan Ecological and Historic Preserve.

Statue of Liberty Entrance Fees: S. 626—Public Law 100-55, approved June 19, 1987.

Prohibits the charging of an entrance fee at the Statue of Liberty National Monument.

Stones River National Battlefield Boundaries: H.R. 1994—Public Law 100—, approved , 1987.

Expands the boundaries of the Stones River National Battefield, Tenessee, by approximately 53 acres, and authorizes the Secretary of the Interior to acquire a right-of-way and construct a trail from the battlefield to the Civil War Fortress Rosecrans, and to preserve the existing remanants of the Fortress.

Water Projects Amendment—Lock Haven, PA: H.R. 3085—Public Law 100-109, approved August 20, 1987.

Reduces the level of protection for the Lock Haven, PA, flood control project authorized under the Water Resources Development Act of 1986 (P.L. 99-662).

Wild and Scenic Rivers Designations—Kern River; S. 247—Public Law 100-174, approved November 24, 1987.

Designates 151 miles of the North and South Forks of the Kern River in California as components of the National Wild and Scenic Rivers System.

Wild and Scenic Rivers Designations—Kings River: H.R. 799—Public Law 100-150, approved November 3, 1987.

Designates a segment of the Kings River in California as a component of the National Wild and Scenic Rivers System.

Wild and Scenic Rivers Designations—Merced River: H.R. 317—Public Law 100-149, approved November 2, 1987.

Designates a segment of the Merced River in California as a component of the National Wild and Scenic Rivers System.

Wild and Scenic Rivers Studies—New Jersey: H.R. 14—Public Law 100-33, approved May 7, 1987.

Authorizes the study of segments of the Maurice River and its tributaries, the Manumuskin River, and Menantico Creek in New Jersey for study for possible inclusion in the National Wild and Scenic Rivers System.

Wilderness Area Designations—Michigan: H.R. 148—Public Law 100-184, approved December 8, 1987.

Adds nine areas of National Forest land in Michigan, totaling approximately 79,249 acres, to the National Wilderness Preservation System including the Nordhouse Dunes Wilderness, Sylvania Wilderness, Sturgeon River Gorge Wilderness, Rock River Canyon Wilderness, Big Island Lake Wilderness, Mackinac Wilderness, Horsehoe Bay Wilderness, Round Island Wilderness, and McCormick Wilderness.

NOMINATIONS

[Action by Rollcall Vote]

James H. Burnley IV, of North Carolina, to be the Secretary of Transportation—Nomination confirmed November 30, 1987. (387)

Frank C. Carlucci, of Virginia, to be Secretary of Defense—Nomination confirmed November 20, 1987. (385)

Trusten F. Crigler, of Virginia, to be Ambassador to Somalia—Nomination confirmed April 24, 1987. (81)

Alan Greenspan, of New York, to be Member and Chairman of the FED—Nomination confirmed August 3, 1987. (225)

Ann D. McLaughlin, of the District of Columbia, to be Secretary of Labor—Nomination confirmed December 11, 1987. (408)

M. Peter McPherson, of Virginia, to be Deputy Secretary of the Treasury—Nomination confirmed August 6, 1987. (230)

Nicholas Platt, of the District of Columbia, to be Ambassador to the Philippines—Nomination confirmed August 7, 1987. (232)

Arnold L. Raphel, of New Jersey, to be Ambassador to Pakistan—Nomination confirmed May 1, 1987. (85)

David S. Ruder, of Illinois, to be a member of the Securities and Exchange Commission—Nomination confirmed August 6, 1987. (228)

Marvin T. Runyon, of Tennessee, to be a Member of the Board of Directors of the Tennessee Valley Authority—Nomination confirmed December 19, 1987. (418)

David B. Sentelle, of North Carolina, to be U.S. District Judge for the District of Columbia—Nomination confirmed September 9, 1987. (238)

William S. Sessions, of Texas, to be Director of the FBI—Nomination confirmed September 25, 1987. (279)

C. William Verity, Jr., of Ohio, to be Secretary of Commerce—Nomination confirmed October 13, 1987. (321)

William H. Webster, of Missouri, to be Director of the CIA—Nomination confirmed May 19, 1987. (115)

Melissa F. Wells, of New York, to be the Ambassador to Mozambique—Nomination confirmed September 9, 1987. (237)

SENATE (SEE ALSO CONGRESS)

Arms Control Observers Group: S. Res. 30—Senate agreed to January 6, 1987.

Reauthorizes, through the 100th Congress, the Senate Arms Control Observer Group, established in the 99th Congress to monitor all arms control negotiations which the United States is officially undertaking with the Soviet Union.

Arms Control Treaty Review Support Office: S. Res. 348—Senate agreed to December 19, 1987.

Establishes within the Senate an Arms Control Treaty Review Support Office under the policy direction of the Majority and Minority Leaders and the administrative direction and supervision of the Secretary of the Senate, to provide to the Senate such administrative support as the Leaders may direct with respect to Senate consideration of the Treaty between the U.S. and the Soviet Union on the elimination of intermediate-range and shorter-range missiles, done at Washington on December 8, 1987, and of any other arms control treaties that the President may submit to the Senate for ratification during the 100th Congress.

Central American Negotiations Observer Group: S. Res. 273—Senate agreed to August 7, 1987.

Establishes the Central American Negotiations Observer Group consisting of the Senate Majority and Minority Leaders serving ex officio, and six Senators appointed by the President pro tempore upon the recommendations of the Majority and Minority Leaders (three each) to act as official observers as part of the U.S. delegation to any negotiations with the Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua to which the U.S. is a party and to any multilateral negotiations or discussions dealing with peace in Central America to which these countries are invited to participate.

Deputy President Pro Tempore: S. Res. 90—Senate agreed to January 28, 1987.

Authorizes the appointment of an additional deputy president pro tempore to serve at the pleasure of the Senate during the 100th Congress. NOTE: (Subsequently, the Senate passed S. Res. 91 appointing Senator George J. Mitchell, of Maine, to the position.)

Ethical Conduct of Senate Political Committees: S. Res. 279—Senate agreed to September 9, 1987. (236)

States the sense of the Senate that the Senate and its agent political committees must be diligent in adhering to a code of conduct of the highest standard, avoiding even the appearance of improper, unethical, or illegal activity; candidates and their party committees should engage in positive and constructive campaigns, avoiding negative attacks calculated to impugn the character, integrity, or patriotism of a candidate; and the Senate, and the political committees of both parties, must renew their commitment and dedication to winning not only the votes of the citizenry, but their trust and confidence as well.

Office of Classified National Security Extension: S. 632—Public Law 100-18, approved April 3, 1987.

Extends through June 5, 1987, the existing statutory authority for the Office of Classified National Security Information within the Office of the Secretary of the Senate, which expired February 28, 1987.

Office of Senate Security: S. Res. 229—Senate agreed to June 5, 1987

Creates an Interim Office of Senate Security, within the Office of the Secretary of the Senate, to assume the duties, functions, personnel, and facilities of the Office of Classified National Security Information, which expires on July 10, 1987.

S. Res. 243—Senate agreed to July 1, 1987.

Creates an Office of Senate Security, under the policy direction of the Majority and Minority Leaders and the administrative direction of the Secretary of the Senate, to develop and implement any policies and procedures necessary to protect classified information handled in the Senate.

Select Committee on Iran/Contra Affair: S. Res. 23—Senate agreed to January 6, 1987. (1)

Establishes a Senate Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition (Contras) to investigate activities by (1) members and staff of the National Security Council, (2) any foreign government, or any of its agencies, officers, or employees, or (3) any other individual group, corporation, entity, or organization with respect to the direct or indirect sale, shipment, or other provision of arms to

Iran and the use of the proceeds from such transactions to provide assistance to any faction or insurgency in Nicaragua or in any other foreign country, in order to determine whether any of the activities were illegal, improper, unauthorized, or unethical.

SOCIAL SERVICES

Abandoned Infants Assistance: S. 845—Passed Senate August 5, 1987.

Authorizes $20 million annually in FY 1988-90 for the Secretary of HHS to make demonstration grants to local governments for projects that provide homes and other assistance for infants abandoned in hospitals, especially infants with acquired immune deficiency syndrome (AIDS), and requires the Secretary to report to Congress, within six months of enactment, on the scope of this problem and the estimated annual costs to Federal, State, and local governments to provide housing and care for such infants.

Child Abuse and Neglect Assistance Extension: S. 1596—P.L. 100-117, approved September 28, 1987.

Amends the Child Abuse Prevention and Treatment Act to extend through FY 1987, the Secretary of HHS' authority to waive certain eligibility criteria to allow States which are working toward compliance to receive funding for child abuse treatment and prevention programs.

Disability Payments Continuation: S. 1937—Passed Senate December 9, 1987.

Extends from December 31, 1987, to December 31, 1988, the provisions which allow beneficiaries of disability benefits to elect to continue to receive disability payments and Medicare coverage pending an appeal to an administrative law judge on an adverse continuing disability review decision.

Food Stamp Recipient Cash Contributions: H.R. 3435—Public Law 100- , approved , 1987.

Amends the Food Stamp Act to allow low-income families participating in the Food Stamp Program to receive up to $300 in nonrecurring cash contributions in a 3-month period from one or more nonprofit charitable organizations without decreasing their food stamp allotment; and provides for food bank demonstration projects using section 32 commodities in order to provide the Agriculture Department with a testing opportunity to find better ways to meet local needs in distributing surplus commodities.

Jobs for Employable Dependent Individuals (JEDI): S. 514—Passed Senate April 2, 1987. (61)

Amends the Job Training Partnership Act to establish bonus program that pays States a percentage of Federal welfare savings for educating, training, and placing certain employable dependent individuals in nonsubsidized employment for one year; and permits States to provide year-round training to AFDC/SSI dependent youth under the Summer Youth Jobs Program.

Medicare/Medicaid Patient and Program Protection: H.R. 1444—Public Law 100-93, approved August 18, 1987.

Requires that individuals convicted of program-related crimes or patient abuse or neglect be excluded for at least five years from Medicare and Medicaid; broadens the Secretary of HHS' discretionary authority to exclude health care providers for convictions related to obstructing an investigation, controlled substance violations, loss or suspension of license, and suspension or exclusion from any Federal health care program; extends the mandatory and discretionary exclusions and the criminal penalties for bribes, kickbacks, and false statements to the Maternal and Child Health Services and Title XX Social Services Block Grant Programs; authrorizes the Attorney General to deny, revoke, or suspend a controlled substances registration subject to mandatory exclusion from Medicare; authorizes the Secretary to consolidate exclusion and civil monetary penalty determinations involving the same providers into a single administrative proceeding; broadens the Secretary's authority to impose civil monetary penalties for the submission of false claims for physician and hospital services and to seek injunctive relief to protect assets for the payment of imposed civil monetary penalties; and requires States, as a condition of receiving Medicaid funds, to provide information to the Secretary regarding actions taken against health care practitioners by State licensing authorities.

Medicare Catastrophic Loss Prevention: H.R. 2470—Passed House July 22, 1987; Passed Senate amended October 27, 1987; House disagreed to the Senate amendments and requested a conference December 9, 1987. (353)

Provides protection for Medicare beneficiaries from catastrophic expenses associated with covered Medicare services; automatically enrolls all Medicare Part B participants in the catastrophic insurance program; establishes an annual limit of $1,700 on out-of-pocket expenses incurred under Part A or B individually or combined for Medicare-covered services, and indexes the out-of-pocket expenses cap to the annual Social Security COLA's; phases in medicare prescription drug coverage with a $600 deductible in 1990, after which it will be indexed to the average beneficiary's total spending for drugs; authorizes $2 million for six one-year case management demonstration projects for medicare beneficiaries with catastrophic illnesses; establishes a Bipartisan Commission on Comprehensive Health Care to develop legislative recommendations for long-term health care; and calls for studies on adult day care services, public and private options for the long-term care of Americans of all ages, appropriate medicare coverage of prescription drugs; and tax incentives for long-term care insurance.

Older Americans Act Amendments: H.R. 1451—Public Law 100-175, approved November 29, 1987. (229,373)

Amends the Older Americans Act of 1965 and authorizes funds for FY 1988-91 for programs under the Act; authorizes $25 million in FY 1988 for new programs for non-medical in-home services for frail older individuals; $5 million for preventive health screening, health education, and promotion services; $5 million in FY 1988 for programs to prevent abuse of older individuals; $20 million for new ombudsman programs; $25 million for special needs programs; and in 1989, authorizes $10 million for outreach programs for those eligible for SSI, Medicaid, and food stamp programs; requires the Secretary of Labor to develop a consumer price index which reflects the impact of inflation on elderly Americans; requires that grant recipients under Title V (community service employment for low-income elderly) distribute materials to enrollees regarding age discrimination; excludes Title V wages from consideration as income in determining eligiblity for Federally subsidized housing and Food Stamps; creates a new part B under Title VI to serve native American Hawaiians; repeals Title VII education and training programs; makes Indians eligible for services under both Titles III and VI; amends the Public Health Service Act to authorize $5 million annually in FY 1988-90 for each part of a two-part, three year, matching demonstration grant program to (1) expand home health care services for individuals who might otherwise require lengthy hospital stays or institutionalization, and (2) develop a range of innovative services to benefit people with Alzheimer's disease as well as their family and care givers; authorizes a White House Conference on Aging in 1991; and makes adult day care centers eligible to participate in food programs under the National School Lunch Act.

School Lunch/Nutrition Program: H.R. 1340—Public Law 100- , approved , 1987. (227)

Requires the USDA to improve the quality, packaging, and delivery of commodities delivered under the National School Lunch, Elderly Feeding, Food Distribution on Indian Reservations, Child Care Food, and School Breakfast programs.

SSI and AFDC Benefits—Charitable Exclusions: S. 1793—Passed Senate October 20, 1987.

Reinstates and makes permanent the exemption of charitable in-kind donations to recipients of Supplemental Security Income and Aid to Families with Dependent Children programs in calculating a household's eligibility for these benefits.

Urgent Relief for the Homeless: H.R. 558—Public Law 100-77, approved July 22, 1987.

Authorizes $442.7 million in FY 1987 and $611 million in 1988 for homeless aid programs including the FEMA Emergency Food and Shelter Program, the HUD Emergency Shelter Grants Program, the Supportive Housing Demonstration Program, supplemental assistance for homeless facilities, HUD's Section 8 moderate rehabilitation certificates (for rehabilitating single room occupancy housing for the homeless), outpatient health services for the homeless, a block grant program to States to provide emergency assistance for chronically mental ill homeless persons, alcohol and drug abuse treatment services for the homeless, and community-based services to chronically mentally ill individuals who are homeless or at risk of homelessness, State grants for developing and implementing plans to educate homeless children, a three-year competitive grant job training demonstration program for the homeless, the Community Services Homeless Block Grant Program, and the Veteran's Job Training Act; makes surplus Federal real and personal properties available to eligible nonprofit organizations which serve the homeless; requires a State, city, or county to submit a comprehensive homeless assistance plan for approval by the HUD Secretary to be eligible for housing assistance in the bill; establishes the Interagency Council on the Homeless; requires States to expedite food stamp service for the homeless and makes other modifications to the food stamp program; reauthorizes the Temporary Emergency Food Assistance Program (TEFAP) at $50 million in FY 1988 and provides for the distribution of additional TEFAP commodities and requires that FY 1987 appropriations made pursuant to this bill not increase the deficit levels established for FY 1987 in the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings).

TRADE

Canadian Agricultural Subsidies Investigation: S. Con. Res. 27—Senate agreed to March 26, 1987. (40)

Expressed the sense of the Congress that the U.S. Special Trade Representative should determine whether the imposition of a Canadian tariff of 84.9 cents per bushel on American corn is inconsistent with Canada's GATT obligations, and, if found unjustifiable, initiate an investigation and report the result to the President within 60 days.

European Community Tax Proposal: S. Con. Res. 21—Senate agreed to March 26, 1987. (39)

Expresses the sense of the Congress that the Administration should vigorously oppose the European Community's proposal for establishing a tax on vegetable and marine fats and oils, which the U.S. views as inconsistent with Europe's GATT obligations.

Japan-U.S. Semiconductor Trade Violations: S. Res. 164—Senate agreed to March 19, 1987. (34)

States the sense of the Senate that the President should take appropriate actions under section 301 of the Trade Act to remedy and prevent further Japanese violations of the semiconductor trade agreement; and declares that the President should insure that Japan fulfills its commitment under the terms of the Market Opening Sector Specific telecommunications negotiations for 33 percent equity participation by foreign firms in any consortium formed to compete with Kotusai Denshin Denwa in providing international telecommunications services via a fiber optics trans-Pacific cable from Japan to the U.S. through Alaska.

Omnibus Trade and Competitiveness Act: H.R. 3—Passed House April 30, 1987; Passed Senate amended July 21, 1987; In conference. (208)

Renews the "fast-track" procedure for trade agreements entered into by the President with foreign countries; mandates responses to unfair distortions of international trade; improves the enforcement of U.S. antidumping and countervailing duty laws; establishes a new program of trade competitiveness assistance for firms and workers; repeals the windfall profit tax; establishes a special procedure to open foreign markets with a "consistent pattern of trade barriers"; modifies export licensing procedures under the Export Administration Act; modifies Federal Reserve regulations relating to bank-affiliated export trading companies; states U.S. policy regarding international economic policy coordination and currency markets; authorizes withdrawal of privileges for companies from foreign countries which do not accord competitive opportunities to U.S. financial institutions comparable to those of their domestic counterparts; modifies the criminal prosecution provisions of the Foreign Corrupt Practices Act; authorizes the President, after an investigation by the Secretary of Commerce, to take appropriate actions to restrict foreign investment in U.S. businesses which threaten the national security; requires the President to impose sanctions on product imports from companies found to have violated international export control agreements, including the Toshiba Corporation and Kongsberg Vaapenfabrik; directs the President to address the international debt problem of developing countries, including the proposal of an international debt facility; establishes a Trade and Development Program with authority over the mixed credit program; increases appropriations and staff levels for the Foreign Agricultural Service to expand its agricultural export marketing programs and activities; modifies the provisions of several existing agricultural trade programs including: increasing funding for the Targeted Export Assistance Program and establishing a triggered marketing loan program for the 1990 crop year for certain commodities if a GATT agreement on agricultural trade has not been reached; requires that imported food be labeled to specify the country of origin; requires that annual appropriations to reimburse the CCC for net realized losses be made by means of a current indefinite appropriation; requires advance notification of plant closings and mass layoffs; creates demonstration programs for dislocated workers, self-employment opportunities, public works employment, dislocated farmers, farm employees, and ranchers, and job creation; authorizes funds for education programs to improve American competitiveness authorizes various grant programs including the Star Schools and foreign language study programs; makes amendments to the patent laws, with respect to patented processes, the patent misuse doctrine, licensee challenges to patent validity, and patent term restoration; reorganizes the National Bureau of Standards into the National Institute of Technology with responsibility for developing the quality control techniques and generic research to improve U.S. manufacturing and product technologies; establishes a pilot State Technology Extension Program to support innovative State projects to transfer Federal technology to businesses; creates a new Commerce Department Clearinghouse on State and Local Initiatives on Productivity, Technology, and Innovation; and amends the International Air Transportation Fair Competitive Practices Act to facilitate DOT review of complaints by U.S. carriers; and strengthens export assistance programs for small businesses.

Titanic Imports Prohibition: S. 1581—Passed Senate August 3, 1987.

Prohibits the importation of objects into the customs territory of the U.S. from the R.M.S. Titanic for commercial gain until an international agreement which governs any exploration and salvage of the Titanic, and to which the U.S. is a party, has entered into force.

U.S. International Trade Commission (ITC), Customs Service, and Office of the U.S. Trade Representative (USTR) Authorizations: S. 829—Passed Senate March 30, 1987.

Authorizes in FY 1988, $35.4 million for the ITC, $1.04 billion for the Customs Service, and $15.2 million for the Office of the USTR; requires the Commissioner of Customs to notify Congress 180 days in advance of taking any action resulting in a significant reduction in customs force, hours of operation, or services, eliminating or relocating any Customs office, or eliminating any port of entry; establishes a private sector Advisory Committee on Commercial Operations of the U.S. Customs Service; and directs the Secretary of the Treasury to prohibit the importation from the Soviet Union of certain articles produced wholly, or in part, by convict, forced, or indentured labor under penal sanctions, unless the President certifies that the articles are not being made by forced labor, or that a prohibition would directly affect U.S. national security interests.

U.S. Travel and Tourism Administration Authorizations: S. 1267—Passed Senate July 21, 1987.

Authorizes $14 million in FY 1988, $15 million in 1989, and $16 million in 1990 for the U.S. Travel and Tourism Administration.

TRANSPORTATION AND COMMUNICATIONS

Air Passenger Protection/Airline Mergers: H.R. 3051—Passed House October 5, 1987; Passed Senate amended October 30, 1987; In conference. (361)

Provides for the early sunset (from June 1, 1989, to the date of enactment of this act) of the existing authority of the Secretary of Transportation over airline mergers, acquisitions, consolidations, and interlocking directorates, including the authority to exempt such transactions from the antitrust laws; requires the Secretary of Labor to determine whether a merger or similar transaction would reduce employment or adversely affect wages and working conditions and, upon making a positive determination, to impose labor protection provisions designed to mitigate adverse consequences; requires the Secretary to compile fares and frequency of service offered to or from any of the 50 busiest airports; requires air carriers to submit airline performance information relating to domestic air service to the Department of Transportation for public dissemination; requires the Administrator of the Federal Aviation Administration to establish minimum elapsed flight times; modifies regulations regarding computerized airline reservations systems; establishes a toll-free consumer hotline for air travelers; directs the Secretary of Transportation to establish an Advisory Committee to determine the appropriate level of capacity in the air traffic control system; and requires drug and alcohol dependency testing for certain air and railroad industry personnel and commercial motor vehicle operators.

Airport and Airway Capacity Expansion: H.R. 2310—Public Law 100- , approved , 1987. (356)

Authorizes, from the Airport and Airway Trust Fund, funding for FAA programs in FY 1988-90 as follows: the Airport Improvement Program (AIP)—$1.7 billion in each 1988-90, $1.8 billion in each 1991-92, Facilities and Equipment (F&E)—$1.4 billion in 1988, $1.7 billion in 1989, and $2.2 billion in 1990, Research and Development (R&D)—$201 million in 1988, $215 million in 1989, and $22 million in 1990, and Operations and Maintenance—funding equal to 50 percent of the amounts authorized for the Airport Improvement, F&E, and R&D programs in each 1989-90; earmarks from the F&E authorization, $27 million in 1988, $30 million in 1989, and $35 million in 1990 for installing Instrument Landing Systems; earmarks from R&D funds in 1988, $250,000 for research on improving handicapped access to commuter aircraft and in 1988-90, $25 million for projects relating to airport capacity improvements; makes revisions to the formulas for apportioning funds under the AIP; extends the Essential Air Service Program through September 30, 1998; extends the Airport and Airway Trust Fund taxes through 1990; authorizes $250,000 in each 1988-89 for the Secretary of Transportation to conduct a two-year study to develop an overall airport system plan through the year 2010; and requires the FAA to have an air traffic controllers workforce of 15,900 by September 30, 1988.

Aviation Insurance Program Extension: S. 1628—Public Law 100-148, approved October 30, 1987.

Extends for five years, through September 30, 1992, the Aviation Insurance Program which provides government-sponsored insurance to commercial air carriers operating in a limited number of extraordinarily high risk foreign environments.

Aviation Reports and Records Offenses Penalties: H.R. 1163-Public Law 100-121, approved September 30, 1987.

Makes violators of FAA rules and regulations which require airlines and their employees to maintain and file certain safety-related reports and records subject to fines of up to $4,000 for individuals and $10,000 for airlines and/or five years imprisonment.

*Fairness Doctrine: S. 742—Vetoed June 22, 1987. (75)

Amends the Communications Act of 1934 to codify the Fairness Doctrine adopted by the FCC, by regulation, in 1949 which obligates broadcast licensees (1) to cover issues of public importance, and (2) to do so in a balanced fashion; and provides that the enforcement and application of the Fairness Doctrine shall be consistent with the FCC's rules and policies in effect on January 1, 1987.

*Federal Aid Highway Authorization: H.R. 2—Vetoed March 27, 1987. House overrode veto March 31, 1987; Senate overrode veto upon reconsideration April 2, 1987; Became Public Law 100-17, April 2, 1987, without approval. (21, 33, 51, 60)

Authorizes in FY 1987-91, a total of $68.6 billion from the Highway Trust Fund for the Federal-Aid Highway Program, $18.9 billion for the Federal Urban Mass Transit program, and $630 million for highway safety activities of the National Highway Traffic Safety Administration; provides that funds for the Interstate Cost Estimate and Interstate Substitute Cost Estimate would be administratively released on October 1 annually if Congress has not acted to approve them; and reforms the Uniform Relocation Assistance and Real Property Acquisition Policies Act to make its administration more equitable and efficient at all levels of government.

H. Con. Res. 77—Action completed March 29, 1987. (35)

Makes an enrollment correction in the Federal-Aid Highway Act (P.L. 100-17) to permit States to raise the speed limit to 65 miles per hour on interstate highway segments located outside any urbanized area having a population of 50,000 or more.

S. 1383—Passed Senate June 18, 1987.

Makes technical corrections in the Federal-Aid Highway Act (P.L. 100-17).

Federal Trade Commission (FTC) Authorization: S. 677—Passed Senate April 7, 1987; Passed House amended October 7, 1987; In conference. (69)

Reauthorizes the FTC through FY 1990, at a funding level of $69.85 million in 1988, $70.85 million in 1989, and $71.85 million in 1990; modifies FTC's authority with respect to certain regulatory functions; prohibits FTC intervention in Federal or State agency proceedings without prior notification to the Commerce Committees; provides for a 90-day Congressional review of FTC rules and disapproval through enactment of a joint resolution of disapproval; requires the redirection of $858,000 to FTC's regional offices and maintenance of the offices at their present locations in FY 1988-90 at not less than the proposed FY 1988 budget submission to Congress; and requires separate FTC reports to Congress on: (1) Unfair, deceptive, or misleading practices in the sale of health insurance to the elderly and on the increase in property and casualty rates for small business owners, local governments, physicians, dentists, and child care centers, (2) FTC enforcement activities in the area of resale price maintenance, and (3) FTC enforcement activities in the area of predatory pricing.

Independent Safety Board Authorization: S. 623—Passed Senate April 25, 1987.

Authorizes $26.2 million, $27.5 million, and $28.8 million in FY 1988-90, respectively, for the National Transportation Safety Board.

Long Island Railroad Labor Dispute: H.J. Res. 93—Public Law 100-2, approved January 28, 1987.

Provides for the employees of the Long Island Railroad to return to work for a period of 60 days during which time a three member board appointed by the National Mediation Board is to prepare and submit to Congress, at least 10 days before the 60-day period expires, a comprehensive report on the dispute, progress on negotiations, and its recommendations for a solution.

Maritime Authorization: H.R. 953—Passed House June 2, 1987: Passed Senate amended November 3, 1987.

Authorizes a total of $391.3 million for the various programs of the Maritime Administration in FY 1988, of which $14.5 million is for the Federal Maritime Commission.

National Highway Traffic Safety Administration (NHTSA): S. 853—Passed Senate April 24, 1987.

Authorizes appropriations in FY 1988-89 for the NHTSA to carry out its various responsibilities mandated under the National Traffic and Motor Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act; directs NHTSA to upgrade and expand the current side impact crash protection standard, to apply certain automotive safety standards to multipurpose passenger vehicles (including light trucks), and to require lap-shoulder belts on outboard rear seats; and withholds two percent of Federal highway safety funds from States which fail to implement a uniform national handicapped parking system.

Railroad Safety: S. 1539—Passed Senate November 6, 1987. (370)

Reauthorizes the Federal rail safety program at $40.6 million in FY 1988 and at $41.9 million in 1989; makes certain modifications to improve the effectiveness and enforcement of programs under the Federal Railroad Safety Act; requires written certifications by inspectors of train safety apparatus that the equipment was tested and is working properly; requires the use of event recorders on freight trains; and requires the use of automatic train control on trains operating in the Northeast Corridor.

TREATIES

Annex V of the International Convention for the Prevention of Pollution from Ships: Treaty Doc. No. 100-3—Ratified by Senate November 5, 1987. (368)

Prohibits disposal into the sea of all plastics, including synthetic ropes and fishing nets; requires disposal of other nonplastic garbage beyond 25 miles and of food wastes, paper products, rags, glass, metal, and crockery beyond 12 miles; prohibits garbage disposal from fixed platforms; and contains an understanding that the U.S. government shall make every reasonable effort to have the Gulf of Mexico designated a special garbage-free area.

International Wheat Agreement, 1986: Treaty Doc. No. 100-1—Ratified by Senate November 17, 1987. (379)

Consists of the Wheat Trade Convention, a consultative agreement designed to facilitate the exchange of information about the world grain market and to provide a forum for the discussion of grain trade issues, and the Food Aid Convention designed to achieve a target of at least 10 million metric tons of grain suitable for human consumption annually for developing countries.

Pacific Islands-U.S. Fisheries Treaty: Treaty Doc. No. 100-5—Ratified by Senate November 6, 1987. (371)

Establishes a mechanism under which regional fishing licenses will be provided to the U.S. tuna industry.

U.S. TERRITORIES

U.S. Citizenship Eligibility in the Northern Mariana Islands: S. 1047—Passed Senate July 10, 1987.

Modifies the Covenant establishing a Commonwealth of the Northern Mariana Islands (P.L. 94-241) by specifying that the Section 301 definition of persons who would automatically be granted U.S. citizenship under the Covenant extends to persons who were born in the Northern Marianas and had at least one parent born in the islands when they were a Territory, and persons who have foreign citizenship and took an oath of disallegiance to that foreign nation as of November 23, 1986; and provides that a parent, guardian, or person in loco parentis may complete the oath of disallegiance on behalf of children under age 13.

VETERANS

GI Bill Continuation: H.R. 1085—Public Law 100-48, approved June 1, 1987.

Provides for the indefinite continuation of the new GI bill's programs of educational assistance for members and veterans of the All-Volunteer Force and the Selected Reserve beyond the current June 30, 1988, date for closing off programs to new participants; provides for vocational readjustment; and restores lost educational opportunities to those service men and women who served on active duty after June 30, 1985.

Homeless Veterans Assistance: S. 477—Passed Senate amended March 31, 1987.

Authorizes the VA Administrator, in FY 1987-89, to transfer or lease certain hard-to-sell properties from its inventory to veterans' organizations and nonprofit entities for use as shelters for homeless veterans and their families; requires the Administrator to conduct a pilot program to assist homeless veterans and their families and a pilot program of contracting for community-based residential care for homeless veterans suffering from chronic mental illness; extends the Veterans' Job Training Act through FY 1988, and expands eligibility to homeless veterans; and postpones, for one year, the transition period for the Vietnam-era veterans readjustment counseling program and related reports.

VA Benefits COLA's: H.R. 2945—Public Law 100- , approved , 1987.

Provides a 4.2 percent COLA, effective December 1, 1987, in the rates of VA disability compensation for veterans and dependency and indemnity compensation for survivors; extends from December 31, 1987, to June 30, 1988, the deadline for veterans to apply for participation in Veterans' Job Training Act programs; and increases, from 2,500 to 3,500, the annual limit on the number of VA vocational training evaluations of veteran pensioners.

VA Housing Loan Fees: S. 1691—Public Law 100-136, approved October 15, 1987.

Extends from October 1, 1987, through November 15, 1987, the VA's housing loan origination fee and the formula for determining whether, upon foreclosure, the VA shall acquire the property securing a guaranteed loan; and prohibits the VA from selling loans made to purchasers of VA-acquired foreclosed properties without recourse for less than par value.

Veterans' Beneficiary Travel Payments, Travel Payments, Quality Assurance, and Readjustment Counseling: H.R. 2327—Passed House June 30, 1987; Passed Senate amended October 16, 1987. (337)

Establishes a statutory framework pursuant to which beneficiary travel reimbursement would be made to certain veterans in connection with their travel to VA facilities; authorizes the VA Administrator to waive the deductible for travel by veterans in cases of severe financial hardship; establishes an expanded and autonomous Office of Medical Inspector General and strengthens the activities of the Office of Inspector General to ensure a high quality of health care within VA facilities; eliminates the statutory mandate for the transition of the Vietnam-era readjustment counseling program from one conducted primarily through Vet Centers in community locations to one conducted primarily through VA medical facilities; and provides standards and procedures for any closures or relocations of Vet Centers.

Veterans' Benefits and Services: H.R. 2616—Passed House June 30, 1987; Passed Senate amended December 4, 1987. (400)

Increases the rates of disability compensation and dependency and indemnity compensation for veterans and survivors; improves housing, automobile, and burial benefits for service-disabled veterans; provides for presumptions of service connection for certain disabilities of former prisoners of war; provides disability and death benefits for certain veterans and their survivors based on exposure during service to ionizing radiation from a nuclear detonation; improves VA health care programs and their administration; and provides authorities to help the VA to recruit and retain health care personnel.

Veterans' Employment, Training, and Counseling: H.R. 1504—Passed House June 30, 1987; Passed Senate amended August 4, 1987. S. 999—Passed Senate December 19, 1987.

Provides a comprehensive approach for the creation of a more stable, professional Disabled Veterans' Outreach Program/Local Veterans' Employment Representatives workforce nationwide to furnish employment referral, counseling, job-training, and related services to eligible veterans; authorizes $60 million annually in FY 1988-89 for the Veterans Job Training Act (VJTA); extends the deadlines governing application and entry into a VJTA training program; and enhances the effectiveness of VJTA by providing for enhanced counseling services.

Veterans' Health Care Funding Levels: H. Con. Res. 27—House agreed to March 3, 1987; Senate agreed to amended April 7, 1987.

Rejects the proposal to eliminate funding for Category C veterans care (veterans with non-service-connected disabilities who have incomes above $20,260 and agree to pay a modest copayment) and opposes any policy to exclude any category of eligible veterans from receiving VA hospital, nursing home, or other health care through a funding reduction.

Veterans' Home Loan Programs: H.R. 2672—Public Law 100- , approved , 1987.

Makes several modifications to the VA's home loan programs, including increasing the maximum VA home loan guaranty from the lesser of 60 percent of the loan amount or $27,500 to 50 percent of loans for $45,000 or less, and the lesser of 40 percent or $36,000 for loans over $45,000 or a minimum of $22,500; reducing the maximum guaranty amount for manufactured homes from 50 percent of the loan amount to 40 percent or $20,000; extending the one percent VA loan guaranty fee through September 30, 1989; permanently exempting VA home loan programs from sequestration; limiting the amount of refinancing equity loans to 90 percent of the appraised property value; and allowing the Administrator, for FY 1988-90, to increase a vendee loan by the amount needed to rehabilitate the property.

ORDERS FOR TUESDAY

RECESS UNTIL 12 NOON

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business, it stand in recess until the hour of 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, no more work remains to be done unless there is something that can be disposed of by unanimous consent. There will be an adjournment resolution. There may be a 1-day continuing resolution. We will be in at 12 noon.

Mr. DOLE. Mr. President, if the majority leader will yield, I think there could be a 1-day extension.

I guess the House has gone out until tomorrow morning. I think the only reason for that would be if anybody has a question, it would be to give the administration some time to look over that 2,300-page bill without shutting down the Government. But notices have gone out.

So I assume, at least until some action is taken, for all practical purposes nonessential employees will not be working tomorrow.

But I do want to thank the majority leader for the outstanding work and his efforts.

We will be back in, I guess, briefly tomorrow morning.

Mr. BYRD. Yes. Mr. President, the adjournment resolution will provide for adjourning over from Tuesday, today, and during the day we will, I am sure, hear from the President as to whether or not he can give us assurance that he will not veto either of these measures. And there are a few resolutions we will pass tomorrow, one notifying the President that the Senate has finished its business, and some such.

RECESS UNTIL TOMORROW

Mr. BYRD. Mr. President, if there be no further business tonight, I move in accordance with the order previously entered that the Senate stand in recess until the hour of 12 noon, Tuesday.

The motion was agreed to; and, at 3:37 a.m., the Senate recessed until Tuesday, December 22, 1987, at 12 noon.

EXTENSIONS OF REMARKS

PRESIDENT CARTER ON HUMAN RIGHTS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. FASCELL. Mr. Speaker, December 10 marked the 39th anniversary of the adoption by the U.N. General Assembly of a very important document on human rights: the Universal Declaration of Human Rights.

To commemorate that day, many organizations have held special gatherings. An important one took place in Atlanta, GA, at the site of the Carter Presidential Center of Emory University. The center also houses the Carter-Menil Human Rights Foundation, established in 1986, to promote the protection of human rights throughout the world. Created by Jimmy Carter and philanthropist Dominique de Menil, the foundation supports the human rights program of the center and presents an annual human rights prize to one or two organizations or individuals for courageous work to further human rights.

The center made its 1987 award of $100,000 to La Vicaria de la Solidaridad. Founded in January 1976 by Cardinal Raul Silva Henriquez, then archbishop of Santiago, the Vicaria provides legal assistance to political prisoners and social welfare assistance to the families of victims of human rights violations. It also collects and disseminates information about specific human rights abuses. Over the last decade, the Vicaria has responded to nearly 400,000 requests for assistance, applied for 8,000 writs of habeas corpus, and provided legal assistance in more than 7,000 judicial proceedings. It has gained worldwide respect for its nonviolent commitment to the defense of human rights in Chile and has been an inspiration and model for human rights organizations throughout the world. Both leaders and members of the Vicaria have exhibited unusual courage in their struggle to end human rights violations in Chile.

Following the presentation of the award, former President Carter delivered an address on the state of human rights that I want to share with you and commend to your attention. Congratulations to the Vicaria, to the Carter-Menil Human Rights Foundation, and to President Carter for his continuing commitment to international human rights.

STATEMENT OF PRESIDENT CARTER

While Hitler's armies dominated Europe, 6 million Jews were killed; the world remained mostly silent. While Joseph Stalin eliminated 10 million of his fellow countrymen, the world was mostly silent.

There was no lack of noble ideals being expressed by our leaders. President Franklin D. Roosevelt was calling for "a world founded upon four essential human freedoms." These he identified as "freedom of speech and expression," "freedom of every person to worship God in his own way," "freedom from want," and "freedom from fear." In the meantime, the horrible crimes continued.

There is no doubt that, since the Second World War, awareness of these atrocities has changed the attitude of the international community in dealing with human rights violations. The old order habitually characterized human rights issues as matters of domestic concern, permitting each nation to treat its citizens as it saw fit and branding inquiries or criticisms by outsiders as unlawful intervention. This legal doctrine kept the curtain of silence securely drawn around these crimes and prevented exposure and condemnation by other countries.

The United Nations Charter was written with knowledge of the holocaust, its words expressing the world's concerns about human rights and making the promotion of freedom a matter of international concern. Then, 3 years later, the Universal Declaration of Human Rights was adopted. This document evolved into the magna carta of humankind and gave birth to the Genocide Convention, the International Covenants on Human Rights, the U.N. Racial Convention, various international human rights treaties, and other specialized instruments.

During the same time, Harry S. Truman, expressed the standards for our Nation:

"The attainment of worldwide respect for essential human rights is synonymous with the attainment of world peace. The people of the world want a peaceful world, a prosperous world, and a free world, and where the basic rights of men everywhere are observed and respected, there will be such a world. On us as a nation rests the responsibility of taking a position of leadership in the struggle for human rights. We cannot turn aside from the task if we wish to remain true to the vision of our forefathers and the ideals that have made our history what it is."

These eloquent declarations concerning oppression and evil have brought hope to many victims and inspired those who resisted the advance of totalitarianism.

Although the treaties and agreements are frequently violated, they have legitimized the international human rights debate, enabling the United States and other countries to condemn violations of human rights wherever they may occur. All signatories of the U.N. Charter have pledged themselves to observe and to respect basic human rights. Thus, no member of the United Nations can claim that mistreatment of its citizens is solely its own business. To speak out on behalf of human rights in Chile, Cuba, Kampuchea, Haiti, Iran, the Soviet Union, El Salvador, and in areas long occupied by military power is no longer considered an intervention in the domestic affairs of these countries. Other nations have never been reluctant to criticize violations of human rights in our country. International law of today recognizes that how a government treats its own citizens is of concern to other countries; it affects the international community as a whole.

This willingness to expose and prevent violations of human rights has led to the development of nongovernmental national and international human rights organizations. La Vicaria de la Solidaridad is one notable example. Others include Amnesty International, Americas Watch, Helsinki Watch, the International League for Human Rights, and the Lawyers Committee for Human Rights. These organizations, the human rights watchdogs of the world, now have the legal and political legitimacy they need to function.

As the world community recognized more than four decades ago, peace and human rights are closely interconnected. Humanity's yearning for peace and freedom cuts across ideological boundaries and unites the human family. One cannot long exist without the other. Today, the anniversary of the Universal Declaration of Human Rights, provides a special opportunity for us to reflect on the state of human rights in the world.

In the 39 years that have elapsed since the Universal Declaration was adopted, much has been achieved in the United States. Courageous civil rights leaders were successful in their fight to end racial discrimination and legally authorized segregation of the races. We still have a long way to go in fulfilling the need of our people for housing, health care, full employment, and equal opportunity, but there is no doubt that we have made great progress.

In the early 1970's, our Congress adopted the first of many laws tying U.S. economic and military aid to the human rights records of recipient nations and requiring the executive branch to monitor the human rights performance of these countries. When I became President, I not only encouraged these congressional initiatives, but made the promotion of human rights a cornerstone of our foreign policy. We created a strong Bureau of Human Rights and Humanitarian Affairs in the State Department, instructed all of our Ambassadors to monitor human rights observance in the nations where they served, and directed that American Embassies around the world be havens for victims of abuse from their own governments.

Other nations, particularly the Western democracies, joined us in this commitment. Today many of these governments have developed their own human rights organizations and adopted supporting legislation. Most of these countries have signed the major international human rights instruments that I named earlier. As President, I sent four of these treaties to the U.S. Senate for ratification. Unfortunately, the Senate has yet to act on these requests.

Despite lack of concerted action, the international community at least sees the protection of human rights as a critical issue, and there is now a legal, institutional and political framework to advance it. The main problem is not a lack of laws. The problem is that we do not support the ones we have. Enforcement is feeble and selective at best.

The colonial empires that blanketed the map of Africa and parts of Asia, with their economic exploitation and massive violations of human rights, have largely disappeared. But apartheid has elevated bigotry

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

to a shameful ideology of hate and oppression. Apartheid survives with the tacit acceptance of nations unwilling to surrender their economic ties to the racist regime in South Africa.

The Gulag, in which millions of people died under Stalin and his successors, appears to be giving way to a more open society, but at the same time many Soviet citizens are denied the right to emigrate so that their families can be united.

In Latin America human rights heroes are struggling to transform a region of dictatorial regimes into nations committed to freedom and democracy, but oppression continues in Paraguay, Chile, Cuba, and Haiti.

That the international community has still not learned how to prevent and punish genocide was made apparent by the horrors of Pol Pot in Kampuchea.

Although various international commissions and committees have been established to promote the observance of human rights, the brutal fact is that none of these institutions has yet lived up to its potential.

The United States was one of the first nations to promote the development of international human rights law, it has to date ratified no major human rights treaty. There are only a handful of countries—South Africa is one of them—that have as poor a record on this subject as our own.

This does not mean, of course, that we are serious violators of human rights. It does not mean that our efforts to promote human rights are hampered. By failing to ratify these conventions we weaken the very international institutions that have become the strongest defenders of human rights. Furthermore, the countries we criticize for violations question our authority since we have refused to accept the obligations we ask them to honor.

Some years ago I declared that human rights must be the soul of American foreign policy if we are to be true to our beliefs; that any other course would violate the moral and political commitment of the American people to freedom and human dignity. It is clear that in recent years our leaders have lowered the emphasis on human rights.

The United States is seriously in default on its payment of dues, both to the United Nations and to the Organization of American States. As a result, these organizations are close to bankruptcy. The shortage of funds has had a catastrophic impact on the activities of their human rights institutions. It is imperative, therefore, that our country comply with its financial obligations to the U.N. and the O.A.S.

Our commitment to human rights must always be clear, consistent, indisputable, and unequivocal. The United States must guard against neglect of this issue from either the White House or the Congress. We need a permanent human rights review body in the State Department, and an advocate general whose duty it would be to report to Congress any apparent violations by our Government of international law.

We should strengthen the United Nations in every way possible and revive the long-dormant Costa Rican proposal for the establishment of the office of U.N. High Commissioner for Human Rights. Such a position, modeled on the office of the High Commissioner for Refugees, is needed to give this effort the institutional importance and high international visibility required for the effective performance of its functions. The High Commissioner should be given specific powers to deal with serious violations of human rights.

Our definition of human rights should not be too narrow. People have a right to fill vital economic needs—to be fed, housed, clothed, and educated. Civil and political rights must be protected—freedom of speech, thought, assembly, travel, and participation in Government. The rights of personal integrity are the most obvious of all—freedom from arbitrary arrest or imprisonment, torture, or murder by one's own government.

Our humanity requires that we protest whenever violations of human rights occur anywhere, but our effectiveness in moving the world toward more humane treatment of people requires that we make some distinctions. The most serious human rights violations involve attacks on the rights of people to life and freedom.

Torture is still used on a massive scale by governments around the world. In South Africa, even children—many hundreds of them—have been imprisoned and tortured by a government whose cruel apartheid policies have justly earned it world-wide condemnation. The practice of forced disappearances, a euphemism for murder, which was ultimately exposed in Argentina and Brazil, continues in some Latin American countries and elsewhere. Not only are police and military officials practicing or tolerating the use of torture and murder, but there is strong evidence to suggest the active collaboration of attorneys and physicians, which is a shameful perversion of professions sworn to justice and healing.

Wars and civil violence in Afghanistan, the Persian Gulf, the Middle East, Asia, Latin America, and Africa cost hundreds of thousands of lives annually. The survivors cry out for help. There are millions of refugees—injured, hungry, and homeless people—in these regions. This is a vast human tragedy.

One-party, oppressive regimes of the left and right dominate Africa and the Middle East, and still exist in Asia and Latin America. The Soviet Union and its satellites and the People's Republic of China systematically deny basic civil and political rights to individuals and groups alike. Most of these countries tolerate no political dissent, deny freedom of expression, and severely limit freedom of movement and travel.

When authoritarian and totalitarian systems of government display signs of liberalization, as seem to be occurring with "Glasnost" in the Soviet Union and progress toward free elections in South Korea, these trends should be encouraged by the international community.

The best assurance that fundamental personal rights will be respected is within democratic systems where people can replace their leaders peacefully by secret ballot and where independent courts can prevent the arbitrary use of power. The initial signs of transition toward democracy in Haiti were welcome, but that country has recently suffered a setback by inaction or outright obstruction of elections by the military government. The international community must support the provisional electoral commission as the only guarantor of electoral freedom for Haitians.

A similar need exists for free elections in Chile, where citizens have long cried out for the right to choose their own leaders, to escape oppression, and to shape the destiny of their nation.

The sweep of democracy across Latin America in the last decade is a source of joy for all us, but many of these new democracies are still fragile and face serious human rights dilemmas. The question of whether to give amnesty to those who murdered or "disappeared" others is a most difficult one for these new democracies. The heavy burden of external debt prevents the alleviation of poverty, homelessness, and starvation.

Even long-standing democracies suffer from human rights problems. Palestinians in the West Bank and Gaza are now in their 21st year of living under military occupation, deprived of political and economic rights. Some Israeli leaders are eagerly seeking a peace agreement with their neighbors that would end human rights abuses in the occupied territories; others are not so concerned about this tragedy.

The United States finds itself among a diminishing group of nations that impose the death penalty on children. Recently the Inter-American Commission on Human Rights ruled that by engaging in this practice our nation was in plain violation of its international human rights obligations. It is worth noting, in this connection, that while our own resort to executions is on the increase, most countries of Western Europe have recently signed an international agreement outlawing the death penalty altogether.

The recent riots by Cuban prisoners offered a tragic reminder of a misuse of U.S. law. If those Cubans had been permitted a fair review of their cases by an independent body, as the eventual agreement produced, we would have been spared the terrible tragedy of the past weeks.

South Africa should be high on our agenda for the new year. Given the worsening human rights situation there, it is clear that the United States and other nations must develop a stronger policy, including a broad range of economic sanctions, to compel South Africa to end apartheid and to withdraw from its unlawful occupation of Namibia.

Present and former world leaders should join in a solemn effort to stop the widespread practice of torture and forced disappearances. As a first step, the United States and all other nations should ratify the U.N. and O.A.S. treaties outlawing torture.

International organizations of lawyers and medical doctors should commit themselves to exposing and stamping out these crimes about which some of their fellow practioners almost always have special knowledge.

We need closer coordination among nongovernmental human rights organizations and the national and international groups that share the same purposes.

People of all ages should be educated about the vital subject of human rights. The inseparable link between human suffering and wars of revolution must be more clearly understood.

We are honoring the Vicaria today for its courageous work as a human rights monitor. Its own tragic experience and those of other human rights champions prove that the international community must begin to think about a formal system to protect and confer immunity on these organizations to permit them to discharge their important work. Jacobo Timerman recently called the Vicaria the conscience of Chile. Together, human rights monitors can serve as the world's conscience. Their protection is a moral obligation and political duty of us all.

We at the Carter Center commit ourselves to explore with foreign and American policy makers and human rights experts the implementation of these strategies.

Our Government has a responsibility to raise these issues again and again, even as we work to improve relations and to negotiate difficult issues like arms control. Unless we acknowledge the full range of issues that separate our two nations, any summit euphoria will be short lived.

Among the most pressing and difficult issues is the treatment of Jews within the Soviet Union, and the right of Soviet Jews to emigrate.

While the General Secretary attempted to gloss over these issues, the fact is that even under Gorbachev, Jews continue to face intense persecution in the Soviet Union, and tens of thousands of Jews are still denied the right to emigrate.

For 4 years I served as chairman of the House Subcommittee on Human Rights. During that time, I held dozens of hearings on Soviet Jewry, refuseniks, and religious persecution in the Eastern bloc, and I continue to focus much of my time in these areas.

Soviet officials boast about freedom of religion, yet today there are fewer than 60 operating synagogues in the Soviet Union, a nation of more than 3 million practicing Jews. Anti-Jewish propaganda is officially promoted in party-controlled publications.

The publication of Jewish history is extremely restricted. Jews are singled out by "nationality" on their internal passports.

Even the teaching of Hebrew is a crime, punishable by imprisonment, in the Soviet Union. From September 1984 to February 1985, 11 Jews were arrested and 4 were sentenced to labor camps during a Moscow crackdown on Hebrew teachers and other Jewish cultural activists. During Gorbachev's first months in office, from March to October 1985, an average of one Hebrew teacher per month was jailed.

On the question of emigration, there are still 11,000 refuseniks who have applied for emigration—some have risked persecution and jail by applying over and over again—only to be refused permission. While emigration is up slightly under Gorbachev, today's level is still far below historic levels.

Soviet emigration levels fluctuated between 13,000 and 34,000 during the 1970's, reaching an alltime high of 51,300 in 1979. Since then, however, Soviet emigration has fallen precipitously, to 21,000 in 1980, 9,400 in 1981, and a record low 896 in 1984. During the first 6 months of 1987, emigration has rebounded to an annual rate of roughly 6,000, but this is nowhere near pre-1980 levels.

Four hundred thousand Jews wish to leave the Soviet Union—that number is the most important measure of Soviet performance on human rights and emigration policy.

In the early 1970's, Western sources learned that the Soviet Union had begun to levy high educational fees on all Soviet citizens wishing to emigrate for permanent residence in non-Communist countries. Senator Henry "Scoop" Jackson of my own State of Washington and Congressman Charles Vanik passed legislation to prohibit favorable trade treatment—most-favored-nation status—for any "nonmarket" economy country which denies its citizens the right to emigrate or imposes on their emigration more than nominal exit visa or other fees.

While the Soviet Union attempted to justify these fees as repayment for the free education received by all Soviet citizens, these fees ran into tens of thousands of dollars and had the practical effect of blocking emigration for many Jews and other Soviet citizens.

More recently, congressional concern over both emigration and broader human rights issues in Romania led both the House and Senate to include provisions in their 1987 omnibus trade bills which would suspend Romania's most-favored-nation status for at least 6 months.

Given the wide disparity of annual Soviet emigration figures since the mid-1970's, it is difficult to assess the effectiveness of United States trade policy in leveraging a more forthcoming Soviet emigration policy. From time to time we hear calls for repeal or weakening of the Jackson-Vanik amendment.

I do not believe our Nation should be considering any changes that would loosen or remove the Jackson-Vanik sanctions.

At a time when the Soviet Union still maintains harsh restrictions on emigration, any move to lift or loosen Jackson-Vanik would send exactly the wrong signal to the Soviets.

Mr. Speaker, the House Subcommittee on International Economic Policy and Trade, which I chair, has jurisdiction over the use of economic sanctions to achieve foreign policy objectives. Earlier this year, I conducted hearings on trade relations with the Eastern bloc. One of the most persuasive statements at these hearings came from Pamela Brown Cohen, national president of the Union of Councils on Soviet Jewry, who told the subcommittee:

> The history of our human rights and Jewish emigration movements tell us that Soviet behavior can be modified whenever they have important needs of the West—especially the United States—and whenever they have clear evidence that our security, trade, and/or economic policies are linked to their emigration and human rights performance. These conditions existed in 1979, and they exist again today.

Jackson-Vanik is a symbolic cornerstone of American human rights policy. In today's atmosphere of hope and extensive United States-Soviet interaction, we should use whatever leverage we have to demonstrate to the Soviets our persistent concern for progress in the areas of human rights, religious persecution, and emigration.

BOLIVIA'S RELATIONS WITH THE PLO

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. WILSON. Mr. Speaker, relations between the United States and Bolivia today are good. President Paz has tried to stop the flow of narcotics from the country, coordinating with U.S. efforts. In the past year, despite the enormous revenues drug trafficking could mean for Bolivia's troubled economy, the President has overseen the destruction of 1,000 hectares of coca. Accordingly, the Government of Bolivia received $56 million in United States ecocnomic aid in fiscal year 1987. For 1988, Congress will appropriate aid totaling $99.5 million.

However, I call to the attention of my congressional colleagues a troubling development in Bolivia's foreign policy. In April of this year, the Government granted official diplomatic status to the Palestine Liberation Organization, Foreign Minister Guillermo Bedregal striking a deal with the PLO. It is widely reported that $1 million or more was exchanged for official status. This includes PLO's use of diplomatic license plates, use of the diplomatic pouch, and the like. The PLO's policy of terror is well-known in Bolivia, as well as around the world.

Secretary of State Shultz called Minister Bedregal on this development, expressing the view that his pro-PLO positioning is directly counter to U.S. interest. The Minister promised to downgrade the relationship. His idea of fulfilling that promise, however, was only to take away the PLO's diplomatic license plates for several days. The American Ambassador to Bolivia, Adyard Royell, has expressed the deep concern of the United States to President Paz. To date, however, nothing has changed. If in the PLO Bolivia has found an alternative source of foreign aid, such that Bolivia's Foreign Minister can ignore our concerns, perhaps this Congress over the next several months should look into reducing or eliminating our aid to Bolivia.

Mr. Speaker, this is one elected official who will be watching carefully to see if Bolivia corrects its unwise foreign policy.

UNITIZATION LEGISLATION

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. TAUZIN. Mr. Speaker, a problem has arisen between the State of Louisiana and the Federal Government concerning oil and gas development on the Outer Continental Shelf. This is a problem that is very likely to arise with every coastal State so long as the Department of the Interior pursues its current—and new—policy toward cooperation with the coastal States. This problem should not have occurred and it is within the power of the Secretary to resolve—but appears headed for a legislative solution.

Mr. Speaker, long ago this Congress and the Federal Government established the policy that we should develop our Outer Continental Shelf oil and gas resources in an orderly and environmentally sound fashion. The Congress adopted the Outer Continental Shelf Lands Act which authorized and directed the Secretary of the Interior to employ modern conservation practices on the Federal OCS, such practices include unitization where appropriate to prevent waste, protect the environment, and protect the property rights of the various lessees and the States and Federal Government. Oil and gas producing States, including Louisiana, also long ago established modern conservation practices that include a process for the unitization of commonly held oil and gas reserves. The Congress, it should be noted, directed the Secretary of the Interior in section 5 of the Outer Continental Shelf Lands Act to cooperate with the States in the enforcement of State conservation laws.

Mr. Speaker, Congress and the various coastal States have adopted modern conservation practices to avoid the effects of the "law of capture" that governed oil and gas production in the early days of this Nation. Under that rule, oil producers drilled rigs side by side and pumped oil reserves out as quickly as possible—because the law of capture granted ownership to the person that drew the oil to the surface first. The result was damage to the oil reservoirs which left some of our precious oil reserves in the ground forever—and widespread environmental damage where oil was dumped in streams and holding ponds while tanks were built to accommodate the excess. Clearly, as both Federal and State policymakers came to understand, this system of law had to change.

Over the last 30 years, the Gulf of Mexico has been the site of our most prolific offshore oil and gas development. Inevitably, resources were developed that underplay both the State and Federal portions of the Outer Continental Shelf. In over 140 cases, the State of Louisiana and the Federal Government reached voluntary agreements for the cooperative development of these resources. The result has been logical oil and gas development with a minimum of drilling.

Unfortunately, that spirit of cooperation appears to be breaking down. The Department of the Interior has steadfastly refused to either unitize or reach a cooperative development agreement covering a gas field on the Louisiana OCS. The result has been significant and continuing drainage of gas reserves that lie under the State's portion of the OCS, to the detriment of both the State and the State's lessees. The result will either be a tragic injustice to the State and its lessees or unnecessary and potentially damaging drilling in State waters to offset the drainage by the Federal Government. As hard as it is to believe in this era of increased environmental sensitivity, the Department of the Interior appears to have reestablished the law of capture in its relationship with the coastal States.

Mr. Speaker, the legislation I am introducing today creates an independent factfinding process for the resolution of these problems between the Federal Government and the coastal States. Where this process determines that unitization is appropriate, then the legislation provides for mandatory unitization. My colleague, the senior Senator from Louisiana, who serves as chairman of the Senate Energy and Natural Resources Committee, has introduced identical legislation in the Senate. We are hopeful that this problem will be resolved by agreement between the Secretary and the State of Louisiana and that such an agreement can be a precedent for similar problems with other States. If not, then we will make every effort to enact this legislation.

DEMOCRACY TAKES A DRAMATIC STEP IN KOREA

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. COURTER. Mr. Speaker, the recent elections in the Republic of Korea were one of the most significant political events in the Eastern Hemisphere during 1987. The elections were planned and carried out with great dignity and confidence by the diverse political parties active in the Republic, and the process proved to be a dramatic step forward for democracy in a nation which, though enormously successful, lacks a long tradition of popular rule.

Because our Congress and the American people took strong interest in the elections, I am pleased that a member of my staff had the opportunity to witness the voting process at first hand. I would like the RECORD of today to include his summary report. Dr. Christopher C. Harmon is my legislative aide for foreign policy, and he traveled to Korea under the auspices of the National Republican Institute for International Affairs.

The summary report follows:

STATEMENT BY DR. HARMON

The voting system established by the major political parties and the Central Election Management Committee was professional, and seemed to provide for sufficient oversight by opposition and press. At polling and ballot counting stations, the mood was businesslike and calm. Only at the latter was the presence of security personnel conspicuous, and I personally heard no charges of obstruction or intimidation. Citizens seem satisfied that the electoral processes of December 16 and 17 reflected the will of the people. I doubt that charges of fraud have persuaded the average Korean that the election system failed.

Such were my impressions from a very limited stay in the Republic of Korea during the several days surrounding the presidential elections. I gathered those impressions in visits to polling places in Inchon, Youido, and Seoul, at a ballot counting station in Seoul, from "exit polling" of voters, and from conversations with students and other interested parties, both Korean and foreign.

I heard and discussed a variety of allegations of fraud and abuse, which by no means were focused solely on the activities of the governing party. Some of the charges may indeed prove to be true. Certain others clearly appeared to be without foundation. I heard none which dissuaded me from a judgment that the process was generally smooth and genuinely competitive, and yielded a margin of victory so large as to transcend what cases of unfairness there may have been.

I left the R.O.K. extremely encouraged by the nation's dramatic step along the path of democratic politics. The presidential balloting, like the National Assembly elections which preceded and will follow it, give every cause for optimism. The Koreans, and democratic peoples the world over, will doubtless be watching to see whether the new government holds true to its candidate's promises of openness, conciliation, and good will. It would also seem that the opposition, divided in the campaign and defeated at the polls, owes the Korean people no less a duty to foster reconciliation.

SALUTE TO AMALGAMATED BANK OF NEW YORK

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. MORRISON of Connecticut. Mr. Speaker, I would like to draw my colleagues' attention to an article about the Amalgamated Bank of New York which appeared in the December 14, 1987, edition of the Wall Street Journal. The Amalgamated Bank was founded in 1923 by the Amalgamated Clothing Workers, the precursor of the Amalgamated Clothing & Textile Workers Union [ACTWU]. The Amalgamated Bank proves that a bank can be fair to consumers, small savers, and working men and women, and still make a reasonable profit. The Journal's report follows:

[From the Wall Street Journal, Dec. 14, 1987]

LABOR LENDING—HOW A UNION SURVIVES IN BANKING BY PUSHING SERVICES OVER PROFITS

AMALGAMATED BANK PITCHES FREE CHECKING AND SHUNS RISK, THEN NEEDLES RIVALS—SLOW DANCE IN THE CONGA LINE

(By Robert L. Rose)

NEW YORK.—When Amalgamated Bank of New York introduced a free checking account last fall, it wasn't content to quitely inform its customers. The bank brought an ad opposite the editorial page in the New York Times and asked: "Why is free checking only for those who can afford to pay for it?"

The bank's inclination to tweak its big corporate rivals isn't surprising. Amalgamated is a union bank, founded in 1923 by the Amalgamated Clothing Workers and still owned by the 284,000 members of its successor, the Amalgamated Clothing and Textile Workers.

Heralded as the wave of the future by labor leaders earlier in the century, labor banking was a flop. Out of some 36 labor banks founded in the 1920s, only Amalgamated in New York and Brotherhood Bank & Trust in Kansas City, Kan., survive as labor-owned institutions.

Now, with some labor experts predicting a comeback in union membership and influence, Amalgamated provides one of the oldest examples of a kind of labor-owned business that may multiply. In the past several years, about half a dozen new labor banks have opened, and more are on the way. Like the clothing workers who started Amalgamated, other unions see a chance to own a bank friendly to their members' needs and find new investment outlets for their growing assets.

A ROGUE BANK

Amalgamated survived largely because its union owner insisted on conservative banking and professional management. In contrast, the Brotherhood of Locomotive Engineers set up banks across the country during the 1920s and quickly branched into securities and even Florida land development. Losses piled up, and the union eventually charged four of its officers with mishandling funds. By 1931, the engineers were out of the banking business.

Amalgamated has also benefited from being something of a rogue bank, loudly touting a consumer ethic and often de-emphasizing profits in favor of services. Its free checking account is only the latest evidence: Amalgamated claims to have pioneered the unsecured installment loan in the 1920s, lending money to borrowers with no collateral but a steady job. Three times a survey has named it the top bank for consumers in New York City. "They give me the best treatment," says Mike Garcia, an officer of the Leather Goods, Plastic and Novelty Workers' Union, who says he banks at Amalgamated because of its labor roots.

OVERLAPPING CONSTITUENCIES

Amalgamated has reported 44 consecutive years of profit and has grown to $1.47 billion in assets by serving two overlapping constituencies: middle-class consumers and organized labor. Now, the union-owned bank is exploring other ways to use its labor ties and financial muscle to expand in new areas.

Earlier this year, Amalgamated teamed up with Metropolitan Life Insurance Co. in a proposal to offer a comprehensive money-management program for the AFL-CIO's 14.5 million members. On a smaller but no less innovative scale, Amalgamated is helping three New York locals of the Bridge, Structural and Ornamental Iron Workers union use some of their pension money to finance below-market, no-points home mortgages for their members. The bank is considering expanding the service to other unions, many of which have retirement trust funds under Amalgamated's care.

The recent mini-resurgence of labor banking is led by unions in the construction trades. Massachusetts members of the carpenters' union opened a Boston bank in September, and California carpenters plan to open a separate institution next year. Two-year-old Union Savings Bank in Albuquerque, N.M., another construction-trades bank, uses its $10 million in assets for loans to small businesses and other customers.

"I think there's been a realization that we should be generating jobs with our own money wherever possible," says Anthony Ramos, the retired former leader of the California State Council of Carpenters.

Amalgamated's loud voice on consumer issues is partly a marketing ploy to set itself apart from the pack. As other banks cater to big depositors and raise fees for small accounts, Amalgamated promotes treats for the little guy, such as its free checking and low-interest personal loans.

Highly conscious of its labor roots, Amalgamated also likes to take shots at the establishment banks. In one of its radio commercials, a stuffy banker tells a customer he needs a password to sit down. "The name of any Ivy League school will do," says the banker. "P.S. 188?" asks the customer, naming the public school he attended. In other ads, comedians Jerry Stiller and Anne Meara imitate rank-and-filers with names like Rocco and Blanche, and pitch "America's Labor Bank."

"If we give [the industry] an uncomfortable feeling for a couple of hours, it will be worth it," concludes Edward M. Katz, Amalgamated's president and chief executive.

The bank's five-story brick headquarters, which it shares with its union owner, overlooks New York's Union Square, the site of labor and political rallies earlier in the century. Back in the old days, Amalgamated's services even included a travel agency and foreign-exchange desk for the immigrant population that dominated the clothing workers' union. Today, customers in open shirts and work boots outnumber those in business suits. Proclaims a plaque on the lobby wall: "New York's First Labor Bank, dedicated to the service and advancement of the labor movement."

Mr. Katz, too, is quick to prove his allegiance. After ushering a visitor into his office, he flips open his suit jacket and proudly shows the union label. A soft-spoken man of 66 who started as a part-timer at the bank in 1946, Mr. Katz raises his voice when he talks about how small depositors have fared under banking deregulation. Not too well, he believes. "When you have a special industry using Uncle Sam as an umbrella in times of difficulty, don't you owe something to the public?" he asks. "What would be so wrong with having an account on which you don't make money?"

Amalgamated, though, is bucking a strong trend. A national survey conducted by the Consumer Federation of America and others found that fees for routine banking services are rising sharply for most depositors.

In some ways, Amalgamated has a lot less to offer those customers than its competitors. Small by big-bank standards, it doesn't generally offer credit cards or home mortgages. With only three branches and two newly opened automated teller machines, it lacks what many consumers want most: convenience. And in the ranks of big-league banks, Amalgamated is an also-ran, shunning such trends as interstate expansion and the hot competition for corporate loans.

"I'm not conscious of their presence" as a competitor, says Richard Ravitch, the chairman and chief executive of Bowery Savings Bank, which has about four times the assets and eight times the branches of Amalgamated. Contends another New York banking official: "If they were the best, they'd be bigger."

But what Amalgamated does have, it pushes hard, especially its reputation as a low-cost consumer bank. Last year, when an annual survey by New York State Sen. Franz S. Leichter dropped Amalgamated to No. 11 from No. 1 as the least expensive bank for New York City consumers. Amalgamated officials phoned the legislator and angrily complained. (The bank is back up to No. 2 this year.) In 1985, the Better Business Bureau of Metropolitan New York challenged Amalgamated's boast of having the lowest auto-loan rates of any bank in the city. But the bank quickly backed up the claim, the bureau says.

Amalgamated says its current 9.2% interest rate on new auto loans is still the best in the city. According to the Bank Rate Monitor, seven of the largest bank and thrift institutions in the New York City area charge an average of nearly 12.5%. On the deposit side, the bank's 6.25% annual yield on money-market accounts is a third of a point higher than the average paid by 10 big institutions tracked by the monitor.

Amalgamated also pays interest and charges no fees on savings accounts with a $5 minimum. And it is not unusual for the bank to get thank-you notes from longtime customers surprised to find the bank honored their checks—and charged no penalty—on their overdrawn accounts.

Customers' main complaint centers on what bank employees call "the conga line" that often slowly snakes its way to 23 tellers in the lobby of the main office. Still, other factors outweight the long waits, depositors say. Edward Soorko, for example, says he moved his account to Amalgamated after Citibank bounced a check for his son's tuition—even though he covered the check with a deposit the same day.

Charles Nabelle, a dapper 82-year-old customer in a white hat and sports coat, walks 13 blocks to get to Amalgamated's Union Square office. There are plenty of closer banks, but he says he chose Amalgamated because he likes the personal attention he gets there. After cashing a $40 check, Mr. Nabelle offers a short lecture on the importance of shopping for bank services. "A poor sucker will go for Chase Manhattan as opposed to Amalgamated because Chase or Citibank is an *important* bank," he says. "That is unfortunate."

And perhaps costly. Sen. Leichter's latest survey found that a typical bank customer with $600 in checking and $1,000 in savings would earn $105 in a year at Amalgamated and lose $100 at Manufacturers Hanover Trust Co. Amalgamated, says Glenn von Nostitz, the legislative aide who oversees the survey, shows "you can give people a break and still make money."

Not surprisingly, Amalgamated has kept a close relationship with organized labor. Unions account for up to two-thirds of its $1.1 billion in deposits, and its trust department holds an additional $3.2 billion in pension and health-and-welfare funds. Amalgamated manages $1.6 billion of the trust funds, shunning stocks and corporate bonds in favor of safer government securities.

In 1973, Amalgamated officials worked over a weekend to fill out hundreds of bail checks to keep striking Philadelphia teachers out of jail. Nine years later, when the National Football League Players Association ran out of money during its strike, it turned to Amalgamated for a $200,000 loan. The players' union didn't have an account with the bank at the time, but "we did after that," says Ed Garvey, then the union's executive director.

Although neither the Amalgamated Clothing and Textile Workers union nor the bank likes to admit it, the goal of giving consumers and unions a break often conflicts with the goal of making money. But Mr. Katz has the luxury of working for owners who aren't constantly pressing for higher profits. "You make a little less," concedes Jack Sheinkman, the president, of the union and chairman of the bank. "Despite that, we've done very well in terms of our return on equity and on capital," which exceed the average for banks Amalgamated's size.

That attitude makes it easier for the bankers to concentrate on another priority of the union—financial safety. The bank has few corporate customers, and, as a matter of policy, turns down offers to participate with other banks in corporate lending. "I don't want to rely on my big brothers" to determine if a loan is safe, says Mr. Katz. Nor does he like to gamble on investments. Mr. Katz prefers buying U.S. government securities, and the shorter the maturity the better. "All the money's tied up in cash," jokes Howard Lee, the executive vice president and cashier.

The result is steady, if not spectacular, profits. Last year, Amalgamated earned $12.2 million, sending $7 million of that in dividends to its union owners. Government bank examiners often do double takes when they pore over Amalgamated's books. Bad loans charged off in 1986: $195,000 out of $313.5 million, far below the average for banks its size. Auto loans delinquent 30 days or more at the end of November: 11 out of 13,044.

Says William A. Goldberg, who runs the bank's personal-loan department: "We're here for the average guy—so long as we are reasonably assured he'll pay us back."

LEXINGTON CITIZENS PRAY FOR PEACE

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. MARKEY. Mr. Speaker, just prior to this month's summit meeting, a group of concerned citizens from Lexington, MA, issued a proclamation for peace calling upon all people everywhere to set aside a moment of thanksgiving that this meeting is taking place, and let them offer prayer or other appropriate expression of moral concern, especially in their places of worship, for the success of the meeting between Ronald Reagan and Mikhail Gorbachev.

They undertook this initiative because of their understanding of the magnitude and consequences of the summit meeting and their conviction that it is necessary to build a moral and spiritual foundation for world peace by mobilizing grassroots action and involvement.

I commend their interest and commitment to seeking new solutions to the problems the United States and the Soviet Union face in the area of arms control, regional conflict, and human rights and join in their hope and prayers that this month's summit meeting will lead to a more stable and lasting peace.

THE SUPERCONDUCTING SUPER COLLIDER

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. SHUMWAY. Mr. Speaker, today I would like to congratulate my constituents in their efforts to locate the superconducting super collider in the State of California. This exciting project not only has the potential of becoming the most valuable science project, it will lead to a new understanding of the fundamental building blocks of the universe. The support for this project among the many diverse groups in California has been outstanding, as representatives from the scientific, academic, technical, agricultural, working trades, local and State governments, and the general public have worked together to make this State home for the SSC. If chosen to be the site, as I hope it will, California will be able to reap the economic benefits such as new jobs and educational fundings, as well as strengthen its world-class standing in science, technology, education, commerce and industry.

The State of California is committed to over $1 billion toward this goal. It has put together a deeply committed team of planners and designers to insure that this project is in accordance with all State environmental laws, economically viable, and safe from any possible earthquake damage. The State will provide access roads, wastewater lines, power, gas and water to the site. Realizing the vital importance of the agriculture industry, the State has expended great effort to insure that as little farmland as possible is removed from production, and for those landowners and renters who are affected that they compensated fairly.

I am proud of the proposal my constituents have diligently put together on behalf of this State. It is an effort in which we all can take pride, and if California is chosen as the SSC site, it is due to the support and sacrifice of many Californians who worked together to make a scientific ideal come true.

CONGRESS AND THE FUTURE

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. FASCELL. Mr. Speaker, in honor of the 100th Congress and the upcoming bicentennial of the U.S. Congress, I have delivered several speeches on the floor of the House on the history of the U.S. Congress. I have looked back, reflecting on the 1st Congress and on 10 of the many outstanding accomplishments of the Congress over the past 200 years, as well as on the historic 100th Congress. Now, I would look ahead as we begin our third century under the U.S. Constitution.

My previous remarks provided an opportunity for us to reflect upon the lessons of the past and to apply them to the future. Although I do not have a crystal ball, I strongly believe that a better understanding of our past is essential to a more complete understanding of what the future may hold for this institution and for the country. There is a lot that we can predict, even though the exact course of future events will, of course, remain elusive. There are enduring themes throughout our history that we will recur in our future, and I am certain that some of the problems we face today will continue to demand our attention in the years ahead.

I strongly believe, Mr. Speaker, that the very instrument which has carried us through 200 years as a nation, the U.S. Constitution, will continue to be our compass for charting a course into the next century. I can think of no better place to begin than at the beginning of the Constitution itself, in the preamble, where the very purpose, of government are laid out so brilliantly. The Constitution was created to help us "* * * form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity." The challenge of these words will be as vital to the U.S. Congress in the next 100 years as it has been in our first 200.

How we fulfill these noble ideals in the years ahead will determine our success as a Congress and as a nation. This task has never been easy, and it certainly will not get any easier in the future. There will be major challenges on fundamental domestic issues and foreign policy matters in an increasingly interdependent and complex global economy. In the final analysis, these issues can be boiled down into just two: The state of the U.S. economy, and war and peace. The role of the Congress in determining our Nation's response to these matters must be as a coequal in Government, a role which reflects the Congress' responsibility to the American people and to the Constitution in keeping the principles of representative democracy alive.

The American people expect the Congress to take an active part in protecting individual liberty, encouraging economic growth, preserving our environment and natural resources, promoting education, and defending this Nation. Each of these areas will undoubtedly continue to demand our attention in the years ahead—and Congress will respond to the needs of the American people, as the Constitution requires.

We will not be able to work in isolation or in ignorance of the other nations of the world. The United States cannot extricate itself from what is going on around this troubled globe. It is impossible. The process by which we interact with other countries of the world is a dynamic one, and it will never stop.

Many of the problems of the next century will involve expanding technologies. Technology is always a double-edged sword: It can solve problems and can create new ones. How we respond to the challenges of major scientific and technological advances will determine how well we fare as a nation. We cannot turn back the clock on new technology. Yet we must embrace these new advances with caution. New fields such as genetic engineering offer great possibilities for breakthroughs in fighting disease and ending hunger on this planet; however, we should not rush headlong into this brave new world without fully understanding the implications of these powerful new tools and what they mean to life on this planet.

One of the important things we can do to prepare for the exciting possibilities of the future is to see to it that our children, those who are and will be running this country, are equipped with the best possible education we can provide. Education is the bedrock of all that we are as a nation. Federal, State, and local governments across the country all have important roles to play in this enterprise.

Which we need to produce more scientists and engineers, we also must produce more writers, historians, and philosophers. Future generations of Americans also must understand how government works. The need will be to educate the whole person rather than teaching a few technical skills may be outmoded in a few years. They will require the knowledge to adapt to a changing world without losing our roots, our culture, and our values. This will be critical if we expect the Constitution itself to last beyond its bicentennial and on to its tricentennial. As James Madison, the father of the Constitution, wrote:

> A popular government, without popular information, or the means of acquiring it, is but a prologue to a farce or a tragedy; or perhaps both. Knowledge will forever govern ignorance; And a people who mean to be their own Governors, must arm themselves with the power which knowledge gives.

Mr. Speaker, I am a realist—aware of the tremendously complex problems facing our world today, but confident that we can build a truly better nation and contribute substantially to a safer, more peaceful world. The Constitution has been our guide for two centuries. Its vitality and strength are undiminished; it is stronger then ever. It formed the basis for the role which the Congress has played throughout the development of our Government and the policies of the United States. As long as the American people support and defend their Constitution, and as long as Members of Congress faithfully carry out its provisions, we can be confident in the future of the Congress and in the future of this Nation.

TRIBUTE TO ART KELLY

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. HORTON. Mr. Speaker, at the end of this year, I will be losing a long-time staff member in my district, Art Kelly. I want to take a moment to thank him and to publicly express my deep gratitude and appreciation for his work on my behalf over the years.

Beginning in 1970, Art Kelly served as special assistant in my main district office in Rochester, NY. In 1980, he semiretired, remaining on as a special field representative in the Wayne and Monroe County areas. For Art, though, semiretirement is a non sequitur. His work was as comprehensive and dedicated as ever.

Prior to joining my staff, Art worked for 35 years for radio station WHAM in Rochester. For many of those years, he was its station manager. During World War II, Art taught navigational skills to pilots prior to their entering the war. He cochaired the Perinton, NY, bicentennial and headed the Historical Society of Perinton, where he lived for more than 30 years. Art was the president of the Egypt, NY, fire department and an active member and historian for the Fairport Grange.

Art and his beautiful wife, Helen, currently live in East Bloomfield, NY. Naturally, Art continues to be very active in the community and is the assistant director of the Antique Wireless Museum. His involvement in early radio continues at St. John Fisher College to this day.

Mr. Speaker, for 17 years Art has worked with and for me. During those years, he was in charge of my Rochester district office. He frequently represented me at meetings and public events when activity here in Washington forced my absence. His professionalism and caring attitude perfectly reflected my attitudes in providing the most efficient constituent services possible.

His continued participation in many events through his semiretirement, including my annual office hours trip in Wayne County, has been a great help to me, and exemplifies Art's good nature and the respect that so many of my constituents pay to him.

Mr. Speaker, someone once said that a good time to retire is before it's too late to have a good time. Knowing Art and Helen like I do, I'm sure that they will greatly enjoy a much deserved rest.

My most sincere thanks to a wonderful man, Arthur Kelly, for his devotion, his loyalty, and his outstanding work for me and for the people of the 29th District of New York. My staff, my wife, Nancy, and I want to extend our kindest regards, and wish Art and Helen many, many years of health and happiness in their retirement.

WORKING AND POOR WITH NO PLACE TO GO

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. MILLER of California. Mr. Speaker, it is troubling indeed, that in this sixth year of economic recovery, we are witnessing an expansion in the numbers of the working poor. Between 1976 and 1986, the number of workers living in poverty increased from 6.6 to 8.9 million. With affordable housing and decent jobs beginning to look more like the exception than the rule across the United States, we have seen the emergence of a new social phenomenon—the working homeless.

In a 10-city survey recently released by the National Coalition for the Homeless, shelter workers reported a marked increase in the number of working homeless who could not afford to pay for housing. On average, 30 percent of the homeless studied in the survey were working full or part time. In the District of Columbia, nearly two-thirds of homeless men living in city-funded shelters work full or part time. And 22 percent of the District's homeless families have working members.

These findings are underscored by a survey of homelessness and hunger just released by the U.S. Conference of Mayors. This year, the demand for emergency shelter in major cities increased by 21 percent. For families, the demand jumped by 32 percent, bringing with it a host of health and safety problems for homeless children.

The Select Committee on Children, Youth, and Families, which I chair, has documented that the cost of owning or even renting a home has become prohibitive for poor households. During the Reagan recovery, homeownership for householders under age 25 has declined by 16 percent. Between 1974 and 1983, the median rent burden for the poorest households increased from 35 percent of total income to 46 percent. And while the number of households needing low-rental housing is projected to increase by 44 percent between now and the year 2003, the total number of available low-rental housing is expected to decline by 27 percent.

Many of the homeless poor work in service jobs with low pay, few or no benefits, and limited opportunities for advancement. Between 1986 and the year 2000, low-wage jobs in the service sector—from janitors to cashiers—will predominate among occupations with the largest expected job growth. Five of the eleven job categories accounting for the majority of new jobs pay at or below $11,400 a year.

Despite its claims that all is well in America, the Reagan administration carries a heavy responsibility in creating this crisis. Over the past 7 years, the administration has cut Federal public housing programs by 75 percent. It has dragged its feet in implementation of the Stewart B. McKinney Homeless Assistance Act, which Congress passed earlier this year to assist private organizations and localities in sheltering the homeless, and to make modest efforts assisting homeless families and children. And just 2 days ago, the White House threatened to veto a major housing and community development bill which would shore up the supply of moderate and low-income housing.

Mr. Speaker, the growing numbers of the working poor, the working homeless and homeless families tell us that the social contract of the postwar era has come to a close. In America, we were told, if you worked hard, you could buy a home and save for the future. Rising incomes and Federal mortgage assistance programs helped families improve their fortunes and realize their dreams. Now that social contract has been replaced by a grim economic reality. No matter how hard American families work, they may still be poor with no place to go.

HUMAN RIGHTS ON THE MARCH: 250,000 RALLY IN WASHINGTON ON BEHALF OF SOVIET JEWRY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. LANTOS. Mr. Speaker, it is my great honor to commend today the 250,000 people from around the world who rallied on the Ellipse and then marched down Constitution Avenue in Washington this month on behalf of Soviet Jewry. Unprecedented in size and fervor, the gathering brought together politicians of both parties, as well as all elements of the Jewish community, in a unified protest of the Soviet Union's treatment of Jews and other religious minorities, in violation of the Soviet Union's own constitution, the Helsinki agreement and the United Nation's Declaration of the Rights of Man.

One cannot help wonder if such a rally before World War II would have helped prevent the Holocaust. As Nobel Laureate and Holocaust Survivor Elie Wiesel told the protestors: "It is now clear that had there been such a large demonstration of Jews—and human solidarity of concern—in 1942, 1943, and 1944, millions of Jews would have been saved. But too many were silent then. We are not silent today."

One can also not help but marvel at the dedication and spirit of these demonstrators, most of them young, who rallied to the cause of their own history timed to coincide with the summit meeting of Ronald Reagan and Mikhail Gorbachev, the demonstration riveted world attention on the Soviet Union's total disregard in the past of the rights of individuals to worship, to be with their spouses, to emigrate, to be spiritually free people within the rational bounds of their own government.

Mr. Speaker, I submit that this rally was a turning point in what has now become a world march for human rights. Whereas not even the entire Jewish community could have been brought together for such a protest a decade ago, now they were enthusiastically supportive of their brother's right to freedom. Whereas American Christians and other non-Jewish groups had been diffident, they, too, now raised their voices on the Ellipse to protest one government's disregard of the fundamental human rights of its citizens. As Winston Pickett reported in the Northern California Jewish Bulletin: "For some, it was their first national demonstration. For the ex-peaceniks of the Vietnam War era, there was a sense of deja vu. For veterans of the Soviet Jewry movement, it was a shot in the arm."

The world is coming to realize that human rights are indivisible, that a violation anywhere is an affront, and a call to action, to all. Washington and Moscow may agree to nuclear arms treaties, and that is certainly all to the good. But I maintain that true glasnost, true world peace between the superpowers will not come to pass until these issues of basic human rights are dealt with and resolved. It is the primary issue between our governments today, Mr. Speaker, the issue that divides, erodes, and breeds mistrust, despite agreements in other areas. What Jew can hail an arms agreement when he is prevented from leaving the Soviet Union? What Christian? Indeed, Christians will observe their 1,000 anniversary in the Soviet Union next year—and from where? At least 200 of them from jails. Psychiatric hospitals. Labor camps.

Mr. Speaker, the temperature on that December day was a chilly 36 degrees, but none of the demonstrators seemed to mind. They generated warmth through their solidarity—a sea of chanting, singing, praying and most of all, caring people. For nearly everyone, it forged memories of compassion. One young man, Reuben Haller, put his feelings into a poem, which he wrote on the plane back to San Francisco from Washington, then read to the 130 bay area demonstrators who flew cross country to participate in the rally. I submit it for the RECORD:

It was 36 degrees in Washington on a cold December day,
When 130 Jews flew in from the city by the Bay.
They came for justice, nothing less, they would not accept 'no'.
"We demand," they said to Gorbachev, "you let my people go!"
You say there'll be a brain drain if they leave just like a flood;
But Soviet Jews don't belong to you, they are our flesh and blood!
And so we came to Washington to make our demands clear.
And we will raise our voices high until we know you hear.
Our will is set, our minds made up, it makes no difference how.
We will fight and struggle and demand you give us justice now!
We are all like Moses, every Jew, at Pharoah's mighty throne;
But we are the miracles that will force Gorbachev to let the Jews go home!

A TRIBUTE TO ROADWAY EXPRESS

HON. TOM SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. SAWYER. Mr. Speaker, I rise today to recognize Roadway Express, a corporation located in my congressional district and the recipient of the 1986 President's Trophy, the trucking industry's most prestigious safety award.

At a time when the American public is increasingly expressing concerns over the safety of our transportation system, it is with great pride that I share with you the distinguished recognition Roadway Express has received for its safety efforts and accomplishments in the trucking industry.

The President's Trophy was presented to Roadway Express at the recently held American Trucking Association's annual convention. Roadway was chosen on the basis of its overall safety record, which for the fourth consecutive year remains the best in the Nation and for its safety program activities. In that Roadway provides service to all 50 States and its operation covers nearly 500 million miles a year, the company's achievement in this area represents an enormous commitment toward providing the safest possible service and one that certainly benefits not only its customers but also the motoring public in general.

The President's Trophy is well deserved recognition for Roadway's longstanding commitment to safety on our highways. More than 20 years ago, I worked for Roadway Express to save enough money to go back to school. It was a valuable experience for many reasons, but among the clearest lessons I recall was the enormous pride taken throughout the company at every level for its industrywide safety leadership. I remain proud of that achievement today.

The judges for this year's award were Richard P. Landis, Associate Administrator for Motor Carriers at the Federal Highway Administration; Chuck Hurley, execution director for the National Safety Council's Washington, DC, office; and Chuch Livingston, coordinator of safety programs for the Highway Users Federation.

The President's Trophy is a tribute to Roadway's drivers, dock workers, and mechanics, as well as its management personnel. I extend my thanks to them all for the ongoing effort to keep safety a major priority and the exemplary standards they continue to set for the industry to follow.

THE SUPERCONDUCTING SUPER COLLIDER

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. MOORHEAD. Mr. Speaker, I rise today to praise the efforts of several diverse, energetic groups to locate the proposed superconducting super collider in the State of California. These groups—comprised of numerous chambers of commerce, city councils, boards of supervisors, newspapers, and large groups of citizens—are convinced, as I am, of the importance of this project to the economic growth of California. The SSC would add considerably to local and State funding and personal income, and it would provide more jobs for California residents. The excitement of this project has spread to the general public; 69 percent of northern Californians who are familiar with the SSC support California as its location.

The State of California is ready and willing to commit $1 billion in an effort to place the SSC within its borders. California, enriched with a wealth of scientists and academic talent, has the resources and technology to fully support and maintain this great scientific project. Recent studies have shown that present designs of the SSC make it impervious to earthquake damage, particularly at either of the proposed sites in Stockton and Davis. Communities throughout northern California have expressed the need for this project and, just as importantly, the State itself is committed to making its wishes become reality. In addition, all 47 members of the California congressional delegation are in full support of having this important research facility located in the Golden State.

TRIBUTE TO RAY A. BARNHART

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. LEHMAN of Florida. Mr. Speaker, I rise today to honor a distinguished and very able gentleman, Mr. Ray A. Barnhart, who is retiring from his position as Federal Highway Administrator at the end of this year. Ray has headed the Federal Highway Administration for the last 7 years. In my opinion, there has been no more able or forthright administrator at the Department of Transportation during his tenure.

In my capacity as chairman of the Transportation Appropriations Subcommittee, I have dealt with Ray on many occasions. Sometimes we have been on the same side, sometimes not. But no matter what the circumstances, the things I could always count on from Ray were professionalism and straight talk. Those are valued commodities in Washington.

Mr. Speaker, the Federal Highway Administration rarely makes the front pages. But, if you talk to the executives and policymakers around town, you will find that the Federal Highway Administration has a reputation as one of the better managed and more effective Federal agencies anywhere in Government. They have built a transportation network that is by far the best in the world. This is a tribute to the men and women of the Federal Highway Administration, and to Ray Barnhart whose stewardship has been exemplary.

I extend my congratulations to Ray for a job well done. And, as long as he is not running for office, I wish him the very best for the future.

HERD FEVER

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. RAHALL. Mr. Speaker, this past Saturday, the Thundering Herd of Marshall University played for the NCAA Division I-AA college football championship at Pocatello, ID. In one of the all-time thrillers, Marshall was narrowly beaten by Northeast Louisiana 43 to 42.

Nevertheless, the 1-point loss in the championship could hardly diminish the pride and excitement that the Herd brought to the people of Huntington, WV and the entire State. We were all infected by "Herd Fever" as the State of West Virginia rallied around the Herd, everyone basking in the glow as these fine young men showed the country the true West Virginia spirit.

It has been 17 years since that tragic October day in 1970 when a plane crash killed the entire Marshall University football team. As I watched the Herd play this past Saturday, I was filled with emotion as I thought about how the school has been able to bounce back from that shocking tragedy.

My congratulations go out to Coach George Chaump and all of the Marshall Thundering Herd and I thank them for the memories. We are all so very proud of them and wish them the best in their future endeavors.

CARING FOR PEOPLE WITH AIDS

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. STUDDS. Mr. Speaker, I would like to share with my colleagues a message from Bishop Francis A. Quinn of Sacramento, CA, on caring for people with AIDS. It is truly a message for people of all faiths.

TO THE PEOPLE OF THE CATHOLIC DIOCESE OF SACRAMENTO CONCERNING THE CHRISTIAN RESPONSE IN CARING FOR OUR BROTHERS AND SISTERS WITH AIDS (ARC)

(By Bishop Francis A. Quinn)

(I am indebted to Father John Healy, diocesan coordinator of AIDS ministry, and his colleagues in the preparation of this statement).

"As long as you did it to one of these the least among you, you did it to me." (Matt. 25).

I would like to make it clear at the outset that this is a pastoral statement on ministry to people with AIDS. It is not about issues of sexuality and morality. The Church's teaching on those matters can be found in other documents.

I. THEOLOGY OF SUFFERING AND MINISTRY

Jesus, while walking on this earth, constantly reminded us that healing the sick and ministering to them was a sure sign of the presence of God's Kingdom. Jesus celebrated only one Eucharist. He never baptized or confirmed. He spent little time in administration, but He spent a substantial amount of his life ministering to those who were sick or grieving, e.g. the widow of Naim, to people who were different, outsiders, Gentiles, "lepers" (Hansen's disease), Samaritans, and to those who were poor, discriminated against and powerless. He did not castigate them. He has a special gift for listening, making people feel respected and loved; and they were never the same again. A healing occurred; they were freed from self hatred, and so could overcome unhealthy or destructive behavior and grow spiritually, emotionally and even physically.

Jesus never equated sin with disease. In fact, He went out of His way to show how cruel that connection could be. (John 9:13).

Many of the people Jesus ministered to and healed were regarded as sinners, as outsiders, as "getting what they deserved", by society's standards and even by the "good" religious people and leaders. Jesus did not react to anyone in that manner. He went out of His way to treat all of these with compassion, reverence, respect and love: the result was miraculous, a life-giving transformation. He restored their human dignity, their belief in themselves, and the sense that they were loved. Before that, they felt the rejection and hatred of people around them, more sadly still, they began to hate themselves and act accordingly.

Jesus' harshest words were reserved for self righteous people who condemned and rejected others. He simply said that those worthy of His kingdom would be judged on how they treated one another (Matt. 25), especially the "least among us": the hungry, the sick, prisoners, outcasts, rejects, and sinners.

Jesus did not worry about being seen as too soft, or not standing up for God's commandments: He was not controlled by a niggling inner guilt that makes some of us come down judgmentally on "sinners" to convince ourselves we are on God's side. His stories of God's mercy, e.g. the Prodigal Son (Luke 15) depict an outrageously forgiving father. It is only the much less forgiving elder son who mentions the word "sin". The fact of the matter is that we all have fallen short of the love of God; we are all sinners.

If Christ or the Church ministered only to those who did not bring some of their misfortune on themselves, there would be little ministry. Our smoking, over eating, over drinking, drug taking, negative stress, dangerous driving, and many other destructive and even sinful habits can bring on sickness, disease and death. We always have to work to change these patterns of life to become healthy. We need, above all, to experience God's love through the touch of flesh and blood friends before we can do anything at all about life styles.

If we want to talk of "wrath of God", one of the greatest sins in our world today, by Jesus' yardstick (Matt. 25), is the death of thousands through starvation every day while we have plenty. If we believe in a "wrath of God", reaction to people with AIDS, then we, as individuals, and our Church and country need to examine our own consciences about the source of our values when it comes to a consistent ethic of life. Are they Gospel values or society's values?

The Church has a long and courageous tradition of making present the compassionate, healing, freeing love of Christ to the sick and dying. It has been especially present at times of plagues, tragedies and terminal illness. The Church has never hesitated to appoint special ministers to those who are hospitalized or in prison. Dying people, e.g. those ravaged by AIDS, cancer, heart disease, have a unique call on our love, compassion and ministry. We may be surprised to find the special gifts, even conversion which they bring us as they experience rejection, fear, doubt, loneliness, depression and anger, along with their pain. It is a privilege indeed to work with someone when all the illusions are swept away. This powerful experience can be most redemptive. The torn, beaten, rejected body of Jesus in His passion and death comes in to view again in that patient lying on his or her bed.

II. AIDS

An epidemic brings out the *worst* in us, our fear, self-protectiveness and mean-spiritedness, and the *best* in us, our generosity, courage and magnanimity. It is, above all, a time for us to be true Christians, and to be Church, as the Body of Christ, always solicitous for its wounded members.

Mother Teresa of Calcutta has suggested that we are treating people with AIDS like modern day "lepers". Perhaps we need to face the implications of that dreadfilled word! Those who suffer with AIDS and are treated as "lepers" once were, have sometimes come to believe that they are the modern day manifestation of this disease. We might remember the experience of St. Francis of Assisi, who found that when he kissed the "lepers", he (Francis) was healed and the "lepers" disappeared. An inner conversion, a healing had taken place. Francis had faced his own fears, destroyed his personal prejudice, leaped over social bonds and came into the light of Christ. Freed to love unconditionally in that light, he lovingly went out and cared for the sick.

III. FACTS

Along with an epidemic of AIDS, we are in grave danger of an epidemic of ignorance and prejudice. At the present time, it is true that AIDS is a disease largely experienced by gay men in the United States, but this is not the case worldwide. Up to now, California has reported approximately 4,000 AIDS cases. More than 300,000 Californians are carrying the virus and may pass it on. The mortality rate in the first year after contracting the disease is almost 50%. The Catholic Diocese of Sacramento has a special concern for the Medical Correctional Facility at Vacaville, where virtually all AIDS patients in the State prison system are confined.

AIDS (Aquired Immune Deficiency Syndronme) causes a breakdown in the body's immune system, leaving it vulnerable to *infections* (especially P.C.P., or pneumocystis casinii pneumonia) and *cancers* (especially K.S., or Kaposis' sarcoma) which normally do not affect healthy people. AIDS is caused by a virus called H T L V (Human T-Cell Lymphotropic Virus III). There is not yet a cure for AIDS, but treatments for the infectious cancer are available.

Much of the hysteria about AIDS is a result of fear and ignorance about the danger of contracting it. There is *no evidence* up to now that it is transmitted in any way except: a) by intimate sexual contact involving the exchange of semen or blood. (It is not transmitted by saliva, sweat or tears); b) by infected blood entering the blood stream directly through the use of contaminated hypodermic needles or, by a transfusion of infected blood or blood product; c) by an infant while it is developing in the womb or during birth or during breast feeding from a mother who has contracted AIDS.

IV. PRACTICAL SUGGESTIONS

AIDS is not spread by casual contact. You cannot get AIDS by being near or hugging someone, swimming in a public pool, eating in a restaurant, using public bathrooms, or by donating blood. Normal health precautions have to be taken, as with all infectious diseases, but exaggerated precautions add to the patient's isolation and suffering, and are unnecessary, unjust and non-Christian. The same must be said about keeping children with AIDS out of school, and legislation that would limit housing for people with AIDS, or require their being quarantined.

Our diocese is ready to work with legislative, correctional, social service, educational and Church groups to meet this challenge in a just, caring and informed way. Furthermore, we pledge the institutions of the diocese to be present, to ask no judgmental or condemnatory questions, but simply to be the compassionate presence of Christ on a lonely road.

The role of our diocese, of pastor, chaplain, minister, helping agency and pastoral counselors is primarily a role of reconciliation. So often AIDS is a syndrome of alienation and separation between the person with the disease and every support system around him or her. As Church, we can offer a healing ministry of reconciliation, to help restore a sense of wholeness to broken relationships between the patient, family and friends.

All responsible for administration of the Sacraments shall be especially sensitive to the particular needs of people with AIDS. Our Catholic hospitals have made very real progress in instructing their staffs and setting policies concerning the disease. We encourage them to continue in this course. The Diocesan Catholic School Department is developing appropriate policies. Hospice of Mercy in Redding and in the Sacramento area have patients with AIDS. Catholic Social Services is prepared to provide group and individual counseling. Catholic chaplains to correctional facilities need our wholehearted support.

St. Francis Parish, Sacramento, through particular organizations, provides spiritual and emotional assistance. We offer the educational and media facilities of the diocese to deepen our scientific and theological knowledge about this disease to lessen prejudice, fear and distance. We only prejudge when we do not know. We know that some people with AIDS have nowhere to go. Perhaps all of us together, church and health care institutions, social service agencies, lay and charitable organizations, city, county and state can come together to provide housing or inhouse-hospice type care. We pledge all of this, conscious of our limitations in time and resources.

Much more remains to be done: as a first step, we must build trust and a sense of caring. These require time, a change of heart and considerable education. The matter is critical; there is very little time for someone dying of AIDS. We need to bring together those willing to help and those who need help.

We must deal with death, but above all we want to help people live. We ask the advocacy and the prayers of our diocesan community for our brothers and sisters, fellow members of the Body of Christ who are suffering pain, discrimination, rejection, despair or guilt in this or any other terminal disease.

If the yardstick of our Faith is unconditional love, particularly love of those whom society regards as outcasts, then our response to people suffering from AIDS will be a measure of our Faith.

AGRICULTURAL CREDIT ACT OF 1987

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. HAMILTON. Mr. Speaker, I insert the following summary of the Agricultural Credit Act of 1987 into the CONGRESSIONAL RECORD. It provides detailed, but easily understood, information about the package of reforms for the Farm Credit System that passed the House late last week:

AGRICULTURAL CREDIT ACT OF 1987

(H.R. 3030)

RESTRUCTURING OF FARM LOANS

H.R. 3030 will require Farm Credit System (FCS) lenders to restructure the loans of financially-stressed farmer-borrowers, in order to help keep farmers on the land and help turn around the condition of stressed System institutions. Restructuring (which involves compromise of debt obligations) will be required if that is the least-cost alternative, that is, if it will produce more return to the lender than foreclosure.

Similar requirements will be imposed on the Farmers Home Administration (FmHA) with respect to its farm loans.

FARM CREDIT SYSTEM BORROWER STOCK

The bill will require FCS institutions to redeem at par value all farmer-held stock to ensure farmer-borrowers their investment in the System will be preserved.

ADDITIONAL PROTECTION FOR FARM-BORROWERS

The bill includes a number of provisions designed to give FCS and FmHA farm borrowers under financial stress a fair opportunity to overcome their credit problems without adversely affecting creditor rights.

New borrower rights include:

Enhanced review and appeal of adverse credit decisions on FCS and FmHA loan applications and loan restructuring;

Prohibit FCS lenders from foreclosing any loan on account of declining collateral value or previous delinquency if the borrower has made or brings current all accrued payments of loan principal, interest, and penalties;

Rights of "first refusal" providing that family farm borrowers of the FCS and FmHA can re-purchase or lease foreclosed property they previously owned;

Increased FCS and FmHA borrower access to loan documents and information, and right to obtain an independent, "second opinion" appraisal for use in disputes involving collateral values;

Requirement that FmHA release sufficient income to cover living and operating expenses of farm families during foreclosure proceedings, up to $18,000 annually.

H.R. 3030 authorizes $7.5 million annually (for 4 years) for matching grants to States for operation of farm loan mediation programs, but no State may receive more than $500,000 per year. The bill also extends and improves an existing interest rate buy-down program operated by the FmHA.

FARM CREDIT SYSTEM ASSISTANCE

H.R. 3030 establishes the Federal Assistance Board which will derive up to $4 billion from sale of 15-year bonds. These bond proceeds will be used during the next five years to infuse money into FCS institutions that must have outside help to redeem borrower stock at par value, pay off debt securities as they mature, or continue lending to farmers at competitive interest rates. The U.S. Treasury will pay all interest to assistance-bond investors for five years, then half the interest for another five years. If FCS lacks cash to retire the 15-year bonds when they mature, it can borrow as necessary for that purpose from the Treasury.

The bill establishes a Federal Assistance Board to oversee the federal assistance. The Board will be composed of the Secretary of the Treasury, the Secretary of Agriculture and one agricultural producer with experience in financial matters appointed by the President and confirmed by the Senate.

The Federal Assistance Board would work with troubled System institutions to develop business plans that maximize self-help and make efficient use of Federal funds. Approval of business plans, except for emergency help, would be a pre-condition for Federal assistance.

SECONDARY MORTGAGE MARKETS FOR AGRICULTURAL LOANS

A new secondary market for agricultural loans would be created, under which commercial farm lenders and the Farm Credit System will gain new access to capital markets. This new secondary market is patterned after—and in many respects similar to—existing successful secondary market structures previously developed for the housing sector: the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the Government National Mortgage Association (Ginnie Mae).

The bill establishes the Federal Agricultural Mortgage Corporation (Farmer Mac) to perform the following primary functions:

Develop and enforce uniform underwriting, appraisal and repayment standards for loans eligible for the secondary market;

Determine eligibility and certify specific financial institutions to serve as pooler underwriters of the agricultural mortgages;

Provide its guarantee for timely payment of interest and principal on qualified pools of mortgages that are securitized and sold in the capital markets.

The market will rely on pooling and underwriting—subject to prior certification and direction of the Mortgage Corporation—by private-sector institutions with the financial and management capacity to perform those functions efficiently. A special reserve, equal to 10 percent of the face value of mortgages in the pool, is required for each securitized pool of loans. Borrowing authority from Treasury, up to $1.5 billion, is authorized in order to make individual pools of mortgages marketable to investors at competitive prices. An intermediate reserve fund, established through collection of fees from farm loan poolers in exchange for credit enhancement, would be used to pay any losses prior to using the Treasury line of credit.

This new secondary market should benefit American farmers in a number of ways:

Farm borrowers generally will receive better credit terms and service due to the greater competition among providers of agricultural real estate credit that is fostered by the secondary market.

Because the farm mortgages are securitized, farmers will have the valuable option of a long-term, fixed-rate mortgage for the purchase of farmland.

Commercial agricultural lenders can originate and sell more long-term farm mortgages, while retaining the servicing with the farm borrowers, without impairing their immediate liquidity or their capacity to meet farmers' needs for operating and equipment financing as the agricultural economy recovers.

Smaller agricultural banks can use the secondary market to diversify their income to healthier levels and increase their lending amounts to individual farmers.

The Farm Credit System can offer long-term, fixed-rate mortgages without risking the mismatch of their loan assets and bond liabilities that caused a substantial part of the System's present financial difficulties.

H.R. 3030 includes a number of safeguards to ensure safe and sound operation of the market:

The new secondary farm mortgage market will be regulated by the Farm Credit Administration, and the securities sold in the market will be subject to Federal and State securities laws.

The permanent 15-member Federal Agricultural Mortgage Corporation Board will be composed of: 5 members elected by stockholders representing insurance companies, banks or other financial institutions; 5 members elected by stockholders representing the Farm Credit System; and 5 members appointed by the President and confirmed by the Senate.

No loan may be pooled in the secondary market if it exceeds $2.5 million or 1,000 acres, whichever is greater. In no case may any loan be included if it exceeds 2% of the total amount in the pool, or if it is based on a loan-to-value ratio in excess of 80%.

The bill also provides that mortgages on single family, moderate priced residences in communities below 2,500 inhabitants may be sold in this secondary market.

In addition, the bill also establishes a similar new secondary market for government guaranteed certificates representing pooled private-sector farm loans guaranteed under the existing Farmers Home Administration guaranteed loan program.

FARM CREDIT SYSTEM ORGANIZATIONAL IMPROVEMENTS

H.R. 3030 establishes an insurance program for System institutions similar to the FDIC program for commercial banks, and authority is provided for FCS institutions to improve the way their business operations are capitalized.

Farm Credit Administration regulation is strengthened through such provisions as the imposition of capital adequacy requirements and new civil money penalties. System institutions with more than 20 employees would be required to adopt affirmative action hiring practices similar to those applying to Federal Government contractors.

The bill contains the framework for a reorganization of the Farm Credit System designed to reduce overhead costs and provide a more streamlined credit delivery system for farmer-borrowers.

Highlights of the reorganization plan include:

The required merger of the Federal Land Bank and Federal Intermediate Credit Bank in each of the 12 districts within six months after enactment;

A referendum among voting stockholders of the current 12 districts on reorganizing the FCS district structure down to no less than 6 districts, and

The vote would take place within 18 months after enactment on a comprehensive reorganization plan developed by a special committee composed of a representative from each district and the Federal Assistance Board.

A referendum of the stockholders on the merger of each Production Credit Association and Federal Land Bank Association within a district serving substantially the same geographic area within 6 months after the district FLB and FICB are merged;

A referendum of the stockholders of the banks for cooperatives on a plan to merge into a National Bank for Cooperatives within 12 months after enactment; and

Broad authority for voluntary merger within the system before or after the required mergers and referendums.

SACRED HEART PARISH CELEBRATES 75TH ANNIVERSARY

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. FISH. Mr. Speaker, I rise on this occasion to announce to this Chamber that on January 1, Sacred Heart Parish, Newburgh, NY, will close a year of celebration marking the 75th anniversary of the parish. I would like to briefly outline the origins of the parish and special events this year that testify to the balance of historical and contemporary elements that bind the young and old of the church.

Sacred Heart originated on June 21, 1912, and its initial aim was to serve the needs of a community of Italian immigrants. What started with a temporary chapel founded in a vacant storefront on Washington Street in Newburgh has developed into an integrated parish of 1,600 families who congregate in a very handsome church dedicated in 1965. The Sacred Heart School, dedicated in 1951, educates more than 200 students, grades kindergarten through eighth, and provides religious education to more than 600 students from public schools.

Over the past year, the parish has been remembering how it started and the original Italian/immigrant parishioners that were its base. It also continues to serve the present community in innovative ways. In September, Sacred Heart held a gathering for senior parishioners age 75 and older. The seniors, who were just beginning their lives when the parish began its life, shared their memories and some of their life experiences. A homemade manicotti dinner, a common event in the earlier days of the parish, attracted 600 people. Along the same theme, the parish organized a picnic and a communion breakfast at which more than 300 members of the parish enjoyed good food and a bit of Sacred Heart nostalgia. All of the celebrations have been videotaped for posterity.

The anniversary year, inaugurated on February 2, 1987, will come to an official closing with a noon mass on January 1, 1988. After the mass, a time capsule, prepared by students of the Sacred Heart School, will be buried. It will be opened in the year 2012 on the 100th anniversary of the parish. The capsule contains publicity booklets from this year's events, press clippings, lists of those confirmed and graduated, a roster from the school, a 32-page comprehensive parish history and photos from the year's celebrations. Besides helping to prepare the time capsule, the students put on a lip-sync music program dedicated to the 75th anniversary.

I am extremely proud of the sense of heritage and the community spirit that exists at Sacred Heart. The roots of the parish, its older parishioners, and the buds on the new branches, the youngsters, are both thriving on the Sacred Heart tree.

HARMONIZED SYSTEM DELAYED

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. FRENZEL. Mr. Speaker, I had hoped that the Congress could implement the new harmonized system of tariffs this year to join our trading partners who are set to implement the system on January 2, 1988. As far as I am aware, there is no opposition to this legislation.

Unfortunately, however, the legislation was opposed by Senate leaders who felt sections of the omnibus trade bill should not be broken off before its completion next year. There was also complaint that the administration had not promoted the legislation in a timely or aggressive manner.

I believe the opposition is unjustified on the latter point. The administration has promoted implementation of the harmonized system for months. A bill to implement the system was sent up to the Congress in June.

The administration was told by both staff members of the Ways and Means Committee and the Senate Finance Committee that there was no chance of promoting the HS separately, but that implementation would occur as part of the omnibus trade bill. When it became evident that the trade bill would not be passed in 1987, the administration did aggressively promote its passage as a separate bill, or as an amendment to another piece of legislation.

The administration followed Hill advice on this issue. The blame for our inability to pass it lies solely with the Congress itself.

IMPORTANT PROGRESS MADE ON VISA LIBERALIZATION

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. BIAGGI. Mr. Speaker, I wish to indicate my full support for the actions taken last week on the State Department Reauthorization bill which puts us moving in the right direction on the all important issue of visa liberalization.

Specifically, I wish to express my total agreement with the amendment which will impose a 1-year moratorium on the denial of visas for persons solely on the basis of their past or current political beliefs and or associations. It is hoped that during this 1-year moratorium that continued progress can be made on more comprehensive legislation to amend the McCarren-Walter Act which has been responsible for this policy.

The issue involved here is a fundamental one. For those Americans who have been denied the ability to hear the views and thoughts of a person because their visa to enter the United States was denied, the United States is engaging in a form of censorship. The policy is inimical to our democratic principles and practices and must be changed.

One group that has been affected by the current visa policies are those Irish Americans with a concern about the problems in the north of Ireland. Systematically, over the past 15 years, some segments of political thought in Ireland have been exclued from this Nation while others have carte blanche access to our shores. It is an inconsistent policy which causes something less than a full and free exchange of views on this all important subject.

I sincerely hope that once this measure becomes law groups will test it right away to see if it has teeth. The Government will still have the right to bar entry for a person who has committed terrorist acts—as compared to being a member of an organization—or who is likely to commit them in the United States. However, there are others in the Irish and Northern Ireland political community who are not involved with terrorism who have been denied entry into the United States. It is time to test this new law.

I wish to especially commend my good friend and colleague BARNEY FRANK for his outstanding leadership on this issue.

LET ARTISTS HAVE A FAIR SHARE OF THEIR PROFITS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. FRANK. Mr. Speaker, our colleague the gentleman from Massachusetts [Mr. MARKEY] has long been a knowledgeable and sophisticated defender of the rights of artists. He understands the importance of proper recognition of the needs of artists if our society is to continue to draw sustenance from them.

In pursuit of his efforts on behalf of those who create, Mr. MARKEY wrote an article on behalf of the Visual Artists Rights Act which is sponsored by himself and the senior Senator from Massachusetts [Mr. KENNEDY]. Mr. MARKEY'S article presents the case with force and clarity. His efforts on behalf of efforts are important and deserve wide recognition and discussion, so I ask that the article in question be reprinted here.

[From The New York Times, Dec. 20, 1987]

LET ARTISTS HAVE A FAIR SHARE OF THEIR PROFITS

(By Edward J. Markey)

Last year, two owners of an Australian mail-order firm known as Subdivision Art brought a 1959 Picasso linocut print entitled "Trois Femmes." The purpose was to cut it into 500 pieces, each one inch square, and sell them for $135 apiece—complete with a certificate of authenticity and a 30-day money-back guarantee. They placed newspaper ads which read: "Yes, your own beautiful framed Picasso piece, in the most original and exciting offer in the history of Australian art. And you can own a piece of the work yourself." One of these enterpreneurs, David Robertson, was quoted as saying, "If this thing takes off, we may buy other masters as well and given them the chop."

Consider another episode. In 1969, a painting by Robert Mangold was sold for $800. The Gallery collected a 50 percent commission, leaving the artist $400. Last year, that piece sold at auction for $80,000. Robert Mangold, who created the work, received nothing.

These incidents illustrate a gap in copyright protection for visual artists. Visual artists make an enormous contribution to the culture and national life of our country. Yet, even if their works are greatly appreciated, the rights of the artist are inadequately protected. Unlike the work of literary or performing artists, art created by sculptors, painters and graphic artists are treated more as physical objects than expressions of the artistic creativity of the authors. To correct this legal deficiency, I have introduced a bill known as the Visual Artists' Rights Act in the House of Representatives. Senator Kennedy has introduced identical legislation in the Senate. By amending copyright law with respect to copyright notice, moral rights and resale royalties, this bill seeks to protect the artist's right to the integrity of his work and to benefit from its commerical success.

The first provision of the legislation would eliminate the requirement that an artist prominently affix a copyright notice to his work in order to get copyright protection.

Second, the bill would codify moral rights for visual artists, recognizing the artist's interest in maintaining the integrity of his work. The artist would be given the right to bring a civil copyright claim for willful destruction or mutilation of his work.

But maintaining the integrity of their work is not the only area where visual artists receive inadequate protection; they also lack the right to participate economically in the growing value of their work. Novelists collect royalties on their books. Composers get royalties from their pieces. Musicians and singers get royalties from their recordings and performances. Painters and sculptors, too, should receive royalties from their commercially successful pieces.

The Visual Artists' Rights Act provides that if a work of art worth more than $1,000 is resold for a profit of 50 percent or more, the artist should get a royalty of 7 percent of the profit. This resale royalty is probably the most contentious provision of the bill, because it involves money. Let us be frank. There is a lot of money being made in the art world. The problem is that too little of it ever gets to the artist.

A work of art is not a utilitarian object, like a toaster; it is a creative work, like a song, a poem or a novel. We should not pretend that all connection between the artist and the creation is severed the first time the work is sold. "Out the Window," by Japser Johns, did not sell for $3.6 million because its canvas and paint are unusually valuable; it is valued highly because it embodies the creative effort of a particular artist.

Artists should benefit from the success of their work, which embodies their intellectual property. Currently, in a typical situation where the resale royalty in our legislation would apply, everyone seems to profit from the artist's efforts except the artist. The seller, who didn't create the work, makes a 50 percent profit on it. The dealer, who didn't create the work, gets a 10 percent commission. The government, which didn't create the work, collects an 8½ percent sales tax. Why shouldn't the artist, who created the work, get a 7 percent share of the profit on his own work?

Some argue that giving the artist a small royalty on large resale profits on his works somehow ultimately will hurt the artist by wrecking the art market in America. Yet American art has managed to survive despite the 10 percent premiums from buyers and larger commissions from consignors that art dealers charge. Art dealers argue that a 7 percent resale royalty will drive the art resale business to London. They do not explain why the 8½ percent sales tax in New York City has not driven the art resale market to New Hampshire.

In the words of Shelley, artists are "in one sense, the creators, and, in another, the creations, of their age." The state of the arts ought to be an important matter of public concern. By channeling some of the profits made from art back to those who create it and by giving artists some protection for the integrity of their work, the Visual Artists' Rights Act will help sustain and encourage the arts. This is not just a matter of fairness to artists; it is a matter of supporting part of our civilization.

ALLOW FTC TO ANALYZE THE INSURANCE INDUSTRY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. LAFALCE. Mr. Speaker, today I am introducing a bill that would allow the Federal Trade Commission [FTC] to analyze the insurance industry. I find it literally incredible that the FTC, the leading Federal consumer agency, is prohibited by law from even conducting a study of the insurance industry—especially when it has such a profound impact upon our economy—it grossed over $310 billion in 1986 and accounted for over 8 percent of our gross national product.

Even though the FTC has primary responsibility for protecting consumers from deceptive or anticompetitive business practices, it has been barred from investigating this industry without specific mandate from Congress since 1980. During the late 1970's, the FTC did conduct studies of the insurance industry, looking at deceptive insurance advertising practices, discrimination in obtaining insurance, and rates of return on life insurance.

These studies documented a number of interesting facts which were understandably not well-received by the insurance industry and which led them to mount a campaign to repeal the FTC's ability to investigate it. For example, one such study revealed that the rate of return on whole life insurance policies was only about 1.3 percent. Another study, which was never completed, focused on the fairness of risk classification and pricing in the area of private passenger automobile insurance. This industry pressure, along with the general Federal antiregulatory climate, unfortunately led Congress to include a provision in the FTC Improvements Act of 1980 that stated there could be no study of the insurance industry unless the House of Senate Commerce Committee specifically requested it.

As a result, the FTC has been unable to carry out any comprehensive analysis of the insurance industry's practices over the past 7 years. During the recent liability insurance crisis, when the insurance industry drastically increased its liability insurance premium rates and refused to even underwrite certain lines of insurance, the FTC was unable to analyze the causes of these rate increases and unavailability of liability coverage.

When the insurance industry mounted a massive nationwide $6 million advertising campaign to present its claim that the cause of the insurance crisis was an increase in tort litigation—through a series of horror stories about alleged court cases—the FTC was unable to ascertain if this advertising was, in fact, truthful or deceptive. When the insurance industry argued that it was being economically injured due to this alleged increase in tort litigation, the FTC did not have the authority to study these industry claims.

As a consequence, the Federal Government has abdicated its responsibility to help protect the rights of consumers who could not find insurance or could not find affordable insurance. In addition, in recent years, the FTC's current lack of knowledge about insurance industry conditions and operations greatly hinders Congress' ability to understand the causes of the liability insurance crisis and, even more importantly, to develop appropriate legislative solutions to ensure that such a crisis does not occur in the future.

My proposed legislation would allow the FTC to carry out such analyses of the insurance industry. This bill, simply stated, removes the current restriction on the authority of the FTC over the business of insurance.

This bill does not create any Federal regulatory apparatus over the insurance industry. States would continue to retain their insurance regulatory authority. However, it does give the FTC the ability to carry out a Federal oversight function to ensure the adequate protection of all American consumers. The recent crisis did not occur within just one State's boundaries—it was national in scope—and no individual State had the necessary resources to analyze this national problem. Rather, in order to understand the crisis and the continuing cyclical instabilities in the insurance marketplace, national studies of the operation of this industry are needed.

It is also important to remember that the FTC is not restricted in its authority with respect to other industries. For example, the FTC does not need permission to study the auto industry, the chemical industry, the oil industry, the medical profession, and so forth. Therefore, it does not make sense for the FTC to be so restricted when it comes to the insurance industry.

Since 1980, this restriction has meant that the Federal Government lacks sufficient knowledge of the structure and operation of the insurance industry to adequately protect consumers. And in 1984, when the liability insurance crisis hit, this lack of information created a scandalous situation in which the Federal Government accepted the industry's agreements about the need for tort reform without any empirical supporting evidence. Ridiculous.

I urge my colleagues to support this bill to allow the FTC to analyze the financial and other practices of the industry. I am joined in my argument by the Chairman of the FTC, Daniel Oliver, who favors this extension of FTC authority and argues that it is now time to hold the insurance industry to the same standards of business conduct that govern other American industries. We must continue to protect consumers of insurance in the same way that we protect consumers of virtually every other product and service.

FORMER REFUSENIK VLADIMIR LIFSHITZ' TESTIMONY SUBMITTED TO THE HELSINKI COMMISSION ON DECEMBER 4, 1987

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. HOCHBRUECKNER. Mr. Speaker, I have been actively involved in efforts to free Soviet Jews since before my election to Congress. In July 1986 I "adopted" the case of Vladimir Lifshitz, a long-time refusenik. On his behalf, I sent several letters to General Secretary Gorbachev and other Soviet authorities requesting that Mr. Lifshitz and his family be allowed to emigrate. Fortunately, permission to emigrate was finally granted and Vladimir was allowed to leave the Soviet Union in November 1987. On December 3, I had the opportunity to meet Vladimir on the steps of the Capitol. The next day, Vladimir Lifshitz presented his testimony to the Helsinki Commission regarding the Soviet Union and Human Rights under glasnost.

All of us wonder what the future holds in terms of the promise of glasnost. Will this new Soviet openess mean open borders? Will it mean the right of all people to live in peace with the freedom to practice their religion? It is still too soon to know the answers to these questions. Vladimir Lifshitz and his family lived in the Soviet Union all of their lives until this November. They have lived under glasnost. Today, I would like to share with all of my colleagues Vladimir Lifshitz's testimony about human rights and glasnost.

TESTIMONY OF VLADIMIR LIFSHITZ, FORMERLY OF LENINGRAD, FOR THE HELSINKI COMMISSION, DECEMBER 4, 1987

1. Do you think that Soviet officials will be sensitive to human rights after the Summit?

Soviet officials will try to bargain with the United States in different areas and only to this end will they address human rights. They are not now, nor will they be, sensitive to human rights issues without linkage to trade and arms control.

2. To what extent do you suppose that Gorbachev's glasnost was instituted because of the Soviet economy?

I am sure that the Soviet economy, which is, in my opinion worsening now, is the decisive factor in the Soviet policy on human rights. Even some Soviet economists have stated that there cannot be any real improvement in the economy without changing the role of the Communist Party in its management. If this is so, it presents a test for Gorbachev who is a party man and cannot lessen the privileges of Party workers which are based on the Party's total control in the management of the economy (the prime source of their power.)

Two years ago, people on the street in the Soviet Union believed in Gorbachev. They expected changes in their living standards but now they are deeply disappointed with the realities. Moreover, there is growing anger and dissatisfaction among the people and in a short time the Soviet leaders will need a scapegoat to channel this anger.

Since the time of the Czars, the traditional scapegoat on the Russian scene has been the Jews. Not only I, but my friends as well, see it coming. Some leaders on the highest levels have begun to prepare public opinion to place the blame on the Jews for all the mistakes and misfortunes coming down upon them. Gorbachev laid the groundwork long ago for a scapegoat in the event of his failure. The campaign includes a growing number of anti-Semitic publications in the official press, in books, on TV and the public media—much more than two years ago.

Anti-Semitic publications are a traditional tool of Soviet officials. There are some new methods. Officially not under the control of the State, nationalistic organizations like PAMYAT, have proliferated. PAMYAT has some 12,000 members, most of them highly educated people, scientists, professors. They blame all the difficulties of life in the Soviet Union on the Jews. For example, they blame Jews for the problem of alcoholism in Russia. In a book by Professor Ugelov, a famous Soviet surgeon, it is alleged that there were a high percentage of Jewish merchants who sold alcohol. The number was taken from an anti-Semitic book published at the turn of the century. Even in this book there was a much lower percentage number because Jews were permitted to live in only a very small part of the country where they were not permitted to engage in agriculture or industry. In Ugelov's book, areas were out of proportion to numbers.

Only a year ago, a publication appeared alleging that Jewish doctors make Russian babies ingest alcohol to make alcoholics out of them. They based their allegation on the contention that Jewish doctors prescribed "hafir" (sic), which, according to published articles, contains alcohol.

PAMYAT is an anti-Semitic society for the upper intelligentsia. But there are Hitlerist and Fascist groups for young illiterate people. This very year, around Hitler's birthday, these groups vandalized Jewish cemeteries in Leningrad on four separate occasions. The existence of these societies would have been impossible without support from the highest echelons.

PAMYAT is still allowed to meet in official halls. None of its leaders have been dismissed from their positions. At the same time, any attempt to protest against anti-Semitic propaganda is suppressed immediately. For example, recent attempts by Jews of Leningrad and Moscow to demonstrate against such anti-Semitic activities were suppressed before they started. The few who did show up at the demonstration sites were detained immediately by the militia. Some of the organizers were held by the militia from three to ten hours.

STATEMENT OF H.R. 3030

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. VENTO. Mr. Speaker, due to a technical error on the part of the staff when assembling the statement of managers for H.R. 3030, the Agricultural Credit Act of 1987, language that had been agreed to in conference relating to the agricultural mortgage secondary market was inadvertently dropped from the printed statement. I refer to a statement by the conferees that reiterated the intent of Senate report language in Senate Report 100-230. The language that had been agreed upon stated that the conferees intend that the standards set forth in the title under which loan poolers may become certified agricultural marketing facilities are not intended to preclude entities with minimal experience in facility activities, or entities not already engaged in facility activities, from becoming qualified loan poolers where they can show the resources needed to meet the standards for certification. It is expected that new entrants to the market will be encouraged by the establishment of the Mortgage Corporation and the secondary market and the standards for certification are to be applied accordingly.

The conferees do not intend to restrict participation as certified marketing facilities to existing primary dealers in U.S. securities. The conferees further do not intend that capital standards for certified marketing facilities be set at a level that would exclude small and intermediate-sized financial institutions; institutions whose market base includes rural or agricultural communities. Not is it the intent of the conferees that purchases of stock in the Mortgage Corporation be required as a condition for certification.

Further, the conferees stated that they intend that representatives of regional financial institutions be considered for membership on the interim and permanent Board of Directors of the Mortgage Corporation. These representatives play an important role in institutions that deal with hundreds of rural banks on a day-to-day basis. Many of these individuals are experts in designing pooled mortgages and asset backed securities for distribution in the national capital markets. Their experience and expertise will be very helpful in the management of the Mortgage Corporation throughout its formative and permanent stages.

As the President considers his appointments to the interim and permanent board of directors and as the standards are set forth for certified agricultural mortgage marketing facilities, this agreement of the conferees should be taken into consideration.

THE PASSING OF MRS. GEORGE (HELEN) MAHON

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. PICKLE. Mr. Speaker, last week Mrs. George (Helen) Mahon passed away. She was the wife of the former chairman of the House Appropriations Committee the Honorable George Mahon.

Helen Mahon was a lovely, down-to-earth, gentle lady who added grace and dignity to the Capitol scene for almost a half century. She and George Mahon were two of the most respected and loved members of the community and the U.S. Congress.

I doubt that any one couple has ever made a greater contribution to or is more respected for their achievements in this body and for good government than this wonderful couple. Those of us who have served with George and Helen will always remember these special people and the services they rendered. And, we send our regrets to Helen's family and to their many friends in Texas and indeed throughout the world.

As long as the people can send to Congress people like George and Helen Mahon, then democracy will flourish and grow stronger.

HELEN MAHON

COLORADO CITY.—Services are set for 11 a.m. Saturday at the First United Methodist Church for Helen Mahon, widow of long-time U.S. Rep. George Mahon: Officiating ministers are Rev. Mark Rickman of Lubbock and Rev. Julius Early of Colorado City. Burial will follow at Loraine Cemetery under the direction of Kiker-Seale Funeral Home.

Mrs. Mahon died at noon Thursday at her home in Colorado City. She was 86.

Mahon served as congressman from a vast West Texas District that one included Michell and Scurry Counties. His tenure in Washington dated from 1933 until his retirement in 1978. Mahon died Nov. 19, 1985 in a San Angelo Hospital.

Mrs. Mahon was a native of Floresville, Tex. and a graduate of Loraine High School. She received her degree from San Marcos State Teachers College.

Western Texas College in Snyder has a memorial scholarship in honor of George and Helen Mahon.

Survivors include a daughter, Daphne Mahon Holt of Dallas and a nephew, Malvin Stevenson of Snyder.

PASTORAL LETTER ON AIDS

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. STUDDS. Mr. Speaker, moved by their own personal encounters with persons afflicted with AIDS, California's Catholic bishops have written an enlightened and compassionate pastoral letter on AIDS to the Catholic community of California. I am proud to share it with my colleagues.

A CALL TO COMPASSION—PASTORAL LETTER ON AIDS TO THE CATHOLIC COMMUNITY OF CALIFORNIA

Jesus assured His disciples He would be with them to the end of time (Mt. 28:20). He calls us to recognize His presence among us, particulary in the poor, the outcast and the ill, and to respond to Him by our concrete love for them. He invites us to participate in His mission of mercy and compassion.

"The joys and hopes the griefs and anxieties of the people of this age, especially those who are poor or in any way afflicted, these, too, are the joys and hopes the griefs and anxieties of the followers of Christ." (Pastoral Constitution on the Church in the Modern World, No. 1.)

With these words the second Vatican Council reaffirmed the necessary involvement of the followers of Christ, both in the communal life of the church and as individuals, with the daily lives of men and women everywhere. This inseparable connection reflects Christ's most intimate union with us. His incarnate presence binds us to the struggles of those with whom we share our lives.

The rapid outbreak of the unprecedented epidemic of AIDS has affected Californians in an extraordinary fashion. As Surgeon General Koop observed in his recent address to our legislators (March 5, 1987), "Californians were the first of our citizens back in June of 1981, to be identified as being the victims of AIDS. they were among the first to die of the disease, and before the rest of our country knew about—or truly understood the nature of—this catastrophe, the people of California were already beginning to bury their dead."

We, your bishops, have been profoundly moved by this crisis, and especially by our personal encounters with persons with AIDS. Several of us have written pastoral letters for our own dioceses, having experienced how this epidemic touches individuals their families and society at large, for "if one member suffers, all suffer together" (I Cor. 12:26). For some time now we have wanted to write a pastoral letter precisely as the California Catholic Conference, offering our reflections for the prayerful consideration of the entire Catholic community of California. We hope, by this means, to promote an understanding of AIDs, to allay irrational fears, to ponder this epidemic within the framework of our Catholic faith, and to explore with you ways in which we may be called as disciples of Jesus Christ to respond to the vicims of AIDS, their families and loved ones.

CHRISTIAN RESPONSE TO ILLNESS

Beyond our responsibility as individual citizens to become informed about AIDS and to work toward its prevention and treatment, as disciples of Jesus we bear a special responsibility to care for the sick, to show them they are loved, and to assure that they are treated with dignity and respect. They are sisters and brothers of Jesus and bear a special resemblance to Him because of their suffering.

Both scripture and tradition abound with models for responding to those who are ill. At the heart of any Christian response we find unconditional love and compassion.

There were no conditions placed on Jesus' expression of concern for the outcasts and the wounded of His world. If we are to follow His example, our response to those who are ill should be that of compassion, not of judgment.

"And his disciples asked him, 'Rabbi, who sinned, this man or his parents, that he was born blind?' Jesus answered, 'it was not that this man sinned, or his parents, but that the works of God might be made manifest in him.' " (John 9:2-3)

Moved by compassion to communicate concretely the unconditional love of God, Jesus proceeded to open the eyes of this man born blind. He healed the lame, cured lepers, expelled demons, brought sight to the blind and hearing to the deaf, all without judging individuals or imputing blame. We are called to respond with that same love for those who in our day suffer from this new and deadly disease of AIDS.

Just as we believe the Lord is vividly present to us in the weak and ill, we also recall that by offering back the burden of infirmity to the Father who gives us life, the sick can in some sense share in the mission of Jesus' ongoing redemption:

"Now I rejoice in my suffering for your sake, and in my flesh I complete what is lacking in Christ's afflictions for the sake of his body, that is, the Church." (Col. 1:24)

Because the sick will be saved "by personal faith and the faith of the church," we are reminded that it is not only health personnel and pastors who bear responsibility for attending to the infirm. "It is especially fitting that all baptized Christians share in this ministry of mutual charity within the Body of Christ by showing love for the sick, and by celebrating the sacraments with them." (NCCB "Decree on Pastoral Care of the Sick," Jan. 28, 1983, No. 33)

"Is any among you sick? Let him call for the elders of the church, and let them pray over him, anointing him with oil in the name of the Lord; and the prayer of faith will save the sick, and the Lord will raise him up, and if he has committed sins, he will be forgiven." (James 5:14-15)

By providing direct care, by visiting, by offering our prayers, and by sharing in the Eucharist and the Sacrament of Anointing, we can offer our companionship, along with the refreshment and reconciliation of the Lord.

NEED TO DISPEL IRRATIONAL FEARS

"A leper approached Jesus with a request, kneeling down as he addressed him: if you will do so, you can cure me. Moved with pity, Jesus stretched out his hand, touched him, and said: I do will it. Be cured." (Mark 1:40-41)

When he came across those who were sick, the Lord engaged in an immediate, direct, hands-on ministry of healing. We are called, likewise, to touch our ailing brothers and sisters in those ways which present themselves to us in the circumstances of our daily lives, our ministries and occupations. But many fears, some irrational, play in us as individuals and as community, when we approach persons with AIDS. We need to acknowledge these fears and confront them. The first thing we need to do is learn some basic facts about AIDS.

We urge you to read and study the Surgeon General's Report on Acquired Immune Deficiency Syndrome published last fall by the U.S. Department of Health and Human Services. Written in "plain English," this document provides a clear biological and medical explanation of the nature of AIDS and AIDS-Related Complex (ARC), how the disease is transmitted, and how its spread can be prevented. The Surgeon General would be the first to insist that this report is a technical medical document, not a set of moral guidelines. Like all technical studies which touch on such intimate and sacred areas as human sexuality, the report needs to be studied in a moral context. Our letter will help to provide that moral context.

Irrational fear should be dispelled especially by the medical judgment that one cannot become infected with the AIDS virus by casual contact. On the other hand, the Surgeon General's Report makes it clear that fear can be useful when it helps people avoid behavior that puts them at risk for AIDS. And so, avoidance of illicit use of drugs, sexual abstinence before marriage and monogamous fidelity within marriage recommended themselves as medically wise as well as morally responsible. The recovery of the virtue of chastity may be one of the most urgent needs of contemporary society.

Reading the accumulated body of medical information in the light of the Gospel, we offer the following specific recommendations.

PRAYER

We affirm the role and importance of intercessory prayer and fasting in the life of the church, and encourage daily prayer for all with AIDS, for their families and loved ones. We urge parishes to include in their regular Prayer of the Faithful the needs of those affected by the AIDS epidemic, and to offer their spiritual as well as temporal assistance by prayer and fasting.

COMPANIONSHIP AND TEMPORAL ASSISTANCE

We acknowledge and encourage the continued efforts of individuals and groups who make themselves available in a variety of practical ways: by providing companionship, household help, transportation, economic assistance, pastoral care, family support, bereavement counseling, medical care and research, and educational outreach. These persons truly extend the hands to the community, comforting with the tenderness of the Master Healer our ailing sisters and brothers.

SPECIAL CONCERN FOR HOMOSEXUAL* PERSONS

We urge that special attention be given to those at high risk of contracting the AIDS virus. For some time in California the most obvious high risk individuals will continue to be members of the homosexual community, some of whom have been separated from the church and its spiritual life. We regret this distance, and long to heal their wounds by offering our support and fellowship. We encourage special preparation for all engaged in ministry or in service to homosexual persons in order to reduce the understandable fear and anxiety associated with AIDS-ARC. We suggest special training to make caregivers more sensitive to the needs of this group. We have learned from the generous manner in which the homosexual community has responded by providing support services and education.

Those at risk for AIDS because of their use of intravenous drugs also call for our special attention. We embrace them fully as they struggle under the double burden of illness and addiction (and, if they are homosexual, often a triple burden). We offer our assistance in their infirmity as well as our confidence in the Lord's power to release them from the captivity of substance abuse.

HEALTH CARE WORKERS AND INSTITUTIONS

We commend Catholic hospitals for exerting leadership in developing AIDS services which provide nonjudgmental and sensitive care. Since anxiety among health care workers appears to diminish as they are able to spend more extended and interactive time with AIDS patients, attention should be given to providing adequate preparation, ongoing support and education to all health providers and auxiliary workers, especially for those whose contact with patients tends to be brief or of a more technical nature.

Community-based support services such as hospices, home care, and volunteer help can decrease the time AIDS patients spend in the hospital. We encourage the further development of church and community resources which allow patients who so choose to receive their care and to share time with family and friends in a more familiar and dignified setting.

PREGNANT WOMEN

The implications of the AIDS epidemic for pregnancy and delivery are profound. It has been estimated that two-thirds of pregnancies in mothers infected with the AIDS virus may result in infection in the babies in their wombs. There is also evidence suggesting that pregnancy itself may be a risk factor for the progression of AIDS in infected women who do not yet have symptoms. These maternal and fetal considerations bring significant complexity to counseling in the area of sexual activity as well as prenatal and obstetric care, requiring ongoing collaborative research and reflection by health providers and pastoral ministers.

AIDS IN PRISONS

We should be aware that some people in our prisons have been infected by the AIDS virus, and that a number of them suffer from AIDS or ARC. This reality increases the need for especially sensitive pastoral care within the prison setting, and for education which can minimize prejudicial treatment and harassment, and prevent further spread of the virus. Almost half of prisoners with AIDS have died while in custody of the correctional system. This situation cries out for the development and maintenance of an AIDS hospice program in which to care for severely or terminally ill prisoners in a humane and compassionate environment.

OUR RESPONSE TO THE FAMILIES OF THOSE AFFECTED BY AIDS

With Mary, who held her broken son at the foot of the cross, our community grieves with the parents, partners, families and friends of those persons afflicted by AIDS. Our ailing brothers and sisters who have fallen victims to this disease are often taken from our midst in what should be their most vigorous years. Their youth makes the burden of their sickness and death even harder to bear for their families and friends.

The tragedy of an AIDS diagnosis may be the precipitating event by which a child becomes known to his or her family as a homosexual person or a drug user. Parents and siblings may find this difficult to accept, sometimes responding with incredulity and rejection. We are called to lend our practical, emotional, and spiritual support to such families. Our hearts must go out to those families weakened by anger or sorrow who cannot accept the reality of their loved one having AIDS. Reminding them by our ministry that human dignity comes from God, and that we believe each person is sacred—a unique reflection of God among us—we can encourage them to accept these persons with AIDS back within their embrace. Other families might find the courage and strength to provide care in their homes for those incapacitated by AIDS.

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*Conscious of the problem of finding the most appropriate terminology, this letter uses the term "homosexual" without prejudice to any individuals or groups or to their debt to call themselves "gay men" or "lesbian women."

However families struggle to deal with the painful realities of this illness, we can aid by offering practical assistance such as shopping, cleaning and respite time, as well as our emotional and spiritual support to families and loved ones strained by illness and bereavement, and housing for those who come from other parts of the country.

FROM IRRATIONAL REACTION TO EFFECTIVE RESPONSE

Clearly, AIDS is a crisis of immense proportions which not only threatens individual lives, but strains the very bonds of trust upon which our common life depends. Beyond its obvious and tragic impact on the health of infected individuals, AIDS has subtly augmented our culture's pervasive sense of insecurity. Similar to the manner in which the specter of possible nuclear destruction has resulted in a heightened level of generalized anxiety, so has the arrival of this deadly virus—which threatens all sectors of the population from infants to the elderly—added to the stress of our age. And, as many other epidemics have done in the past, the AIDS phenomenon provides a focus for the projection of fears and prejudices against infected persons and those in already marginated high-risk groups. Accordingly, despite all evidence that this virus is not easily transmitted, there have been some inappropriate reactions such as attempts to bar children with AIDS from schools, eviction from housing, loss of medical and life insurance or insurability, and denial of access to medical care and emergency medical transportation. Further, there has been threatened or actual loss of employment, movements to quarantine those who are infected or who might be infected, physical violence, rejection by pastoral ministers, and even refusal by undertakers to bury the dead.

Two avenues which offer us effective means of reducing both the epidemic's spread and impact on our society are education and legislation.

We urge those engaged in educational ministries at all levels to cooperate with parents in developing interdisciplinary programs in conformity with the moral teaching of the Church for the prevention of further spread of the virus.

Schools and places of employment have been affected by fear of AIDS and its spread. Based on an understanding of the modes of transmission of the AIDS virus, medical opinion developed in concert with the National Congress of Parents and Teachers supports the safety of in-school education for children infected with the AIDS virus. Similar data provide the basis for medical opinion regarding the safety of infected persons within the work environment. We support these guidelines and encourage teachers, school administrators and employers to familiarize themselves with this information in order to guarantee access to education and employability for people with AIDS, as well as to minimize tensions in school, office or factory which are based on a lack of information.

Further, we oppose irrational, inappropriate and misguided efforts to quarantine persons affected by this virus, and support the maintenance of confidentiality in order that competent professional personnel might be able to counsel and advise in a climate free of fear.

Finally, we advocate legislation at all governmental levels which supports research into HIV therapies and a preventative vaccine; promotes appropriate AIDS education in health and school programs directed toward the general public and also developed especially for those in high risk groups; supports community-based and home-care services; provides disability and health care coverage for persons with ARC as well as those with AIDS; guarantees rights to employment, housing, insurance, transportation and education for infected persons.

CONCLUSION

The griefs and anxieties of persons affected by the AIDS virus touch each of us. We experience anew our human fragility as we witness and embrace the suffering of our sisters and brothers influenced by this epidemic. In this tragedy we hear echoes of the torment of Rachel:

"A voice is heard in Ramah, lamentation and bitter weeping. Rachel is weeping for her children; she refuses to be comforted for her children, because they are not." (Jeremiah 31:15)

People with AIDS/ARC remind us that they are not distant unfamiliar victims to be pitied or shunned, but persons who deserve to remain within our communal consciousness and to be embraced with unconditional love.

We hope and pray that sooner or later this epidemic will be eliminated by the development of effective treatments and a vaccine. Until that time, we must courageously and responsibly accommodate ourselves to the reality of an epidemic, remodeling personal and institutional commitments as necessary. We dedicate ourselves and our resources to spiritual support, to practical care, and to educational efforts designed to reduce prejudice and to stop the spread of the disease. We beg the Spirit for inspiration, courage and humility as we respond to this situaton, desiring that through our actions the Kingdom might come more fully into the world:

"Then the just will ask Him, 'Lord, when did we see you hungry and feed you or see you thirsty and give you drink? When did we welcome you away from home or clothe you in your nakedness? When did we visit you when you were ill or in prison?' The king will answer them: 'I assure you, as often as you did it for one of my least brothers, you did it for me.'" (Matthew 25:37-40)

We hope this letter proves helpful to you in addressing the AIDS epidemic with faith, hope and unconditional love. Aware of its many inadequacies, we invite your critical response to assist us in more faithfully carrying out our pastoral mission.

Your devoted servants in Christ, the Bishops of the California Catholic Conference:

Archdiocese of San Francisco, Archbishop John R. Quinn, President of the Conference, and Auxiliary Bishop Daniel F. Walsh;

Diocese of Fresno, Bishop Joseph J. Madara;

Diocese of Monterey, Bishop Thaddous Shubada;

Diocese of Oakland, Bishop John S. Cummins, Vice President of the Conference;

Diocese of Orange, Bishop Norman F. McFarland, Archbishop Tomas Clavel, (Vicar of Hispanio Community);

Diocese of Sacramento, Bishop Francis A. Quinn, and Auxiliary Bishop Alphonso Gallegos;

Diocese of San Bernardino, Bishop Phillip Straling, Secretary-Treasurer of the Conference;

Archdiocese of Los Angeles, Archbishop Roger Mahony, Auxiliary Bishop Juan Arzuba, Auxiliary Bishop Carl Fisher, Auxiliary Bishop Armando Ochoa, Auxiliary Bishop John J. Ward, Auxiliary Bishop Patrick Zieman;

Diocese of San Diego, Bishop Leo T. Maher and Auxiliary Bishop Gilbert Chavez;

Diocese of San Jose, Bishop R. Pierre DuMaine;

Diocese of Santa Rosa, Bishop John Steinbock;

Diocese of Stockton, Bishop Donald W. Montrose;

Diocese of Van Nuys, Bishop Thomas Dollnay;

Diocese of St. Maron, Auxiliary Bishop John Chedid.

SENATE—*Monday, December 22, 1987*

(*Legislative day of Tuesday, December 15, 1987*)

The Senate met, at 12 noon, on the expiration of the recess, and was called to order by the Honorable William Proxmire, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

We know that God works in everything for good to those who love him and are called according to his purpose.—Romans 8:28.

Glory to God in the highest and on earth peace, good will toward men.—Luke 2:14.

Thank You, Gracious Father, for the accomplishments of the first session and for divine intervention even when we were not aware of it. Give to all Your servants a blessed holiday of rest and renewal with their families.

"The Lord bless you and keep you. The Lord make his face to shine upon you and be gracious unto you. The Lord lift up his countenance upon you and give you peace."—Amen

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., December 22, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable William Proxmire, a Senator from the State of Wisconsin, to perform the duties of the Chair.

John C. Stennis,
President pro tempore.

Mr. PROXMIRE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

SENATE SCHEDULE

Mr. BYRD. Mr. President, the distinguished Republican leader and I have been discussing the call that we will be making to the President later today, in conformity with the custom, tradition, and practice, to inform the President that the Senate has completed its business and to ask if he has any further requests to make.

We have decided that we will wait until about 3:30 or 4 o'clock, because the President will not be in a position, I am told, prior to such an hour to assure us that he does not have further business and that he will sign the two big measures that were sent down yesterday—the CR and the reconciliation measure.

So, until then, we will probably stand in recess from time to time and dispose of any other business.

I yield to the distinguished Republican leader, if he has anything to say.

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

Mr. DOLE. Mr. President, I reaffirm what the majority leader has stated. I hope it is on the early side of 4. If we can do it earlier, it will be very helpful to my schedule.

In any event, we need to find out whether the President is going to sign the CR and the reconciliation. That is more important than any other schedule.

So, I will be in constant touch with the majority leader, to see what we can do.

There was one unanimous-consent request. I am not certain that it has been cleared.

THE CHAPLAIN'S PRAYER

Mr. BYRD. Mr. President, I want to thank our Chaplain again. His prayer was the capstone to the session, a somewhat contentious session at times. But, overall, I think we can be thankful that it ended on a good note, a note of compromise and a willingness to work together, which I think may set a pattern, hopefully, for the year to come, in which there will be many important issues and, of course, issues that might also be contentious.

But in all of these things, we heard the sweet note that came from the Scriptures, so eloquently stated by our Chaplain. It was just the right touch, reminding us that, after all, there are higher things and things more important than the temporal and the material.

I know that all our hearts go out in gratitude for the promise, the wonderful promise, of that prayer.

Mr. President, I yield the floor.

(Mr. ADAMS assumed the chair.)

Mr. PROXMIRE. Mr. President, I join the majority leader in commending the Chaplain for his superb prayers that he has given us every morning. I have heard most of them, and they have been a source of inspiration.

I think it tells something that many of our colleagues disagree with, apparently, and that is that we have nothing to fear from prayer at the seat of Government, the very seat of Government, and we have much to learn and much that can inspire us.

NO, THE SOVIET MILITARY IS NOT 10 FEET TALL

Mr. PROXMIRE. Mr. President, the most widely accepted assumption about our national security is that the Soviet Union has conventional military forces sharply superior to ours. An article in the December issue of Arms Control Today raises serious doubts about this assumption. First, does the Warsaw Pact spend more for its military than the North Atlantic Treaty Organization [NATO]? If so, how much? In the most recent year for which data is available—1984—NATO spent $330 billion, compared to the Warsaw Pact's $294.8 billion. In an article in Arms Control Today, Peter Almquist, a staff member of the Institute for Defense Analyses, writes:

> Unless NATO expenditures are significantly less effective than those of the Warsaw Treaty Organization [WTO], which is not likely, it is not surprising that Pact planners are concerned.

So it appears that in fact, NATO spends more than 10 percent more than the Warsaw Pact. How can the pact be superior when the Soviet Union and its allies are inefficient and incompetent in every other area of competition from agriculture to scientific technology? Ah, but doesn't the pact have enormous manpower in combat divisions that could strike Western Europe in a sudden blitzkrieg attack on the central front in Europe? Almquist argues that, in fact, the Warsaw Pact does have a large number of combat divisions they can field. They have on paper 253 divisions. Of these, 173 divisions are stationed in European Russia or Eastern Europe. Of these divisions, 56 are at a high readiness level. Of those high readiness divisions, 33 could be brought to bear in a blitz attack on the European central front. And of those divisions, 21 are Soviet, 12 are non-Soviet. By contrast, counting troops within the two Germanys, NATO enjoys a premobilization manpower advantage of more than 50 percent on that critical border. Furthermore, the Warsaw Pact forces suffer a weakness that could be fatal in an attack on the West. As Almquist puts it,

> At best, the Soviets would have to persuade other members of the Pact to participate in an offensive which would risk the devastation of their homelands. At worst, Soviet troops might be necessary to control their "allies" or the various national troops might find themselves dealing with active opposition in their own countries. * * * (On the other hand) the basic adherence of the Western European publics and their governments to alliance goals is not in doubt.

Mr. President, much has been made of the alleged huge advantage the Soviet Union has in tanks in Europe. Some have claimed the Soviet Union has a 5-to-1 advantage. The Soviets claim they have rough parity.

The International Institute for Strategic Studies in London gives the Warsaw Pact an advantage of 2 or 3 to 1. What's the real story? The difference lies in the aged condition of the tanks on both sides. Of the Warsaw Pact's 53,000 tanks, 33,000, or about 60 percent were designed in the 1940's and 1950's and entered into service before 1973. About 20 percent more entered into service before 1975 and were designed in the 1960's. Some of these tanks are even of World War II vintage. On the other hand, NATO actually enjoys a 3,000 tank advantage over the Warsaw Pact in tanks deployed since 1980. Also, most Soviet tanks are kept in storage and only deployed in major exercises. They are carefully watched by our intelligence. If they came out of storage and engaged in major exercises without notification during an East-West crisis, the West would quickly be on notice. NATO's antitank weapons are formidable. A recent Soviet Tactics textbook comments:

> Combat with the enemy's antitank means is acquiring decisive significance in the success of combined arms combat.

In control of the air, the pact is considered superior in numbers. But NATO has the advantage in manpower, in training, and in the quality of equipment. The defeat of Soviet planes by U.S. aircraft often in large numbers in the Middle East reflects these NATO advantages.

Almquist concludes:

> Overall, most observers consider it unlikely that the Warsaw Pact could achieve air superiority over NATO forces in the early stages of a conflict.

Mr. President, there is a common platitude in military lore that a wise military commander always reasons from a worst case scenario. He assumes that the adversary will make no mistakes, that the adversary's equipment will work perfectly, that his own forces will make blunders. This is specially true for wise military chiefs appearing before committees of the Congress, asking for appropriations from a Congress that is beleaguered by a huge budget deficit and conscious of intensive criticism of waste in military spending. The one sure way our Defense officials can appeal to the Congress for a bigger and bigger military budget is to make our prime adversary—the Soviet Union—10 feet tall. So we certainly pay full attention to the military strengths of the Warsaw Pact. But, if we are going to meet this problem honestly and effectively, we should also be fully aware of the adversary's weaknesses. This speech is intended to provide for that balance.

Mr. President, I ask unanimous consent that the article to which I have referred by Peter Almquist in the December 1987 issue of Arms Control Today be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MOSCOW'S CONVENTIONAL WISDOM: SOVIET VIEWS OF THE EUROPEAN BALANCE

(Peter Almquist)

With the announcement in September that the United States and the Soviet Union would sign an agreement limiting intermediate-range nuclear forces, attention has again focused on the conventional balance of forces in Europe. Because nuclear weapons were deployed by NATO in part as a substitute for conventional weapons ("more bang for the buck"), their removal might seem to require a conventional buildup. Such a buildup could appear necessary because it is widely believed in the West that the Warsaw Pact enjoys conventional superiority in Europe. As retired U.S. Secretary of Defense Caspar Weinberger has stated, "Given current Warsaw Pact force levels massive reductions of Soviet offensive ground forces in Eastern Europe must be made just to create a balance between Pact and NATO forces."

But the Soviets are not nearly so sanguine about their conventional superiority. According to one Soviet source, Warsaw Pact data indicates that NATO enjoys a 20 percent advantage in "battle-ready divisions" and tactical aircraft, while the Warsaw Pact has "a slight advantage in armor."[1] New NATO strategic thinking and technologies are (at least in the open literature) seen by the Pact as putting into operation an aggressive strategy of "direct confrontation." As we see it, "wrote one Soviet source," the entire Central European [theater] (mainly FRG territory) has been turned into a bridgehead for attacking the countries of the socialist community using a deployed and combat-ready grouping fully supplied with the most modern combat equipment."[2] According to the U.S. Arms Control and Disarmament Agency, NATO has slightly outspent the Warsaw Pact over the last decade. According to Western estimating techniques, in the most recent year for which data is available (1984), NATO spent $330 billion, compared to the Warsaw Pact's $294.8 billion. Unless NATO expenditures are significantly less effective than those of the Warsaw Treaty Organization (WTO), which is not likely, it is not surprising that Pact planners are concerned.

MILITARY THOUGHT

While in the 1960s most Soviet military writers argued that the conventional phase of a war involving the nuclear powers would be short, with escalation a virtual certainty, by the mid-1970s they had concluded that a war could be nuclear *or* conventional, and that a conventional phase of a war could last for days or weeks. As the conventional phase became increasingly important, Soviet authors argued that the beginning period of a war could prove decisive. This new pressure mean that the transition from peace (or, more likely, crisis) to war would have to be managed as quickly and as effectively as possible. This does not mean that the Soviets have adopted a strictly defensive position. The Soviets traditionally argue that they have a *defensive* doctrine and an *offensive* strategy; that is, they say that they will not initiate a war, but that in waging war, they will strike aggressively and deeply into enemy territory. Clearly, forces optimized for an offensive strategy can be interpreted as an offensive threat.

The possibility that a war's conventional phase could be decisive led to a renewed Soviet interest in, and planning for, large-scale conventional warfare. During World War II, the highest Soviet strategic formation was the *front,* comprising four to six armies in the first echelon, with a width of 200-300 kilometers and a depth of 300-400 kilometers. Its goal was to reach an objective 100-150 kilometers into the enemy's territory in seven to 10 days.

However, fronts were not always sufficient to achieve "large-scale political-military objectives," and groups of fronts (each called a "direction" or "axis") were established. These were to be "unified by a common concept and under the unified control of the Supreme High Command."

Contemporary Soviet military planners divide Europe into two or three "threaters of military action," or TVDs, each containing a number of "strategic directions" for striking into the depths of NATO countries. The TVD commander-in-chief commands several fronts, with each front typically comprising four or five armies. For example, the Western TVD (headed by former chief of the General Staff N.V. Ogarkov) includes the Group of Soviet Forces in Germany (GSFG). The GSFG, in turn, is made up of 19 divisions organized into five armies.

These divisions are typically well equipped with up-to-date Soviet equipment (for example, the T-80 tank, 2S5 152mm gun, SS-21 tactical missile, the SA-13 air defense missile, and the MiG-29 fighter). At the same time that the TVDs were being established, the Soviet air forces were being restructured, with more tactical aircraft (for air assault and air defense) being turned over to the various military districts and TVD commands. This was done apparently to improve the coordination between tactical air, air defense, and ground forces.

In the late 1970s and 1980s, it also became apparent that the Soviet military was again interested in the potential of deep operations and "operational maneuver groups" (OMGs), units of division and larger size designed to exploit breakthroughs, penetrate deep into enemy territory, and operate with relative independence.

CHANGING TECHNOLOGY

Soviet military thinking is not all that has changed, however. Soviet procurement patterns, forces, and deployments reflect the growing interest in the early conventional phase. The commander of the Western TVD, Nikolai Ogarkov, has been especially assertive in advocating the increased development of long-range, highly accurate munitions, arguing that additional nuclear weapons will do little to enhance either side's military capabilities. It would not be surprising to find that those who agree with Ogarkov see an INF agreement as a means of freeing some resources (albeit limited) for redirection to conventional improvements.

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[1] Footnotes at end of article.

NATO thinking has evolved in a similar manner. The United States in particular has advocated an emphasis on "emerging technologies" in conventional forces. These new weapons, relying on advanced sensing, target acquisition and processing, and kill technologies, would be used to counter forces on the front and to strike deep into Warsaw Pact territory against Pact second echelon forces, airfields, and support. The Soviets refer to many of these weapons—unmanned forces able to seek out and destroy their targets—as "Reconnaissance-Strike Systems." Such weapons include the various antitank weapons under the "Assault Breaker" program or the U.S. Joint Surveillance and Target Attack Radar System (JSTARS), designed to destroy Warsaw Pack air-defense radars and systems.

The United States has been in the lead among NATO nations in developing the emphasis on striking deeper into Warsaw Pact forces to varying depths. The "AirLand Battle" doctrine provides for striking deep into Warsaw Pact territory in the event of a WTO attack. "Follow-On Forces Attack," which has been adopted by NATO as a long-term goal, calls for using conventionally armed missiles, aircraft, and artillery to strike at the second echelon of enemy forces, to a depth of 100–150 kilometers behind NATO's forward line of troops. Just as NATO is concerned about the offensive capability of the Soviet OMGs, Soviet authors are concerned about the offensive nature of both AirLand Battle and Follow-On-Forces Attack, arguing they are part of a NATO *offensive* strategy.

The Soviets see the development of conventional weapons with the potential impact on the battlefield equivalent to that of nuclear weapons as a possible new "revolution in military affairs." This is clearly one of their main concerns about the U.S. Strategic Defense Initiative: whether SDI works or not, it will mean funding, research and development in areas of the greatest Soviet weakness and which could have significant impact on the conventional land battle.

THE "CORRELATION OF FORCES"

In Soviet eyes, there are few real reasons to be extremely confident in Europe. A Soviet military planner preparing a strike against Western Europe would be hard-pressed to claim a decisive advantage in many areas. In assessing military capabilities, the Soviets place considerable emphasis on various measures of the military balance or, as they frequently refer to it, the "correlation of forces." Relying on historical and contemporary analyses, the General Staff has developed several guidelines that they consider critical in gaining the advantage in a military engagement. For example, Soviet sources suggest an advantage in artillery of 3–5:1 is needed at the breakthrough point of the main sector, 3–4:1 in tanks and self-propelled artillery, 3–4:1 in motorized rifle (mechanical infantry) battalions, and 2:1 in aircraft. Such a breakthrough sector for a front (responsible for a zone 300–400 kilometers wide) would be from 20 to 50 kilometers wide.[3]

The Soviet General Staff, however, may not have adopted a uniform line on this issue: other Soviet and Western analysts suggest that the Soviet perception of desirable force ratios for an offensive breakthrough are considerably higher than those just quoted. In one discussion of NATO conventional capabilities, a Soviet author suggested that a 6:1 advantage in "forces and facilities along narrow breakthrough sectors is seen as a decisive condition of success in an offensive" and that NATO is striving to achieve this advantage.[4] These correlations (whether to NATO or WTO advantage) need not reflect the physical presence of the equipment, but the ability to bring their firepower to bear on a particular sector through, for example, redirection of artillery fire.

These correlations refer to the areas in which the Warsaw Pact forces would be striving to break through NATO lines, that is, areas that the Soviets felt were especially vulnerable or especially valuable. Even a relatively small opening might be exploitable by an OMG. Other forces along a front would be engaged in efforts to hold down NATO forces, preventing their use to reinforce jeopardized sectors.

It should be emphasized that these correlations are not treated by the Soviets as rigid conditions necessary for war or victory, but as desirable advantages. A positive correlation can be squandered through poor planning or command, and victory can at times be achieved with an unfavorable correlation. There are regular discussions of how to measure the correlation to account for varying differences in force mixes and how best to incorporate the qualitative differences that a simple numerical count might obscure. Ultimately, the correlations indicated may only serve as a guide for force structuring in peacetime and only indicate an opportunity in the event of war.

NATO AND PACT FORCES

The heart of Soviet armed forces in Europe is the Group of Soviet Forces in Germany, comprising five armies (19 divisions) and some 420,000 men. (The regular armed forces of the GSFG's East German host total only 179,000). Each of these divisions is a Category I division; that is, it is maintained with 70–100 percent of its manpower and 100 percent of its equipment. However, one-fourth of the men in the GSFG are new recruits, cycled into the GSFG as 100,000 more experienced soldiers, whose two-year term of service has been completed, are returned to the Soviet Union. As one Western analyst noted, this rotation is like replacing six trained divisions with six untrained ones twice each year.

NATO enjoys a pre-mobilization manpower advantage of more than 50 percent on this crucial border (counting only troops within the two Germanies). Further, in the event of a WTO offensive, NATO forces would be fighting on what has become, in effect, "home turf." Much of the Western analysis of the NATO-WTO balance includes those forces deployed in three western military districts of the Soviet Union, several hundred kilometers from the inter-German border. Of these, only a small fraction (probably four of 35 divisions) are Category I, while the others would have to be brought up to readiness. Frequently missed is the potential for mobilizing trained reservists in the Federal Republic and the other NATO European countries. Mobilization would increase the West German armed forces manpower from half a million to 1.3 million in 72 hours.

Much has also been made of Soviet tank superiority in Europe and, indeed, the Soviets place great value on tank forces. But the Soviets claim "rough parity" in tanks in Europe, counting French and Spanish tanks and tanks in storage in Western Europe, though no reputable Western source agrees with this estimate. The International Institute for Strategic Studies (IISS) in London gives a WTO advantage of 2.3:1, although this includes forces in several western Soviet military districts.

NATO maintains more than 10,000 tanks in the Federal Republic of Germany alone, with another 3,700 in Britain, France, The Benelux countries, and Denmark. While IISS estimates the Soviet tank inventory at 53,000, only about 6,000–7,000 of these are deployed in East Germany. In addition, the East German armed forces have from 1,500 to 2,000 main battle tanks (and another 1,000 in storage). Soviet forces in Czechoslovakia have another 1,500 tanks and in Poland 700, with their national forces adding some 3,500 each.

It should also be noted that the Soviets are loath to dispose of potentially useful equipment, and of their 53,000 tanks, about two-thirds were designed and entered production before 1970. The Soviet inventory includes 19,900 T–54/–55s (designed in the late 1940s, produced 1948–1963); 13,000 T-62s (designed in the late 1950s, entered service 1961); 9,300 T–64s (designed in the 1960s and entered service by 1973); 8,500 T–72s (designed in the 1960s and entered service by 1975); and 1,400 of the newest T–80. Most tanks held by the Soviets' Warsaw Pact allies are T–54/–55s, designed in the 1940s and 1950s, and there are even some World War II vintage T–34s. In terms of the newest tanks, NATO actually enjoys a 3,000-tank advantage over the WTO in tanks deployed since 1980.

In addition, most Soviet tanks are kept in storage, including those of the GSFG, and are used only in major exercises. Their deployment—indeed, the undertaking of a major exercise without notification during an East-West crisis—would provide a key indicator to the West and potentially undermine any possibility of surprise.

Perhaps as troubling for Soviet planners as NATO tank forces, however, are NATO's antitank weapons. Over the last several years, the Soviets have expressed increasing concern over NATO's mobile and frequently reusable antitank guided missiles (ATGMs) and guns, capable of striking tanks at various ranges: according to a recent Soviet tactics textbooks, "Combat with the enemy's antitank means is acquiring decisive significance in the success of combined arms combat."[5]

The United States alone has 1,000 recoilless antitank guns, 600 Hellfire antitank missile launchers, 6,000 TOW launchers, and 10,000 Dragon (non-reusable) launchers. The non-U.S. NATO allies have more than 3,700 Milan ATGMs, perhaps 1,000 TOW launchers, and Dragon and HOT launchers. While the number of launchers may seem relatively small, several hundred thousand antitank *missiles,* including more than 400,000 for the TOW alone, have been produced, and these can be deployed in vehicles, on the ground, or on helicopters. The mobility and firepower of the latter in particular (such as the AH-64A Apache and AH-1SCobra) are cause of concern to the Soviets, and may have influenced their development of both the Mi-28 Havoc and the (as yet unnumbered) Hokum helicopters. In addition, the main role of the more than 500 USAF A-10 aircraft is tank-killing.

NATO's tanks and antitank capabilities have become key targets of the Soviet Mi-24 Hind and Mi-8 Hip helicopter force. But the Soviets have had first-hand experience with the vulnerability of such helicopter forces in Afghanistan, as rebels armed with U.S.-supplied Stinger antiaircraft weapons have destroyed several. Potentially more threatening to NATO's antitank forces is the apparent deployment of reactive armor on some Soviet tanks in East Germany. Reactive armor, carried on the outside of a tank's armor, explodes outward if struck by an antitank missile, blunting the missile's ability to penetrate the tank. Reactive armor raises serious questions about NATO ability to destroy WTO tanks, but it is not a blank check for the Soviets. In particular, reactive armor is vulnerable to antitank weapons which rely on penetrating rods and perhaps to antitank missiles launched from above (such as by helicopter).

A potentially critical factor in any campaign in Europe will be control of the air and the associated ability to strike deeply into the enemy's rear. The Pact forces maintain some 2,000 counterair and 1,100 ground attack aircraft in Eastern Europe, with about 72 main operating bases situated within 800 kilometers of the inter-German border. In recent years, Soviet frontal aviation has acquired the ability to conduct deep conventional air operations.

NATO air forces are generally considered superior to those of the Pact in the key areas of manpower, training, and equipment, while the Pact is usually given the edge in numbers, both of aircraft and air defense materiel. However, analyses beyond simple "bean-counting" indicate that there are a number of factors having significant impact on the Pact's ability to generate and use its aircraft effectively (for example, readiness, maintenance, pilot training, and tactics).

In addition, the experiences of the Middle East wars have demonstrated that Soviet-supplied equipment can be defeated (sometimes in devastating numbers) through exactly those NATO advantages: superior tactics, flying, and equipment. The development of U.S. stealth technologies—for example the F-19 advanced technology fighter—may soon pose an even more severe threat to Warsaw Pact air and ground forces.

The WTO air forces can be expected to be vulnerable through attacks on ground control stations as much as through attacks on the aircraft themselves. Whether on land, sea, or in the air, the Soviet have a strong proclivity towards centralized control. This is reflected in the air forces by the reliance on tight ground-control of aircraft. A related problem that the Soviets have been concerned about in the past is the difficulty of differentiating between friend and foe. The Pact (and perhaps NATO as well, given the complexity of the problem) can be expected to be responsible for damaging some of its own air forces. Overall, most observers consider it unlikely that the Warsaw Pact could achieve air superiority over NATO forces in the early stages of a conflict.

MOBILIZATION

The Soviets recognize that mobilization is a key indicator of intentions, bordering on a declaration of war itself. The chief of the General Staff's Military Science Directorate has cautioned that "Mobilization, to say nothing of all the complex steps for strategic deployment, has always been considered tantamount to a state of war, and returning to a peaceful position is very difficult to accomplish." [6] WTO divisions are maintained at three levels of readiness. Category I can be brought to full strength in 24 hours. While only a portion of Soviet divisions are Category I, this category includes all 30 Soviet divisions stationed in Eastern Europe. Category II divisions are, it is believed, maintained at 50-75 percent strength, with full manning to take three days and possible deployment in 30 days. They have all their combat equipment, but would draw on civilian equipment for logistical support. Category III divisions are maintained at cadre strength (i.e., perhaps 10-20 percent manning), with incomplete combat equipment, typically older models. These divisions are planned to be fully manned in eight to nine weeks and deployable after 90-120 days. Only about one-fourth of the Soviet divisions are Category I, and about half are Category III. The reliance on reservists, most of whom do not know, and have never trained with, their assigned divisions, has been characterized by the U.S. Department of Defense as "probably the most significant weakness of the Soviet reserve and mobilization system . . ." Clearly, mobilization will play a crucial role in any Warsaw Pact operation.

Mobilizing for the invasion of Afghanistan took six months, according to one report. The mobilization for the invasion of Czechoslovakia took the same length of time. The apparent intention to intervene militarily in Poland in late 1980 was reportedly abandoned in part because of numerous problems mobilizing the forces in the neighboring Soviet military districts. The Soviets walk a tightrope in their planning, striving to balance surprise and mobilization. One way around this dilemma for the Soviets is to use exercises as a cover for interventions, as has been done in the past. There are, however, other indicators by which observers can distinguish a true mobilization from an exercise.

For example, indications of an imminent Polish invasion in 1980 included preparations in airfields, depots, and hospitals, and sealing off parts of the Soviet-Polish border. In addition, under the September 1986 agreement of the conference on Disarmament in Europe (CDE), the Warsaw Pact and NATO have agreed to notify each other in advance of exercises involving more than 25,000 troops, to allow observers from the other side at such exercises, and to allow short-notice challenge inspections in certain cases. These confidence-building measures make it far less feasible for either alliance to use maneuvers as a cover for a mobilization. Soviet generals must also assume that NATO would respond to a WTO mobilization with military preparations of its own, denying the Pact a one-sided advantage.

RELIABILITY OF ALLIES

In the event of a WTO attack, the Soviets would, at best, have to persuade the other members of the Pact to participate in an offensive which risk the devastation of their homelands. At worst Soviet troops might be necessary to control their "allies," or the various national troops might find themselves dealing with active opposition in their own countries. More importantly, a Warsaw Treaty Organization offensive relies very heavily on non-Soviet forces during the first 90 days after mobilization, with the contribution of the non-Soviet Warsaw Pact countries ranging from one-third to more than one-half the mobilized divisions. And there have been signs of truculence on the part of several governments of the WTO since the deployment of new soviet intermediate- and short-range nuclear-capable weapons in response to the U.S. stationing of Pershing II and ground-launched cruise missiles (GLCMs). Despite significant problems in the NATO alliance (the ongoing French refusal to participate in a unified military command, the Greek-Turkish conflict), the basic adherence of the Western European publics and governments to alliance goals is not in doubt. This cannot be said with confidence of the Warsaw Pact. Any relistic Soviet assessment of the conventional balance in Europe must factor in this essential difference between the two alliances.

LOGISTICS

A final problem that the Soviet planner undoubtedly must consider is logistics. The Soviets believe in what can be called "command-push" logistics: supplies are given first to the units which are being most successful in achieving their objectives. At the same time, they have dedicated troops to maintaining railroads and pipelines for supply purposes, part of the *tyl'* (read) under a deputy minister of defense. Soviet divisions on the offensive would consume an estimated 1,000 tons per day of stores and carry only a three- to six-day supply of necessary materiel, with an army having another one or two days' supply. Soviet stockpiles in East Germany, exclusive of those with units, reportedly allow for 37 days of ammunition and 16 days of petroleum, oil, and lubricants.[7]

While the Soviets have invested heavily in supply and logistics, the task is certainly not as easy as simply geographic proximity might suggest. Soviet trains are of a different gauge than those found in Poland, for example, and thus critical supplies would have to be unloaded and reloaded at a few key transfer points near the border. The pipelines and rail lines that the Soviets would need to resupply a WTO drive would be vulnerable and critical targets for interdiction strikes (especially as their forces attempt to advance), and the Soviet capability for airlift, independent of the vulnerability of the airfields themselves, is limited. Of course, NATO logistical problems would also be considerable, especially given that a protracted conflict might well require resupply across the Atlantic Ocean, exposing ships to the hazards of submarine warfare.

CONCLUSIONS

Prudent military analysis is too frequently interpreted to mean recognizing only the enemy's strengths and one's own weaknesses: worst-case analysis. While it is equally foolish to overemphasize an adversary's weaknesses, a balanced approach would allow for the problems faced by the Warsaw Pact as well as those NATO might face. The view from Moscow is hardly the picture of a massive Soviet-bloc advantage, as suggested by Western officials over the last several years. In the event of a war, the Soviets would strive for surprise and speed moving westward.

At the same time, they face an adversary which, in general, is technically more advanced, which spends more on military manpower and equipment, and which would have the natural advantages of the defender. Moreover, the military activities of the Warsaw Pact are watched very carefully, and preparations for war would be difficult or impossible to hide. A surprise Warsaw Pact assault from a standing start would be extraordinarily risky, while the mobilization of forces, even under the guise of an exercise, risks both telegraphing Pact intentions and escalating an already tense situation.

Both WTO and NATO observers are aware of the Pact's strengths. Unfortunately, the West pays insufficient attention to the Pact's weaknesses.

FOOTNOTES

[1] "The Correlation of Conventional Arms and Armed Forces in Europe," *Military Bulletin*, no. 13 (19), June, 1987, pp. 7-10.

[2] V. Alekseyev, "Obychnyye voyny i formy ikh vedeniya," *Krasnaya zvezda* (Red Star), October 3, 1986, p. 3.

[3] "Lecture Materials from the Voroshilov [Soviet General Staff] Academy, Army Offensive," Quoted in John G. Hines, "Soviet Front Operations in Europe—Planning for Encirclement," in *Spotlight on the Soviet Union: A Report from a Conference at Sundvollen, Norway, April 25-27, 1985* (Oslo: Alumni Association of the Norwegian Defence College, 1986), pp. 74-101, at pp. 86, 99. The U.S. government is apparently planning to release a translation of these important notes in the near future. Other Soviet figures for the correlation have been substantially greater. Examples based on World War Two typically suggest desired correlations of 6-10:1 in artillery, 4-5:1 in tanks, and 3-5:1 in infantry. See V.G. Reznichenko, ed., *Taktika* (Tactics), (Moscow: Voyenizdat, 1984), p. 95. The U.S. Army has suggested that the Soviets seek even higher ratios of 5-10:1 in battalions, 4-10:1 in tanks, and 6-12:1 in artillery.

[4] Alekseyev, p. 3.

[5] Reznichenko, ed., *Taktika*, p. 32.

[6] M.A. Gareyev, *M.V. Frunze—Voyennyy teoretik*, (Moscow: Voyenizdat, 1985), p. 242. After the publication of this book, Gareyev was promoted to deputy chief of the General Staff.

[7] See Hugh Faringdon, *Confrontation: The Strategic Geography of NATO and the Warsaw Pact*, (London: Routledge & Kegan Paul, 1986), p. 48; and David Isby, *Weapons and Tactics of the Soviet Army*, (New York: Jane's, 1981), p. 61.

Mr. PROXMIRE. I yield the floor.

Mr. ADAMS. Mr. President, I join in the statement of the Senator from Wisconsin regarding the mutual force reduction treaty and the statement that the Senator from Wisconsin made earlier this morning with regard to the balance of force in the central portion of Europe. It is a qualitative balance and I think it is very important that we point out these facts.

This Senator hopes to join the Senator from Wisconsin and others during the course of the early part of January in pointing out the actual abilities of the NATO forces to resist pact authority attack.

I thank the President, and I yield the floor.

AUTHORITY FOR COMMITTEES TO MEET

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be permitted to meet while the Senate is in session during the 2d session of the 100th Congress for the purpose of taking testimony and considering the Treaty on Intermediate-range Nuclear Forces for as long as the treaty is pending before the committee.

I also ask unanimous consent that the Committee on Armed Services and the Select Committee on Intelligence be permitted to meet while the Senate is in session during the 2d session of the 100th Congress on the same basis as that of the Committee on Foreign Relations.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. DOLE. Mr. President, reserving the right to object, and I shall not object, I just wanted to thank the majority leader, the distinguished chairman of the Foreign Relations Committee, for his persistence. It paid off. Senator HELMS has indicated this morning through staff that he was able to contact all but one person with an objection. He would take the responsibility for that. And I want to thank the distinguished Senator from North Carolina. I think this will expedite the process of the hearings and maybe get the treaties to the floor a bit earlier. But I thank the majority leader for entering the request and the distinguished chairman, Senator PELL.

Mr. BYRD. Mr. President, I thank the distinguished Republican leader for the efforts to which he has been put in making this arrangement. It has taken some considerable doing on his part.

Mr. PELL. Mr. President, I also would very much indeed like to thank the minority leader for the effort he made in this regard and to thank in absentia the Senator from North Carolina, Mr. HELMS, for his willingness to sign off on this. I am most appreciative and it would be appreciated by Senators on both sides of the aisle.

Mr. BYRD. Mr. President, I also thank Mr. HELMS. I know that this request reflects considerable cooperation on the part of several Senators, and Senator HELMS was able to help to achieve and secure that cooperation.

Mr. PELL. Mr. President, I thank the majority leader for making the request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Alaska.

Mr. STEVENS. Mr. President, while the distinguished chairman of the Foreign Relations Committee is here, I have an abiding interest in the ratification of the INF Treaty and I would like to inquire of him. I have heard this unanimous-consent agreement that has been entered and I did not object to it. I think it is a very good arrangement. I wonder if the chairman of the Foreign Relations Committee would tell us in view of this agreement on what day the hearings will start before the Foreign Relations Committee on the INF Treaty?

Mr. PELL. Mr. President, I thank the Senator from Alaska for his inquiry.

Originally it was our intention to start on January 19, Tuesday, following the Martin Luther King holiday. But in view of the unanimous-consent agreement we have received whereby the committee can both hear witnesses and consider the INF Treaty, it is my intention that we should come back on Monday, January 25, because we would have ample time then to meet each day right through the day when necessary.

Mr. STEVENS. Then the hearings will start on Monday, January 25?

Mr. PELL. The Senator is correct.

Mr. STEVENS. And it is my understanding then that the other committees will commence later than that. Is the Senator informed on that?

Mr. PELL. I am not informed, but I know we are in touch with Senator NUNN. I told him I would let him know when we started. He wants to start about the same time.

Mr. STEVENS. Mr. President, that is what my inquiry is about. I am one who believes that the action of the Senate on this treaty will have a great deal to do with the progress of negotiations on the second group of issues before our negotiators at Geneva. The strategic arms reduction talks and the START talks ought to go forward as rapidly as possible. I believe this is a good time, and I would have preferred to have them sooner, but I understand the problem which the chairman has encountered. So I do appreciate his stating he will start the hearing on the first day that the Senate is back in session. That is my understanding.

Mr. PELL. Yes.

Mr. STEVENS. I thank the Senator very much.

RECESS FOR 30 MINUTES

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of—Mr. President, to make it a little more convenient for those who have to sit at the desk, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 12:19 p.m., recessed until 12:49 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BURDICK].

JOHN NORTON'S CHRISTMAS

Mr. BYRD. Mr. President, recently I spoke of the book Holiday Tales, Christmas in the Adirondacks, by William Henry Harrison Murray. His book was published just before the turn of the century, and I quoted on that occasion the epilogue to "John Norton's Vagabond." Today I want to speak of "John Norton's Christmas" as we near the happy holidays and as we will have the time to reflect upon the true meaning of Christmas.

The poet has said the world is too much with us. Perhaps it could also be said that Christmas is too much with us—in the commercial sense. A reading of "John Norton's Christmas" will fill us with the true spirit of Christmas, the spirit of giving, the spirit of thinking of others, those who are in need, the selfless spirit, the recollections that go back to the angels and the wise men and the star in the east and the babe wrapped in swaddling clothes.

Murray told of John Norton, the trapper, an old man who lived in a cabin, and so the scene opens with the cabin in the snow, a huge fire in the large fireplace, with two hound dogs, one sitting on each side of the hearthstone and looking placidly into the fire; John Norton with his gray hair, sitting at the table, looking at a well-worn book, with wooden covers, the pages yellowed with age, talking to himself as he read the scriptures. His reading was labored, as would be the reading of an unlearned man. And he read from the scriptures which said at that point: "Give to him that lacketh, and from him that hath not, withhold not thine hand."

And then he turned the pages to those of the New Testament which spoke of the birth of Christ and the gathering of the angels and of the babe to which the wise men had come, having been guided by the star in the east. The thought struck John Norton, the old trapper, that, after all, he had been blessed, and that over the hill was the "dismal hut" of a woman whose husband had left her with two little girls and a little boy. Norton then spoke to the hounds, one on his right and one on his left, and said that God had been good, and that, in the spirit of the scriptures and of Christmas, this being Christmas Eve, they ought to think of going the next day over the hill to the dismal hut in which the poor woman with her children lived.

So he went around the cabin, filled a packsack with tea and maple sugar and honey, a bit of pork, some venison. He heard a knock at the door, and there was Wild Bill, the vagabond, who had brought with him a sled on which there was a box.

Norton welcomed Wild Bill into his humble cabin, and together they opened the box. The box was from Henry, the son of John Norton, who had gone away to the distant city to work. In the box was a set of pantaloons, a vest, some socks, and other useful gifts which had been sent to Wild Bill. Wild Bill was quite overcome by these gifts, and so he said, "I've never been given anything by anybody. These are the first gifts that I've ever received." And so he cried, and he made an oath that he would never drink again.

They then examined the box further. They lifted out a panel, beneath which was a woman's dress, some stockings, small dresses, a jackknife, a whistle, and some mittens. These were gifts that Henry had sent to the lonely woman and her children who lived across the mountain in the dismal hut. Together, John Norton and Wild Bill planned to go the next morning to give these useful items that had been supplied by John Norton's son Henry, and that had come from John Norton's own cabin, to give these to the poor woman and her children.

Meanwhile, the woman and her three children were sitting before the fireplace in their little hut. The fire had burned low. There was not much kindling left. There were holes in the roof. The little boy asked his mother if he could have a little more to eat, and she told him that there was not much left. One of the little girls asked her mother, "Mother, isn't this Christmas Eve?" And the mother said "Yes. Go to bed." Finally, she got her three little ones huddled into the bed and she prayed to God, the God of the starving: "Do not let my children die." She made up her mind that she would go the next morning down over the hill. She had seen some tracks that had been left in the snow by a huge buck.

She arose early and tiptoed out of the house after having taken the rifle from over the fireplace, and she started out to find this deer. After a little while, she saw him coming, 40 rods away. She waited, wondering whether he would go away, turn around, or come toward her. He came toward her. When he was about 10 rods away, she pulled the trigger—and missed the deer! She fainted and dropped the rifle in the snow.

Meanwhile, upon the hill the trapper and Wild Bill had heard the shot ring out. And here came the deer with strong, long bounds, leaping up the mountainside, and Old John Norton, the trapper, dropped to his knee, put his rifle up. One shot rang out, and the buck fell in the snow.

So John Norton and Wild Bill then took the deer to the dismal hut. This would be enough food for the woman and her three children to last for weeks. Norton opened the door and there huddled in the corner were the three little children like scared animals that had been run from their nest. John Norton and Wild Bill quieted the fears of the children, went out and got some wood, built a big fire, and to make a long story short, they prepared dinner, as we call it out in the country. Here in the Capitol, it would be called lunch.

They prepared this huge dinner—potatoes, parsnips, deer. They had deer fixed in several different ways. They were good chefs because we must remember that John Norton and Wild Bill lived out in that isolated area of the Adirondacks, an old trapper who did his own cooking and salted his own salmon, packed down his own pork and venison. So they had this huge fire going, and the pot boiling.

And the woman returned and opened the door to the cabin. And she wondered if these were angels who had come to her humble hut. They had fixed the roof. They cleaned out the deer, had it hanging out to dry, part of it cooking on the fireplace, and the tea was hot.

John Norton and Wild Bill gave to the woman the gifts that had been sent by Henry, and some of which had come from John Norton's own store of victuals in his humble cabin. So they made it a happy Christmas for this poor woman and her children. The little boy ran around and showed his new suit to his sisters at least 100 times. And the children skipped around and sang. Then in the afternoon late John Norton made his way back to his own little cabin.

One can imagine the feeling of satisfaction that must have been in John Norton's heart because he knew that he and Wild Bill had made this poor woman and her little children happy on Christmas day, that indeed he and Wild Bill had spent the day in the way that he believed Christmas day should best be spent—thinking of others, serving others, giving to others, sacrificing for others, those less fortunate than even he.

So here was this grizzled old rough trapper who was used to living out in the forest, living alone, his son had gone off to work, his wife had passed on. My, what a feeling that must have been in his heart! And what a joy that Christmas day must have been to that poor mother whose cupboard was bare, whose children were hungry and cold, whose cabin was almost without warmth. And how God had sent these angels, two hearty backwoodsmen, trappers, hunters, to the home when the ne'er-do-well husband, whose duty was to have been there, was elsewhere.

The final scene shows John Norton twining a wreath out of green branches. The two hounds are sitting by the fire. Then John twines a second wreath. As he twines these branches he looks from time to time at two pictures on the wall. One, the picture of Henry; the other the picture of his absent companion who had gone on before to her eternal reward. As he twined those wreaths he would look at those two reminders of the absent loved ones and he would say, "I miss them so."

The epilogue to John Norton's Christmas then was as follows:

Ah, friend, dear friend, when life's glad day
with you and me is passed,
When the sweet Christmas chimes are rung
for other ears than ours,
When other hands set the green branches
up, and other feet glide down the polished floor,

> May there be those still left behind to twine
> us wreaths, and say, "We miss them
> so!"

And this is the way John Norton the trapper kept his Christmas.

RECESS UNTIL 3:30 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 3:30 p.m. today.

There being no objection, at 1:08 p.m. the Senate recessed until 3:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. PRYOR].

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO MAKE CERTAIN APPOINTMENTS AFTER THE SINE DIE ADJOURNMENT OF THE PRESENT SESSION

Mr. BYRD. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The resolution (S. Res. 352) was read, considered by unanimous consent, and agreed to, as follows:

S. RES. 352

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, and the Deputy President of the Senate pro tempore be, and they are hereby, authorized to make appointments to commissions or committees authorized by law, by concurrent action of the two Houses, or by order of the Senate.

NOTIFICATION TO THE PRESIDENT CONCERNING THE PROPOSED ADJOURNMENT OF THE SESSION

Mr. DOLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

S. RES. 353

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join a similar committee of the House of Representatives to notify the President of the United States that the two Houses have completed their business of the session and are ready to adjourn unless he has some further communication to make to them.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

The PRESIDING OFFICER. The Chair appoints the majority leader and the minority leader as members of the committee to inform the President of the United States that the two Houses have completed their business of the session and are ready to adjourn, unless he has some further comunication to make to them.

HOUSE JOINT RESOLUTION 436—PROVIDING FOR CONVENING OF THE 2D SESSION OF THE 100TH CONGRESS

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on House Joint Resolution 436.

The PRESIDING OFFICER. The joint resolution will be stated.

The legislative clerk read as follows:

H.J. RES. 436

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That the second regular session of the One Hundredth Congress shall begin at 12 o'clock meridian on Monday, January 25, 1988.

SEC. 2. That prior to the convening of the second regular session of the One Hundredth Congress on January 25, 1988, as provided in section 1 of this resolution, Congress shall reassemble at 12 o'clock meridian on the second day after its Members are notified in accordance with section 3 of this resolution.

SEC. 3. The Speaker of the House and the majority leader of the Senate, acting jointly after consultation with the minority leader of the House and the minority leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The PRESIDING OFFICER. The question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 436) was ordered to a third reading, was read the third time, and passed.

HOUSE CONCURRENT RESOLUTION 235—SINE DIE ADJOURNMENT OF THE TWO HOUSES

Mr. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House on House Concurrent Resolution 235.

The PRESIDING OFFICER. The clerk will state the concurrent resolution.

The legislative clerk read as follows:

H. CON. RES. 235

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress shall adjourn on Tuesday, December 22, 1987, and that when they adjourn on said day, they stand adjourned sine die.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The concurrent resolution (H. Con. Res. 235) was considered and agreed to.

RECESS UNTIL 4:10 P.M. AND THEN SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes and then that it stand in recess awaiting the call of the Chair.

There being no objection, the Senate at 3:40 p.m., recessed until 4:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. PRYOR].

The PRESIDING OFFICER. The majority leader.

MISSION FULFILLED

Mr. BYRD. Mr. President, the distinguished Republican leader and I have fulfilled our mission as given to us by the Chair. We called on the President of the United States and told him that the Senate had completed its business for the first session of the 100th Congress and was prepared to adjourn sine die. We inquired as to whether or not he had any further business that he wished to have us transact.

He informed us that he had just completed signing the continuing resolution and the reconciliation bill. He made some upbeat comments about the way we have been able to work out our differences toward the end of the session with regard to these two important bills making significant reductions in the budget deficit.

We indicated to him that we felt we had set a benchmark by way of cooperation on working together in a spirit of good will and that by doing this we had produced a difficult and complex legislation out of contentious moments.

We stated that, likewise, we looked forward to the next year and we were going to put in the President's Christmas stocking some goodies; for example, a new Supreme Court Justice; in all likelihood an INF Treaty. And we looked to the forthcoming year, wishing for the President and Mrs. Reagan a very pleasant and happy holiday season.

I yield to my Republican friend.

Mr. DOLE. Mr. President, I will just add that the President thanked the distinguished majority leader for his leadership. I believe he had to be particularly pleased with the Senate leadership, particularly the majority leader's leadership, because we did it on the Senate side. I have no quarrel with anyone else, but we tried to stick with the agreement. We made it. Our representatives were there. We did not know precisely everything they knew, but I think by and large the Senate performed very well.

The President appreciated that and said so in his statement. We are pleased that the President is pleased, and pleased he signed the two bills.

I think, as the distinguished majority leader said, there are a couple of good things coming up for the President: The Supreme Court nominee, Judge Kennedy, which looks like it is on track; the INF Treaty hearings, which will start January 25, and there is a lot of support for that treaty. So I think it is going to be a pretty good year.

I thank the majority leader.

Mr. BYRD. I thank the Republican leader.

THE EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, we also promised the President one final little goodie before we go out, and that is a bloc of nominations on the Executive Calendar, one being that of Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Austria, Henry Anatole Grunwald.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, to carry out that promise I referred to, I ask unanimous consent that the Senate go into executive session to consider that nomination under the Department of State on page 2 of the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the nomination.

DEPARTMENT OF STATE

The assistant legislative clerk read the nomination of Henry Anatole Grunwald, of New York, to be Ambassador Extraordinary and Plentipotentiary of the United States of America to the Republic of Austria.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FOREIGN SERVICE

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of nominations placed on the Secretary's desk in the Foreign Service, page 3 of the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the nominations.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE FOREIGN SERVICE

The assistant legislative clerk read the nominations placed on the Secretary's desk in the Foreign Service.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nominations were confirmed en bloc.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I move that the President be immediately notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATUS OF PENDING NOMINATIONS

Mr. BYRD. Mr. President, I ask unanimous consent to modify that portion of the previously-entered agreement relating to the status of pending nominations: Under the Department of State, only the following nominations to be returned: Richard Noyes Viets, Charles Franklin Dunbar, April Catherine Glaspie, Milton Frank, and Bill K. Perrin, and that all other Department of State and Foreign Service officer nominations remain in status quo.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BYRD. I now ask, Mr. President, unanimous consent the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMERCIAL FISHING INDUSTRY VESSEL ANTI-REFLAGGING ACT OF 1987

Mr. BYRD. Mr. President, I believe that the distinguished Senator from Alaska has through the art of persuasion and with his usual persistence prevailed in the matter of H.R. 2598. I ask that the Chair lay before the Senate a message from the House on H.R. 2598.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the title of the bill (H.R. 2598), entitled "An Act entitled the 'Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987'.".

Resolved, That the House agree to the amendment of the Senate to the text of the aforesaid bill with the following amendment: In lieu of the matter inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987".

SEC. 2 VESSELS OF THE UNITED STATES.

Section 3(27) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(27)) is amended to read as follows:

"(27) The term 'vessel of the United States' means—

"(A) any vessel documented under chapter 121 of title 46, United States Code;

"(B) any vessel numbered in accordance with chapter 123 of title 46, United States Code and measuring less than 5 net tons;

"(C) any vessel numbered in accordance with chapter 123 of title 46, United States Code and used exclusively for pleasure; or

"(D) any vessel not equipped with propulsion machinery of any kind and used exclusively for pleasure.".

SEC. 3. RECONSTRUCTION REQUIREMENTS.

Title 46, United State Code, is amended as follows:

(1) Item 12101 of the analysis of chapter 121 is amended to read as follows:

"12101. Definitions and related terms in other laws.".

(2) The caption of section 12101 is amended to read as follows:

"§ 12101. Definitions and related terms in other laws".

(3) Section 12101 is amended by—

(A) designating the existing text as subsection (b);

(B) striking paragraph (6); and

(C) inserting a new subsection (a) before subsection (b) (as designated by this section) as follows:

"(a) In this chapter—

"(1) 'fisheries' includes processing, storing, transporting (except in foreign commerce), planting, cultivating, catching, taking, or harvesting fish, shellfish, marine animals, pearls, shells, or marine vegetation in the navigable waters of the United States or in the exclusive economic zone.

"(2) 'rebuilt' has the same meaning as in the Second Proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883).".

(4) Section 12108(a) is amended by—

(A) at the end of paragraph (2)(B), strike "and";

(B) redesignating paragraph (3) as (4); and

(C) inserting after paragraph (2) a new paragraph (3) that reads as follows:

"(3) if rebuilt, was rebuilt in the United States; and".

(5) Section 12108(c)(2) is amended by striking "built in the United States" and substituting "built or rebuilt in the United States".

SEC. 4. SAVINGS CLAUSE.

(a) Notwithstanding the requirements of section 12108(a) (2) and (3) of title 46, United States Code, a fishery license may be issued to a vessel that before July 28, 1987—

(1)(A) was documented under chapter 121 of that title; and

(B) was operated as a fish processing or fish tender vessel in the navigable waters of the United States or the exclusive economic zone;

(2) was a fish tender or fish processing vessel contracted to be purchased by a citizen of the United States, if the purchase is shown by contract or similarly reliable evidence acceptable to the Secretary to have

been made for the purpose of using the vessel as a fish tender or fish processing vessel in the fisheries;

(3) was documented under chapter 121 of that title and—

(A) was rebuilt in a foreign country; or

(B) is subsequently rebuilt in the United States for use as a fish processing vessel; or

(4) was built in the United States and—

(A) is rebuilt in a foreign country under a contract entered into before 6 months after the date of enactment of this Act, and was purchased or contracted to be purchased before July 28, 1987 with the intent that the vessel be used in the fisheries, if that intent is evidenced by—

(i) the contract itself; or

(ii) a ruling letter by the Coast Guard before July 29, 1987 under 46 C.F.R. § 67.21-1 or § 67.27-3 pursuant to a ruling request evidencing that intent; or

(B) is purchased for use as a fish processing vessel under a contract entered into after July 27, 1987, if—

(i) a contract to rebuild the vessel for use as a fish processing vessel was entered into before September 1, 1987; and

(ii) that vessel is part of a specific business plan involving the conversion in foreign shipyards of a series of 3 vessels and rebuilding work on at least one of the vessels had begun before July 28, 1987.

(b) A vessel rebuilt under subsection (a)(3)(B) or (4) of this section must be redelivered to the owner before July 28, 1990. However, the Secretary may, on proof of circumstances beyond the control of the owner of a vessel affected by this section, extend the period for rebuilding in a foreign country permitted by this section.

(c)(1) Any fishery license or registry issued to a vessel built in a foreign country under this section shall be endorsed to restrict the vessel from catching, taking, or harvesting.

(2) Before being issued a fishery license, any vessel described in subsection (a)(2) of this section must be documented under an application for documentation acceptable to the Secretary filed before July 28, 1987.

SEC. 5. MANNING REQUIREMENTS.

(a)(1) Section 8103(a) of title 46, United States Code, is amended by inserting "radio officer," after "chief engineer,".

(2) Section 8103(b) of title 46, United States Code, is amended to read as follows:

"(b)(1) Except as otherwise provided in this section, on a documented vessel—

"(A) each unlicensed seaman must be a citizen of the United States or an alien lawfully admitted to the United States for permanent residence; and

"(B) not more than 25 percent of the total number of unlicensed seamen on the vessel may be aliens lawfully admitted to the United States for permanent residence.

"(2) Paragraph (1) of this subsection does not apply to—

"(A) a yacht;

"(B) a fishing vessel fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802)); and

"(C) a fishing vessel fishing outside of the exclusive economic zone.

"(3) The Secretary may waive a citizenship requirement under this subsection, other than a requirement that applies to the master of a documented vessel, with respect to—

"(A) an offshore supply vessel or other similarly engaged vessel of less than 1600 gross tons that operates from a foreign port;

"(B) a mobile offshore drilling unit or other vessel engaged in support of exploration, exploitation, or production of offshore mineral energy resources operating beyond the water above the outer Continental Shelf (as that term is defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)); and

"(C) any other vessel if the Secretary determines, after an investigation, that qualified seamen who are citizens of the United States are not available.".

(3) Paragraph (2) of this subsection is effective 30 days after the date of the enactment of this Act.

(b) Subsection (c) and (d)(1) of section 8103 of title 46, United States Code, are each amended by striking "from the United States".

(c) Section 8103(e) of title 46, United States Code, is amended—

(1) by inserting "and the radio officer" after "the master"; and

(2) by striking "until the vessel's first return to a United States port at which" and substituting "until the vessel's return to a port at which in the most expeditious manner".

(d)(1) Section 8103 of title 46, United States Code, is amended by adding at the end the following:

"(i)(1) Except as provided in paragraph (3) of this subsection, each unlicensed seaman on a fishing, fish processing, or fish tender vessel that is engaged in the fisheries in the navigable waters of the United States or the exclusive economic zone must be—

"(A) a citizen of the United States;

"(B) an alien lawfully admitted to the United States for permanent residence; or

"(C) any other alien allowed to be employed under the Immigration and Naturalization Act (8 U.S.C. 1101 et seq.).

"(2) Not more than 25 percent of the unlicensed seamen on a vessel subject to paragraph (1) of this subsection may be aliens referred to in clause (C) of that paragraph.

"(3) This subsection does not apply to a fishing vessel fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802)).".

(2) This subsection is effective 360 days after the day of the enactment of this Act.

(e) Section 8702(b) of title 46, United States Code, is amended by striking "depart from a port of the United States" and substituting "operate".

(f)(1) Chapter 87 of title 46, United States Code, is amended by adding at the end the following new section:

"§ 8704. Alien deemed to be employed in the United States

"An alien is deemed to be employed in the United States for purposes of section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) if the alien is an unlicensed individual employed on a fishing, fish processing, or fish tender vessel that—

"(1) is a vessel of the United States engaged in the fisheries in the navigable waters of the United States or the exclusive economic zone; and

"(2) is not engaged in fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802).".

(2) The table of sections at the beginning of that chapter is amended by adding at the end the following new item:

"8704. Alien deemed to be employed in the United States.".

(3) With respect to an alien who is deemed to be employed in the United States under section 8704 of title 46, United States Code (as amended by this subsection), the term "date of the enactment of this section" as used in section 274A(i) of the Immigration and Nationality Act means the date 180 days after the enactment of this section.

SEC. 6. CONFORMING PROVISIONS.

(a) Title 46, United States Code, is amended as follows:

(1) Section 2101 is amended by adding after paragraph 10 the following new paragraph:

"(10a) 'Exclusive Economic Zone' means the zone established by Presidential Proclamation Numbered 5030, dated March 10, 1983.".

(2) Section 12106(b) is amended to read as follows:

"(b) Subject to the laws of the United States regulating the coastwise trade, only a vessel for which a coastwise license or an appropriately endorsed registry is issued may be employed in the coastwise trade.".

(3) Section 12106 is amended by inserting a new subsection (d) after subsection (c) as follows:

"(d) On application of the owner of a vessel that qualifies for a Great Lakes license under section 12107 or a fishery license under section 12108 of this title, the Secretary may issue an endorsement authorizing the vessel to be employed in the Great Lakes trade or fisheries, as the case may be.".

(4) Section 12107(b) is amended—

(A) after the semicolon at the end of paragraph (1) by inserting "and";

(B) in paragraph (2) by striking "Canada; and" and substituting "Canada."; and

(C) by striking paragraph (3).

(5) Section 12107 is amended by inserting a new subsection (c) after subsection (b) as follows:

"(c) On application of the owner of a vessel that qualifies for a coastwise license under section 12106 or a fishery license under section 12108 of this title, the Secretary may issue an endorsement authorizing the vessel to be employed in the coastwise trade or the fisheries, as the case may be.".

(6) Section 12108 is amended by adding a new subsection (d) after subsection (c) as follows:

"(d) On application of the owner of a vessel that qualifies for a coastwise license under section 12106 or a Great Lakes license under section 12107 of this title, the Secretary may issue an endorsement authorizing the vessel to be employed in the coastwise trade or the Great Lakes trade, as the case may be.".

(b) Notwithstanding the requirements of chapter 121 of title 46, United States Code, a vessel for which a coastwise, Great Lakes, or fishery license, or an appropriately endorsed registry, was issued before July 28, 1987, may continue to be employed in the specified trades for which it was qualified at the time the license or registry was issued for one year from date of enactment or until the certificate of documentation is renewed, whichever comes later. On renewal, the owner or master of a documented vessel shall make the vessel's certificate of documentation available as the law or Secretary may require for replacement with an appropriately endorsed certificate.

(c)(1) Section 27 of the Merchant Marine Act, 1920, (46 App. U.S.C. 883), is amended after "vessel" in the Second Proviso by striking "of more than five hundred gross tons".

(2) Paragraph (1) of this subsection does not apply to a vessel under contract to be purchased or rebuilt entered into before July 28, 1987, if that vessel is rebuilt before July 28, 1990.

(3) The Secretary, on proof of circumstances beyond the control of the owner of a vessel affected by this section, may extend the period for rebuilding in a foreign country permitted by this section.

(d) The terms in this Act have the same meaning as in subtitle II of title 46, United States Code (as amended by this Act).

SEC. 7. AMERICAN CONTROL OF VESSELS.

(a) Section 12102 of title 46, United States Code, is amended as follows:

(1) by inserting "(a)" before "A vessel";

(2) by adding at the end the following:

"(b)(1) A vessel owned by a corporation is not eligible for a fishery license under section 12108 of this title unless the controlling interest (as measured by a majority of voting shares in that corporation) is owned by individuals who are citizens of the United States. However, if the corporation is owned in whole or in part by other United States corporations, the controlling interest in those corporations, in the aggregate, must be owned by individuals who are citizens of the United States.

"(2) The Secretary shall apply the restrictions on controlling interest in section 2(b) of the Shipping Act, 1916 (46 App. U.S.C. 802(b)) when applying this subsection.".

(b) Section 12102(b) of title 46, United States Code (as enacted by subsection (a) of this section) applies to vessels issued a fishery license after July 28, 1987. However, that section does not apply if before that date the vessel—

(1) was documented under chapter 121 of title 46 and operating as a fishing, fish processing, or fish tender vessel in the navigable waters of the United States or the Exclusive Economic Zone; or

(2) was contracted for purchase for use as a fishing, fish tender, or fish processing vessel in the navigable waters of the United States or the Exclusive Economic Zone, if the purchase is shown by the contract or similarly reliable evidence acceptable to the Secretary to have been made for the purpose of using the vessel in the fisheries.

SEC. 8. STUDIES.

(a) Section 4311(a) of the Revised Statutes of the United States (46 App. U.S.C. 251(a)) is amended by adding at the end the following:

"The Secretary of Commerce may issue any regulations that the Secretary considers necessary to obtain information on the transportation of fish products by vessels of the United States from foreign fish processing vessels to points in the United States."

(b) Within 6 months after the date of enactment of this Act, the Secretary of Commerce shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives, setting forth—

(1) an evaluation of the potential impact, on the development of the United States fishing industry, of the transportation of fish products by vessels of the United States from foreign fish processing vessels to points in the United States; and

(2) recommendations, if any, for legislation or other action to regulate that transportation of fish products in a manner most beneficial to the future development of the United States fishing industry.

(c) Within 6 months after the date of enactment of this Act, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives, a report discussing the trends in the development of fishery resources under the exclusive fishery management authority of the United States as specified in section 101 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1811) and analyzing the effects of those trends on the United States fishing industry and the conservation and management of those resources. The Secretary shall include in the report—

(1) an evaluation of the extent to which the development of domestic harvesting and processing capacity has been or is likely to be affected, if at all, by this Act;

(2) an evaluation of the extent to which harvesting vessels currently engaged in joint venture operations with foreign vessels have been or are likely to be affected, if at all, by this Act; and

(3) any other matters relating to fishery development, including recommendations for legislation or other action, that the Secretary considers appropriate.

SEC. 9. ISSUANCE OF CERTIFICATES OF DOCUMENTATION

Notwithstanding sections 12105, 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for each of the following vessels:

(1) the Electra (United States official number 230024).

(2) the Barlovento (United States official number 231569).

(3) the Tie One On (United States official number 924056).

(4) the White Seal (United States official number 514961).

(5) the Laura Beth (United States official number 676614).

(6) the Rondo (Hawaiian Registration number 7678D).

(7) the Tropical Princess (Hawaiian Registration number 6557D).

(8) the Port Pacer II (Wisconsin Registration number 1747KC).

Mr. STEVENS. Mr. President, I am grateful to my two good friends, the leaders, for permitting us to call this matter up at this time. This has been a very vexatious thing for us. Each time the Congress has adjourned, we have put into place a moratorium on this reflagging issue and this time the House refused to do that. Instead, they have insisted on their date for the reflagging issue. While this bill is not totally acceptable to the Senate, and many of the members of the Commerce Committee are in disagreement with it, they have all agreed with me that we cannot leave this issue dangling, that we must act. As I indicated, I am grateful to everyone for understanding the situation. We will address the issue, again, however, Mr. President.

I move the Senate concur in the House amendment to the Senate amendments.

The motion was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BICENTENNIAL MINUTE

DECEMBER 24, 1847: SENATOR JOHN FAIRFIELD DIES

Mr. DOLE. Mr. President, the Senate, throughout its history has customarily found itself in session during the winter holiday season when Members would wish to be spending time with their loved ones. On December 24, 1847, 140 years ago this week, freshman Maine Senator John Fairfield, a man of exceptional promise, died suddenly. His unexpected death, as a consequence of a minor operation, was apparently due to the bungling or quackery of the surgeon.

Back in Maine, his family, to whom he was devoted, was unaware of this sad turn of events. On Christmas Eve, his wife and children eagerly awaited his arrival. Among the Senator's chief legacy to us today are the warm, almost daily letters he sent home to his family from the time he first arrived in Washington as a Representative in 1835. These letters, in their published form, contribute greatly to our knowledge of Washington life in the 1830's and 1840's. From them we learn that Fairfield experienced particular frustration at being separated from his family throughout the legislative year. After his struggles to find a reasonably priced boarding house in the capital, he wrote his wife, "I had no idea before being put to the trial how hard it would be for me to quit you and ours." He had barely arrived in Washington as a new Member when news reached him of the early birth of his third son, and he wrote his wife of his sorrow at not being by her side.

Fairfield was born in Maine in 1797. After attending Bowdoin College, he had embarked on a promising legal career. Twice elected to the House, he resigned in 1838 to become Governor of Maine. He resigned that position in 1843 to become a Senator. At the time of his death, the Maine Senator was being watched closely by the senior members of his party as a potential leader. Fairfield had written movingly of his colleagues who died in office, and he attended each funeral. Now it was his colleagues' turn to inform Mrs. Fairfield of her husband's untimely death in office at the age of 50.

THE CONTINUING RESOLUTION

Mr. ADAMS. Mr. President, this bill appropriates over $600 billion to fund the operations of the Government. On a purely numerical accounting, it hardly makes sense to vote against this legislation on the basis of a $9 million appropriation. But that is what I intend to do.

That $9 million will go to fund the Contras. This money will not just be used for "humanitarian" or "nonlethal" aid. It will be used to transport the guns and ammunition which will be used to kill more innocent civilians. It will be used to support operations which threaten to undermine a fragile peace process in the region. It will be used to continue a policy which is morally bankrupt and legally suspect.

The President of the United States has indicated that he will veto any bill which does not contain funding for the Contras. His willingness to put the continued operation of the U.S. Government at risk in order to fund the Contras demonstrates his priorities and values. They are the same priorities and values which guided us when we mined the harbors in Nicaragua and led to the Iran-Contra affair. The only difference is that then the administration acted secretly and here it is operating openly. I didn't like it when this policy was implemented secretly and I don't like it—and cannot approve of it—when it is out in the open.

Some say that voting against this bill is just symbolism. I disagree. I believe that if we reject this continuing resolution we can adopt another one which funds needed programs while eliminating Contra funding. If I am wrong, and this is nothing more than a symbolic act, then I want to cast my vote for the symbols which have always guided this Nation: a desire for peace, a respect for law, and a recognition of the right of all people to determine their own destinies.

TAXATION OF COOPERATIVES' BUSINESS PROPERTY

Mr. DURENBERGER. Mr. President, it has come to my attention that a situation has developed which has caused great concern to farm cooperatives; namely, the tax treatment of business assets used in their operations. The cooperatives' concerns relates to how the gains and losses from the operation and disposition of such assets should be treated. Simply stated, the issue is whether the income or loss is to be apportioned ratably on a patronage basis among the cooperatives' members and nonmembers, or whether the income or loss should be treated as incidental, or nonpatronage sourced, income considered not to be derived from the organization's business conducted with or for members and patrons.

It appears that the manner in which the income of cooperatives should be taxed, either to the cooperative or to its patron membership on a single tax basis, involves basic issues that were addresed when subchapter T was enacted in 1962. However, if uncertainty still remains as to how cooperatives' asset dispositions should be taxed I believe it is preferable that Congress should address these matters rather than leaving them for resolution by the administrative process.

Cooperatives operate conceptually as conduits respecting patronage operations on behalf of members, and the basic concepts which should govern cooperative taxation should complement and recognize this basic single tax characteristic. Recent decisions by the Internal Revenue Service appear to depart from this concept, and if not altered, could cause substantial hardship for many thousands of farmer-producer members and patrons who have recently encountered severe operating losses from which they have been and are now, struggling to recover.

I believe the most preferable course of action would be to resolve this business property treatment question this year. Although I would have been willing to offer amendatory language that would resolve this issue, the distinguished chairman of the Senate Finance Committee, Senator BENTSEN, advised me that the constraints on the budget process resulting from the Budget Summit precluded committee action this year. Therefore, I would appreciate if the distinguished chairman of the Finance Committee would confirm my understanding that he is willing to review this question next year.

Mr. BENTSEN. I appreciate the efforts of the Senator from Minnesota [Mr. DURENBERGER] in bringing this issue before the body, and I share his deep concern for the many farmers and ranchers, including a number in my home State of Texas, who are members of and are served by agricultural cooperatives. These agricultural coperatives have experienced the same severe financial strains that their members have suffered under, and I have no wish to see them unfairly burdened with tax controversies.

However, the choice is not mine to make. We were unable even to consider proposals such as this on this bill. The White House insisted that the revenue cap in the recent budget summit agreement be based on gross, not net, revenues. I opposed that, but the White House was insistent. As a result of that decision, it was extremely difficult to include provisions that do not raise revenue on this bill, however meritorious they may be. That approach eliminated any possiblity of including many other tax provisions of great importance to agriculture.

I will be glad to work with the Senator from Minnesota to see that this issue is brought before the Finance Committee next year. I appreciate his not having pressed this issue in consideration of the limitations within which we have been constrained to work to put together the revenue portion of this budget package.

THE TAX TITLE OF H.R. 3545, THE BUDGET RECONCILIATION ACT

Mr. BENTSEN. Mr. President, I have received a number of inquiries from my colleagues as to the proper interpretation of some of the tax provisions contained in the reconciliation act. I would like to address those questions.

First, the Senator from Oklahoma [Mr. BOREN] has made an inquiry concerning the binding contract rule to the so-called mirror transaction provision of the bill. The conference adopted the Senate's transition rule to that provision. Senator BOREN has asked me to clarify the transition relief by confirming several points about the rule.

First, he has asked me to confirm that a binding contract exists when the boards of directors of both the acquiring and target corporations have approved the acquisition agreement prior to December 15 even though it is subject to subsequent shareholder approval. Second, he has asked me to confirm that, in these circumstances, the ultimate acquisition is to be considered as having been completed pursuant to such binding contract even though such binding contract was subject to normal commercial contingencies—such as financing, regulatory approval, due diligence, et cetera—and even if the final terms of the actual acquisition agreement vary from the binding contract as a result of such contingencies. Finally, Senator BOREN has asked me to confirm that the ultimate acquisition is also to be considered as having been completed pursuant to such binding contract even though subsequent to December 15, board approval or ratification is obtained due to changes to the terms resulting from such normal commercial contingencies.

I would like to assure Senator BOREN and other interested Senators that while other circumstances not described could also be covered, in the circumstances described, a contract would be considered fully binding for purposes of the mirror transaction provision in the bill.

MASTER LIMITED PARTNERSHIPS

I have also received several inquiries regarding the provision that would tax certain publicly traded partnerships as corporations. Under the conference agreement, a publicly traded partnership that does not derive 90 percent or more of its income from passive-type activities will be taxed as a corporation beginning after December 31, 1987. However, the conference agreement provides transition relief for existing publicly traded partnerships, and for other partnerships that have already taken steps to be created and that will be publicly traded. Under this transition relief, a partnership will continue to be taxed as a partnership until the first taxable year beginning after December 31, 1997, unless the partnership adds a substantial new line of business during that period.

I have been asked to clarify the meaning of the addition of a substantial new line of business. First, I would like to clarify that as long as the partnership is currently engaged in an activity, there is no requirement that the activity be specifically identified in the existing filings with the Securities and Exchange Commission.

I would also like to clarify that under the conference agreement, if a partnership's existing line of business includes servicing mortgages that it or a related entity originates, and the partnership intends to expand these activities to include servicing mortgages originated by unrelated institutions, this would be considered the expansion of an existing line of business and not the addition of a substantial new line of business, even though its current SEC filings may not describe this expansion.

Finally, I would like to clarify the definition of passive type income. Under the conference agreement, income of a partnership from the purchase, transportation, storage, distribution, and retail and wholesale marketing of liquified petroleum gas—primarily propane—and other oil and gas products is passive-type income, even though such products are transported in trucks and rail cars that are owned or leased by the partnership and transported by third party pipelines with which the partnership contracts for transportation.

MORTGAGE REVENUE BOND

Mr. BYRD. Mr. President, I would like to address the Chairman of the Senate Finance Committee on a matter that is most urgent to moderate-income potential first-time homebuyers in many States. The Tax Reform Act of 1986 imposed a certain level of targeting on loans that could be made through the Mortgage Revenue Bond Program, and through the current refunding of outstanding mortgage revenue bonds. I am deeply concerned about the transition of current refunding bonds into compliance with the act.

I must point out that the technical corrections bill passed by the House of Representatives would in fact create a hardship on West Virginians as well as other Americans. In the technical corrections bill reported by the Finance Committee on October 16, 1987, a reasonable period for transition was provided. The new rules applied only to refunding bonds issued after October 16, 1987. This gave due notice to issuers and lenders on this issue, without penalizing those potential homebuyers whose loans were already in process.

Mr. Chairman, my concern is that the House version of the technical corrections legislation contains language which would require that any loan made after December 31, 1987, must comply with the new targeting limits. In view of this language, efforts are under way in my State to close those loans, so that the affected families would have made their home purchase by December 31, 1987. Yet, there may not be enough time to complete the paper work on each transaction to complete the purchase of the loan by the bond issuing agency. It is critical that the effective date for targeting apply when the homebuyer becomes a homeowner. I ask you to use your persuasive power with the House to insist upon the basic approach outlined in the Finance Committee version of the Technical Corrections Act.

Mr. BENTSEN. Mr. Leader, we will fully consider the effective date issue as it relates to bonds issued to refund mortgage revenue bonds and the targeting of ensuing loans. I can assure you that I will continue to support the effective dates in the Finance Committee bill when technical corrections are considered next year. I also assure you that in considering the particular problem which you have raised, I will do all that I can to avoid inequitable results.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987

Mr. HEFLIN. Mr. President, I was delighted that the Congress adopted S. 825, the Housing and Community Development Act of 1987, late last night. I decried the failure of Congress to take action on this bill in a speech I delivered on the day before yesterday, December 20, 1987. While I doubt my words served as a major catalyst in moving this bill through the Congress; nevertheless, I was happy to see that this bill was passed, and am hopeful that it will be signed into law by the President.

For the last 7 years, the present administration has been opposed to the passage of a freestanding housing bill, and I believe the Nation's families have suffered as a result. During that time, we have seen the Federal budget increase by more than 60 percent, while the House portion of the Federal budget decreased by 70 percent. In 1980, housing programs accounted for 5.3 percent of the Federal budget. Today, they make up just 1.3 percent of the Federal budget. I believe that every citizen in this great country deserves adequate housing.

Owning one's own house is a significant part of the American dream. I think that this bill will help individuals throughout the Nation to fulfill this aspect of the American dream. The cuts of the past have not only been unacceptable; these cuts have been disastrous. However, I believe that this bill will help to make adequate housing a reality for millions of people across the Nation.

Again, Mr. President, I would like to express my hopes that this bill will finally be signed into law by the President of the United States in the next few days—thus immeasurably helping the people of America to realize their dreams—the dream of having a place to call home, the dream of owning that home, and the dream of adequate housing for all the people of this Nation.

Thank you, Mr. President.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination, which was referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on December 22, 1987, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 1777. An act to authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes;

H.R. 2945. An act to amend title 38, United States Code, to provide a 4.2 percent cost-of-living adjustment in the rates of Veterans' Administration disability compensation for veterans and dependency and indemnity compensation for survivors and an increase in the number of vocational training evaluations of veteran-petitioners; and to amend the Veterans' Job Training Act to extend the deadline for veterans to apply for participation;

H.R. 3545. An act to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1988; and

H.J. Res. 395. Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes.

Under the authority of the order of the Senate of February 3, 1987, the enrolled bills and joint resolutions were signed on December 22, 1987, during the recess of the Senate, by the Acting President pro tempore [Mr. BURDICK].

MESSAGES FROM THE HOUSE

At 12:02 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the amendments of the House to the bill (S. 825) to amend certain laws relating to housing, and for other purposes.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate.

H.J. Res. 436. Joint resolution providing for the convening of the second session of the One Hundredth Congress.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 235. A concurrent resolution providing for the sine die adjournment of the One Hundredth Congress.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on December 22, 1987, he had presented to the President of the United States the following enrolled bills:

S. 1642. An act to designate the United States Post Office at 600 Franklin Street in Garden City, New York, as the "John W. Wydler United States Post Office"; and

S. 1684. An act to settle Seminole Indian land claims within the State of Florida, and for other purposes.

ADDITIONAL COSPONSORS

S. 1340

At the request of Mr. PRYOR, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1340, a bill to provide for computing the amount of deductions allowed to rural mail carriers for use of their automobiles.

S. 1703

At the request of Mr. EVANS, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Montana [Mr. BAUCUS], and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 1703, a bill to amend the Indian Self-Determination and Education Assistance Act and for other purposes.

S. 1885

At the request of Mr. DODD, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1885, a bill to provide for a Federal program for the improvement of child care, and for other purposes.

S. 1976

At the request of Mr. EVANS, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1976, a bill to amend the Indian Child Welfare Act, and for other purposes.

SENATE JOINT RESOLUTION 199

At the request of Mr. BYRD, the names of the Senator from Alabama [Mr. SHELBY], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of Senate Joint Resolution 199, a joint resolution to designate the month of April, 1988, as "Trauma Awareness Week."

SENATE JOINT RESOLUTION 224

At the request of Mr. CHILES, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Indiana [Mr. QUAYLE] were added as cosponsors of Senate Joint Resolution 224, a joint resolution to designate the period commencing on September 5, 1988, and ending on September 11, 1988, as "National School Dropout Prevention Week."

SENATE RESOLUTION 352—AUTHORIZING CERTAIN APPOINTMENTS AFTER SINE DIE ADJOURNMENT

Mr. BYRD submitted the following resolution; which was considered and agreed to:

S. RES. 352

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, and the Deputy President of the Senate pro tempore be, and they are hereby, authorized to make appointments to commissions or committees authorized by law, by concurrent action of the two Houses, or by order of the Senate.

SENATE RESOLUTION 353—APPOINTING A COMMITTEE TO NOTIFY THE PRESIDENT OF THE PROPOSED ADJOURNMENT OF THE SESSION

Mr. DOLE submitted the following resolution; which was considered and agreed to:

S. RES. 353

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join a similar committee of the House of Representatives to notify the President of the United States that the two Houses have completed their business of the session and are ready to adjourn unless he has some further communication to make to them.

ADDITIONAL STATEMENTS

PASSAGE OF THE IROQUOIS AMENDMENT

● Mr. WEICKER. Mr. President, I would like to briefly explain the amendment I sponsored to the energy and water appropriations bill (H.R. 2700) regarding the consideration by the Federal Energy Regulatory Commission [FERC] of the application made by the Iroquois Gas Transmission System [IGTS]. IGTS has applied to FERC for consideration of it's application under the new and untested optional expedited certificate [OEC] procedures which would ignore any consideration of need and alternative ways of supplying natural gas to the Northeast.

Much concern has been expressed by the use of the OEC procedures by FERC to consider such a large proposed pipeline with the potential for significant environmental impacts. With the full support of the Connecticut congressional delegation, I sponsored an amendment in the Senate to prevent FERC's use of the OEC procedures to consider the Iroquois application. I am pleased that the conference on the continuing resolution has maintained this amendment, with a modification.

The amendment, as approved by the conference, makes clear that no funds will be used for the consideration of the Iroquois application by FERC using it's OEC procedures until all environmental impact and considerations have been concluded. It is understood that an Environmental Impact Statement [EIS] will be prepared according to the National Environmental Policy Act [NEPA]. FERC is also required, and expected, in cooperation with other Federal agencies to observe the environmental requirements of the Clean Water Act, Rivers and Harbors Act, Endangered Species Act, Coastal Zone Management Act, and all other applicable environmental laws. Only after all environmental considerations have been fully and completely considered will FERC be allowed to use funds for further consideration of the Iroquois application.

Mr. President, with this process established in law and as explained here, it is my hope that the interests and concerns of Connecticut will be protected in the future supply of energy to the State and the Northeast.

A SALUTE TO RAY A. BARNHART

● Mr. GRAMM. Mr. President, it is with great pleasure that I salute Ray A. Barnhart upon the occasion of his retirement as Administrator of the Federal Highway Administration. The State of Texas is justifiably proud of this dedicated public servant who retires December 31, 1987, after serving the Reagan administration since January 1981.

Though born in Illinois, Ray moved to Texas over 30 years ago to pursue the businesses of construction and insurance. He has adopted Texas as his home wholeheartedly, becoming city councilman, State legislator, member of the Texas Highway Commission and chairman of the Texas Republican Party. Ray has been a strong spokesman and supporter of President Reagan's philosophy—but he is a doer as well. During his years as Federal Highway Administrator he worked to return management prerogatives to the State level and instituted cost-saving procedures on the national level. Ray's role in the passage of the Surface Transportation Assistance Act of 1982 ranks among his greatest achievements; the act raised much-needed highway revenues for the first time in over 20 years. Ray also worked hard pursuing initiatives to increase America's stature on the international technological scene where our leadership is now in strong demand.

During his tenure as administrator, he presided over an agency that employs 3,400 men and women in the 50 States, Puerto Rico, and the District of Columbia and has a budget of over $14 billion. Responsible not only for completing, repairing, and rehabilitating the Nation's Interstate and Primary Highway System, this agency also is involved in regulating many safety issues regarding the 5 million commercial vehicles on our Nation's highways.

I applaud Ray Barnhart, my friend and fellow Texan, as he leaves this post after 7 years of leadership for the Reagan administration and I wish him every success in future endeavors.●

HMONG REFUGEES IN OREGON

● Mr. HATFIELD. Mr. President, on October 7 the Senate approved, by a margin of 63 to 33 votes, an amendment that seeks to improve the protection of refugees in Southeast Asia through improvements in camp security and living conditions, as well as through the promotion of appropriate durable solutions and an ongoing resettlement program. This amendment put the Senate on record in support of a continued humane and generous resettlement and protection program through the end of the decade. The vote demonstrates that the Senate has not succumbed to "compassion fatigue" in Southeast Asia.

The Atlantic Monthly's October feature article, "The Last Bus", expounds upon the precarious situation of one Southeast Asian refugee group, the Hmong. The Hmong face a range of difficult options because they cannot repatriate safety and the Thai refuse them permanent asylum.

Donald A. Ranard, who went to Ban Vinai, the major Hmong camp, states in his article, "Resettlement in the U.S. isn't the best solution—it's the least bad. And these days that's as good as it gets for the Hmong".

The Hmong have been reluctant to come to countries of third asylum, for both cultural and practical considerations. After 7 years of resettlement efforts, the Hmong are showing greater and greater signs of success. One of the reasons for this is the generous efforts of U.S. citizens who have helped the Hmong adjust to American culture and practices.

Recently in my own State, one Oregonian lost his life in a courageous attempt to save two Indochinese refugees. For the last 7 years of his life, Mike Raz had been a friend to the Indochinese community of Portland. He had given freely of his time and energies, and his love for his newfound friends led him to lay down his life for two of them who were drowning. It is because of the generosity and kindness of people like Mike Raz that the U.S. refugee policy in Southeast Asia is the tremendous humanitarian success that it is. The refugees in Ban Vinai and elsewhere owe a debt of gratitude to Mike, because if there were not American citizens willing to welcome incoming refugees, then the future of the U.S. refugee program would be bleak.

Mr. President, the fate of the Indochinese refugees resides with the decisions we make here in the United States. The real solution for the refugees is found in political and economic stability in their homelands in a manner which will allow them the chance to return there. But until that day comes, we must persist with efforts to continue to assist refugees in Southeast Asia. And thanks to loving people like Mike Raz and millions of others, we can be certain that this work will be done in a most American way.

Mr. President, following my statement, I would like to have inserted into the CONGRESSIONAL RECORD two articles pertaining to my remarks.

The articles follow:

LOST BETWEEN SEA AND RIVER, MAN REMAINS REFUGEES' FRIEND TO END—MARK RAZ HASN'T BEEN SEEN SINCE HE WENT TO THE AID OF A DROWNING CAMBODIAN

(By Michelle Stein)

For seven years Mark Raz of Portland had been a friend to the Indochinese community, helping refugees learn English, find jobs and work through income tax problems.

Saturday afternoon, Raz, 31, tried again to help. This time, a rescue effort would end his life.

Raz and a Hillsboro couple, Na and Nong Neou, are missing and presumed drowned at the mouth of the Columbia River. U.S. Coast Guard officials Tuesday said their bodies had not been found.

How they got into the river is a matter of speculation. Raz had gone fishing with two other Indochinese, who are friends, Saturday morning at Fort Canby State Park, on the Washington side. By noon Raz had reeled in a large perch and had hopes of hooking a few more.

Shortly afterward, a woman, frantically waving her arms, floated past Raz and his friends. Raz sent his friends for help and then attempted to rescue the woman, later identified as 29-year-old Nong Neou.

"Witnesses said Mark held onto a rock and tried to reach the woman's hand," said Marty Raz, who lived with his brother in Northeast Portland. "But a big wave came and washed Mark out to sea."

Fort Canby rangers tell a different story. Ranger Bruce Beyerl said officials believe Raz jumped "20 to 25 feet" from a "practically vertical cliff" into the pounding surf.

"The waves were 5 to 6 feet high," Beryl said. "They were really smashing the shore."

The woman's husband, 35-year-old Na Neou, was not seen in the water; but officials believe he also drowned. Relatives confirmed that the Neous had gone fishing together Saturday morning. Neither husband nor wife, both Cambodian refugees, has been seen since.

Hampered by dense fog, Coast Guard officials ended their search Sunday afternoon without recovering any bodies. Members of the Raz family, however, doubt that Mark Raz is coming home again.

"You don't know for sure when there's still a chance," said Bertha Raz, Mark's mother. "But chances are he's not alive. We just want them to recover a body."

That their son risked and probably lost his life to help another does not surprise the Razes. Mark Raz, a landscaper for the Oregon Parks and Recreation Division, was a "wonderful boy" who "loved helping others," his mother said.

"He memorized Sermon on the Mount," said Bertha Raz. "He tried to live by that standard."

Mark Raz was especially fond of helping those in the Indochinese community. Seven years ago he befriended refugees on a neighborhood basketball court, teaching them to play the game, remembers Mark's father, Paul Raz.

The refugees "didn't know a thing about basketball," said Paul Raz. "Mark played with them and then brought them home. He really cared about them."

Sokhom Tauch, at the Portland Refugee Center, said Tuesday that he didn't know Mark Raz but had heard from others of his generosity. As it happens, Tauch also was acquainted with the Neous.

"My friends tell me Mark Raz was the type of person who would help an elderly Indochinese person across the street," Tauch said. "He would run up to them and try to help."

THE LAST BUS

When Boonmee Vichitmala returned to Ban Vinai, a Hmong refugee camp in northeastern Thailand, from a tour of the United States, he brought back dozens of photographs he had taken in California, Minnesota, and Rhode Island, of Hmong refugees who had been successful in America. As the Thai camp commander of Ban Vinai, Boonmee was in charge of Thailand's largest refugee camp, containing the biggest Hmong community in the world. For several years he had grappled with a perplexing problem: what to do with more than 40,000 refugees who would rather stay in a refugee camp than go to the United States.

Boonmee's photographs showed Hmong refugees, in their elaborately embroidered tribal clothes, standing in front of their new houses and cars and in their remodeled living rooms and kitchens, packed with TVs, stereos, VCRs, ovens, dishwashers, and microwaves. He put the pictures on the outside wall of his office building, a bungalow in the middle of the camp, and when Hmong visitors came by, Boonmee would point to the pictures and describe the life that was awaiting them in America.

Boonmee's plan worked about as well as the quixotic scheme to reduce the Hmong birthrate in Ban Vinai by offering cassette recorders and other premiums to those who volunteered to participate in a birth-control program. For a long time after that, people could be seen grinding up birth-control pills to use in their gardens. The pills, it turns out, make an excellent fertilizer—a fillip of irony in the life of the Hmong. "The Hmong have lost the things that matter most to them: their homeland and their independence," a refugee worker in Ban Vinai commented to me on a recent visit I made. "All they have left is their stubbornness."

Refugee officials talk about the three "durable solutions" to refugee problems: voluntary repatriation, settlement in the country of first refuge, and resettlement in a third country. For the Hmong, who never seem to fit into conventional categories, circumstances have created the "non-durable non-solution," as one U.S. refugee official puts it, of a life in limbo in Ban Vinai.

According to the 1967 United Nations agreement on refugees, to which the United States (but not Thailand) is a signatory, repatriation is acceptable only when it's voluntary or when changed circumstances in the refugee's country of origin will permit a safe return. Neither condition applies. The Hmong say they don't want to go back to a Vietnamese-controlled Laos, and independent observers are unable to confirm or deny reports that some returned Hmong have been singled out for harsh treatment. Certainly the resistance complicates matters: even if the Hmong wanted to go back, the Lao government would be unlikely to accept large numbers of them from a camp with ties to the active resistance.

The second solution—settling the refugees permanently in Thailand—probably has no more chance for success than repatriation, even though Ban Vinai, with its village-like appearance, seems halfway there. Thailand has refused even to discuss the possibilty, and with reason. For one thing, a resettlement program in Thailand could attract thousands of new asylum-seekers from Laos, one of the poorest countries in the world. For another, hundreds of thousands of Indochinese refugees and displaced persons are still in Thailand twelve years after the end of the war, including perhaps 50,000 illegal immigrants from Laos. In addition, Thailand has a shifting population of hill-tribe refugees from Burma, 12,000 Chinese refugees (remnants of the defeated Chinese Kuomintang army), and 40,000 Vietnamese refugees from the first Indochina War, who thirty years later are still viewed suspiciously as a Vietnamese fifth column. Moreover, Thailand already has its own population of Hmong—50,000 of them—and for years has been trying without success to persuade them to come down from the mountains, where they grow opium, slashing and burning valuable forest in the process.

Still, the presence of 45,000 anti-Communist Hmong on the Thai-Lao border hasn't been without temporary advantage to Tahiland. An effective resistance might provoke an attack from Vietnamese-backed Laos and most certainly would precipitate a crackdown on Hmong-resistance sympathizers in Laos, which in turn could generate more refugees. But a minimally effective resistance keeps presssure on Laos. This gives Thailand a card to use in its efforts to negotiate better relations with Laos, which supports a small Communist Thai insurgency in northeastern Thailand. There is economic advantage as well: Ban Vinai is located in one of Thailand's poorest regions, and its markets are a source of income to local villagers, who can no longer depend on trade with Lao villagers across the Mekong.

For the Hmong and the United States, Ban Vinai has provided an alternative to resettlement in the United States—after the 1980 influx neither the Hmong nor the United States was eager to try that experiecne again—and time to wait for other options to open up. Most of all, Ban Vinai serves the interests of Hmong resistance leaders. Without Ban Vinai the resistance would fold, and without a resistance Hmong military leaders—both in Ban Vinai and in the United States—would lose their only source of power.

In 1983, suspecting that the non-durable non-solution was becoming, quietly and without notice, permanent, Thailand increased pressure on the Hmong to make a choice. It closed Ban Vinai to new arivals, who were sent instead to Chigang Kham, an austere barbed-wire camp that makes Ban Vinai look like a veritable country club. A year later Thailand stepped up the pressure by increasing efforts to prevent ayslum-seekers from entering the country. Also, from 1984 to 1985 some 3,000 undocumented residents—refugees who and sneaked into Ban Vinai to join relatives—were rounded up and sent to Chiang Kham. The post office, a vital link to relatives in the United States, was moved out of Ban Vinai, and a ban on the cutting of bamboo for construction was reissued, forcing the United Nations to use corrugated tin to build homes that became hotboxes in the intense heat.

Efforts to control the birthrate in Ban Vinai practice of early marriage, combined with Ban Vinai's large population of young women, has given the camp one of the highest birthrates in the world. For every Hmong who emigrated to the United States in 1986, another was born in the camp.

From 1984 to 1986 Alan Wright, a nurse in Ban Vinai, studied the birth, emigration, and death rates in the camp. In a paper he wrote in the summer of last year, Wright offered a best-case-worst-case scenario: at the rate of resettlement in the West occurring over that period, the camp's population would stay roughly the same, but if emigration stopped, the population would double in just seventeen years. Before he left Thailand, in 1986, Wright gave a copy of his report to a Thai refugee official. It was called "A Never-Ending Refugee Camp?"

The worst-case scenario—a doubling of the Hmong population in seventeen years—wasn't impossible. To Thai officials, the U.S. refugee program appeared to be winding down. In 1980, at the height of the refugee crisis in Southeast Asia, more than 90,000 refugees left Thailand for resettlement in the United States. As the crisis waned, so did international attention. In 1985 fewer than 24,000 refugees left Thailand for the United States; other countries took 7,400. But there were still plenty of refugees in Thailand at the end of that year—130,000, a slight increase over the previous year. (More than 250,000 Cambodian "displaced persons" were on the Thai-Cambodian border, with no option for resettlement in the West.)

In the summer of 1986. Thai officials announced that 1987 would be the last year that refugees would be resettled in the West. A letter threatening to close down Ban Vinai and send the refugees back to Laos was circulated in the camp. The threat came at a time when the Hmong were beginning to lose faith in the eleven-year-old resistance. It is said that when General Vang Pao, the charismatic Hmong leader, fled Laos for Thailand and then the United States, in 1975, he told one of his assistants that the Hmong would return to Laos within ten years. The Hmong believe in the power of prophecy, and when 1985 passed with no prospect of change in Laos, many began to question the resistance effort as a whole and Vang Pao's leadership in particular.

By mid-1986 refugee officials at the American Embassy in Bangkok had learned that 10,000 Hmong—a quarter of Ban Vinai's population—had put their names on a list of people interested in going to the United States. To be admitted to the United States, a refugee must meet two criteria: he must show that he fled his country out of a "well-founded fear of persecution," and he must be of "special humanitarian concern" to the United States. These criteria fit the Hmong. But did they want to come? In Bangkok, observers in the diplomatic community weren't convinced that there had been a dramatic change in attitude, despite the list of 10,000 names. The Hmong had a habit of going through all the stages of getting approved and then just staying put. One INS officer was openly skeptical. "I'll believe it when they get on the bus," he said.

I decided to go to Ban Vinai to see the situation there for myself.

To a first-time visitor Ban Vinai seems crowded and dirty. There is no running water or electricity in the huts. Children play in stagnant pools, and one is never far away from the stench of open sewers. Tetanus, typhoid, and tuberculosis take their toll on a people who traditionally believe that disease is caused by spirits and healed through complex rituals of exorcism. Yet in some ways conditions compare favorably with those in poor villages in Laos and Thailand: the United Nations High Commissioner for Refugees provides food, shelter, and water. A hospital, run by a team of Dutch health workers, provides medical care. There are English and vocational-training classes for adults, and an elementary school for the children. Markets sell everything from fresh fish and fruit to cosmetics and Chinese herbal medicines. There's a barber shop, several restaurants, a blacksmith, and a church, where a French priest, wearing a Hmong-embroidered vestment, gives sermons in Lao on the Holy Spirit, offering an alternative to the spirits, malevolent and benign, that populate the Hmong universe. There are even outdoor photo studios where one can choose the Swiss alps or the Taj Mahal for a backdrop.

In the neighborhoods women sit for hours on tiny wooden stools in front of their thatched-roof huts or tin-roofed longhouses, sewing pan dau while they listen to tapes from relatives on Japanese cassette recorders. Occasionally there's the sound of a gong. Somewhere in the camp at shaman—a rattle in one hand, a finger bell in the other, and a black cloth covering his face—chants and dances, he is gone on a journey to the had intensified, and that Thai guards in Ban Vinai were extorting money from some of the undocumented residents—Hmong refugees who had sneaked into Ban Vinai to join relatives. Those who complained about the payments were threatened with repatriation.

On March 4 and 11 the refugee situation in Thailand was the focus of House subcommittee hearings. One of those who testified at the March 4 hearing was Roger Winter, the director of the U.S. Committee for Refugees, who had investigated pushbacks on the Thai-Laos border and had warned in a report almost a year earlier, "The threat of involuntary repatriations . . . appears to be increasing." Winter presented the committee with the names of 362 Hmong who had been turned away from Thailand and urged the United States to "intervene more vigorously" to stop the forced returns.

At the March 11 hearing a State Department refugee official couldn't confirm or deny Winter's information but said that "the United States is adamantly opposed to the involuntary return of anyone anywhere."

Four days later thirty-eight undocumented immigrants were rounded up in Ban Vinai and sent back to Laos. This wasn't an ordinary pushback, refugee advocates pointed out. It was the first time the Thais had repatriated Hmong from the sanctuary of a UN refugee camp. A State Department protest ("possibly the most serious instance of forced repatriation from Thailand since 1979") prompted an angry Thai response ("If the U.S. is so concerned with the human rights of 38 Hmong, it must be even more concerned about larger groups.") Another series of pushbacks brought the situation to the brink of crisis.

Noting that asylum in Thailand is contingent on the continued opportunity for resettlement in the West, refugee advocates called for a long-term commitment to solving the problem. On March 23 Senator Mark Hatfield, of Oregon, introduced a bill that would maintain for the next three years an Indochinese-refugee ceiling of 28,000—1,000 more than the anticipated 1988 ceiling. The bill also calls for increased efforts to protect refugees in Thailand, and earmarks 9,000 slots each year for the "long-stayers." The bill is unlikely to pass in its present form; many find fault with the inflexibility of a three-year admission number for specific groups of refugees. But the bill has served the temporary purpose of relieving pressure on refugees in Thailand—it has, in other words, gotten the Thai government's attention. A promise by Secretary of State George Shultz at a June conference of the ASEAN nations that the United States will "continue to resettle refugees in substantial numbers" has served the same purpose. Yet the potential for crisis remains. And while refugees in Ban Vinai don't appear to be in any immediate danger, most observers believe that the turning away of Hmong along the Thai-Lao border quietly continues.

Last spring a friend who works in Ban Vinai called me from Bangkok. Almost all the Hmong approved by the INS had gotten on the bus, he said.

What happens to the remaining 500,000 Hmong in Thailand—38,000 still in Ban Vinai and about 12,000 in Chiang Kham—largely depends on the United States. This fall refugee officials will present the Administration's 1988 proposal for U.S. refugee admissions to the House and Senate subcommittees on refugee affairs. The Administration is expected to propose an Indochinese-refugee ceiling of at least 27,000 (plus 8,500 Vietnamese leaving Vietnam directly through the Orderly Departure Program). Observers believe that the Administration is prepared to propose a tentative Hmong-admissions number close to this year's 8,900.

Although there is some congressional support for a moderately high Hmong ceiling, refugee advocates have been anticipating with some anxiety the consultations between the Administration and Congress. The consultations have been scheduled to take place shortly after the arrival in July, August, and September of more than 5,500 Hmong—over half the Hmong arrivals for fiscal year 1987—a situation that is sometimes referred to as the "Hmong bulge." The bulge could have been avoided if the processing of the 5,500 Hmong applications had been done earlier in the year, say refugee advocates, who worry that the arrival of so many Hmong in so short a time could create a backlash, particularly in the central valley.

Resettlement in the United States may not be a happy solution for the Hmong. But right now there are no other options: the Hmong don't want to go back to a Vietnamese-controlled Laos, and as long as there is a active resistance with ties to Ban Vinai, Laos probably won't take them. Permanent settlement of the Hmong in Thailand is such a sensitive issue with the Thais that even to bring it up at this point could jeopardize the safety of Hmong asylum-seekers as well as of those in Ban Vinai.

Resettlement in the United States isn't the best solution—it's the least bad. And these days that's as good as it gets for the Hmong.—Donald A. Ranard

AFRICAN FAMINE RECOVERY AND DEVELOPMENT FUND

● Mr. KENNEDY. Mr. President, for the RECORD, I simply want to commend the action yesterday of the Senate Appropriations Committee members, under the leadership of Senator KASTEN, in finally including language in the continuing resolution to establish a special fund for African famine recovery and development.

It was a concept that Senator KASTEN and I first raised in 1985, in the wake of that year's massive famine in the Horn of Africa and the Sahel. It was a concept long urged by the many voluntary and international agencies involved in African assistance, as well as officials of AID.

The concept was to deal differently with the special needs and problems of Africa, to give greater flexibility in the programming of our development efforts, and to promote both project development as well as economic and agricultural reforms.

The language adopted yesterday in the continuing resolution fully tracks the more extensive language in pending authorization bills, which I hope will be enacted in the second session of this Congress.

In the meantime, the Senate Appropriations Committee members have acted responsibly in both appropriating the full amount for Africa assistance, as well as in giving AID and the voluntary agencies new tools and greater flexibility for promoting development and agricultural reform in Africa. I commend Senator KASTEN for his leadership, and it has been a pleasure to work with him over these past 2 years to achieve this goal.●

LEGISLATIVE HISTORY PERTAINING TO STEVENS AMENDMENT NO. 1346 TO HOUSE JOINT RESOLUTION 395

● Mr. STEVENS. Mr. President, on January 12, 1987, the Office of Legal Counsel of the Department of Justice, in a memorandum to the Solicitor of the Department of the Interior, provided an opinion concerning the scope of the term "particular matter" under title 18 of the United States Code, section 208. The Justice Department memorandum broadly interprets the prohibition in that section of the Code to include matters of general policy, regulations, and legislation.

The Department of Justice interpretation prohibits Department of the Interior employees from participating in specific and general matters in which they, their spouses or children, their partners, or organizations in which they serve as officers, have a financial interest.

The effect of this interpretation is especially counterproductive since financial interests that are only remotely related to matters of general application can preclude an employee's involvement. Perhaps the most significant impact of this memorandum is on the operations of the Bureau of Indian Affairs [BIA] and the Indian Health Service [IHS].

All Alaska Natives and a majority of Indians throughout the country who are hired under the preference laws to serve in the BIA and the IHS have, by birth right, a financial interest in their tribes. In addition, many Alaska Natives and Indians are members of organizations that have financial interests that could be affected by the matters before the BIA and the IHS.

The Justice memorandum will also impact individuals who are appointed to serve on advisory boards formed to ensure proper consideration of regulatory, legislative, and other general policy issues. These individuals may have or may represent entities that have financial interests in matters the boards will consider.

The Justice memorandum will also impact on the transfer of scientific and technological information between the Government and the private sector. Scientific experts of the U.S. Geological Survey, the U.S. Bureau of Mines, and the U.S. Fish and Wildlife Service routinely serve as members of private professional societies and academic research boards. A significant number of these private-sector organizations have financial interests in matters before these bureaus of the Department of the Interior. Continuing these relationships enhances the Government's knowledge of and contribution to scientific development.

I offered an amendment, which the Senate and House conferees accepted, to deal with the counterproductive effect created by the Department of Justice interpretation regarding section 208 of title 18, United States Code. My amendment will not eliminate the prohibitions of title 18, United States Code, section 208 for Department of the Interior and Indian Health Service employees. Rather, it will apply the prohibition to "particular matters involving a specific party or parties" as is already the case in section 207 of title 18 of the United States Code, thereby eliminating application to general policy matters. My amendment will not allow employees to be involved in specific actions in which they have a direct financial interest.

This matter has the approval of the two departments involved. It covers all Department of the Interior and Indian Health Service employees.●

ERNEST A. LOTITO

● Mr. SARBANES. Mr. President, I was saddened to learn yesterday that Ernest A. Lotito, a friend of many years, had died suddenly at his home. I had known Ernie Lotito and his family since 1968. He was a man who loved his profession—journalism and publishing; and he will be greatly missed by all those who knew him and his remarkable achievements.

I first met Ernie when he was press secretary for Maryland Citizens for Humphrey-Muskie in 1968. He then worked on the staff of Senator Joseph D. Tydings for 2 years before joining Walter F. Mondale in his Senate office as his special assistant. At the beginning of the Carter administration, Ernie served as Director of Public Affairs at the U.S. Department of Commerce. He continued his long interest in the Democratic Party by serving recently on the Fairfax County Democratic Committee.

Ernie was extraordinarily proud of his Italian heritage. He was a director of the Italian-American Foundation and had studied in Italy at the University of Padua. One of his earliest reporting assignments was with the Rome bureau of United Press International, and he maintained a life-long interest in Italy and the history and accomplishments of Italian-Americans.

One of his great ambitions had been to publish his own newspapers, and in 1978 he purchased the Calvert Independent in Calvert County, MD. Since then he purchased other weekly newspapers in Prince George's County and southern Maryland. He took pride in the quality of his publications and the strong journalistic traditions they reflected.

Ernie Lotito's life was enriched by a wonderful family who shared his enthusiastic approach to everything he undertook. He had strongly held views on politics and the role of elected officials and was involved all his life in efforts to ensure that opportunities were open to all Americans. I am proud to have known him as a friend, and I join his family and friends in mourning this great loss.●

B. MELVIN COLE

● Mr. SARBANES. Mr. President, yesterday brought the sad news of the death of one of Maryland's most distinguished and respected public servants, B. Melvin Cole, the administrative officer of Baltimore County. I join his family and friends in mourning his loss.

Mel Cole exemplified the qualities one looks for in a public official. He was experienced, knowledgeable, compassionate, and effective. Following a career of 42 years in public education where he rose from teaching in elementary school to become the associate superintendent of Baltimore County's public schools, he did not simply retire as many would have. He started a new career with the Baltimore County Government and became its chief operating officer.

Several weeks ago, the people of Baltimore County honored Mel Cole with a tribute dinner and the announcement that the Towson State University Foundation was establishing the B. Melvin Cole Endowment to honor his 50 years of exemplary public service. This endowment recognized that, although he spent most of his life working for the citizens of Baltimore County, his work was recognized throughout Maryland and beyond. He had been a vice president of the National Education Association and served as a consultant to the U.S. State Department on its schools abroad.

The editorial in today's Baltimore Sun reviews Mel Cole's worthy accomplishments, and I would like to share it with my colleagues in the Senate.

The editorial follows:

B. MELVIN COLE

Baltimore County will miss Melvin Cole. Not only was the county administrator well liked and respected. His death yesterday at 72 leaves the county without the vast knowledge of government details that he brought to his work.

He had been running the executive office as the county's highest appointed official for nine years, but his memory and experience stretched half a century into the political past. Mr. Cole provided leaders in Towson with a crucial sense of continuity. He helped define and carry out the policies of the two county executives he served—Donald P. Hutchinson for two terms and Dennis F. Rasmussen, who took office a year ago.

Mr. Cole came indirectly to government as an elementary school teacher right out of Towson State Normal School (now Towson State University). He left the school system 42 years later as associate superintendent. As an alert professional, he learned more about politics in the school system than in political science 101.

The advice he gave carried great weight in the upper echelons of government. County Executive Spiro Agnew remembered that when he became governor in 1967. He knew of Mr. Cole's informed views on public education and urged him to come to Annapolis with him. One of Mr. Cole's valuable assets was his ability to brief lawmakers—whether legislators or council members—in a dispassionate but convincing manner.

His primary duties as chief administrator involved the daily management of the county's 6,000 bureaucrats, a job he undertook with great care and seriousness. If any part of government operations broke down, one half-expected that the concerned Mel Cole would go out and fix it himself. It would have come as no surprise. His total involvement in county affairs was what made him so valuable.

One of Mr. Cole's legacies is that he leaves the county in good hands. Though he had no plans to retire, two deputies were named this month to help him cope with the growing burden of administering a subdivision of nearly 700,000 residents. Still, his firm, guiding presence will be missed. Like a proud father, Mel Cole watched over Baltimore County as it transformed itself from rural farmland into a major metropolitan suburb.●

CLEARINGHOUSE ON STATE AND LOCAL INITIATIVES

● Mr. BUMPERS. Mr. President, I would like to thank the chairman of the Appropriations Subcommittee on Commerce, Justice and State, the Senator from South Carolina [Mr. HOLLINGS], for his help in securing startup funding for the Clearinghouse on State and Local Initiatives.

As the chairman knows the Clearinghouse is authorized by the Senate and House versions of the Omnibus Trade and Competitiveness Act, which is now being considered in conference. The Senate Commerce Committee, of which the Senator also is the chairman, reported the Clearinghouse as section 202 of S. 907. S. 907 was then melded into the Senate version of the trade bill and it was adopted by the Senate, with the Clearinghouse appearing as section 4102 of the Senate amendment to H.R. 3.

Meanwhile the House Science and Technology Committee had reported legislation establishing the Clearinghouse as title IV of H.R. 2916.

Inasmuch as the Senate and House versions of the Clearinghouse are virtually identical, it is quite clear that when the Omnibus Trade and Competitiveness Act becomes law—and I have no doubt that it will—the Clearinghouse will be fully authorized.

The Senate Appropriations Committee earmarked $500,000 in fiscal 1988 to fund the Clearinghouse in the appropriations bill for the Commerce Department. (Senate Report 100-182 at pages 6-7.) The Senate version of the continuing resolution also earmarked this amount for the Clearinghouse. (CONGRESSIONAL RECORD at S 17944-45, December 11, 1987.)

In the conference on the continuing resolution it was felt that the Clearinghouse would not need full funding this first year for several reasons. First, we already are well into this fiscal year. Second, the Department of Commerce may well wait until the trade bill is approved before it begins to organize the Clearinghouse. And third, it will take some time for the Department to appoint the director for the Clearinghouse, to hire staff and to begin operations.

Given these factors, the conference has determined to give the Clearinghouse $250,000 for this fiscal year. This is enough to make sure that the Clearinghouse begins operations this year, which is what the Congress wants for this new office.

The conference report assumes that the Clearinghouse will be established this year, either before or after the trade bill is adopted. It assumes that a director will be appointed either before or immediately after the trade bill is adopted. It assumes that the Department will begin to hire staff for the Clearinghouse, begin to operate the Clearinghouse, set the initial research and outreach priorities for the Clearinghouse and get a running-start to have the Clearinghouse operating at full-speed during fiscal 1989.

I am delighted with this action of the conference and am most grateful for the assistance of the Senator from South Carolina [Mr. HOLLINGS].●

S. 825—HOUSING AUTHORIZATION BILL

● **Mr. LAUTENBERG.** Mr. President, Congress finally has passed a housing authorization bill. It's about time.

I first want to commend the Senator from California, chairman of the Housing Subcommittee, for his hard work on this legislation. I am not pleased with every provision of the bill, but it should provide a stable environment in which housing and community development programs can be effectively administered over the next 2 years.

The people of New Jersey need housing programs. Affordable housing is scarce in New Jersey, where land and development prices are skyrocketing. The urban poor, the young family, the elderly are all struggling to find decent housing at an affordable price.

New Jersey's cities also need this bill. They have endured the loss of revenue sharing and a steep reduction in State urban aid. They have been hit by cuts in the UDAG and CDBG programs. One by one, they have seen sources of Federal and State commitment shrink. New Jersey's mayors are faced with raising taxes to maintain vital services. Aging infrastructures also will require significant capital investment.

It has been far too long since Congress passed legislation to reauthorize our housing and community development programs. Communities have struggled to administer programs whose continuation has been subject to the uncertainties of continuing resolutions and supplemental appropriations bills. Long-term planning has been severely hampered.

This bill would authorize several housing and community development programs at current levels. These include important programs such as Community Development Block Grants [CDBG's], and Urban Development Action Grants [UDAG's]. New Jersey has received many benefits from these programs. In fiscal year 1987, the State received about $95 million through the CDBG program and about $10 million in UDAG grants. This has helped to revitalize our urban areas, increase the availability of housing, and strengthen the economies of several communities around the State.

The bill also includes a provision I introduced to help ensure that communities in New Jersey and elsewhere are treated fairly under the Urban Development, Action Grant Program. The UDAG statute bars the use of UDAG's to facilitate business relocation. There has been controversy over the application of this provision, especially in New Jesey where many businesses are relocating due to the many economic benefits offered by our State.

The amendment I, offered, which has been included in the conference committee's report, would give an applicant community 90-day notice of intent to withhold, deny or cancel assistance. During that time, the community would be able to appeal the decision to the Secretary. This will ensure that communities will not have to worry that an arbitrary and discriminatory decision may cost them a legitimate grant award.

Another provision in the bill I want to note would extend the entitlement status of certain metropolitan cities and urban counties under the CDBG program. Because of the urgent need for this provision, and the chance that the housing authorization bill would not be approved this year, I successfully sought its inclusion as an amendment to the continuing resolution passed by the Senate last week.

In New Jersey, Hudson County, and the city of Hoboken have historically received funding under urban county status. As Hoboken has grown, the city reached the point at which it could break with the county and receive CDBG funds on its own as a metropolitan city. This bill will give them the option of deferring metropolitan city status and continuing the current arrangement. In fact, Hoboken and Hudson County have agreed to continue this arrangement, but the agreement is contingent on enactment of this legislation. I am pleased that the extension of the entitlement status will allow the decision to be made at the local level.

I have also supported another provision in the bill which would address a serious problem that has developed in Gloucester Township, NJ, and several other areas. In Gloucester Township, there is a high rate of delinquency on property tax payments by holders of Farmers Home Administration [FmHA] mortgages. This means that other taxpayers must bear the burden of these unpaid taxes. To remedy this type of problem the bill requires the FmHA to establish escrow procedures to collect property tax payments with monthly mortgage payments. This will help municipalities collect their property tax revenues and will help FmHA borrowers better budget their tax responsibilities.

I also want to note a provision in the bill which will raise the ceiling on FHA-insured mortgages in high-cost areas. This provision is very important to New Jersey, where the current ceiling is too low to service a significant number of aspiring home-buyers.

There is one provision in the bill about which I am particularly concerned—the provision that would terminate the Housing Development Grant [HoDAG] Program at the end of fiscal yar 1989. This is a new provision that was not included in the bill as passed originally by the Senate, but which has been forced on us by those who have opposed this legislation.

This indeed is a bitter pill to swallow. The HoDAG Program is an important one that has expanded the supply of housing in many areas around the country. Terminating a vital housing program like HoDAG is bad policy, very bad policy, especially given the severity of the housing crisis in America.

Mr. President, you hear a lot of talk these days about getting down to fundamentals. Well, housing is a fundamental. It's a fundamental human need. And it's a need that's increasingly going unmet in this country. That's why this Nation must make housing a priority.

Housing and community development programs have been neglected for too long. This bill isn't perfect. But it's an important step toward giving these programs the priority they deserve.●

RETIREMENT OF RAY BARNHART AS ADMINISTRATOR OF THE FEDERAL HIGHWAY ADMINISTRATION

● Mr. BENTSEN. Mr. President, Ray Barnhart, a fellow Texan, has announced his retirement as Administrator of the Federal Highway Administration [FHWA] effective at the end of this year. I have known Ray for many years, and I think that it is important for the Members of Congress to reflect on his unique contribution to the Federal highway program. He has been an impressive Administrator and an effective advocate for the Federal highway program.

His long tenure as Administrator offers strong testimony to the qualify of his leadership at the FHWA. During his tenure there, he has accelerated the completion of our interstate highway system. He has called for the Nation to concentrate on rebuilding its infrastructure as the best insurance to maintaining the quality of its interstate system. His voice is one of constant support for the improvement of the interstate system, and for the continued health of the highway trust fund.

Frankly, I am a bit disappointed that he decided to retire at this time. With the appointment of a new Secretary of Transportation, institutional continuity is very important. Ray Barnhart has that. But I guess I understand his desire to slow down his pace. Although if I know him as well as I think I do, he will not slow down at all, and the Nation will continue to be a beneficiary of his wisdom. I wish him well and look forward to having his advice and counsel on highway issues of importance to Texas and the entire Nation.●

EXPRESSIONS OF THANKS

Mr. BYRD. Mr. President, does the distinguished Republican leader have anything further?

Mr. DOLE. Nothing further except to indicate again that we are very grateful to the staff and all the others who have been thanked by the majority leader, the pages, the people we do not see much of on the Senate floor who keep this place going. Sometimes we forget those who actually make it go; we show up and everything is running, on time. So I say thank you to everyone we may have overlooked. The people who work here, whether they are operating the elevators or the restaurant or whatever, their help is appreciated. Maybe sometimes we fail to express it.

Again, I think I speak for every Member in commending the distinguished majority leader for a very good year, extraordinary leadership and patience and fairness. That is what it is all about. We look forward to another good year in 1988. I think we are all looking forward to a few days of enjoying the holiday season. I thank the majority leader.

Mr. BYRD. Mr. President, I thank the Republican leader. Erma and I join in wishing for our good friend, ROBERT DOLE, and our equally good friend, his lovely wife, Elizabeth, a happy holiday season, and a very interesting and exciting new year of 1988. Whether the beginning of 1989 finds ROBERT DOLE at the other end of the avenue or at this end of the avenue—and I hope he will be at this end—[Laughter].

In either event, he is going to have a very considerable influence upon the future of this great country. And I certainly wish him well. I hope he stays in good health during these days between now and the time that we meet again. I hope he does not get out into the snow and get snowbound too much. But anyhow, out of the bottom of my heart I thank him for the cooperation and friendship he has shown me. He has helped to make my work easier. Without his cooperation, the Senate could not have demonstrated integrity and resolve in some of the difficult matters that came before it.

ADJOURNMENT SINE DIE

Mr. BYRD. Mr. President, in the spirit of Christmas and good will, I am going to ask the distinguished Republican leader to adjourn the Senate sine die.

Mr. DOLE. It is good to be in charge, only if temporarily.

[Laughter].

I thank the majority leader.

Mr. President, I move in accordance with the provisions of House Concurrent Resolution 235, that the Senate adjourn sine die.

The motion was agreed to, and at 4:26 p.m., the Senate adjourned sine die.

NOMINATIONS

Executive nominations received by the Senate December 22, 1987:

THE JUDICIARY

HOWARD E. LEVITT, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK VICE MARK A. COSTANTINO, RETIRED.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 22, 1987:

DEPARTMENT OF STATE

HENRY ANATOLE GRUNWALD, OF NEW YORK, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF AUSTRIA.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING WILLIAM L. EAGLETON, JR., AND ENDING DENNIS L. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 2, 1987.

FOREIGN SERVICE NOMINATIONS BEGINNING JAMES A. MOORHOUSE, AND ENDING HENRY L. CLARKE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 19, 1987.

FOREIGN SERVICE NOMINATIONS BEGINNING JOHN F. KORDEK, AND ENDING WILLIAM M. ZAVIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 30, 1987.

HOUSE OF REPRESENTATIVES—*Tuesday, December 22, 1987*

(Legislative day of Monday, December 21, 1987)

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. FOLEY] at 10 o'clock and 34 minutes a.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray in the words of Psalm 100:

Make a joyful noise to the Lord, all the lands! Serve the Lord with gladness! Come into His presence with singing! Know that the Lord is God! It is He that made us, and we are His; we are His people, and the sheep of His pasture. Enter His gates with thanksgiving, and His courts with praise! Give thanks to Him, bless His name! For the Lord is good; His steadfast love endures for ever, and His faithfulness to all generations.

As the Psalmist makes clear, O God, we are grateful for all the blessings we have received. We are thankful that we live in a nation where we can speak and worship as we wish and we are ever appreciative of all the freedoms we hold dear. Bless all those who seek to do justice and to serve faithfully in this place. Whatever our task, O God, may we see in our work opportunities to contribute to understanding and good will in our communities and in our world. As we leave this place, we pray, O gracious God, that Your benediction accompany us, Your spirit sustain us, and Your love surround us. May the joy and happiness and the peace of these days be with us all. Amen.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The **SPEAKER** pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
December 22, 1987.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5 of rule III of the Rules of the U.S. House of Representatives, the Clerk received at 3:40 a.m. on Tuesday, December 22, 1987, the following message from the Secretary of the Senate: That the Senate agreed to the conference report on H.R. 3545 and the conference report on H.J. Res. 395.

With great respect, I am,
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 990. An act to direct the Secretary of the Interior to convey a certain parcel of land located near Ocotillo, CA; and

H.R. 1612. An act to authorize appropriations under the Earthquake Hazards Reduction Act of 1977 for fiscal years 1988, 1989, and 1990.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 278) "An act to amend the Alaska Native Claims Settlement Act to provide Alaska Natives with certain options for the continued ownership of lands and corporate shares received pursuant to the act, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the text of the bill (H.R. 3479) "An act to provide for adjustments of royalty payments under certain Federal onshore and Indian oil and gas leases, and for other purposes."

The message also announced that the Senate recedes from its amendment to the title of the above-entitled bill.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bills and joint resolution during the recess on calendar day December 22, 1987:

H.J. Res. 395. Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes;

H.R. 1777. An Act to authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the U.S. Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes;

H.R. 2945. An act to amend title 38, United States Code, to provide a 4.2-percent cost-of-living adjustment in the rates of Veterans' Administration disability compensation for veterans and dependency and indemnity compensation for survivors and an increase in the number of vocational-training evaluations of veteran-pensioners; and to amend the Veterans' Job Training Act to extend the deadline for veterans to apply for participation; and

H.R. 3545. An act to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1988.

RECESS

The **SPEAKER** pro tempore. If there is no further pending business, the Chair will declare that the House will stand in recess until 1 p.m. this afternoon.

Accordingly (at 10 o'clock and 38 minutes a.m.) the House stood in recess until 1 p.m. today.

□ 1300

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. FOLEY] at 1 o'clock and 4 minutes p.m.

RECESS

The **SPEAKER** pro tempore. The House will stand in recess until 2 p.m.

Accordingly (at 1 o'clock and 5 minutes p.m.) the House stood in recess until 2 p.m.

□ 1403

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. FOLEY] at 2 o'clock and 3 minutes p.m.

RECESS

The **SPEAKER** pro tempore (Mr. FOLEY). The House will stand in recess until 4 p.m.

Accordingly (at 2 o'clock and 4 minutes p.m.), the House stood in recess until 4 p.m.

□ 1600

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. COELHO] at 4 o'clock and 9 minutes p.m.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

H.J. RES. 395, FURTHER CONTINUING APPROPRIATIONS, 1988

The text of the joint resolution, H.J. Res. 395, follows:

HOUSE JOINT RESOLUTION 395

Making further continuing appropriations for the fiscal year 1988, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

SECTION 1. Because the spending levels included in this Resolution achieve the deficit reduction targets of the Economic Summit, sequestration is no longer necessary. Therefore:

(a) Upon the enactment of this Resolution the orders issued by the President on October 20, 1987, and November 20, 1987, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, are hereby rescinded.

(b) Any action taken to implement the orders referred to in subsection (a) shall be reversed, and any sequesterable resource that has been reduced or sequestered by such orders is hereby restored, revived, or released and shall be available to the same extent and for the same purpose as if the orders had not been issued.

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1988, and for other purposes, namely:

[1]SEC. 101. (a) Such amounts as may be necessary for programs, projects or activities provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

ENROLLMENT ERRATA

Pursuant to the provisions of section 101(n) of this joint resolution (appearing on page 433), changes made are indicated by footnote.

The words "Government", when referring to the Government of the United States will be capitalized, "Act", if referring to an action of the Congress of the United States, will be capitalized, "State", when referring to a State of the United States will be capitalized, "title" and "section" will be lower case, when referring to the United States Code or a Federal law. The capitalization of the foregoing words may be changed, and not footnoted.

AN ACT

Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I—DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce, including not to exceed $2,000 for official entertainment, $39,204,000: *Provided,* That $250,000 for establishing a clearinghouse on State and local initiatives on productivity, technology and innovation shall be available subject to enactment of authorizing legislation.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $94,835,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $346,444,000.

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs, $32,079,000.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $182,028,000 of which:

(a) $3,000,000 is for a grant to the Institute for Technology Development, Jackson, Mississippi;

(b) $2,500,000 is for a grant to the University of Bridgeport, in Bridgeport, Connecticut to assist in the construction and instrumentation of the Connecticut Technology Institute;

(c) $1,000,000 is for a grant to the city of Worcester, Massachusetts and the Worcester Business Development Corporation to assist in the construction of a biotechnology research park in Worcester, Massachusetts: *Provided,* That notwithstanding any other provision of law or regulation, including title I of the Public Works and Economic Development Act of 1965, as amended, except the following provisions; section 712 of said Act, the Secretary of Commerce is hereby directed to obligate said funds as a direct grant without any further requirement or delay upon enactment of this legislation; and

(d) $250,000 shall be obligated for the Center for International Trade Development at Oklahoma State University:

Provided, That during fiscal year 1988 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided further,* That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration.

FINANCIAL AND TECHNICAL ASSISTANCE

(RESCISSION)

Of available funds under this head, $1,541,067 are rescinded.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $24,742,000: *Provided,* That the full time permanent positions for the Economic Development Administration shall not be fewer than 360 and that the number of Deputy Assistant Secretary positions shall not be greater than four: *Provided further,* That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1988, and such positions shall be maintained in the various States within the approved organizational structure in place on December 1, 1987, and when possible, with those employees who filled those positions on that date.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce, including trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $253,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use abroad and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $161,432,000 to remain available until expended, of which $6,791,000 is for the Office of Textiles and Apparels, including $3,360,000 for a grant to the Tailored Clothing Technology Corporation and of which $3,840,000 is for support costs for a new materials center in Ames, Iowa: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: *Provided further,* That the number of Commercial Service officers accorded such diplomatic title at any time shall not exceed eight.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $5,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $37,465,000, to remain available until expended: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities.

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[1] Copy read "(a) Such amounts".

Minority Business Development Agency

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $39,705,000, of which $25,463,000 shall remain available until expended: *Provided,* That not to exceed $14,242,000 shall be available for program management for fiscal year 1988: *Provided further,* That none of the funds appropriated in this paragraph or in this title for the Department of Commerce shall be available to reimburse the fund established by 15 U.S.C. 1521 on account of the performance of a program, project, or activity, nor shall such fund be available for the performance of a program, project, or activity, which had not been performed as a central service pursuant to 15 U.S.C. 1521 before July 1, 1982, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such action in accordance with the Committees' reprogramming procedures.

United States Travel and Tourism Administration

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; and including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $8,000 for representation expenses abroad; $11,724,000.

National Oceanic and Atmospheric Administration

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; 399 commissioned officers on the active list; construction of facilities, including initial equipment; alteration, modernization, and relocation of facilities; and acquisition of land for facilities; $1,110,015,000, to remain available until expended; and in addition, $28,291,000 shall be derived from the Airport and Airways Trust Fund; and in addition, $44,397,000 shall be derived by transfer from the Fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $15,248,000 shall be derived by transfer from the Coastal Energy Impact Fund: *Provided,* That grants to States pursuant to section 306 and section 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000: *Provided further,* That $376,000 of the funds made available under this paragraph shall be used for a semi-tropical research facility located at Key Largo, Florida: *Provided further,* That of the funds appropriated in this paragraph, necessary funds shall be used to fill and maintain a staff of three persons, as National Oceanic and Atmospheric Administration personnel, to work on contracts and purchase orders at the National Data Buoy Center in Bay St. Louis, Mississippi, and report to the Director of the National Data Buoy Center in the same manner and extent that such procurement functions were performed at Bay St. Louis prior to June 26, 1983, except that they may provide procurement assistance to other Department of Commerce activities pursuant to ordinary interagency agreements. Where practicable, these positions shall be filled by the employees who performed such functions prior to June 26, 1983.

No monies appropriated by this Act shall be used by the Department of Commerce prior to February 1, 1988, to initiate proceedings under section 312 (d) and (e) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1458) against the State of California's Coastal Management Program. Further, the Secretary of Commerce is directed to release to the California Coastal Commission the fiscal year 1987 administrative grant for operations and equipment authorized under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455).

Notwithstanding the provisions of Public Law 100-71, any funds appropriated in prior Acts and unobligated for the commercialization of the Land Remote Sensing Satellite System (LANDSAT) as of the date of enactment of House Joint Resolution 395, shall be available to restore the reductions in other programs funded in "Operations, Research, and Facilities" which were made pursuant to the conference report and accompanying statement of the managers on House Joint Resolution 395, if a new contract has not been signed by April 1, 1988 for commercialization of the Land Remote Sensing Satellite System (LANDSAT): *Provided,* That such contract shall be subject to the approval of the Appropriations Committees of the Congress pursuant to the reprogramming provisions of section 608 of this Act.

FISHERIES PROMOTIONAL FUND

Of the funds deposited in the Fisheries Promotional Fund pursuant to section 209 of the Fish and Seafood Promotion Act of 1986, $2,625,000 shall be made available as authorized by said Act, to remain available until expended, and $375,000 shall be transferred to the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries".

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95-372, not to exceed $719,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 94-265), and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $1,919,000, to remain available until expended.

Patent and Trademark Office

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office, including defense of suits instituted against the Commissioner of Patents and Trademarks, $120,000,000 and, in addition, such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, to remain available until expended.

National Bureau of Standards

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Bureau of Standards, $144,783,000, to remain available until expended, of which not to exceed $4,920,000 may be transferred to the "Working Capital Fund", and of which not to exceed $1,000,000 shall be available for construction of research facilities.

National Telecommunications and Information Administration

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $13,814,000, of which $700,000 shall remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $21,290,000, to remain available until expended: *Provided,* That not to exceed $1,200,000 shall be available for program management as authorized by section 391 of the Communications Act of 1934, as amended: *Provided further,* That notwithstanding the provisions of section 391 of the Communications Act of 1934, as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year: *Provided further,* That notwithstanding sections 391 and 392 of the Communications Act, as amended, up to $1,700,000 shall be available for the establishment and administration of the Pan-Pacific Educational and Cultural Experiments by Satellite program (PEACESAT).

General Provisions—Department of Commerce

SEC. 101. During the current fiscal year, applicable appropriations and funds available to the Department of Commerce shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, and, notwithstanding 31 U.S.C. 3324, may be used for advance payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 102. During the current fiscal year, appropriations to the Department of Commerce which are available for salaries and expenses shall be available for hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 103. No funds in this title shall be used to sell to private interests, except with the consent of the borrower, or contract with private interests to sell or administer, any loans made under the Public Works and Economic Development Act of 1965 or any loans made under section 254 of the Trade Act of 1974.

SEC. 104. During the current fiscal year, the National Bureau of Standards is authorized to accept contributions of funds, to remain available until expended, from any public or private source to construct a facility for cold neutron research on materials, notwithstanding the limitations contained in 15 U.S.C. 278d.

SEC. 105. In procuring information processing and telecommunications services of the National Oceanic and Atmospheric Administration for the Advanced Weather Interactive Processing System, the Secretary of Commerce may provide, in the contract or contracts for such services, for the payment for contingent liability of the Federal Government which may accrue in the event that the Government decides to terminate the contract before the expiration of the multi-year contract period. Such contract or contracts for such services shall limit the payments which the Federal Government is allowed to make under such contract or contracts to amounts provided in advance in appropriation Acts.

SEC. 106. Notwithstanding any other provision of law, including section 257(c) of the Trade Act of 1974, as amended, and section 203 of the Public Works and Economic Development Act of 1965, as amended, principal and interest repayments from loans, proceeds from the sale of loan assets or collateral, and other receipts arising out of transactions entered into pursuant to title II, chapter 3 of the Trade Act of 1974 shall be deposited into the economic development revolving fund established under section 203 of the Public Works and Economic Development Act of 1965 beginning October 1, 1987: *Provided*, That payments of obligations in connection with loans guaranteed under the authority of the Trade Act of 1974 or the Public Works and Economic Development Act of 1965, and any related expenses, shall be made from funds available in the economic development revolving fund: *Provided further*, That deposits to the economic development revolving fund of amounts appropriated for, or received in connection with, activities authorized under the Trade Act of 1974, made prior to October 1, 1987, shall be deemed valid deposits.

SEC. 107. Notwithstanding any other provision of law, the Secretary of Commerce is authorized to negotiate and conclude an agreement to exchange properties with the necessary private and public parties for the purpose of expanding the National Oceanic and Atmospheric Administration marine facility at Pascagoula, Mississippi.

SEC. 108. In order to maintain overseas program activity for the Department of Commerce provided for each fiscal year at the appropriated program levels, the Secretary may establish Buying Power Maintenance accounts for the International Trade Administration, the Export Administration, and the United States Travel and Tourism Administration. There are authorized to be appropriated for such accounts such sums as may be necessary to offset adverse fluctuations in foreign currency exchange rates, or unbudgeted overseas wage and price changes. To eliminate substantial gains to the approved levels of overseas operations, the Secretary shall transfer to a Buying Power Maintenance account such amounts determined to be excessive to the needs of the approved level of overseas operations because of fluctuations in foreign currency exchange rates or changes in unbudgeted overseas wages and prices, including unobligated balances associated with the overseas program. To offset adverse fluctuations in foreign currency exchange rates or unbudgeted overseas wage and price changes, the Secretary may transfer from a Buying Power Maintenance account such amounts determined to be necessary to maintain the approved level of overseas operations under an appropriation account. Funds transferred by the Secretary to or from a Buying Power Maintenance account to another account shall be merged with and be available for the same purpose, and for the same time period, as the funds in the account into which transferred. Any restriction contained in an appropriation Act or other provision of law limiting the amounts available for the Department of Commerce that may be obligated or expended shall be deemed to be adjusted to the extent necessary to offset the net effect of fluctuations in foreign currency exchange rates or unbudgeted overseas wage and price changes in order to maintain approved levels.

This title may be cited as the "Department of Commerce Appropriation Act, 1988".

TITLE II—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $88,360,000.

WORKING CAPITAL FUND

For additional capital, not to exceed $4,000,000, to remain available until expended, to be derived from current operating income.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission, as authorized by law, $11,665,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $237,209,000, of which not to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1989: *Provided*, That of the funds available in this appropriation, not to exceed $5,000,000 shall be available for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through Salaries and expenses, General Administration, to remain available until expended: *Provided further*, That of the funds appropriated to the Department of Justice in this Act, not to exceed $1,000,000 may be transferred to this appropriation to pay expenses related to the activities of any Independent Counsel appointed pursuant to 28 U.S.C. 591, et seq., upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate and approval under said Committees' policies concerning the reprogramming of funds: *Provided further*, That a permanent indefinite appropriation is established within the Department of Justice to pay all necessary expenses of investigations and prosecutions by independent counsel appointed pursuant to the provisions of 28 U.S.C. 591 et seq. or other law: *Provided further*, That the Comptroller General shall perform semiannual financial reviews of expenditures from the Independent Counsel permanent indefinite appropriation, and report their findings to the Committees on Appropriations of the House and Senate: *Provided further*, That not to exceed $5,000,000 may be transferred to "Salaries and expenses, general legal activities" from "Fees and expenses of witnesses": *Provided further*, That the Chief, U.S. National Central Bureau, INTERPOL, may establish and collect fees to process name checks and background records for noncriminal employment, licensing, and humanitarian purposes and, notwithstanding the provisions of 31 U.S.C. 3302, credit not more than $150,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $44,937,000.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, $380,339,000.

UNITED STATES TRUSTEES SYSTEM FUND

For the necessary expenses of the United States Trustees Program, $29,370,000, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554): *Provided*, That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors: *Provided further*, That the Attorney General may credit to this appropriation not more than $18,000,000 of fees available pursuant to 28 U.S.C. 589(a).

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109; allowances and benefits similar to those allowed under the Foreign Service Act of 1980 as determined by the Commission; expenses of packing, shipping, and storing personal effects of personnel assigned abroad; rental or lease, for such periods as may be necessary, of office space and living quarters of personnel assigned abroad; maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances of funds abroad; advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for field use only; and employment of aliens; $500,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including acquisition, lease, maintenance, and operation of vehicles and aircraft; $183,168,000: *Provided*, That notwithstanding the provisions of title 31 U.S.C. 3302, the Director of the United States Marshals Service may collect fees and expenses for the service of civil process, including: complaints, summonses, subpoenas and similar process; and seizures, levies, and sales associated with judicial orders of execution; and credit not to exceed $1,000,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services.

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in non-Federal institutions, $73,746,000, which shall remain available until expended; of which not to exceed $5,000,000 shall be available under the Cooperative Agreement Program for the purposes of renovating, constructing, and equipping State and local correctional facilities: *Provided*, That amounts made available for constructing any local correctional facility shall not exceed the cost of constructing space for the average Federal prisoner population to be housed in the facility, or in other facilities in the same correctional system, as projected by the Attorney General: *Provided further*, That following agreement on or completion of any federally assisted correctional facility construction, the availability of the space acquired for Federal prisoners with these Federal funds shall be assured and the per diem rate charged for housing Federal prisoners in the assured space shall not exceed operating costs for the period of time specified in the cooperative agreement.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses and for per diems in lieu of subsistence, as authorized by law, including advances; $53,015,000, to remain available until expended, of which not to exceed $1,350,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $27,858,000, of which not to exceed $20,667,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: *Provided*, That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524, as amended by the Comprehensive Forfeiture Act of 1984 and the Anti-Drug Abuse Act of 1986, such sums as may be necessary to be derived from the Department of Justice Assets Forfeiture Fund: *Provided*, That not to exceed 50 per centum of total amounts available for appropriation in fiscal year 1988 from the Department of Justice Assets Forfeiture Fund shall be obligated during fiscal year 1988 for payments pursuant to section 524(c)(1) of title 28, United States Code: *Provided further*, That such limitation shall not apply to funds transferred pursuant to section 210 of this Act.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 2,000 passenger motor vehicles of which 1,650 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,388,492,000, of which not to exceed $10,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1989; of which not to exceed $3,000,000 for research related to investigative activities shall remain available until expended; of which not to exceed $13,000,000 for the construction of the Engineering Research Facility shall remain available until expended; and of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism: *Provided*, That the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes, and notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: *Provided further*, That not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed $8,000,000 for the expansion and renovation of the New York field office shall remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; purchase of not to exceed 525 passenger motor vehicles of which 489 are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $494,076,000, of which not to exceed $1,200,000 for research shall remain available until expended; not to exceed $1,700,000 for purchase of evidence and payments for information, not to exceed $4,000,000 for contracting for ADP and telecommunications equipment, and not to exceed $2,000,000 for technical equipment shall remain available until September 30, 1989.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed 1,670, of which 490 shall be for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $741,114,000, of which not to exceed $400,000 for research and $35,000,000 for construction shall remain available until expended: *Provided*, That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 except in such instances when the Commissioner makes a determination that this restriction is impossible to implement: *Provided further*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That none of the funds available to the Immigration and Naturalization Service shall be available to administer or implement a nationwide employer telephone verification system unless the Commissioner of Immigration and Naturalization procures such system through sealed bid or competitive proposal procedures, except that this proviso shall not affect the pilot project directed in section 101(d)(4) of the Immigration Reform and Control Act of 1986, Public Law 99-603: *Provided further*, That effective February 28, 1988, none of the funds appropriated herein shall be available to detain aliens convicted of a felony under State or Federal law at the Krome processing center unless such center has been designated a security level 3 or higher level correctional facility.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 142 of which 106 are for replacement only) and hire of law enforcement and passenger motor vehicles; $719,814,000: *Provided*, That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year.

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351-4353 of title 18, United States Code, which established a National Institute of Corrections, $9,590,000, to remain available until expended.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $201,676,000 to remain available until expended: *Provided*, That labor of United States prisoners may be used for work performed under this appropriation.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE AND VOCATIONAL EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $2,347,000 of the funds of the corporation shall be available for its administrative expenses, and not to exceed $7,571,000 for the expenses of vocational training of prisoners, both amounts to be available for services as authorized by 5 U.S.C. 3109, and to be computed on an accrual basis to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by the Justice Assistance Act of 1984, Runaway Youth and Missing Children Act Amendments of 1984, and the Missing Children Assistance Act including salaries and expenses in connection therewith, $87,383,000 to remain available until expended, of which $5,000,000 is provided for programs authorized under part E of the Justice Assistance Act of 1984, notwithstanding the provisions of section 407 of such Act, including $1,000,000 for a grant to assist in the construction of a consolidated judicial center in Owensboro, Kentucky, and including $1,025,000 for a grant to the town of Alderson, West Virginia, to assist in the expansion of the municipal water treatment system serving the Federal Correctional Institution at Alderson, West Virginia: *Provided*, That of the unobligated funds previously appropriated for the Juvenile Justice and Delinquency Prevention Act which are subject to provisions of sections 222(b), 223(d), and 228(e) of title II of such Act, $3,000,000 to remain available until expended, shall be made available for programs authorized by part E of the Justice Assistance Act of 1984, notwithstanding the provisions of section 407 of such Act. In addition, for grants as authorized by the State and Local Law Enforcement Assistance Act of 1986 (Public Law 99-570, 100 Stat. 3207-42 to 3207-48), including salaries and expenses in connection therewith, $70,000,000 to remain available until expended: *Provided further,*[2] That the Director, Bureau of Justice Assistance may increase the limitation, not to exceed 20 per centum, on administrative costs pursuant to 42 U.S.C. 3796n upon notification to the Director by States unable to comply with the limitation. In addition, for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, $66,692,000 to remain available until expended, of which not less than $3,000,000 shall be allotted under subpart II of part B of the Act to assist those States deemed not in substantial compliance with the jail removal mandate found in section 224(a)(14) of the Act. In addition, $5,000,000 for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in State facilities for terms requiring incarceration for the full period October 1, 1987 through September 30, 1988, following their conviction of a felony committed after having been paroled into the United States by the Attorney General: *Provided further,*[2] That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1988, a listing of names of such Mariel Cubans incarcerated in their respective facilities: *Provided further*, That the Attorney General, not later than April 1, 1988, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: *Provided further*, That the amount of reimbursements per prisoner per annum shall not exceed $12,000.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. A total of not to exceed $75,000 from funds appropriated to the Department of Justice in this title shall be available for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 202. Notwithstanding any other provision of law, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code.

SEC. 203. Appropriations for "Salaries and expenses, General Administration", "Salaries and expenses, United States Marshals Service", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Drug Enforcement Administration", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Federal Prison System", shall be available for uniforms and allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 204. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96-132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) With respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1988, may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1988, may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1988, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the certification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

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[2] Copy read "*Provided,*".

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(4)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1988—

(i) submit the results of such audit in writing to the Attorney General, and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operations, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

(5) For purposes of paragraph (4)—

(A) the term "closed" refers to the earliest point in time at which—

(i) all criminal proceedings (other than appeals) are conducted, or

(ii) covert activities are concluded, whichever, occurs later,

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operations" and "undercover operation" means any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

SEC. 205. None of the funds appropriated or made available by this Act shall be used prior to October 1, 1988, to issue or implement any final rule in the rulemaking proceeding commenced August 8, 1986 (51 Fed. Reg. 28576-28589).

SEC. 206. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape: *Provided*, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 207. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 208. Nothing in the preceding section shall remove the obligation of the director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided*, That nothing in this section in any way diminishes the effect of section 207 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 209. Notwithstanding subsections (c) and (d) of section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633), the Administrator of the Office of Juvenile Justice and Delinquency Prevention may not—

(1) terminate any State's eligibility for funding under subpart I of part B of title II of such Act, or

(2) determine that the State's plan fails to meet the requirements of such section,

for fiscal year 1988 because of the failure of such State to comply with the requirements of section 223(a)(14) of such Act before such fiscal year.

SEC. 210. (a) Section 524(c)(1) of title 28 of the United States Code is amended by deleting "and" at the end of subparagraph (F), by striking out the period at the end of (G) and inserting in lieu thereof "; and" and, by inserting the following new subparagraph:

"(H) after all reimbursements and program-related expenses have been met at the end of each fiscal year, the Attorney General may transfer deposits from the Assets Forfeiture Fund to the Building and Facilities account of the Federal prison system for the construction of correctional institutions.".

(b) Amounts proposed for transfer pursuant to subsection (a) shall be transferred only upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate and approval under said Committees' policies concerning the reprogramming of funds.

SEC. 211. Section 210(d) of the Immigration and Nationality Act is amended by inserting the following new paragraph:

"(3) No application fees collected by the Immigration and Naturalization Service (INS) pursuant to section 210(d) of the Immigration and Nationality Act (INA) may be used by the INS to offset the costs of the special agricultural worker legalization program until the INS implements the program consistent with the statutory mandate as follows:

"(A) During the application period as defined in section 210(a)(1)(A) of the INA the INS may grant temporary admission to the United States, work authorization, and provide an 'employment authorized' [3] endorsement or other appropriate work permit to any alien who presents a preliminary application for adjustment of status under subsection (a) at a designated port of entry on the southern land border. An alien who does not enter through a port of entry is subject to deportation and removal as otherwise provided in the INA.

"(B) During the application period as defined in section 210(a)(B)(1)(B) of the INA any alien [4] who has filed an application for adjustment of status within the United States as provided in section 210(b)(1)(A) pursuant to the provision of 8 CFR section 210.1(j) is subject to paragraph (2) of this subsection.

[5] "(C) A preliminary application is defined as a fully completed and signed application with fee and photographs which contains specific information concerning the performance of qualifying employment in the United States and the documentary evidence which the applicant intends to submit as proof of such employment. The applicant must be otherwise admissible to the United States and must establish to the satisfaction of the examining officer during an interview that his or her claim to eligibility for special agriculture worker status is credible.".

This title may be cited as the "Department of Justice Appropriation Act, 1988".

TITLE III—DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

Notwithstanding sections 110 and 122 of H.R. 1777 (the Foreign Relations Authorization Act, fiscal years 1988 and 1989) [6] for necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945), expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); telecommunications; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad, including not to exceed $7,000,000 for counterterrorism research and development; permanent representation to certain international organizations in which the

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[3] Copy read " "employment authorized" ".

[4] Copy read "allent".

[5] Copy read "(C)".

[6] Copy read "1989 for".

United States participates pursuant to treaties, conventions, or specific Acts of Congress; acquisition by exchange or purchase of vehicles as authorized by law, except that special requirement vehicles may be purchased without regard to any price limitation otherwise established by law; $1,694,000,000: *Provided*, That none of these funds shall be available for the Office of Public Diplomacy for Latin America and the Caribbean.

REPRESENTATION ALLOWANCES

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), and for representation by United States missions to the United Nations and the Organization of American States, $4,500,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314), and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, $9,000,000.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), $313,100,000, to remain available until expended: *Provided*, That the funds appropriated in this paragraph shall be available subject to the approval of the House and Senate Committees on Appropriations under said Committees' policies concerning the reprogramming of funds contained in House Report 100-182: *Provided further*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $4,000,000, to remain available until expended.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8 (93 Stat. 14), $11,000,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $86,000,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

Notwithstanding section 102(a) (1) through (11) of H.R. 1777 (the Foreign Relations Authorization Act, fiscal years 1988 and 1989), for expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, conventions, or specific Acts of Congress, $480,000,000, to remain available until expended: *Provided*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, $29,400,000.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, contributions for the United States share of general expenses of international organizations and representation to such organizations, and personal services without regard to civil service and classification laws, $6,000,000, to remain available until expended, of which not to exceed $200,000 may be expended for representation as authorized by law.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, conventions, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the United States and Mexico International Boundary and Water Commission, and to comply with laws applicable to the United States Section; and leasing of private property to remove therefrom sand, gravel, stone, and other materials, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, including preliminary surveys, operation and maintenance of the interceptor system to be constructed to intercept sewage flows from Tijuana and from selected canyon areas as currently planned, and the operation and maintenance upon completion of the proposed Environmental Protection Agency and Corps of Engineers pipeline and plant project to capture Tijuana sewage flows in the event of a major breakdown in Mexico's conveyance system, $10,261,000: *Provided*, That expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions contained in the appropriation for said project as provided by the Act approved April 25, 1945 (59 Stat. 89): *Provided further*, That the Anzalduas diversion dam shall not be operated for irrigation or water supply purposes in the United States unless suitable arrangements have been made with the prospective water users for repayment to the Government of such portions of the cost of said dam as shall have been allocated to such purposes by the Secretary of State: *Provided further*, That not to exceed $500,000 of the amount appropriated in this paragraph shall be available to reimburse the city of San Diego, in the State of California, for expenses incurred in treating domestic sewage received from the city of Tijuana, in the State of Baja California, Mexico.

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For detailed plan preparation and construction of authorized projects, including the Rio Grande Rectification Improvement project, to remain available until expended, $3,166,000: *Provided*, That activities for the New River project may be financed from these funds or from carryover balances under the heading, "International Boundary and Water Commission, United States and Mexico, Construction".

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 for necessary expenses, not otherwise provided for, including not to exceed $6,000 for representation, $4,316,000; for the International Joint Commission, including salaries and expenses of the Commissioners on the part of the United States who shall serve at the pleasure of the President; salaries of employees appointed by the Commissioners on the part of the United States with the approval solely of the Secretary of State; travel expenses and compensation of witnesses; and the International Boundary Commission, for necessary expenses, not otherwise provided for, including expenses required by awards to the Alaskan Boundary Tribunal and existing treaties between the United States and Canada or Great Britain.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, $10,548,000: *Provided*, That the United States share of such expenses may be advanced to the respective commissions.

OTHER

UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

For expenses, not otherwise provided for, to enable the United States to participate in programs of scientific and technological cooperation with Yugoslavia, $1,900,000, to remain available until expended.

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, $13,700,000, to remain available until expended.

SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

For expenses not otherwise provided to enable the Secretary of State to reimburse private firms and American institutions of higher education for research contracts and graduate training for development and maintenance of knowledge about the Soviet Union and Eastern European countries, $4,600,000.

FISHERMEN'S GUARANTY FUND

For expenses necessary to carry out the provisions of section 7 of the Fishermen's Protective Act of 1967, as amended, $1,725,000 to be derived from the receipts collected pursuant to that Act, to remain available until expended.

FISHERMEN'S PROTECTIVE FUND

For expenses necessary to carry out the provisions of the Fishermen's Protective Act of 1967, as amended, $959,000, to remain available until expended.

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 301. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter[7] 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger or freight transportation.

SEC. 302. The Secretary of State shall report to the appropriate committees of the Congress on the obligation of funds provided for diplomatic security and related expenses every month beginning January 1, 1988.

SEC. 303. There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, a total of $290,000 for each fiscal year to carry out (in accordance with the respective authorization amounts) paragraph (2) of the first section of Public Law 74-170, section 2(2) of Public Law 84-689, section 2 of Public Law 86-42, and section 2 of Public Law 86-420. These funds may be disbursed to each delegation, pursuant to vouchers in accordance with the applicable provisions of law, at any time requested by the Chairman of the delegation after that fiscal year begins. Section 2 of Public Law 84-689 is amended by striking out "annually," and inserting in lieu thereof "annually (1)", by striking out "$50,000, $25,000" and inserting in lieu thereof "(2) $100,000, $50,000", and by striking out "and $25,000" and inserting in lieu thereof "and $50,000".

SEC. 304. The Secretary of State shall not permit the Soviet Union to occupy the new chancery building at its new embassy complex in Washington D.C. or any other new facility in the Washington, D.C. metropolitan area, until a new chancery building is ready for occupancy for the United States embassy in Moscow: *Provided*, That none of the funds appropriated in this Act or any prior Act may be obligated for the new office building in Moscow except for engineering and technical studies prior to October 1, 1988.

SEC. 305. The following sections of H.R. 1777 (the Foreign Relations Authorization Act, fiscal years 1988 and 1989) are waived during fiscal years 1988 and 1989 in the event that H.R. 1777 is enacted into law: sections 122, 151, and 204.

This title may be cited as the "Department of State Appropriation Act, 1988".

TITLE IV—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase, or hire, driving, maintenance and operation of an automobile for the Chief Justice and not to exceed $10,000 for the purpose of transporting Associate Justices, hire of passenger motor vehicles; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $15,247,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a-13b), including improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances; special clothing for workmen; and personal and other services (including temporary labor without regard to the Classification and Retirement Acts, as amended), and for snow removal by hire of men and equipment or under contract, and for security installations both without compliance with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); $2,110,000, of which $75,000 shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for all necessary expenses of the court, $7,430,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges; salaries of the officers and employees of the court; services as authorized by 5 U.S.C. 3109; and necessary expenses of the court, including exchange of books and traveling expenses, as may be approved by the court; $7,768,000: *Provided*, That travel expenses of judges of the Court of International Trade shall be paid upon written certificate of the judge.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the Claims Court, bankruptcy judges, magistrates, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and all necessary expenses of the courts, including the purchase of firearms and ammunition, $1,081,447,000: *Provided*, That, of the total amount appropriated, $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions: *Provided further*, That the number of staff attorneys to be appointed in each of the courts of appeals shall not exceed the ratio of one attorney for each authorized judgeship, exclusive of the seven attorneys assigned preargument conference duties: *Provided further*, That such sums as may be available in the fund established pursuant to 28 U.S.C. 1931 may be credited to this appropriation.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by law; $85,100,000 to remain available until expended.

FEES OF JURORS AND COMMISSIONERS

For fees and expenses and refreshments of jurors; compensation of jury commissioners; and compensation of commissioners appointed in condemnation cases pursuant to Rule 71A(h) of the Federal Rules of Civil Procedure; $43,135,000, to remain available until expended: *Provided*, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities; $40,853,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts, including travel, advertising, hire of a passenger motor vehicle, and rent in the District of Columbia and elsewhere, $31,167,000, of which an amount not to exceed $5,000 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, $10,548,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $5,129,000.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 401. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 402. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210 and the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93-236.

SEC. 403. The position of Trustee Coordinator in the Bankruptcy Courts of the United States shall not be limited to persons with formal legal training.

SEC. 404. Notwithstanding any other provision of law, the Administrative Office of the United States Courts, or any other agency or instrumentality of the United States, is prohibited from restricting solely to staff of the Clerks of the United States Bankruptcy Courts the issuance of notices to creditors and other interested parties. The Administrative Office shall permit and encourage the preparation and mailing of such notices to be performed by or at the expense of the debtors, trustees or such other interested parties as the Court may direct and approve. The Director of the Administrative Office of the United States Courts shall make appropriate provisions for the use of and accounting for any postage required pursuant to such directives. The provisions of this paragraph shall terminate on October 1, 1988.

SEC. 405. Such fees as shall be collected for the preparation and mailing of notices in bankruptcy cases as prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. 1930(b) shall be deposited to the "Courts of Appeals, District Courts, and Other Judicial Services, Salaries and

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[7] Copy read "subchapters".

Expenses" appropriation to be used for salaries and other expenses incurred in providing these services.

SEC. 406. Pursuant to section 140 of Public Law 97-92, during fiscal year 1988, justices and judges of the United States shall receive the same percentage increase in salary accorded to employees paid under the General Schedule (pursuant to 5 U.S.C. 5305).

SEC. 407. Section 1344(b)(1) of title 31, United States Code, is amended by inserting—

"(2) The Chief Justice and Associate Justices of the Supreme Court;" and redesignating subsections (2) and (3) as subsections (3) and (4), respectively.

SEC. 408. (a) Section 153(a) of title 28, United States Code, is amended to read as follows:

"(a) Each bankruptcy judge shall serve on a full-time basis and shall receive as full compensation for his services, a salary at an annual rate that is equal to 92 percent of the salary of a judge of the district court of the United States as determined pursuant to section 135, to be paid at such times as the Judicial Conference of the United States determines.".

(b) Section 634(a) of title 28, United States Code, is amended by amending the first sentence to read as follows:

"(a) Officers appointed under this chapter shall receive, as full compensation for their services, salaries to be fixed by the conference pursuant to section 633, at rates for full-time United States magistrates up to an annual rate equal to 92 percent of the salary of a judge of the district court of the United States, as determined pursuant to section 135, and at rates for part-time magistrates of not less than an annual salary of $100, nor more than one-half the maximum salary payable to a full-time magistrate.".

(c) Section 225(C) of the Federal Salary Act of 1967 (2 U.S.C. 356(c)) is amended by striking out "and magistrates and" and inserting in lieu thereof "except bankruptcy judges, but including".

(d) This section shall become effective October 1, 1988, and any salary affected by the provisions of this section shall be adjusted at the beginning of the first applicable pay period commencing on or after such date of enactment.

SEC. 409. Section 603 of title 28, United States Code, is amended by striking the second sentence and inserting in lieu thereof the following: "The salaries of the Deputy Director and of three additional positions shall be [8] fixed by the Director at rates not to exceed the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5.".

This title may be cited as "The Judiciary Appropriation Act, 1988".

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES (LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $250,300,000, to remain available until expended.

OCEAN FREIGHT DIFFERENTIAL

Such sums as may be necessary for fiscal year 1988 and thereafter are hereby appropriated to liquidate debt and pay interest due to the Secretary of the Treasury, as required by section 901d, Merchant Marine Act, 1936.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $75,521,000, to remain available until expended: *Provided*, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program: *Provided further*, That in addition to any amount heretofore appropriated, $10,000,000 of the funds appropriated in this paragraph shall be available for the activation and conversion costs of a training vessel for the State University of New York Maritime College: *Provided further*, That the second sentence of the paragraph under this heading in chapter II of title I of the Act of August 22, 1984 (98 Stat. 1372), is amended by deleting "preconversion" and inserting in lieu thereof "activation and conversion", by inserting a period after the word "expended", and by deleting the remainder of the sentence: *Provided further*, That hereafter such training vessel shall be subject to a plan for sharing training vessels approved by the Secretary of Transportation, if such plan is deemed necessary: *Provided further*, That hereafter no funds shall be appropriated for the purchase or construction of training vessels for State maritime academies unless a plan for sharing training vessels between State maritime academies has been approved by the Maritime Administration.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration and payments received by the Maritime Administration for utilities, services, and repairs so furnished or made shall be credited to the appropriation charged with the cost thereof: *Provided*, That rental payments under any such lease, contract, or occupancy on account of items other than such utilities, services or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act, or in any prior appropriation Act and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed $48,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), $30,100,000 of which $2,600,000 shall be transferred to the Department of Energy for the Reduced Enrichment in Research and Test Reactor Program.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to RFE/RL, Inc., $185,000,000, of which $20,000,000, to remain available until expended, shall become available for expenditure on October 1, 1988, and of which not to exceed $52,000 may be made available for official reception and representation expenses.

ISRAEL RADIO RELAY STATION

There is hereby appropriated the sum of $34,000,000, to remain available until expended, to the Board for International Broadcasting for the purpose of making and overseeing grants to Radio Free Europe/Radio Liberty, Incorporated, and its subsidiaries and of making payments as necessary in order to begin implementation of the agreement signed on June 18, 1987, between the United States Government and the Government of Israel to establish and operate a radio relay station in Israel for use by Radio Free Europe/Radio Liberty and the Voice of America.

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

SALARIES AND EXPENSES

For the necessary expenses of the Christopher Columbus Quincentenary Jubilee Commission, $212,000, to remain available until November 15, 1992.

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Commission on the Bicentennial of the United States Constitution authorized by Public Law 98-101 (97 Stat. 719-723), $16,000,000 to remain available until expended, of which $6,250,000 is for carrying out the provisions of Public Law 99-194, including $2,850,000 for implementation of the National Bicentennial Competition on the Constitution and the Bill of Rights and $3,400,000 for educational programs about the Constitution and the Bill of Rights below the university level as authorized by such Act, and in addition, $1,000,000 to remain available until expended, is provided for a grant to the National Trust for Historic Preservation for the purpose of making urgently needed repairs necessary to preserve James Madison's Montpelier from the threat of destruction by fire and structural deterioration, and provide for necessary public health and safety, and in addition, $1,000,000 is provided for a grant to the We The People 200 Committee: *Provided*, That not to exceed a total of $1,250,000 from appropriations provided to the Commission on the Bicentennial of the United States Constitution for fiscal years 1985 through 1988 is available for educational programs about the Constitution and the Bill of Rights below the university level not provided for elsewhere in this Act: *Provided further*, That until the Board of Trustees of the James Madison Memorial Fellowship Foundation is appointed, the Commission on the Bicentennial of the United States Constitution is authorized to receive, review and certify for payment the applications for grants of endowment funds for the establishment of Constitutional Law Resource Centers as provided and appropriated under the James Madison Memorial Fellowship Act, title VIII, sections 817 and 818, Public Law 99-500 and Public Law 99-591; and the authority to make grants to carry out an educational program for the Commemoration of the Bicentennial of the Constitution of the United States and the Bill of Rights, enacted under title V, section 501 of Public Law 99-194, is amended by (i) striking the period at the end of section 501(a)(2)(B), inserting a semicolon and the word "and", and (ii) adding the following: "(C) is authorized to make grants for the establishment of Constitutional Law Resource Centers in accordance with the terms of title VIII, sections 817 and 818 of Public Law 99-500 and Public Law 99-591, and is authorized to make grants to two University Centers in accordance with the terms of Amendment Numbered 70 of Conference Report 99-236 (Public Law 99-88 [99 Stat. 305])."; *Provided further*, That there is hereby appropriated for each recipient University Center named in Amendment Numbered 70 of Conference Report 99-236 (Public Law 99-88 [99 Stat. 305]) an additional $1,500,000 to remain available until expended for the endowment funds created pursuant to such Act and to be used under the same conditions and requirements set forth therein and such Bicentennial Commission or Board of Trustees referred to above is authorized to receive, review and certify for payment the applications for said grants.

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[8] Copy read "shall be be fixed".

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $5,707,000, of which $2,000,000 is for regional offices and $700,000 is for civil rights monitoring activities: *Provided*, That not to exceed $20,000 may be used to employ consultants: *Provided further*, That not to exceed $185,000 may be used to employ temporary or special needs appointees: *Provided further*, That none of the funds shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service, exclusive of one special assistant for each Commissioner whose compensation shall not exceed the equivalent of 150 billable days at the daily rate of a level 11 salary under the General Schedule: *Provided further*, That not to exceed $40,000 shall be available for new, continuing or modifications of contracts for performance of mission-related external services: *Provided further*, That none of the funds shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairman who is permitted 125 billable days: *Provided further*, That the General Accounting Office shall perform a mid-year audit of the Commission to determine compliance with this section and shall report its findings to the Appropriations Committees of the Senate and House of Representatives by June 1, 1988.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $701,000, to remain available until expended: *Provided*, That not to exceed $6,000 of such amount shall be available for official reception and representation expenses.

COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Commission for the Study of International Migration and Cooperative Economic Development as authorized by title VI of Public Law 99-603, $870,000, to remain available until expended.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621-634), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $20,000,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended, and sections 6 and 14 of the Age Discrimination in Employment Act; $179,812,000: *Provided*, That the final rule regarding unsupervised waivers under the Age Discrimination in Employment Act, issued by the Commission on August 27, 1987 (29 CFR sections 1627.16 (c) (1)-(3)), shall not have effect during fiscal year 1988: *Provided further*, That none of the funds may be obligated or expended by the Commission to give effect to any policy or practice pertaining to unsupervised waivers under the Age Discrimination in Employment Act.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901-02); not to exceed $300,000 for land and structures; not to exceed $300,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses: purchase (not to exceed ten) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $99,613,000, of which not to exceed $300,000 of the foregoing amount shall remain available until September 30, 1989, for research and policy studies: *Provided*, That none of the funds appropriated by this Act shall be used to repeal, to retroactively apply changes in, or to continue a reexamination of, the policies of the Federal Communications Commission with respect to comparative licensing, distress sales and tax certificates granted under 26 U.S.C. 1071, to expand minority and women ownership of broadcasting licenses, including those established in Statement of Policy on Minority Ownership of Broadcast Facilities, 68 F.C.C. 2d 979 and 69 F.C.C. 2d 1591, as amended 52 R.R. 2d 1313 (1982) and Mid-Florida Television Corp., 60 F.C.C. 2d 607 Rev. Bd. (1978), which were effective prior to September 12, 1986, other than to close MM Docket No. 86-484 with a reinstatement of prior policy and a lifting of suspension of any sales, licenses, applications, or proceedings, which were suspended pending the conclusion of the inquiry: *Provided further*, That none of the funds appropriated to the Federal Communications Commission by this Act may be used to diminish the number of VHF channel assignments reserved for noncommercial educational television stations in the Television Table of Assignments (section 73.606 of title 47, Code of Federal Regulations): *Provided further*, That none of the funds appropriated by this Act or any other Act may be used to repeal, to retroactively apply changes in, or to begin or continue a re-examination of the rules of the Federal Communications Commission with respect to the common ownership of a daily newspaper and a television station where the grade A contour of the television station encompasses the entire community in which the newspaper is published, or to extend the time period of current grants of temporary waivers to achieve compliance with such rules: *Provided further*, That no funds appropriated to the Federal Communications Commission shall be used prior to March 22, 1988 to accept or grant any applications to construct or operate cellular systems in rural service areas.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-02; $13,585,000: *Provided*, That not to exceed $1,500 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; the sum of $66,243,000: *Provided*, That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374).

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $34,750,000.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,200,000, to remain available until expended; and an amount of Japanese currency not to exceed the equivalent of $1,700,000 based on exchange rates at the time of payment of such amounts, to remain available until expended: *Provided*, That not to exceed a total of $3,500 of such amounts shall be available for official reception and representation expenses.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $305,500,000 of which $261,294,000 is for basic field programs, $7,022,000 is for Native American programs, $9,698,000 is for migrant programs, $1,100,000 is for law school clinics, $1,000,000 is for supplemental field programs, $624,000 is for regional training centers, $7,228,000 is for national support, $7,843,000 is for State support, $865,000 is for the Clearinghouse, $510,000 is for computer assisted legal research regional centers, and $8,316,000 is for Corporation management and administration: *Provided*, That none of the funds appropriated in this paragraph shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of Public Law 99-180 and section 112 of Public Law 99-190: *Provided further,* That the funds distributed to each grantee funded in fiscal year 1988 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1988 at not less than 1 per centum more than the annual level at which each grantee and contractor was funded in fiscal year 1987 or $8.30 per poor person within its geographical area under the 1980 Census, whichever is greater; and

(2) each such grantee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under the first priority above, falls below $14.56 per poor person within its geographical area under the 1980 census:

Provided further, That if funds become available because a national support center has been defunded or denied refunding pursuant to section 1011(2) of the Legal Services Corporation Act, as amended by this Act, such funds may be transferred to basic field programs, to be distributed in the manner specified by this paragraph, if the Appropriations Committees of both Houses of Congress have been notified pursuant to section 608 of this Act: *Provided further,* That the Corporation shall utilize the same formula for distribution of fiscal year 1988 migrant funds as was used in fiscal year 1987: *Provided further,* That none of the funds appropriated by this Act or prior Acts may be used by an officer, board member, employee or consultant of the Corporation to implement or enforce provisions in the regulation regarding legislative and administrative advocacy and training (Part 1612, 52 FR 28434 (July 29, 1987)) which impose restrictions on private funds received by a recipient for the provision of legal assistance except to the extent that such restrictions are explicitly authorized by sections 1007 (a)(5), (b)(6), (b)(7), and 1010(c) of the LSC Act: *Provided further,* That the Corporation shall not impose requirements on governing bodies of recipients that are additional to, or more restrictive than, the provisions of Public Law 99-180 and section 1007(c) of the Legal Services[9] Corporation Act including, but not limited to (1) the procedures of appointment, including the political affiliation and the length of terms of, board members and (2) the size, quorum requirements, and committee operations of such governing bodies.

Marine Mammal Commission

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $953,000.

Office of the United States Trade Representative

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $15,229,000, of which $1,000,000 shall remain available until expended: *Provided,* That not to exceed $69,000 shall be available for official reception and representation expenses.

Securities and Exchange Commission

SALARIES AND EXPENSES

For necessary expenses of the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $9,000 for official reception and representation expenses, $135,221,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Association of Securities Commissioners.

Small Business Administration

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of the Small Business Administration, including hire of passenger motor vehicles and not to exceed $2,500 for official reception and representation expenses $175,832,000; and for grants for performance in fiscal year 1988 or fiscal year 1989 for Small Business Development Centers as authorized by section 21(a) of the Small Business Act, as amended, $40,000,000: *Provided,* That not more than $350,000 of this amount shall be made available to pay the expenses of the National Small Business Development Center Advisory Board and to reimburse centers for participating in evaluations as provided in section 20(a) of such Act, and to maintain a clearinghouse as provided in section 21(g)(2) of such Act: *Provided further,* That none of the funds appropriated or made available by this Act or otherwise appropriated or made available to the Small Business Administration shall be used to adopt, implement, or enforce any rule or regulation with respect to the Small Business Development Center program authorized by section 21 of the Small Business Act, as amended (15 U.S.C. 648) nor may any of such funds be used to impose any restrictions, conditions or limitations on such program whether by standard operating procedure, audit guidelines or otherwise, unless such restrictions, conditions or limitations were in effect on October 1, 1987, unless specifically approved by the Committees on Appropriations under reprogramming procedures; nor may any of such funds be used to restrict in any way the right of association of participants in such program: *Provided further,* That the staffing levels at the Small Business Administration District Office, Clarksburg, West Virginia and the Small Business Administration Branch Office, Charleston, West Virginia, shall be maintained at the same levels that were in place as of August 30, 1987. In addition, $88,228,000 for disaster loan-making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster Loan Fund".

None of the funds made available under this joint resolution or any subsequent appropriations Act for fiscal year 1988 for the Small Business Administration shall be used to promulgate final regulations adjusting numerical size standards as required by section 921 (f) and (h) of Public Law 99-661 and section 921 (f) and (h) of Public Law 99-591 prior to May 31, 1988.

REVOLVING FUNDS

The Small Business Administration is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to its revolving funds, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for the "Disaster Loan Fund", the "Business Loan and Investment Fund", the "Lease Guarantees Revolving Fund", the "Pollution Control Equipment Contract Guarantees Revolving Fund", and the "Surety Bond Guarantees Revolving Fund".

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business Loan and Investment Fund", $91,000,000, to remain available without fiscal year limitation; and for additional capital for new direct loan obligations to be incurred by the "Business Loan and Investment Fund", $85,000,000, to remain available without fiscal year limitation.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $9,497,000, to remain available without fiscal year limitation.

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND

For additional capital for the "Pollution control equipment contract guarantee revolving fund" authorized by the Small Business Investment Act, as amended, $13,656,000, to remain available without fiscal year limitation.

State Justice Institute

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by Public Law 98-620, $10,980,000, to remain available until expended.

United States Information Agency

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by Reorganization Plan No. 2 of 1977, the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), to carry out international communication, educational and cultural activities, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $270,000, of which $250,000 is to facilitate United States participation in international expositions abroad); expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928 and 22 U.S.C. 287e-1; and entertainment, including official receptions, within the United States, not to exceed $20,000; $620,347,000, none of which shall be restricted from use for the purposes appropriated herein and of which $36,900,000 shall be available for the Television and Film Service: *Provided,* That not to exceed $1,070,000 may be used for representation abroad: *Provided further,* That not to exceed $14,557,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided further,* That not to exceed $500,000 shall remain available until expended, for expenses (including those authorized by the Foreign Service Act of 1980) and equipment necessary for maintenance and operation of such data processing and administrative services as the Director determines may be performed advantageously and more economically as central services: *Provided further,* That not to exceed $3,650,000 may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion picture, and television programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended: *Provided further,* That the funds appropriated by this paragraph shall be available notwithstanding sections 201(2) and 204 of H.R. 1777 (the Foreign Relations Authorization Act, fiscal years 1988 and 1989) whenever it or alternative authorization legislation is enacted and notwithstanding section 701 of the United States Information and Educational Exchange Act of 1948, as amended.

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[9] Copy read "Legal Service".

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

Notwithstanding section 301(a) (1) through (7) of H.R. 1777 (the Foreign Relations Authorization Act, fiscal years 1988 and 1989), for expenses of Fulbright, International Visitor, Humphrey Fellowship and Congress-Bundestag Exchange Programs, as authorized by Reorganization Plan No. 2 of 1977 and the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), $142,310,000: *Provided,* That not less than $540,000 shall be made available to the Institute for Representative Government for a pilot program for exchanges of persons and other exchange-related activities with legislators and legislatures of developing democracies: *Provided further,* That not less than $2,000,000 shall be made available for a grant to the Oregon Historical Society to assist in the establishment of the North Pacific Research Center in Portland, Oregon. For the Private Sector Exchange Programs, $7,730,000 of which $500,000 shall be available only for the Seattle Goodwill Games Organizing Committee for Cultural Exchange and other exchange-related activities associated with the 1990 Goodwill Games to be held in Seattle, Washington.

RADIO BROADCASTING TO CUBA

For an additional amount, necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act (providing for the Radio Marti program or Cuba Service of the Voice of America), including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception, $12,759,000, to remain available until expended, of which not to exceed $100,000 shall be available for the Advisory Board on Radio Broadcasting to Cuba for a feasibility study on television broadcasting to Cuba.

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to any appropriate recipient in the State of Hawaii, $20,000,000: *Provided,* That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the highest rate authorized in the General Schedule of the Classification Act of 1949, as amended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $16,875,000.

ADMINISTRATIVE PROVISION—UNITED STATES INFORMATION AGENCY

The United States Information Agency and the Voice of America shall pursue all relevant information relating to the availability of transmitters and antennas, spare parts, and other technical equipment to determine whether such items can be procured at reasonable prices and in a timely manner under all foreseeable circumstances. The agency and the Voice of America shall purchase American-manufactured equipment and materials to the fullest extent reasonably possible under the law in carrying out the facilities modernization program. This provision shall apply to all funds which are obligated for the facilities modernization program during fiscal year 1988. Where a foreign bidder receives any governmental subsidy, the price bid of each foreign bidder shall be increased by the amount of that subsidy as determined by the Department of Commerce for purposes of this procurement.

GENERAL PROVISIONS—RELATED AGENCIES

Funds appropriated to the United States Information Agency for radio construction and to the Board for International Broadcasting for facility modernization, including for both agencies balances available from prior years, may be transferred between the two agencies to meet priority broadcasting facility improvement needs as mutually agreed to by the Director of the United States Information Agency and the Chairman of the Board for International Broadcasting: *Provided,* That such transfers will be subject to the approval of the Committees on Appropriations of the House of Representatives and the United States Senate pursuant to the reprogramming provisions of section 608 of this Act.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. None of the funds appropriated in titles II and V of this Act may be used for any activity to alter the per se prohibition on resale price maintenance in effect under Federal antitrust laws: *Provided,* That nothing in this provision shall prohibit any employee of a department or agency for which funds are provided in titles II and V of this Act from presenting testimony on this matter before appropriate committees of the House and Senate.

SEC. 606. None of the funds appropriated by this Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion.

SEC. 607. No funds appropriated under this Act may be used to procure any item or service from a foreign entity which engages, directly or indirectly, in activities which, if it were a United States person, would violate section 8 of the Export Administration Act of 1979 (50 U.S.C. Appendix, section 2401 et seq.).[10]

SEC. 608. (a) None of the funds provided under this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $250,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 609. No funds appropriated under this Act may be used to sell direct loans which are held by the Small Business Administration or any loan guaranty or debenture guaranty made by the Small Business Administration under the authority contained in the Small Business Investment Act of 1958, and which was held by the Federal Financing Bank on September 30, 1987.

SEC. 610. (a) Unless specifically permitted by subsequently enacted legislation, none of the funds appropriated or made available by this Act to the Small Business Administration may be used—

(1) to impose a user fee in connection with a Small Business Administration program or service for which no user fee was in effect on September 1, 1987, or

(2) to increase a user fee which was in effect in connection with such a program or service on such date.

TITLE VII—CUBAN POLITICAL PRISONERS AND IMMIGRANTS

SEC. 701. This title may be cited as "Cuban Political Prisoners and Immigrants".

SEC. 702. (a) PROCESSING OF CERTAIN CUBAN POLITICAL PRISONERS AS REFUGEES.—In light of the announcement of the Government of

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[10] Copy read "et seq.)".

Cuba on November 20, 1987, that it would reimplement immediately the agreement of December 14, 1984, establishing normal migration procedures between the United States and Cuba, on and after the date of enactment of this Act, consular officer of the Department of State and appropriate officers of the Immigration and Naturalization Service shall, in accordance with the procedures applicable to such cases in other countries, process any application for admission to the United States as a refugee from any Cuban national who was imprisoned for political reasons by the Government of Cuba on or after January 1, 1959, without regard to the duration of such imprisonment, except as may be necessary to reassure the orderly process of available applicants.

(b) Processing of Immigrant Visa Applications of Cuban Nationals in Third Countries.—Notwithstanding section 212(f) and section 243(g) of the Immigration and Nationality Act, on and after the date of the enactment of this Act, consular officers of the Department of State shall process immigrant visa applications by nationals of Cuba located in third countries on the same basis as immigrant visa applications by nationals of other countries.

(c) Definitions.—For purposes of this section:

(1) The term "process" means the acceptance and review of applications and the preparation of necessary documents and the making of appropriate determinations with respect to such applications.

(2) The term "refugee" has the meaning given such term in section 101(a)(42) of the Immigration and Nationality Act.

TITLE VIII—INDOCHINESE REFUGEE RESETTLEMENT AND PROTECTION ACT OF 1987

Sec. 801. This title may be cited as the "Indochinese Refugee Resettlement and Protection Act of 1987".

Sec. 802. (a) Findings.—It is the sense of the Congress that—

(1) the continued occupation of Cambodia by Vietnam and the oppressive conditions within Vietnam, Cambodia, and Laos have led to a steady flight of persons from those countries, and the likelihood for the safe repatriation of the hundreds of thousands of refugees in the region's camps is negligible for the foreseeable future;

(2) the United States has already played a major role in responding to the Indochinese refugee problem by accepting approximately 850,000 Indochinese refugees into the United States since 1975 and has a continued interest in persons who have fled and continue to flee the countries of Cambodia, Laos, and Vietnam;

(3) Hong Kong, Indonesia, Malaysia, Singapore, the Philippines, and Thailand have been the front line countries bearing tremendous burdens caused by the flight of these persons;

(4) all members of the international community bear a share of the responsibility for the deterioration in the refugee first asylum situation in Southeast Asia because of slow and limited procedures, failure to implement effective policies for the region's "long-stayer" populations, failure to monitor adequately refugee protection and screening programs, particularly along the Thai-Cambodian and Thai-Laotian borders, and the instability of the Orderly Departure Program (ODP) from Vietnam which has served as the only safe, legal means of departure from Vietnam for refugees, including Amerasians and long-held "reeducation camp" prisoners;

(5) the Government of Thailand should be complimented for allowing the United States to process ration card holders in Khao I Dang and potentially qualified immigrants in Site 2 and in Khao I Dang;

(6) given the serious protection problem in Southeast Asian first asylum countries and the need to preserve first asylum in the region, the United States should continue its commitment to an ongoing, generous admission and protection program for Indochinese refugees, including urgently needed educational programs for refugees along the Thai-Cambodian and Thai-Laotian borders, until the underlying causes of refugee flight are addressed and resolved;

(7) the executive branch should seek adequate funding levels to meet United States policy objectives to ensure the well-being of Indochinese refugees in first asylum, and to process 29,500 Indochinese refugees within the overall refugee admissions level of 68,000 as determined by the President; and

(8) the Government of Thailand should be complimented for the progress that has been made in implementing an effective antipiracy program.

(b) Recommendations.—The Congress finds and recommends the following with respect to Indochinese refugees:

(1) The Secretary of State should urge the Government of Thailand to allow full access by highland refugees to the Lao Screening Program, regardless of the method of their arrival or the circumstances of their apprehension, and should intensify its efforts to persuade the Government of Laos to accept the safe return of persons rejected under the Lao Screening Program.

(2) Refugee protection and monitoring activities should be expanded along the Thai-Laotian border in an effort to identify and report on incidents of refugees forcibly repatriated into Laos.

(3) The Secretary of State should urge the Government of Thailand to address immediately the problems of protection associated with the Khmer along the Thai-Cambodian border. The Government of Thailand, along with appropriate international relief agencies, should develop and implement a plan to provide for greater security and protection for the Khmer at the Thai border.

(4) The international community should increase its efforts to assure that Indochinese refugee camps are protected, that refugees have access to a free market at Site 2, and that international observers and relief personnel are present on a 24-hour-a-day basis at Site 2 and any other camp where it is deemed necessary.

(5) The Secretary of State should make every effort to identify each person at Site 2 who may qualify for admission to the United States as an immigrant and for humanitarian parole.

(6) The United Nations High Commissioner for Refugees should be pressed to upgrade staff presence and the level of advocacy to revive the international commitment with regard to the problems facing Indochinese refugees in the region, and to pursue voluntary repatriation possibilities in cases where monitoring is available and the safety of the refugees is assured.

(c) Allocations of Refugee Admissions.—Given the existing connection between ongoing resettlement and the preservation of first asylum, the United States and the United Nations High Commissioner for Refugees should redouble efforts to assure a stable and secure environment for refugees while dialog is pursued on other long-range solutions, it is the sense of the Senate that—

(1) within the worldwide refugee admissions ceiling determined by the President, the President should allocate—

(A) at least 28,000 admissions from East Asia, first-asylum camps,

(B) at least 8,500 admissions for the Orderly Departure Program, for each of the fiscal years 1988, 1989, and 1990; and

(2) within the allocation made by the President for the Orderly Departure Program from Vietnam pursuant to paragraph (1)(B), admissions allocated in a fiscal year under priorities II and III of the program (as defined in the Department of State Bureau for Refugee Programs worldwide processing priorities) and the number of admissions allocated for Amerasians and their immediate family members under priority I, should be generous.

(d) International Solutions to Refugee Problems.—It is the sense of the Congress that—

(1) renewed international efforts must be taken to address the problem of Indochinese refugees who have lived in camps for 3 years or longer; and

(2) the Secretary of State should urge the United Nations High Commissioner for Refugees to organize immediately an international conference to address the problems of Indochinese refugees.

Sec. 803. Reporting Requirement.—The President shall submit a report to Congress within 180 days after the date of the enactment of this Act on the respective roles of the Immigration and Naturalization Service and the Department of State in the refugee program with recommendations for improving the effectiveness and efficiency of the program.

Sec. 804. Findings and Declarations.—The Congress makes the following findings and declarations:

(a) Thousands of children in the Socialist Republic of Vietnam were fathered by American civilians and military personnel.

(b) It has been reported that many of these Amerasian children are ineligible for ration cards and often beg in the streets, peddle black market wares, or prostitute themselves.

(c) The mothers of Amerasian children in Vietnam are not eligible for government jobs or employment in government enterprises and many are estranged from their families and are destitute.

(d) Amerasian children and their families have undisputed ties to the United States and are of particular humanitarian concern to the United States.

(e) The United States has a longstanding and very strong commitment to receive the Amerasian children in Vietnam, if they desire to come to the United States.

TITLE IX—ADJUSTMENT TO LAWFUL RESIDENT STATUS OF CERTAIN NATIONALS OF COUNTRIES FOR WHICH EXTENDED VOLUNTARY DEPARTURE HAS BEEN MADE AVAILABLE

Sec. 901. This title may be cited as "Adjustment to Lawful Resident Status of Certain Nationals of Countries for Which Extended Voluntary Departure Has Been Made Available".

Sec. 902. (a) Adjustment of Status.—The status of any alien who is a national of a foreign country the nationals of which were provided (or allowed to continue in) "extended voluntary departure" by the Attorney General on the basis of a nationality the factual and legal sufficiency of the Environmental Impact Statement under the National Environmental Policy Act of 1969.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; $447,747,000: *Provided*, That $60,664,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided further*, That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 25 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: *Provided*, That appropriations herein and hereafter made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Geological Survey, and that within appropriations herein and hereafter provided, Geological Survey officials may authorize either direct procurement of or reimbursement for expenses incidental to the effective use of volunteers such as, but not limited to, training, transportation, lodging, subsistence, equipment, and supplies: *Provided further*, That provision for such expenses or services is in accord with volunteer or cooperative agreements made with such individuals, private organizations, educational institutions, or State or local government: *Provided further*, That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in Public Law 95-224.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $168,717,000, of which not less than $50,179,000 shall be available for royalty management activities including general administration: *Provided*, That notwithstanding any other provision of law, funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further*, That of the above enacted amounts, $250,000 proposed for data gathering to help determine the boundary between State and Federal lands offshore of Alaska shall be available only if an equal amount is provided by the State of Alaska from State revenues to match the Federal support for this project: *Provided further*, That none of the funds in this Act may be used to implement a rule which modifies NTL-5 until such time as H.R. 3479, or similar legislation, is enacted into law: *Provided further*, That audits may proceed but the Minerals Management Service shall take no action to collect unpaid or underpaid royalties on natural gas production from Federal onshore or Indian leases between January 1, 1982, and July 31, 1986, plus applicable interest, based on a value of production in excess of the lessee's gross proceeds (or minimum value required by the applicable lease terms and regulations in titles 25 and 30 of the CFR) until such time as legislation affecting NTL-5 for that period is enacted.

Subsection (g)(5)(A) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(5)(A)) is amended—

(1) by striking out "such account" in the second sentence and inserting in lieu thereof "an escrow account established pursuant to an agreement under section 7";

(2) by designating the indented clause as clause (ii);

(3) in the first sentence of the clause (ii) by striking "any" and inserting in lieu thereof "a", by striking out "all" and by inserting in lieu thereof "any additional", and by inserting "or credited to" before "the escrow account"; and

(4) by inserting before clause (ii) the following new clause:

"(i) Twenty-seven percent of all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1)), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978, of any tract which lies wholly within three nautical miles of the seaward boundary asserted by the Federal Government in the boundary dispute, together with all accrued interest thereon, shall be paid to the State either—

"(I) within thirty days of December 1, 1987, or

"(II) by the last business day of the month following the month in which those revenues are deposited in the Treasury, whichever date is later.".

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations, and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal, and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, $146,398,000, of which $88,259,000 shall remain available until expended: *Provided*, That not more than $1,890,000 of the amount appropriated may be used for executive direction: *Provided further*, That none of the funds in this or any other Act may be used for the closure or consolidation of any research centers or the sale of any of the helium facilities currently in operation: *Provided further*, That of the sums provided under this head, $1,200,000 shall be available to the Mississippi Mineral Resources Institute of the University of Mississippi and the Center of Ocean Resources Technology of the University of Hawaii for a Marine Minerals Technology Center, equally divided: *Provided further*, That notwithstanding any other provision of law, the Bureau of Mines is authorized, in consultation with the General Services Administration, to immediately enter into a two year lease purchase agreement for the Bureau of Mines research center located in Spokane, Washington.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided*, That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed $400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement; $102,125,000, and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, equal to receipts to the General Fund of the Treasury from performance bond forfeitures in fiscal year 1988: *Provided*, That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States in fiscal year 1988, moneys collected pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977: *Provided further*, That the Secretary of the Interior shall abide by and adhere to the terms of the Settlement Agreement in NWR v. Miller, C.A. No. 86-99 (E.D. Ky), and not take any actions inconsistent with the provisions of footnote 3 of the Agreement with respect to any State or Federal program.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only,

$199,380,000, to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: *Provided*, That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further*, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: *Provided further*, That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees: *Provided further*, That the Secretary of the Interior may deny 50 percent of an Abandoned Mine Reclamation fund grant, available to a State pursuant to title IV of Public Law 95-87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: *Provided further*, That expenditure of moneys as authorized in section 402(g)(3) of Public Law 95-87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87: *Provided further*, That 23 full time equivalent positions are to be maintained in the Anthracite Reclamation Program at the Wilkes-Barre Field Office.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, $970,756,000, of which not less than $47,787,000 shall remain available until expended for contract support for contracts entered into under Public Law 93-638; and of which not to exceed $51,121,000 for higher education scholarships and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), and $25,000,000 for firefighting shall remain available for obligation until September 30, 1989, and the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1989: *Provided*, That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs unless the tribe(s) and the Bureau of Indian Affairs enter into a cooperative agreement for consolidated services; and for expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531 (25 U.S.C. 640d-18(a)), $1,971,000, to remain available until expended: *Provided further*, That none of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: *Provided further*, That the amounts available for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall be distributed on the same basis as such funds were distributed in fiscal year 1986: *Provided further*, That notwithstanding any provision of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act, the amounts appropriated for fiscal year 1988 for the Bureau of Indian Affairs for the Institute of American Indian Arts shall be available to operate the Institute until the Board of Regents and President of the Institute have been named and had an opportunity to organize, and for use under part A of that Act: *Provided further*, That the savings realized by the Bureau of Indian Affairs from the transfer of fish hatcheries to the United States Fish and Wildlife Service shall be available for cyclical maintenance of tribally-owned fish hatcheries and related facilities: *Provided further*, That no part of any appropriations to the Bureau of Indian Affairs shall be available to provide general assistance payments for Alaska Natives in the State of Alaska unless and until otherwise specifically provided for by Congress: *Provided further*, That none of the funds contained in this Act shall be available for any payment to any school to which such school would otherwise be entitled pursuant to section 1128(b) of Public Law 95-561, as amended, until after July 1, 1988: *Provided further*, That the Secretary shall take no action to close the school or dispose of the property of the Phoenix Indian School until the Congress has specifically approved the school closure or provided for disposition of the property in legislation: *Provided further*, That none of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for such tribe or individual have been audited and reconciled, and the tribe or individual has been provided with an accounting of such funds, and the appropriate Committees of the Congress and the tribes have been consulted with as to the terms of the proposed contract or agreement: *Provided further*, That none of the funds in this Act shall be used to implement any regulations, or amendments to or revisions of regulations, relating to the Bureau of Indian Affairs' higher education grant program that were not in effect on March 1, 1987: *Provided further*, That none of the funds in this Act shall be used to implement proposed initiatives to transfer any school operated by the Bureau to the control of any tribe, State, or local government agency (except that this prohibition shall not apply with respect to the transfer of a Bureau-operated school to the control of an Indian tribe under a contract entered into under the Indian Self-Determination and Education Assistance Act if the governing body of the Indian tribe approves of the transfer); to charge tuition at Bureau post-secondary schools; to implement the proposed economic self-assistance initiative (except for a limited demonstration program); to change the method of funding tribal contractor indirect costs, including imposition of a flat rate for contract support costs; to make available to the Bureau administrative deductions collected from Indian timber sales; to contract out the administration of the Bureau forestry program or any other Bureau-operated programs without prior approval of the Committees on Appropriations; or to implement any reorganizations, including "regionalization" of programs, without the prior approval of the Committees on Appropriations: *Provided further*, That Public Law 99-349 is amended by deleting under the heading "Bureau of Indian Affairs, Operation of Indian Programs" the second, third, and fourth provisos and substituting: "*Provided further*, That the funds appropriated hereunder shall be used pursuant to the consent decree and subsequent court orders in United States v. Michigan (M-26-73).": *Provided further*, That $120,000 of the amounts provided for education program management shall be available for a grant to the Close Up Foundation.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; preparation of lands for farming; and construction, repair, and improvement of Indian housing, $83,225,000, to remain available until expended: *Provided*, That of this amount, up to $6,400,000 shall be made available for planning, design and construction of the Choctaw Central School in Mississippi: *Provided further*, That the portion of the $6,400,000 related to construction shall not be released until (1) an application for the new school has been submitted to the Bureau of Indian Affairs and the Office of Construction Management; (2) the application has been reviewed and ranked on the school construction priority system; and (3) the planning and design for the new school has been completed: *Provided further*, That $1,482,000 of the funds appropriated for use by the Secretary to construct homes and related facilities for the Navajo and Hopi Indian Relocation Commission in lieu of construction by the Commission under section 15(d)(3) of the Act of December 22, 1974 (88 Stat. 1719; 25 U.S.C. 640d-14(d)(3)), may be used for counseling, archeological clearances, water production and administration related to the relocation of Navajo families: *Provided further*, That $1,500,000 of the funds made available in this Act shall be available for rehabilitation of tribally-owned fish hatcheries and related facilities: *Provided further*, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: *Provided further*, That none of the funds available in this Act may be used to implement any regulations, or amendments to or revisions of regulations, relating to the Bureau of Indian Affairs' housing improvement program that were not in effect on October 1, 1986.

ROAD CONSTRUCTION

For construction of roads and bridges pursuant to authority contained in 23 U.S.C. 203, the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), and the Act of May 26, 1928 (45 Stat. 750; 25 U.S.C. 318a), $1,000,000 for the Honobia Indian Road in Oklahoma, to remain available until expended: *Provided*, That not to exceed 5 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover roads program management costs and construction supervision costs of the Bureau of Indian Affairs.

MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals pursuant to Public Laws 98-500, 99-264, and 99-503, including funds for necessary administrative expenses, $13,340,000, to remain available until expended: *Provided*, That not to exceed $10,700,000 is made available to the Tohono O'Odham Nation for purposes authorized in the Gila Bend Indian Reservation Lands Replacement Act, Public Law 99-503.

MISCELLANEOUS TRUST FUNDS

TRIBAL TRUST FUNDS

In addition to the tribal funds authorized to be expended by existing law, there is appropriated in fiscal year 1988 and thereafter to the Secretary of the Interior for the benefit of the tribes on whose behalf such funds were collected, not to exceed $1,000,000 in each fiscal year from tribal funds not otherwise available for expenditure.

REVOLVING FUND FOR LOANS

During fiscal year 1988, and within the resources and authority available, gross obligations for the principal amount of direct loans pursuant to the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), shall not exceed resources and authority available.

INDIAN LOAN GUARANTY AND INSURANCE FUND

For payment of interest subsidies on new and outstanding guaranteed loans and for necessary expenses of management and technical assistance in carrying out the provisions of the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), $3,085,000, to remain available until expended: *Provided*, That during fiscal year 1988, total commitments to guarantee loans pursuant to the Indian Financing Act of 1974, as amended, may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed resources and authority available.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans and the Indian loan guarantee and insurance fund) shall be available for expenses of exhibits, and purchase of not to exceed 150 passenger carrying motor vehicles, of which 100 shall be for replacement only.

Territorial and International Affairs

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, $78,235,000 of which (1) $75,287,000 shall be available until expended for technical assistance; late charges and payments of the annual interest rate differential required by the Federal Financing Bank, under terms of the second refinancing of an existing loan to the Guam Power Authority, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for support of governmental functions; construction grants to the Government of the Virgin Islands as authorized by Public Law 97-357 (96 Stat. 1709); construction grants to the Government of Guam, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272); and (2) $2,948,000 for salaries and expenses of the Office of Territorial and International Affairs: *Provided*, That the territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: *Provided further*, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with chapter 35 of title 31, United States Code: *Provided further*, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99-396, except that should the Secretary of the Interior believe that the performance standards of such agreement are not being met, operations funds may be withheld, but only by Act of Congress as required by Public Law 99-396: *Provided further*, That funds previously appropriated under this head for a loan to the Government of the United States Virgin Islands, for construction of an extension to the Alexander Hamilton Airport runway, St. Croix, shall be available for issuance of the loan without approval of a multiyear grant of Airport Improvement Program funds from the Federal Aviation Administration: *Provided further*, That $540,000 of the amounts provided for technical assistance shall be available for a grant to the Close Up Foundation: *Provided further*, That of the total appropriation $500,000 shall be available for the establishment of a disaster contingency fund.

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495); grants for the expenses of the High Commissioner of the Trust Territory of the Pacific Islands; grants for the compensation and expenses of the Judiciary of the Trust Territory of the Pacific Islands; grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions; $41,940,000, of which $33,940,000 is for operations including $12,350,000 for payment of claims pursuant to the Micronesian Claims Act of 1971: *Provided*, That section 105 of Public Law 95-134 (91 Stat. 1159) is amended by inserting after the word "Islands" the words "(TTPI), or TTPI constituent or successor governments,"; and of which $8,000,000 is for construction, to remain available until expended: *Provided further*, That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with chapter 35 of title 31, United States Code: *Provided further*, That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration.

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, $33,620,000, including $2,500,000 for the Enjebi Community Trust Fund, to remain available until expended, as authorized by Public Law 99-239: *Provided*, That notwithstanding the provisions of Public Laws 99-500 and 99-591, the effective date of the Palau Compact for purposes of economic assistance pursuant to the Palau Compact of Free Association, Public Law 99-658, shall be the effective date of the Palau Compact as determined pursuant to section 101(d) of Public Law 99-658: *Provided further*, That funds previously appropriated under this head shall be available for audit purposes as identified in section 233 of the Compact of Free Association.

Departmental Offices

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of the Interior, $47,519,000 of which not to exceed $10,000 may be for official reception and representation expenses.

Office of the Solicitor

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $23,053,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, $17,757,000.

CONSTRUCTION MANAGEMENT

For necessary expenses of the Office of Construction Management, $1,800,000.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 8 aircraft, all of which shall be for replacement: *Provided*, That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further*, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods or volcanoes; for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided*, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further*, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: *Provided*, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $300,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members: *Provided*, That no funds available to the Department of the Interior are available for any expenses of the Great Hall of Commerce.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. No funds provided in this title may be expended by the Department of the Interior for the preparation for, or conduct of, pre-leasing and leasing activities (including but not limited to: calls for information, tract selection, notices of sale, receipt of bids and award of leases) of lands described in, and under the same terms and conditions set forth in section 107 of the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190.

SEC. 108. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley.

SEC. 109. Notwithstanding any other provision of law, appropriations in this title shall be available to provide insurance on official motor vehicles, aircraft, and boats operated by the Department of the Interior in Canada and Mexico.

SEC. 110. No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with Office of Personnel Management regulations.

SEC. 111. The Secretary of the Navy is authorized to transfer to the Guam Power Authority (GPA), pursuant to the payment provisions described in the conference report on the Continuing Appropriations Act, 1985 (House Report No. 98-1159), those Navy-owned electric power generation, transmission and distribution facilities, and equipment (excluding distribution facilities required by the military) on Guam as specified in the customer-supplier contract to be negotiated between the Navy and the GPA together with associated land interests. Transfer of such power generation, transmission and distribution facilities, and equipment shall not occur until the GPA assumes full responsibility for islandwide electrical power supply to military and civilian customers on Guam. GPA shall assume full responsibility when it meets all performance standards specified in the August, 1986 independent third party plan for takeover of the islandwide power responsibilities or other performance standards mutually agreed upon by GPA and Navy.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $135,510,000 of which $3,000,000 shall remain available until expended for competitive research grants, as authorized by section 5 of Public Law 95-307.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, $76,469,000, to remain available until expended, as authorized by law: *Provided*, That a grant of $2,800,000 shall be made to the State of Minnesota for the purposes authorized by section 6 of Public Law 95-495: *Provided further*, That notwithstanding any other provision of law, a grant of $6,400,000 shall be provided to the appropriate entity in the city of Kellogg, Idaho for construction of a gondola and shall be matched from other sources.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for liquidation of obligations made in the preceding fiscal years pursuant to 16 U.S.C. 556d for forest firefighting and emergency rehabilitation of National Forest System lands, and for administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", and "Land Acquisition", $1,243,391,000, of which $296,758,000 for reforestation and timber stand improvement, cooperative law enforcement, firefighting, and maintenance of forest development roads and trails shall remain available for obligation until September 30, 1989.

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, for construction, $214,078,000, to remain available until expended, of which $27,643,000 is for construction and acquisition of buildings and other facilities; and $186,435,000 is for construction of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205: *Provided*, That funds becoming available in fiscal year 1988 under the Act of March 4, 1913 (16 U.S.C. 501), shall be transferred to the General Fund of the Treasury of the United States.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $49,076,000 to be derived from the Land and Water Conservation Fund, to remain available until expended: *Provided*, That, notwithstanding any other provision of law, the Secretary of Agriculture, as soon as practicable, shall—

(1) acquire the following described lands (containing approximately 2,000 acres) from the owner of such real property:

All that portion of sections 17, 18, 19, and 20 in township 25 north range 11 west Mt. Diablo Meridian Trinity County, California, described as follows:

The west half of the southwest quarter; the west half of the east half of the southwest quarter of section 17.

Lots 9, 10, 11, and 12 and the southeast quarter of section 18.

Lots 5, 6, 7, 8, 17, and 18 and the northeast quarter of section 19.

The west half of the northwest quarter; the west half of the northeast quarter of the northwest quarter; the southeast quarter of the northeast quarter of the northwest quarter; the southeast quarter of the northwest quarter; the southwest quarter of the northeast quarter and the south half of the northwest quarter of the northeast quarter of section 20.

All that portion of sections 13, 14, and 24 in township 25 north range 12 west Mount Diablo Meridian Trinity County, California, described as follows:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12; the west half of the northeast quarter; the east half of the west half; the northwest quarter of the northwest quarter; and the southwest quarter of the southwest quarter of section 13.

Lots 3, 4, 5, and 6; the west half of the northwest quarter of the northeast quarter; and the east half of the northeast quarter of the northeast quarter; the southeast quarter of the southeast quarter; and the southwest quarter of the northeast quarter; and the northeast quarter of the northwest quarter of section 14.

Lots 1, 2, 7, and 8 of section 24.

Tracts 44, 55, and 76;

(2) in consideration of such acquisition, reduce the aggregate outstanding loan balance, with respect to loans made to such owner by the Farmers Home Administration, by an amount equal to the fair market value (as determined by the Secretary) of such real property, plus the reasonable expenses incurred by such owner in executing such transfer of title, plus an amount equal to the reasonably expected liability of such owner for Federal, State, and local taxes incurred on account of such transfer of title, except that such reduction shall not exceed $1,250,000; and

(3) transfer such lands to the Forest Service for such sums as the Secretary determines to be appropriate, which lands shall be added to, and administered as part of, the Yolla-Bolly Middle Eel Wilderness.

The Secretary of Agriculture is directed to use funds in the inholding and composite land acquisition account to purchase the Torre Canyon Ranch, in the Los Padres National Forest, California, at a cost not to exceed fair market value.

TIMBER ROADS, PURCHASER ELECTION, FOREST SERVICE

(RESCISSION)

Of the funds currently available and unobligated in this account, $75,000,000 is hereby rescinded.

TIMBER SALVAGE SALES

For design, engineering and supervision of construction of roads, for salvage timber sales, and for sale preparation and supervision of harvesting of such timber, $37,000,000, to remain available until expended: *Provided*, That the appropriation shall be merged with and made a part of the designated fund authorized by section 14(h) of Public Law 94-588, October, 1976: *Provided further*, That moneys received from the timber salvage sales program in fiscal year 1988 shall be considered as money received for the purposes of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500, as amended.

ACQUISITION OF LANDS FOR NATIONAL FORESTS

SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, and Cleveland National Forests, California, as authorized by law, $966,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94-579, as amended, to remain available until expended, of which not to exceed 6 percent shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

MISCELLANEOUS TRUST FUNDS

For expenses authorized by 16 U.S.C. 1643(b), $90,000 to remain available until expended, to be derived from the fund established pursuant to the above Act.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 186 passenger motor vehicles of which nine will be used primarily for law enforcement purposes and of which 179 shall be for replacement only, of which acquisition of 157 passenger motor vehicles shall be from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 50 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) uniform allowances for each uniformed employee of the Forest Service, not in excess of $400 annually; (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (f) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (g) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the National Forest System appropriation for the emergency rehabilitation of burned-over lands under its jurisdiction.

Appropriations and funds available to the Forest Service shall be available to comply with the requirements of section 313(a) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323(a)).

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their Forest Service position and that are necessary to comply with State laws, regulations, and requirements.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, technical information, and assistance in foreign countries.

Funds previously appropriated for timber salvage sales may be recovered from receipts deposited for use by the applicable national forest and credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest: *Provided*, That not less than $61,502,000 shall be made available to the Forest Service for obligation in fiscal year 1988 from the Timber Salvage Sales Fund appropriation.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprograming procedures contained in House Report 99-714.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Subject to the enactment of authorizing legislation the boundary of the Cranberry Wilderness located within the Monongahela National Forest, West Virginia, is modified as depicted on a map entitled "Cranberry Wilderness Area Revised" dated October, 1987, on file in the Office of the Chief, Forest Service, United States Department of Agriculture, Washington, D.C.

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

Notwithstanding section 705(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539d(a)), not more than $50,007,000 of new appropriations shall be available for timber supply, protection and management, research, resource protection and construction on the Tongass National Forest in fiscal year 1988: *Provided*, That all of the funds available from the Tongass Timber Supply Fund in fiscal year 1988 pursuant to section 705(a) of Public Law 96-487 shall be deemed obligated as of October 1, 1987 and shall remain available until expended. This funding limitation shall not include those funds available to the Forest Service as Trust Funds, Permanent Funds (other than the Tongass Timber Supply Fund), or Purchaser Road Construction.

No funds shall be expended for the purpose of issuing a special use authorization permitting land use and occupancy and surface disturbing activities for any project to be constructed on Lewis Fork Creek in Madera County, California, at the site above, and adjacent to, Corlieu Falls bordering the Lewis Fork Creek National Recreation Trail until both of the following conditions are met:

(1) A study is completed and submitted to the Congress by the Forest Service in consultation with the California Department of Parks and Recreation regarding the project's impact on the aesthetics of Corlieu Falls, together with a finding that the Lewis Fork Creek project will not substantially impact the flow at Corlieu Falls; and

(2) A study is completed and submitted to the Congress by the Forest Service concerning the project's impact on the Chukchansi Indian Tribe, together with a finding that there will be no substantial adverse impact on the tribe's adjacent sacred hot springs.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

For necessary expenses of, and associated with, Clean Coal Technology demonstrations pursuant to 42 U.S.C. 5901 et seq., $50,000,000 are appropriated for the fiscal year beginning October 1, 1987, and shall remain available until expended, and $525,000,000 are appropriated for the fiscal year beginning October 1, 1988, and shall remain available until expended.

No later than sixty days following enactment of this Act, the Secretary of Energy shall, pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), issue a general request for proposals for emerging clean coal technologies which are capable of retrofitting or repowering existing facilities, for which the Secretary of Energy upon review may provide financial assistance awards. Proposals under this section shall be submitted to the Department of Energy no later than ninety days after issuance of the general request for proposals required herein, and the Secretary of Energy shall make any project selections no later than one hundred and sixty days after receipt of proposals: *Provided*, That projects selected are subject to all provisos contained under this head in Public Law 99-190: *Provided further*, That pre-award costs incurred by project sponsors after selection and before signing an agreement are allowable to the extent that they are related to (1) the preparation of material requested by the Department of Energy and identified as required for the negotiation; or (2) the preparation and submission of environmental data requested by the Department of Energy to complete National Environmental Policy Act requirements for the projects: *Provided further*, That pre-award costs are to be reimbursed only upon signing of the project agreement and only in the same ratio as the cost-sharing for the total project: *Provided further*, That reports on projects selected by the Secretary of Energy pursuant to authority granted under the heading "Clean coal technology" in the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, which are received by the Speaker of the House of Representatives and the President of the Senate prior to the end of the first session of the 100th Congress shall be deemed to have met the criteria in the third proviso of the fourth paragraph under the heading "Administrative provisions, Department of Energy" in the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, upon expiration of 30 calendar days from receipt of the report by the Speaker of the House of Representatives and the President of the Senate.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, $326,975,000, to remain available until expended, of which $230,000 is for the functions of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System established pursuant to the authority of Public Law 94-586 (90 Stat. 2908-2909), and of the amount appropriated under this head, $4,000,000 shall be available to construct Department of Energy Fossil Energy building B-26, and pursuant to section 111(b)(1)(B) of the Energy Reorganization Act of 1974, as amended, of the amount appropriated under this head, $5,500,000 shall be available for a grant for an energy center at the University of Oklahoma in Norman, Oklahoma, and $6,000,000 shall be available for a grant for an energy center at West Virginia University in Morgantown, West Virginia, without section 111(b)(2) of such Act being applicable, and $20,894,000 to be derived by transfer from amounts derived from fees for guarantees of obligations collected pursuant to section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5919), and deposited in the "Energy security reserve" established by Public Law 96-126: *Provided*, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas: *Provided further*, That notwithstanding any other provision of law, funds appropriated under this head in Public Law 99-190 for demonstration of the Kilngas coal gasification process, which remain unobligated, shall be available for carrying out any fossil energy research and development activities.

Of the funds herein provided, $35,000,000 is for implementation of the June, 1984 multiyear, cost-shared magnetohydrodynamics program targeted on proof-of-concept testing: *Provided further*, That 25 per centum private sector cash or in-kind contributions shall be required for obligations in fiscal year 1988, and for each subsequent fiscal year's obligations private sector contributions shall increase by 5 per centum over the life of the proof-of-concept plan: *Provided further*, That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further*, That cost-sharing shall not be required for the costs of constructing or operating Government-owned facilities or for the costs of Government organizations, National Laboratories, or universities and such costs shall not be used in calculating the required percentage for private sector contributions: *Provided further*, That private sector contribution percentages need not be met on each contract but must be met in total for each fiscal year.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, $159,663,000, to remain available until expended: *Provided*, That sums in excess of $836,000,000 received during fiscal year 1988 as a result of the sale of products produced from Naval Petroleum Reserves Numbered 1 and 3 shall be deposited in the "SPR petroleum account", to remain available until expended, for the acquisition and transportation of petroleum and for other necessary expenses: *Provided further*, That section 7430(b) of title 10, United States Code, is amended by adding after paragraph (2) the following:

"(3) For purposes of paragraph (2), the term 'petroleum' does not include natural gas liquids,"

and section 7422(c)(1)(B)(ii) of such title is amended by inserting "(other than natural gas liquids)" after "petroleum".

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $366,297,000, to remain available until expended, of which $56,780,000, notwithstanding any other provision of law, shall be derived first from the excess amount for fiscal year 1988 determined under the provisions of section 3003(d) of Public Law 99-509 (15 U.S.C. 4502), and second, if necessary, from unexpended balances in the Department of Energy Deposit Fund Escrow account: *Provided*, That $200,000,000 shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99-509 (15 U.S.C. 4507): *Provided further*, That notwithstanding section 3003(d)(2) of Public Law 99-509 such sums shall be allocated to the eligible programs in the same amounts for each program as in fiscal year 1987, and of which $6,000,000 shall be available for a grant for an energy demonstration and research facility at Northwestern University as authorized by section 202 of Public Law 99-412 (42 U.S.C. 8281 note): *Provided further*, That $4,000,000 of the amount provided under this heading shall be available for continuing a research and development initiative with the National Laboratories, industry, universities, or others for new technologies up to proof-of-concept testing to increase significantly the energy efficiency of processes that produce steel: *Provided further*, That obligation of funds for these activities shall be contingent on an agreement to provide cash or in-kind contributions to the initiative or to other collaborative research and development activities related to the purpose of the initiative equal to 30 percent of the amount of Federal Government obligations: *Provided further*, That existing facilities, equipment, and supplies, or previously expended research or development funds are not acceptable as contributions for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further*, That the total Federal expenditure under this proviso shall be repaid up to one and one-half times from the proceeds of the commercial sale, lease, manufacture, or use of technologies developed under this proviso, at a rate of one-fourth of all net proceeds.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $21,565,000.

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $6,172,000.

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out the provisions of sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), $164,162,000, to remain available until expended.

SPR PETROLEUM ACCOUNT

For the acquisition and transportation of petroleum and for other necessary expenses under section 167 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), $438,744,000, to remain available until expended: *Provided*, That outlays in fiscal year 1988 resulting from the use of these funds may not exceed $256,478,000: *Provided further*, That notwithstanding 42 U.S.C. 6240(d) the United States' share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of to other than the Strategic Petroleum Reserve.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $61,398,000.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles, hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided*, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further*, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further*, That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen emergency needs from any funds available to the Department of Energy from this Act.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXI and sections 208 and 338G of the Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of reprints; purchase and erection of portable buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; $943,297,000 together with payments received during the fiscal year pursuant to 42 U.S.C. 300cc-2 for services furnished by the Indian Health Service: *Provided*, That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86-121 (the Indian Sanitation Facilities Act): *Provided further*, That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until September 30, 1989; and $15,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund and contract medical care: *Provided further*, That of the funds provided, $2,000,000 shall be used to carry out a loan repayment program under which Federal, State, and commercial-type educational loans for physicians and other health professionals will be repaid at a rate not to exceed $25,000 per year of obligated service in return for full-time clinical service in the Indian Health Service. Each individual participating in this program must sign and submit to the Secretary a written contract to accept repayment of educational loans and to serve for the applicable period of service in the Indian Health Service: *Provided further*, That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further*, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available until September 30, 1989 for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction of new facilities, or major renovation of existing Indian Health Service facilities): *Provided further*, That of the funds provided, $2,500,000 shall remain available until expended, for the establishment of an Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, grants or cooperative agreements with the Indian Health Service under the provisions of the Indian Self-Determination Act: *Provided further*, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under section 103 of the Indian Health Care Improvement Act and section 338G of the Public Health Service Act with respect to the Indian Health Service shall remain available for expenditure until September 30, 1989.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of portable buildings, purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, $62,511,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS-18, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided*, That none of the funds appropriated under this Act to the Indian Health Service shall be available for the initial lease of permanent structures without advance provision therefor in appropriations Acts: *Provided further*, That non-Indian patients may be extended health care at all Indian Health Service facilities, if such care can be extended without impairing the ability of the Indian Health Service to fulfill its responsibility to provide health care to Indians served by such facilities and subject to such reasonable charges as the Secretary of Health and Human Services shall prescribe, the proceeds of which, together with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-53), shall be deposited in the fund established by sections 401 and 402 of the Indian Health Care Improvement Act: *Provided further*, That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further*, That with the exception of service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: *Provided further*, That the Secretary of Health and Human Services may authorize special retention pay under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve officer for the period during which the officer is obligated under section 338B of the Public Health Service Act and assigned and providing direct health services or serving the officer's obligation as a specialist: *Provided further*, That personnel ceilings may not be imposed on the Indian Health Service nor may any action be taken to reduce the full-time equivalent level of the Indian Health Service by the elimination of temporary employees by reduction in force, hiring freeze or any other means without the review and approval of the Committees on Appropriations: *Provided further*, That funds provided in this Act may be used to reimburse the travel costs of spouses who accompany prospective Indian Health Service medical professional employees to the site of employment as part of the recruitment process: *Provided further*, That section 103(c) of the Indian Self-Determination Act (88 Stat. 2206) is amended by adding the following sentence at the end thereof: "For purposes of section 224 of the Public Health Service Act of July 1, 1944 (42 U.S.C. 233(a)), as amended by section 4 of the Act of December 31, 1970 (84 Stat. 1870), with respect to claims for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, a tribal organization or Indian contractor carrying out a contract, grant agreement, or cooperative agreement under sections 103 or 104(b) of this Act is deemed to be part of the Public Health Service in the Department of Health and Human Services while carrying out any such contract or agreement and its employees (including those acting on behalf of the organization or contractor as provided in section 2671 of title 28) are deemed employees of the Service while acting within the scope of their employment in carrying out the contract or agreement.".

The paragraph under the heading "Administrative Provisions, Indian Health Service" that is under the superior headings "Health Resources and Services Administration" and "Department of Health and Human Services" in title II of the Department of the Interior and Related Agencies Appropriations Act, 1987, which is contained in section 101(h) of Public Law 99-500 (100 Stat. 1783-277) and in section 101(h) of Public Law 99-591 (100 Stat. 3341-277) is amended by striking out all after "any political subdivision of the State," in the seventh proviso and inserting in lieu thereof "any corporation (including the University of Alaska), any partnership, any business organization, any non-profit organization, or any person, and may receive or pay money to the extent that such receipt or payment is necessary to equalize the exchange: *Provided*, That available funds previously appropriated for this project may be used for this purpose and that any money received by the Secretary shall be credited to the appropriation for Indian Health Facilities and be used to offset the costs of constructing or lease-purchase of the hospital facilities in Alaska described in this section: *Provided further*, That the Indian Health Service prepares and submits a report prior to June, 1988, which sets forth the legal authority necessary to enter into a lease-purchase contract, identifies the extent of tribal interest in the construction of health facilities for lease-purchase to the Indian Health Service, compares the advantages versus the disdvantages to the Government of lease-purchase to direct Federal construction of the Anchorage facility, including costs of construction, and discusses the efforts expended by the Indian Health Service in protecting the Federal investment to date".

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, the Indian Education Act, $66,326,000, of which $49,170,000 shall be for part A and $14,707,000 shall be for parts B and C: *Provided*, That the amounts available pursuant to section 423 of the Act shall remain available for obligation until September 30, 1989.

OTHER RELATED AGENCIES

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Navajo and Hopi Indian Relocation Commission as authorized by Public Law 93-531, $25,270,000, to remain available until expended, for operating expenses of the Commission: *Provided*, That none of the funds contained in this or any other Act may be used to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further*, That no relocatee will be provided with more than one new or replacement home: *Provided further*, That the Commission shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d-10.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed ten years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $201,432,000, including such funds as may be necessary to support American overseas research centers: *Provided*, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $8,150,000, to remain available until expended.

RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of restoration and renovation of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $19,254,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses to design and construct a base camp at the Fred L. Whipple Observatory, $1,315,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, the Institution is authorized to transfer to the State of Arizona, the counties of Santa Cruz and/or Pima, a sum not to exceed $150,000 for the purpose of assisting in the construction or maintenance of an access to the Whipple Observatory.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901-5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; purchase of one passenger motor vehicle for replacement only; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $37,352,000, of which not to exceed $2,420,000 for the special exhibition program shall remain available until expended.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356), including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $4,028,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $139,311,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act: *Provided*, That, 20 U.S.C. 974(b) is amended as follows: strike "$650,000,000" and insert "$1,200,000,000": *Provided further*, That, 20 U.S.C. 974(c) is amended as follows: strike "$75,000,000" and insert "$125,000,000".

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $28,420,000, to remain available until September 30, 1989, to the National Endowment for the Arts, of which $19,420,000 shall be available for purposes of section 5(l): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $111,935,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $28,500,000, to remain available until September 30, 1989, of which $16,500,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99-190 (99 Stat. 1261; 20 U.S.C. 956a), as amended, $4,500,000: *Provided*, That Public Law 99-190 (99 Stat. 1261) is amended under this heading as follows:

(1) in the first paragraph, strike the words "National Endowment for the Humanities" and insert in lieu thereof "Commission of Fine Arts", and

(2) Delete the third paragraph and insert in lieu thereof: "The Chairman of the Commission of Fine Arts shall establish an application process and shall, along with the Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities determine the eligibility of applicant organizations in addition to those herein named.".

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $21,944,000, including $100,000 as authorized by 20 U.S.C. 965(b): *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions: *Provided further*, That the Museum Services Board shall not meet more than three times during fiscal year 1988.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $443,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89-665, as amended, $1,719,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, $2,948,000.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), $28,000 to remain available until September 30, 1989.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, $2,516,000, for operating and administrative expenses of the Corporation.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, $3,000,000, to remain available until expended.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388, $2,171,000: *Provided*, That hereafter persons other than members of the United States Holocaust Memorial Council may be designated as members of committees associated with the United States Holocaust Memorial Council subject to appointment by the Chairman of the Council: *Provided further*, That any persons so designated shall serve without cost to the Federal Government: *Provided further*, That none of these funds shall be available for the compensation of Executive Level V or higher positions: *Provided further*, That hereafter the Chairman of the Council may waive any Council bylaw when the Chairman determines such waiver will be in the best interest of the Council: *Provided further*, That hereafter immediately after taking such action the Chairman shall send written notice to every voting member of the Council and such waiver shall become final if 30 days after the Chairman has sent such notice, a majority of Council members do not disagree in writing with the action taken: *Provided further*, That $35,000 of the amount appropriated is to go to the Holocaust Council's Committee to Remember the Children for a demonstration project to be undertaken with the Capital Children's Museum to determine the feasibility of establishing a children's museum in the principal Holocaust Memorial Museum.

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for use for any sale hereafter made of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: *Provided*, That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs.

SEC. 303. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided*, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 305. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 306. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 307. Except for lands described by sections 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 5(d)(1) of Public Law 96-312, and except for land in the State of Alaska, and lands in the National Forest System released to management for any use the Secretary of Agriculture deems appropriate through the land management planning process by any statement or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, and except to carry out the obligations and responsibilities of the Secretary of the Interior under section 17(k)(1) (A) and (B) of the Mineral Leasing Act of 1920 (30 U.S.C. 226), none of the funds provided in this Act shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oil shale, phosphate, potassium, sulphur, gilsonite, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas or within Bureau of Land Management wilderness study areas: *Provided*, That nothing in this section shall prohibit the expenditure of funds for any aspect of the processing or issuance of permits pertaining to exploration for or development of the mineral resources described in this section, within any component of the National Wilderness Preservation System now in effect or hereinafter enacted, any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning, within any lands designated by Congress as wilderness study areas, or Bureau of Land Management wilderness study areas, under valid existing rights, or leases validly issued in accordance with all applicable Federal, State, and local laws or valid mineral rights in existence prior to October 1, 1982: *Provided further*, That funds provided in this Act may be used by the Secretary of Agriculture in any area of National Forest lands or the Secretary of the Interior to issue under their existing authority in any area of National Forest or public lands withdrawn pursuant to this Act such permits as may be necessary to conduct prospecting, seismic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about and inventorying energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: *Provided further*, That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas: *Provided further*, That funds provided in this Act may be used by the Secretary of the Interior to augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act, by conducting in conjunction with the Secretary of Energy, the National Laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to this Act as the Secretary deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and x-ray diffraction analysis; land satellites; or any other methods the Secretary deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments of inventories, such as data analysis activities, by contract with private entities deemed by the Secretary to be qualified to engage in such activities whenever the Secretary has determined that such contracts would decrease Federal expenditures and would produce comparable or superior results: *Provided further*, That in carrying out any such inventory or surveys, where National Forest System lands are involved, the Secretary of the Interior shall consult with the Secretary of Agriculture concerning any activities affecting surface resources: *Provided further*, That funds provided in this Act may be used by the Secretary of the Interior to issue oil and gas leases for the subsurface of any lands designated by Congress as wilderness study areas, that are immediately adjacent to producing oil and gas fields or areas that are prospectively valuable. Such leases shall allow no surface occupancy and may be entered only by directional drilling from outside the wilderness study area or other nonsurface disturbing methods.

SEC. 308. None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

SEC. 309. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

SEC. 310. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

SEC. 311. Notwithstanding any other provisions of law, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Smithsonian Institution are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction.

SEC. 312. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

SEC. 313. None of the funds made available to the Department of the Interior or the Forest Service during fiscal year 1988 by this or any other Act may be used to implement the proposed jurisdictional interchange program until enactment of legislation which authorizes the jurisdictional interchange.

SEC. 314. The Forest Service and Bureau of Land Management are to continue to complete as expeditiously as possible development of their respective Forest Land and Resource Management Plans to meet all applicable statutory requirements. Notwithstanding the date in section 6(c) of the NFMA (16 U.S.C. 1600), the Forest Service, and the Bureau of Land Management under separate authority, may continue the management of lands within their jurisdiction under existing land and resource management plans pending the completion of new plans. Nothing shall limit judicial review of particular activities on these lands: *Provided, however*, That there shall be no challenges to any existing plan on the sole basis that the plan in its entirety is outdated, or in the case of the Bureau of Land Management, solely on the basis that the plan does not incorporate information available subsequent to the completion of the existing plan: *Provided further*, That any and all particular activities to be carried out under existing plans may nevertheless be challenged.

SEC. 315. The final rule published in the Federal Register on September 16, 1987, by the Health Resources and Services Administration of the Public Health Service of the Department of Health and Human Services, relating to eligibility for the health care services of the Indian Health Service, shall not take effect before September 16, 1988, and no action may be taken before such day to implement or administer such rule or to prescribe any other rule or regulation that has a similar effect. The grace period provided in section 36.33 of such published rule shall not terminate before March 16, 1989, and any other rule or regulation that has a similar effect shall provide for such a grace period which shall not expire before March 16, 1989.

SEC. 316. (a) Except as provided in subsection (b), the Secretary of Agriculture shall not transfer certain National Forest System land in the Black Hills National Forest, South Dakota, described as follows:

TRACT 0043 (Hine)—

Beginning at the north quarter corner section 16, township 1, north, range 6 east; Black Hills Meridian;

thence westerly along the north line of the northwest quarter, section 16, to the east east west 1/256 corner;

thence southerly along the west line of the east half east half northeast quarter northwest quarter 393.00 feet;

thence due west to a point that is due south of the intersection of the north line of the northwest quarter, section 16, and line 20-21 of the Big Bend Placer (MS 1442);

thence north to the intersection of the north line of the northwest quarter, section 16, and line 20-21 of the Big Bend Placer;

thence northeasterly along line 20-21 to corner 20;

thence northwesterly along line 19-20 to a point due north of the intersection of north line of the northwest quarter, section 16, and line 20-21, MS 1442;

thence north to a point which is due west of a point that is 850.00 feet northerly along the west line of the southeast quarter, section 9;

thence east to the west line of the southeast quarter;

thence southerly along the west line of the southeast quarter 850.00 feet to the north quarter corner section 16, point of beginning.

(b) The Secretary may transfer such portion of the Hine Tract described in subsection (a) necessary to remove the encroachment of the Hine cabin which is located on the boundary of the Hine Tract.

SEC. 317. Notwithstanding any other provision of law, the Secretary of Energy is directed to notify the Appropriations Committees of the House and the Senate, the Energy and Natural Resources Committee of the Senate and the appropriate authorizing committees of the House of the Secretary's intent to enter into a binding contract for the sale of the Great Plains Coal Gasification Plant in Beulah, North Dakota: *Provided*, That such notification shall be received by the above-referenced committees at least thirty (30) calendar days before the agreement is effective: *Provided further*, That such notification shall include a detailed description as to the terms and conditions of the sale, including, but not limited to, the purchase price, the name of the prospective purchaser, the basis for agreeing to the sale, and a statement of commitment signed by an authorized individual of the purchaser for continued long-term operation of the facility at a rate and for a period determined appropriate and reasonable by the Secretary.

SEC. 318. Notwithstanding any other provision of law, for the purposes of section 208 of title 18, United States Code, "particular matter", as applied to employees of the Department of the Interior and the Indian Health Service, shall mean "particular matter involving specific parties".

SEC. 319. (a) From funds appropriated under this Act such sums as are necessary shall be made available to pay forest firefighters premium pay under the provisions of subchapter V of chapter 55 of title 5, United States Code (notwithstanding the limitations of section 5547 of such title), for all premium pay—

(1) that would have been paid to such forest firefighter employees, but for the provisions of section 5547 of such title, for all pay periods (and parts thereof) occurring during the period beginning on January 1, 1987, through September 30, 1987; and

(2) earned by such forest firefighter employees in the fiscal year ending on September 30, 1988.

(b) Notwithstanding the provisions of subsection (a), no forest firefighter employee may be paid premium pay to the extent that the aggregate rate of pay of such employee for the aggregate of all pay periods in any calendar year exceeds the maximum rate for GS-15 as provided under the General Schedule pursuant to subchapter III of chapter 53 of title 5, United States Code.

(c) For purposes of this section, the term "forest firefighter" means any employee of the Department of Agriculture or the Department of the Interior who is assigned to, or in support of, work on forest wildfire emergencies.

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 1988".

(h) Such amounts as may be necessary for programs, projects or activities provided for in the Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies, for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, $70,872,000 together with not to exceed $44,380,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, including the purchase and hire of passenger motor vehicles, $3,658,651,000 plus reimbursements, to be available for obligation for the period July 1, 1988, through June 30, 1989, of which $59,713,000 shall be for carrying out section 401, $65,572,000 shall be for carrying out section 402, $9,966,000 shall be for carrying out section 441, $1,915,000 shall be for the National Commission for Employment Policy, $3,830,000 shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under the Job Training Partnership Act, and $7,659,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 251(b) of the Act: *Provided*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

For necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers as authorized by the Job Training Partnership Act, $89,038,000, to be available for obligation for the period July 1, 1988 through June 30, 1991.

For activities authorized by sections 236, 237, and 238 of the Trade Act of 1974, as amended, including necessary related administrative expenses, $47,870,000.

For activities authorized by title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act, $9,574,000, of which $1,915,000 shall be for carrying out section 738 of the Act.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $258,383,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $72,877,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95-250, as amended, and of trade adjustment benefit payments and allowances, as provided by law (part I, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended), $141,000,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided*, That amounts received or recovered pursuant to section 208(e) of Public Law 95-250 shall be available for payments.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-491-1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502-504); necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, and sections 231-235 and 243-244, title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H)(ii), 212(a)(14), and 216(g)(1)(2)(3) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); and necessary administrative expenses to carry out the Targeted Jobs Tax Credit program under section 51 of the Internal Revenue Code of 1986, $22,403,000, together with not to exceed $2,418,405,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the basic allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available in the basic allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, shall be available for obligation by the States through December 31, 1988, and of which $21,733,000 together with not to exceed $701,296,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1988, through June 30, 1989, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose and of which $175,076,000 (including not to exceed $4,404,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980) shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based, which cannot be provided for by normal budgetary adjustments based on State obligations as of December 31, 1988.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1989; $30,000,000.

LABOR-MANAGEMENT SERVICES

SALARIES AND EXPENSES

For necessary expenses for Labor-Management Services, $76,776,000, of which $12,063,000 for a pension plan data base shall remain available until September 30, 1989.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1988, for such Corporation: *Provided*, That not to exceed $38,329,000 shall be available for administrative expenses of the Corporation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $207,709,000, of which not to exceed $7,659,000 shall be available for obligation through September 30, 1989, for acquisition of computer equipment and software for the Federal Employees' Compensation Program's ADP system, together with $467,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $174,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to September 15 of the current year: *Provided*, That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1988.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $649,169,000, of which $594,522,000 shall be available until September 30, 1989, for payment of all benefits as authorized by section 9501(d) (1), (2), and (7) of the Internal Revenue Code of 1954, as amended, and of which $28,217,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $25,924,000 for transfer to Departmental Management, Salaries and Expenses, and $506,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided*, That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation or other benefits for any period subsequent to June 15 of the current year: *Provided further*, That in addition, there are hereby appropriated such amounts as may be necessary to repay advances from the Treasury that are not needed to make disbursements during the current fiscal year, as authorized by section 9501(d)(4) of that Act: *Provided further*, That in addition, such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $235,474,000, including not to exceed $40,524,000, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended for the assessment of civil penalties issued for first instance violations of any standard, rule, or regulation promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful, or repeated violations under section 17 of the Act) resulting from the inspection of any establishment or workplace subject to the Act, unless such establishment or workplace is cited, on the basis of such inspection, for ten or more violations: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended for the proposal or assessment of any civil penalties for the violation or alleged violation by an employer of ten or fewer employees of any standard, rule, regulation, or order promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful or repeated violations and violations which pose imminent danger under section 13 of the Act) if, prior to the inspection which gives rise to the alleged violation, the employer cited has (1) voluntarily requested consultation under a program operated pursuant to section 7(c)(1) or section 18 of the Occupational Safety and Health Act of 1970 or from a private consultative source approved by the Administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good-faith effort to eliminate the hazard created by the condition cited as such, which was identified by the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained from such consultants: *Provided further*, That none of the funds appropriated under this paragraph may be obligated or expended for any State plan monitoring visit by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of 1970, of any factory, plant, establishment, construction site, or other area, workplace or environment where such a workplace or environment has been inspected by an employee of a State acting pursuant to section 18 of such Act within the six months preceding such inspection: *Provided further*, That this limitation does not prohibit the Secretary of Labor from conducting such monitoring visit at the time and place of an inspection by an employee of a State acting pursuant to section 18 of such Act, or in order to investigate a complaint about State program administration including a failure to respond to a worker complaint regarding a violation of such Act, or in order to investigate a discrimination complaint under section 11(c) of such Act, or as part of a special study monitoring program, or to investigate a fatality or catastrophe: *Provided further*, That none of the funds appropriated under this paragraph may be obligated or expended for the inspection, investigation, or enforcement of any activity occurring on the Outer Continental Shelf which exceeds the authority granted to the Occupational Safety and Health Administration by any provision of the Outer Continental Shelf Lands Act, or the Outer Continental Shelf Lands Act Amendments of 1978.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $160,193,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the purchase of not to exceed sixty passenger motor vehicles for replacement only; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

Bureau of Labor Statistics

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $176,481,000, of which $8,793,000 shall be for expenses of revising the Consumer Price Index, together with not to exceed $41,569,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: *Provided,* That $7,366,000 shall remain available until September 30, 1989.

Departmental Management

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of 5 sedans, and including $2,434,000 for the President's Committee on Employment of the Handicapped, $114,929,000, together with not to exceed $274,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $139,614,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001-08 and 2021-26.

OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, $37,051,000, together with not to exceed $6,201,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

General Provisions

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers health or safety.

SEC. 103. None of the funds appropriated in this Act shall be obligated or expended for the purpose of closing any Job Corps Center operating under part B of title IV of the Job Training Partnership Act prior to January 1, 1989.

SEC. 104. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps which was not under such a contract as of September 1, 1984.

SEC. 105. None of the funds appropriated in this Act shall be used by the Job Corps program to pay the expenses of legal counsel or representation in any criminal case or proceeding for a Job Corps participant, unless certified to and approved by the Secretary of Labor that a public defender is not available.

This title may be cited as the "Department of Labor Appropriations Act, 1988".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

HEALTH RESOURCES AND SERVICES

For carrying out titles III, VI, VII, VIII, X, XVI, and XXIII of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, and the Stewart B. McKinney Homeless Assistance Act, $1,551,478,000, of which not to exceed $718,000 to remain available until expended, shall be available for renovating the Gillis W. Long Hansen's Disease Center, 42 U.S.C. 247e, and of which $96,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act, and of which $6,702,000 shall be made available until expended to make grants under section 1610(b) of the Public Health Service Act for renovation or construction of non-acute care intermediate and long term care facilities for AIDS patients: *Provided,* That grants made under the Excellence in Minority Health Education and Care Act shall be awarded competitively and, notwithstanding section 788A, any university which awards a graduate degree in the health professions and which has a majority enrollment of minority students shall be eligible to apply and compete for a grant: *Provided further,* That the total principal amount of Federal loan insurance available under section 728 of the Public Health Service Act during fiscal year 1988 shall be granted by the Secretary of Health and Human Services without regard to any apportionment or other similar limitation: *Provided further,* That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advances to this appropriation.

For carrying out subpart 2 of part A of title XIX of the Public Health Service Act, $4,787,000 to be available June 1, 1988.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $22,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

Centers for Disease Control

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles III, XVII, and XIX and section 1102 of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, $771,772,000, of which $1,915,000 shall remain available until expended for equipment and construction and renovation of facilities: *Provided,* That training shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training: *Provided further,* That funds appropriated under this heading shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further,* That collections from user fees, including collections from training and reimbursements and advances for the full cost of proficiency testing of private clinical laboratories, may be credited to this appropriation: *Provided further,* That the General Services Administration is directed to construct under their lease purchase authority, a 100,000 net sq. ft. office building at the CDC Clifton Road site in Atlanta, Georgia and the laboratory facility in Chamblee, Georgia, designed with the funds which Congress provided to the Centers for Disease Control in the fiscal year 1987 Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriation. CDC is to reimburse GSA for the annual lease payment: *Provided further,* That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the PHS Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality shall be treated as non-Federal employees for reporting purposes only. In addition, the full-time equivalents for organizations within the Department of Health and Human Services shall not be reduced to accommodate implementation of this provision: *Provided further,* That the Director shall cause to be distributed without necessary clearance of the content by any official, organization or office, an AIDS mailer to every American household by June 30, 1988, as approved and funded by the Congress in Public Law 100-71.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $1,469,327,000.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301, title IV, and section 1105 of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $965,536,000.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental diseases, $126,297,000.

NATIONAL INSTITUTE OF DIABETES, AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, $534,733,000.

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological and communicative disorders and stroke, $534,692,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $638,800,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $632,676,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $396,811,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $224,947,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311, and title IV of the Public Health Service Act with respect to environmental health sciences, $215,666,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $194,746,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, $147,679,000.

RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $368,153,000, of which $23,935,000 shall remain available until expended to provide for the repair, renovation, modernization, and expansion of existing facilities and purchase of associated equipment, and to make grants and enter into contracts for such purposes: *Provided*, That none of these funds, with the exception of funds for the Minority Biomedical Research Support program, shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $23,380,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $15,651,000, of which $1,852,000 shall be available for payment to the Gorgas Memorial Institute for maintenance and operation of the Gorgas Memorial Laboratory.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $67,910,000.

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $61,819,000, including purchase of not to exceed six passenger motor vehicles for replacement only.

BUILDINGS AND FACILITIES

For construction of, and acquisition of sites and equipment for, facilities of or used by the National Institutes of Health, $47,870,000, to remain available until expended.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, $1,373,727,000 of which $4,787,000 shall be available, on a pro rata basis, for grants to the States for State comprehensive mental health services plans pursuant to title V of Public Law 99-660 (100 Stat. 3794-3797), and of which $191,000 for renovation of government owned or leased intramural research facilities shall remain available until expended.

FEDERAL SUBSIDY FOR SAINT ELIZABETHS HOSPITAL

(INCLUDING TRANSFER OF FUNDS)

To carry out the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, $62,793,000, together with any unobligated balances from "Saint Elizabeths Hospital, Construction and Renovation" (except those balances determined by the Secretary of Health and Human Services to be necessary to carry out existing Federal renovation contracts), all of which shall be available in fiscal year 1988 for payments to the District of Columbia as authorized by sections 2, 4, and 9 of the Act; and in addition, $2,609,000 which shall be available through September 30, 1989 for Federal activities authorized by sections 6 and 9 of the Act: *Provided*, That funds appropriated under this heading may be used for multi-year contracts with the District of Columbia for maintenance of Saint Elizabeths Hospital: *Provided further*, That any amounts determined by the Secretary of Health and Human Services to be in excess of the amounts requested and estimated to be necessary to carry out sections 6 and 9(f)(2) of the Act shall be returned to the Treasury.

In fiscal year 1988 the maximum amount available to Saint Elizabeths Hospital from Federal sources shall not exceed the total of the following amounts: the appropriations made under this heading, amounts billed to Federal agencies and entities by the District of Columbia for services provided at Saint Elizabeths Hospital, and amounts authorized by titles XVIII and XIX of the Social Security Act. This maximum amount shall not include Federal funds appropriated to the District of Columbia under "Federal Payment to the District of Columbia" and payments made pursuant to section 9(c) of Public Law 98-621. Amounts chargeable to and available from Federal sources for inpatient and outpatient services provided through Saint Elizabeths Hospital as authorized by 24 U.S.C. 191, 196, 211, 212, 222, 253, and 324; 31 U.S.C. 1535; and 42 U.S.C. 249 and 251 shall not exceed the estimated total cost of such services as computed using only the proportionate amount of the direct Federal subsidy appropriated under this heading.

OFFICE OF ASSISTANT SECRETARY FOR HEALTH

PUBLIC HEALTH SERVICE MANAGEMENT

For the expenses necessary for the Office of the Assistant Secretary for Health and for carrying out titles III, XVII, and XX of the Public Health Service Act, $106,737,000, together with not to exceed $1,005,000 to be transferred and expended as authorized by section 201(g) of the Social Security Act from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein and $1,915,000 to be transferred and expended for patient outcome assessment research as authorized by section 9316 of Public Law 99-509, of which $1,245,000 will come from the Federal Hospital Insurance Trust Fund and $670,000 will come from the Federal Supplementary Medical Insurance Trust Fund, and, in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided*, That in addition to amounts provided herein, up to $15,318,000 shall be available from amounts available under section 2313 of the Public Health Service Act, to carry out the National Medical Expenditure Survey and $5,827,000 shall be available from amounts available under section 2313 of the Public Health Service Act, to carry out the National Health and Nutrition Examination Survey.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), such amounts as may be required during the current fiscal year.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $22,946,000,000, to remain available until expended.

For making, after May 31, 1988, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1988 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

Payment under title XIX may be made for any quarter beginning after June 30, 1987, and before October 1, 1988, with respect to any State plan or plan amendment in effect during any such quarter, if submitted in, or prior to such quarter and approved in that or any such subsequent quarter.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1989, $8,000,000,000, to remain available until expended.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, and section 278(d) of Public Law 97-248, $25,893,000,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, $98,211,000, together with not to exceed $1,373,585,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein: *Provided*, That $105,314,000 of said trust funds shall be expended only to the extent necessary to process workloads not anticipated in the budget estimates, including the cost of administration of catastrophic health insurance if enacted into law, and to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That all funds derived in accordance with 31 U.S.C 9701, are to be credited to this appropriation.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 217(g), 228(g), and 1131(b)(2) of the Social Security Act and section 152 of Public Law 98-21, $105,298,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $663,452,000, to remain available until expended: *Provided*, That monthly benefit payments shall be paid consistent with section 215(g) of the Social Security Act.

For making, after July 31, of the current fiscal year benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1989, $250,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the social security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $9,535,384,000, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out the Supplemental Security Income Program for the first quarter of fiscal year 1989, $3,000,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than $3,524,114,000, may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That travel expense payments under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: *Provided further*, That $47,870,000 of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads not anticipated in the budget estimates, for automation projects and their impact on the work force, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That not to exceed $53,040,000 for automatic data processing and telecommunications activities shall remain available until expended: *Provided further*, That none of the funds appropriated by this Act may be used for the manufacture, printing, or procuring of social security cards, as provided in section 205(c)(2)(D) of the Social Security Act, where paper and other materials used in the manufacture of such cards are produced, manufactured, or assembled outside of the United States.

FAMILY SUPPORT ADMINISTRATION

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C., ch. 9), $8,644,385,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV-A and -D, X, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C., ch. 9) for the first quarter of fiscal year 1989, $2,500,000,000, to remain available until expended.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,531,840,000.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), $346,933,000.

WORK INCENTIVES

For carrying out a work incentive program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such programs, and for related child care and other supportive services, as authorized by section 402(a)(19)(G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, $92,551,000 which shall be the maximum amount available for transfer to the Secretary of Labor and to which the States may become entitled pursuant to section 403(d) of such Act, for these purposes.

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act, section 408 of Public Law 99-425 and the Stewart B. McKinney Homeless Assistance Act, $382,290,000 of which $18,909,000 shall be for carrying out section 681(a)(2)(A), $3,925,000 shall be for carrying out section 681(a)(2)(D), $2,968,000 shall be for carrying out section 681(a)(2)(E), $6,319,000 shall be for carrying out section 681(a)(2)(F), $239,000 shall be for carrying out section 681(a)(3), $2,872,000 shall be for carrying out section 408 of Public Law 99-425 and $2,394,000 shall be for carrying out section 681A with respect to the community food and nutrition program.

PROGRAM ADMINISTRATION

For necessary administrative expenses to carry out titles I, IV, X, XI, XIV, and XVI of the Social Security Act, the Act of July 5, 1960 (24 U.S.C., ch. 9), title XXVI of the Omnibus Budget Reconciliation Act of 1981, the Community Services Block Grant Act, the Stewart B. McKinney Homeless Assistance Act, title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980, $79,464,000.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

SOCIAL SERVICES BLOCK GRANT

For carrying out the Social Services Block Grant Act, $2,700,000,000.

HUMAN DEVELOPMENT SERVICES

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Older Americans Act of 1965, the Developmental Disabilities Assistance and Bill of Rights Act, the Child Abuse Prevention and Treatment Act, section 404 of Public Law 98-473, the Family Violence Prevention and Services Act (title III of Public Law 98-457), the Native Americans Programs Act, title II of Public Law 95-266 (adoption opportunities), title II of the Children's Justice and Assistance Act of 1986, chapter 8-D of title VI of the Omnibus Budget Reconciliation Act of 1981 (pertaining to grants to States for planning and development of dependent care programs), the Head Start Act, the Child Development Associate Scholarship Assistance Act of 1985, and part B of title IV and section 1110 of the Social Security Act, $2,455,532,000.

FAMILY SOCIAL SERVICES

For carrying out part E of title IV of the Social Security Act, $811,178,000.

DEPARTMENTAL MANAGEMENT

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, $67,840,000, together with not to exceed $6,702,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein, of which $4,308,000 shall be for construction and fixed equipment for the Mary Babb Randolph Center in West Virginia.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, $35,769,000, together with not to exceed $38,296,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $16,343,000, together with not to exceed $3,830,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $4,873,000.

GENERAL PROVISIONS

SEC. 201. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 202. None of the funds made available by this Act for the National Institutes of Health may be used to provide forward funding or multiyear funding of research project grants except in those cases where the Director of the National Institutes of Health has determined that such funding is specifically required because of the scientific requirements of a particular research project grant.

SEC. 203. Appropriations in this Act for the Health Resources and Services Administration, the National Institutes of Health, the Centers for Disease Control, the Alcohol, Drug Abuse, and Mental Health Administration, the Office of the Assistant Secretary for Health, the Health Care Financing Administration, and Departmental Management shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed two thousand four hundred commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents, assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS-18; not to exceed $9,500 for official reception and representation expenses related to any health agency of the Department when specifically approved by the Assistant Secretary for Health.

SEC. 204. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 205. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

SEC. 206. Funds appropriated in this title for the Social Security Administration shall be available for not to exceed $10,000 for official reception and representation expenses when specifically approved by the Commissioner of Social Security.

SEC. 207. Funds appropriated in this title for the Health Care Financing Administration shall be available for not to exceed $2,000 for official reception and representation expenses when specifically approved by the Administrator of the Health Care Financing Administration.

SEC. 208. No funds appropriated for the fiscal year ending September 30, 1988, by this or any other Act, may be used to pay basic pay, special pays, basic allowances for subsistence and basic allowances for quarters of the commissioned corps of the Public Health Service described in section 204 of title 42, United States Code, at a level that exceeds 110 percent of the Executive Level I annual rate of basic pay: *Provided*, That amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts "Health Resources and Services", National Institutes of Health "Office of the Director", "Disease Control, Research, and Training", and "Federal Subsidy for Saint Elizabeths Hospital": *Provided further*, That none of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to the clinical, research, or staff associate program administered by the National Institutes of Health.

SEC. 209. None of the funds appropriated in this title shall be used to transfer the general administration of programs authorized under the Native American Programs Act from the Department of Health and Human Services to the Department of the Interior.

SEC. 210. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 211. The Secretary shall make available through assignment not more than 50 employees of the Public Health Service, who shall be exempt from all FTE limitations in the Department, to assist in child survival activities through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization. In addition, commissioned officers assigned under this section shall be exempt from all limitations on the number and grade of officers in the Public Health Service Commissioned Corps.

SEC. 212. Funds appropriated by this Act may be used to pay physicians' comparability allowances, as authorized under 5 U.S.C. 5948.

SEC. 213. For the purpose of insuring proper management of federally supported computer systems and data bases, funds appropriated by this Act are available for the purchase of dedicated telephone service between the private residences of employees assigned to computer centers funded under this Act, and the computer centers to which such employees are assigned.

SEC. 214. The Secretary of Health and Human Services shall:

(1) Issue a report to Congress within 90 days of the close of fiscal year 1988, of violations occurring during such year, of Department of Health and Human Services travel policy.[14]

(2) Require that personnel found by the report to be in violation of Department travel policy, shall reimburse the Department for funds spent in violation of Department policy.

SEC. 215. Section 465(B) of 42 U.S.C. 286 is amended by inserting between (5) and (6) an additional charge to the Secretary to "publicize the availability of the above products and services of the National Library of Medicine".

SEC. 216. Funds available in this title for activities related to acquired immune deficiency syndrome (AIDS) may be transferred between appropriation accounts upon the approval by the House and Senate Committees on Appropriations of a transfer request submitted by the Secretary of Health and Human Services.

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[14] Copy read "travel policy; and".

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1988".

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out chapter 1 of the Education Consolidation and Improvement Act of 1981, as amended, $4,327,927,000, of which $7,181,000 shall be used for purposes of section 555(d) of said Act to provide technical assistance and evaluate programs, and the remaining $4,320,746,000 shall become available on July 1, 1988, and remain available until September 30, 1989: *Provided,* That of these remaining funds, no funds shall be used for purposes of section 554(a)(1)(B), $269,029,000 shall be available for purposes of section 554(a)(2)(A), $151,269,000 shall be available for purposes of section 554(a)(2)(B), $32,552,000 shall be available for purposes of section 554(a)(2)(C) and $38,296,000 shall be available for purposes of section 554(b)(1)(D).

For carrying out section 418A of the Higher Education Act, $8,616,000.

IMPACT AID

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C. ch. 13), $685,498,000, of which $15,318,000 shall be for entitlements under section 2 of said Act and $670,180,000 shall be for entitlements under section 3 of said Act of which $536,144,000 shall be for entitlements under section 3(a) of said Act: *Provided,* That payment with respect to entitlements under section 3(b) of said Act to any local educational agency in which 20 per centum or more of the total average daily attendance is made up of children determined eligible under section 3(b) shall be at 60 per centum of entitlement and payment with respect to entitlements under section 3(b) of said Act to any local educational agency in which less than 20 per centum of the total average daily attendance is made up of children determined eligible under section 3(b) shall be ratably reduced from 100 per centum of entitlement: *Provided further,* That payments with respect to entitlements under section 3(a) to any local educational agency described in section 3(d)(1)(A) of said Act shall be at 100 per centum of entitlement, except that payments on behalf of children who reside on property which is described in section 403(1)(C) shall be at 15 per centum of entitlement, so long as the fiscal year 1988 per pupil payment does not exceed 105 per centum of the fiscal year 1987 per pupil payment: *Provided further,* That payment with respect to entitlements under section 3(a) to any local educational agency whose children determined eligible under section 3(a) amount to at least 15 per centum but less than 20 per centum of such agency's total average daily attendance shall be at 75 per centum of entitlement, except that payments on behalf of children who reside on property which is described in section 403(1)(C) shall be at 11.25 per centum of entitlement and the fiscal year 1988 local contribution rate for such agency shall not exceed 105 per centum of such agency's fiscal year 1987 local contribution rate: *Provided further,* That payment with respect to entitlements under section 3(a) to any local educational agency whose children determined eligible under section 3(a) amount to less than 15 per centum of such agency's total average daily attendance shall be ratably reduced from 100 per centum of entitlement, except that payments on behalf of children who reside on property which is described in section 403(1)(C) of said Act shall be ratably reduced from 15 per centum of entitlement: *Provided further,* That the provisions of section 5(c) of said Act shall not apply to funds provided herein: *Provided further,* That payments with respect to entitlements under section 3(a) for any local educational agency that is described in section 3(d)(1)(A) and is coterminous with a military installation are not subject to limitations on increases in per pupil payments unless such agency's State aid payment is reduced as a result of its section 3 payment: *Provided further,* That the Secretary shall consider as timely filed requests for assistance filed after the applicable deadline and related to applications for assistance submitted under section 7 of said Act or section 16 of the Act of September 23, 1950, stemming from FEMA Disaster Number 753DR as declared on November 7, 1985: *Provided further,* That any payment made to a local educational agency for fiscal years prior to 1986 that is attributable to an incorrect determination under section 2(a)(1)(C) of such Act shall be deemed to have been made in accordance with such section, and any payment made to a local educational agency under section 3, for fiscal years prior to 1987, on behalf of children claimed by such agency for any such fiscal year who resided on or whose parents were employed on property that was housing assisted under section 8 of the United States Housing Act of 1937, as amended, shall stand, and such payments withheld or recovered shall be made or restored.

For carrying out the Act of September 23, 1950, as amended (20 U.S.C. ch. 19), $22,978,000 which shall remain available until expended, shall be for providing school facilities as authorized by said Act, of which $8,617,000 shall be for awards under section 10 of said Act, $10,053,000 shall be for awards under sections 14(a) and 14(b) of said Act, and $4,308,000 shall be for awards under sections 5, 9 and 14(c) of said Act: *Provided further,* That funds appropriated under the heading "School Assistance in Federally Affected Areas" in Public Law 98-8 that are available for obligation shall be available until expended for the purposes of sections 14(a) and 14(b).

SPECIAL PROGRAMS

For carrying out the consolidated programs and projects authorized under chapter 2 of the Education Consolidation and Improvement Act of 1981, as amended, $508,439,000, of which $29,739,000 shall be for programs and projects authorized under subchapter D of said Act, including $10,244,000 for programs and projects authorized under subsection 583(a)(1) of said Act; $4,308,000 shall be used for awards, which, except for educational television programming, are not to exceed a cumulative amount of $957,000 to any recipient for national impact demonstration or research projects; $7,659,000 for activities authorized under subsection 583(b)(1) of said Act; $3,315,000 for programs authorized under subsection 583(b)(2) of said Act; and $3,830,000 for activities authorized under subsection 583(b)(4) of said Act; and $383,000 for national school volunteer programs: *Provided,* That $478,700,000 to carry out the State block grant program authorized under chapter 2 of said Act shall become available for obligation on July 1, 1988, and shall remain available until September 30, 1989.

For grants to State educational agencies and desegregation assistance centers authorized under section 403 of the Civil Rights Act of 1964, $23,456,000.

For carrying out activities authorized under title IX, part C of the Elementary and Secondary Education Act, $3,351,000.

For carrying out activities authorized under section 1524 of the Education Amendments of 1978, $4,787,000.

For carrying out activities authorized under section 1525 of the Education Amendments of 1978, $1,915,000.

For carrying out activities authorized under Public Law 92-506, as amended, $2,394,000: *Provided,* That said sum shall become available on July 1, 1988, and shall remain available until September 30, 1989.

For carrying out activities authorized under the Drug-Free Schools and Communities Act of 1986, $229,776,000, of which $191,480,000 for grants to States and outlying areas shall be available beginning July 1, 1988, and shall remain available until September 30, 1989: *Provided,* That State educational agencies allot fiscal year 1988 funds to local and intermediate educational agencies and consortia under section 4124(a) of the Act on the basis of their relative enrollments in public and private nonprofit schools.

For carrying out the provisions of title VII of the Education for Economic Security Act, relating to magnet schools assistance, $71,805,000: *Provided,* That not more than $4,000,000 in the fiscal year may be paid to any single eligible local educational agency.

For carrying out the provisions of title II of the Education for Economic Security Act, $119,675,000 of which $108,904,000, for grants to States and outlying areas under section 204 shall become available on July 1, 1988, and shall remain available until September 30, 1989.

For carrying out the provisions of subpart 2 of part C of title V of the Higher Education Act, $8,222,000, to become available July 1, 1988, and to remain available until September 30, 1989.

For carrying out the provisions of subpart 2 of part D of title V of the Higher Education Act, $1,915,000.

For carrying out the provisions of subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act, $4,787,000 to become available July 1, 1988, and remain available through September 30, 1989.

For carrying out activities authorized under the Follow Through Act, $7,133,000.

For carrying out activities authorized under section 137(a) of this joint resolution relating to dropout prevention, $23,935,000.

For carrying out activities authorized under section 137(b) of this joint resolution relating to workplace literacy, $9,574,000.

For carrying out activities authorized under section 137(c) of this joint resolution relating to Star Schools, $19,148,000: *Provided,* That grants under the Star Schools program shall be awarded through a competitive grant process.

BILINGUAL EDUCATION

For carrying out, to the extent not otherwise provided, title VII of the Elementary and Secondary Education Act, Refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act, part B of title III of the Refugee Act of 1980, and title VI of the Education Amendments of 1984, $190,504,000, of which $101,198,000 shall be for part A, $9,928,000 shall be for part B, and $35,447,000 shall be for part C of title VII of the Elementary and Secondary Education Act and $28,722,000 shall be for the Emergency Immigrant Education Program authorized by title VI of the Education Amendments of 1984. Of the funds provided under this head in fiscal year 1987 in section 101(i) of Public Laws 99-500 and 99-591, for carrying out title VII of the Elementary and Secondary Education Act, which are unobligated, $1,247,000 are reappropriated to carry out title VI of the Education Amendments of 1984 to be used to fund the amended application from the State of Texas for the Emergency Immigrant Education Program: *Provided,* That the reappropriated funds shall be available until September 30, 1988.

EDUCATION FOR THE HANDICAPPED

For carrying out the Education of the Handicapped Act, $1,869,019,000, of which $1,431,737,000 for section 611, $201,054,000 for section 619, and $67,018,000 for section 685 shall become available for obligation on July 1, 1988, and shall remain available until September 30, 1989: *Provided,* That notwithstanding section 621(e) of the Education of the Handicapped Act, up to $479,000 may be used for section 621(d) of that Act: *Provided further,* That the amount appropriated for section 685 of the Education of the Handicapped Act in Public Laws 99-500 and 99-591, section 101(i), for fiscal year 1987 shall remain available for obligation by the States until September 30, 1989.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973 and the Helen Keller National Center Act, as amended, $1,590,400,000, of which $1,379,500,000 shall be for allotments under sections 100(b)(1) and 110(b)(3) of the Rehabilitation Act, $16,590,000 shall be for special demonstration programs under sections 311 (a), (b), and (c), and $4,800,000 shall be for the Helen Keller National Center: *Provided,* That $500,000 shall be available on a competitive basis for research and training for hearing loss assessments for native Hawaiian children under section 204 of such Act until September 30, 1989: *Provided further,* That the amount appropriated for title VI, part C of the Rehabilitation Act in Public Laws 99-500 and 99-591, section 101(i), for fiscal year 1987 shall remain available for obligation by the States until September 30, 1989.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational Education Act, and the Adult Education Act and the Stewart B. McKinney Homeless Assistance Act, $1,005,557,000 which shall become available for obligation on July 1, 1988, and shall remain available until September 30, 1989: *Provided,* That $25,658,000 shall be available for title IV of the Carl D. Perkins Vocational Education Act, of which $7,276,000 shall be for part A, including $5,744,000 for section 404, $14,792,000 shall be for part B, including $14,361,000 for section 411 and $3,590,000 shall be for part C of said title: *Provided further,* That $7,851,000 shall be available for State councils under section 112 of the Carl D. Perkins Vocational Education Act: *Provided further,* That $6,845,000 shall be made available to carry out title III-A and $32,791,000 shall be made available for title III-B of said Vocational Education Act: *Provided further,* That $3,734,000 shall be available for part E of title IV of the Carl D. Perkins Vocational Education Act: *Provided further,* That section 202 of the Carl D. Perkins Vocational Education Act is amended—

(1) by inserting (a) after the section designation, and

(2) by adding at the end thereof the following new subsection:

"(b) Funds provided for fiscal year 1988 and described in clause (4) of subsection (a) shall also be available for single pregnant women.".

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A and parts C and E of title IV of the Higher Education Act, as amended, $5,544,792,000, which shall remain available until September 30, 1989: *Provided,* That the maximum Pell grant that a student may receive in the 1988-1989 award year shall be $2,200.

GUARANTEED STUDENT LOANS

For necessary expenses under title IV, part B of the Higher Education Act, $2,565,000,000, to remain available until expended.

HIGHER EDUCATION

For carrying out title III of the Higher Education Act of 1965, as amended, $152,370,000, of which up to $19,148,000 for section 332 of part C of title III of said Act shall remain available until expended: *Provided,* That $73,161,500 of funds appropriated for title III of said Act shall be available only to historically black colleges and universities.

For carrying out subparts 4 and 6 of part A of title IV; part B and subpart 1 of part D of title V; titles VI and VIII, parts A, B, C, D, E, and F of title IX, notwithstanding section 971(g); part B and part D of title VII; subpart 1 of part B and parts A and C of title X; and sections 420A and 1204(c) of the Higher Education Act of 1965, as amended; title XIII, part H, subpart 1 of the Education Amendments of 1980, as amended; and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961; $367,884,000, of which $28,244,000 for parts B and D of title VII shall remain available until expended: *Provided,* That $7,659,000 provided herein for carrying out subpart 6 of part A of title IV shall be available notwithstanding sections 419G(b) and 419I(a) of the Higher Education Act of 1965 (20 U.S.C. 1070d-37(b) and 1070d-39(a)): *Provided further,* That $239,000 of the amount provided for part B of title IX shall be competitively awarded to a consortium of historically black colleges and doctoral degree-granting institutions to provide supplemental need-based financial aid to students and faculty from historically black colleges who are pursuing doctoral studies.

For carrying out sections 772, 773, 775, and 776 of part G of title VII of the Higher Education Act, sections 1-5 of Public Law 99-608, and title III, section 303 of Public Law 98-480, $14,217,000 to remain available until expended.

Of any funds appropriated in fiscal year 1988 for a grant to an appropriate consortium of institutions of higher education for carrying out part B of title VII of the Higher Education Act, the limitations contained in sections 702(a) and 721(a)(2) shall not apply.

HIGHER EDUCATION FACILITIES LOANS AND INSURANCE

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year. For the fiscal year 1988, no new commitments for loans may be made from the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1132d-2).

COLLEGE CONSTRUCTION LOAN INSURANCE

For carrying out part E of title VII of the Higher Education Act of 1965, as amended, $19,148,000 to be available until expended.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing and academic facilities loans program, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation using loan repayments and other resources available to this account: *Provided,* That during fiscal year 1988, gross commitments for the principal amount of direct loans shall be $62,231,000. Any unobligated balances remaining from fixed fees previously paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

Whenever the Secretary, pursuant to sections 762(c) or 783 of the Act, sells, exchanges, or otherwise transfers on a discounted basis obligations or securities held by the Secretary under title VII, part F of the Act, the outstanding balance remaining on the notes of the Secretary issued to the Secretary of the Treasury under section 761(d) of the Act shall be reduced by the amount of the discount. For such transactions occurring prior to the fiscal year 1988, such reduction is effective on September 30, 1987. For such transactions occurring in fiscal year 1988 or thereafter, such reduction is to be effective on the last day of the fiscal year in which the discounted transaction occurs.

EDUCATION RESEARCH AND STATISTICS

For necessary expenses to carry out sections 405 and 406 of the General Education Provisions Act, as amended, $67,526,000, of which $13,390,000 shall be used for the Center for Education Statistics, as authorized under section 406 of the General Education Provisions Act, and $7,563,000 shall be for the National Assessment of Educational Progress, as authorized under section 405(e)(1) of the General Education Provisions Act: *Provided,* That $3,830,000 of the sums appropriated shall be used to continue a rural education program by the nine regional laboratories.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, IV, and VI of the Library Services and Construction Act (20 U.S.C., ch. 16), and title II, parts B, C, and D of the Higher Education Act, notwithstanding the provisions of section 221, $135,089,000: *Provided,* That $22,595,000 of the sums appropriated shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended.

SPECIAL INSTITUTIONS

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101-106), including provision of materials to adults undergoing rehabilitation on the same basis as provided in 1985, $5,266,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $31,594,000, of which $191,000 shall be for the endowment program as authorized under section 408 and shall be available until expended: *Provided*, That none of the funds provided herein may be used to subsidize the tuition of foreign students.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf and the partial support of Gallaudet University under titles I and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), including continuing education activities, existing extension centers and the National Center for Law and the Deaf, $62,195,000, of which $957,000 shall be for the endowment program as authorized under section 407 and shall be available until expended.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $172,203,000.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $241,028,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $40,530,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $17,560,000.

GENERAL PROVISIONS

SEC. 301. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 302. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet University shall be subject to audit by the Secretary of Education.

SEC. 303. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 304. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 305. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 306. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

This title may be cited as the "Department of Education Appropriations Act, 1988".

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $163,085,000.

CORPORATION FOR PUBLIC BROADCASTING

PUBLIC BROADCASTING FUND

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1990, $232,648,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171-180, 182), including expenses of the Labor-Management Panel and boards of inquiry appointed by the President, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia; and for expenses necessary pursuant to Public Law 93-360 for mandatory mediation in health care industry negotiation disputes and for convening factfinding boards of inquiry appointed by the Director in the health care industry; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 125a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. chapter 71), $24,510,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $3,906,000.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345), $718,000.

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

OPERATING EXPENSES

Funds appropriated for operating expenses of the National Commission to Prevent Infant Mortality in the Supplemental Appropriations Act, 1987 (Public Law 100-71) shall remain available until expended.

NATIONAL COUNCIL ON THE HANDICAPPED

SALARIES AND EXPENSES

For expenses necessary for the National Council on the Handicapped as authorized by section 405 of the Rehabilitation Act of 1973, as amended, $892,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, $133,097,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, $7,004,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $5,885,000.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $2,997,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 601 of Public Law 98-21, $3,592,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $352,323,000, all of which shall be credited to the account in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for unnegotiated checks, $3,100,000, to remain available through September 30, 1989, which shall be the maximum amount available for payments pursuant to section 417 of Public Law 98-76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, $57,860,000, to be derived from the railroad retirement accounts: *Provided,* That such portion of the foregoing amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 1,254 full-time equivalent employees: *Provided further,* That $479,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further,* That notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 228a-r): *Provided further,* That not to exceed $2,500,000 of funds provided under this head in Public Law 99-591 shall remain available until September 30, 1988, only for retirement claims processing automation activities.

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than $13,830,000 shall be apportioned for fiscal year 1988 from moneys credited to the railroad unemployment insurance administration fund: *Provided,* That such portion of the foregoing amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 303 full-time equivalent employees.

LIMITATION ON REVIEW ACTIVITY

For expenses necessary for the Railroad Retirement Board for audit, investigatory and review activities, as authorized by section 418 of Public Law 98-76, not more than $2,212,000 to be derived from the railroad retirement accounts and railroad unemployment insurance account.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, $35,879,000: *Provided,* That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Soldiers' and Airmen's Home permanent fund, $15,445,000, to remain available until expended.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $4,308,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided,* That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor, Health and Human Services, and Education are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I, II, and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 511. None of the funds appropriated by this Act shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

SEC. 512. (a)(1) In the cases of all appropriations accounts within this Act from which expenses for travel, transportation, and subsistence (including per diem allowances) are paid under chapter 57 of title 5, United States Code, there are hereby prohibited to be obligated under such accounts in fiscal year 1988 a uniform percentage of such amounts, as determined by the President in accordance with the provisions of paragraph (2), as, but for this subsection, would—

(A) be available for obligation in such accounts as of October 1, 1987,

(B) be planned to be obligated for such expenses after such date during fiscal year 1988, and

(C) result in total outlays of $23,600,000 in fiscal year 1988.

(2) Before making determinations under paragraph (1), the President shall obtain from the Director of the Office of Management and Budget and the Comptroller General of the United States recommendations for determinations with respect to (A) the identification of the accounts affected, (B) the amount in each such account available as of such date for obligation, (C) the amounts planned to be obligated for such expenses after such date in fiscal year 1988, and (D) the uniform percentage by which such amounts need to be reduced in order to comply with paragraph (1).

(b) Within 30 days after the date of enactment of this Act, the President shall prepare and transmit to the Congress a report specifying the determinations of the President under subsection (a).

(c) Sections 1341(a) and 1517 of title 31, United States Code, apply to each account for which a determination is made by the President under subsection (a).

SEC. 513. (a) Subject to subsection (b), none of the funds made available by this or any other Act may be used by the Secretary of Labor to withdraw approval of the California State occupational safety and health plan, or to exercise exclusive Federal safety and health authority in the State of California, under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(b) The prohibition established in subsection (a) shall apply until the California Supreme Court has rendered a final disposition in the case of Ixta v. Rinaldi (Case No. 3 Civil C 002805).

SEC. 514. (a) Notwithstanding the matter under the heading "CENTERS FOR DISEASE CONTROL", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote or encourage, directly, homosexual sexual activities.

(b) Education, information, and prevention activities and materials paid for with funds appropriated under this Act shall emphasize—

(1) abstinence from sexual activity outside a sexually monogamous marriage (including abstinence from homosexual sexual activities) and

(2) abstinence from the use of illegal intravenous drugs.

(c) The homosexual activity referred to in subsections (a) and (b) includes any sexual activity between two or more males as described in section 2256(2)(A) of title 18, United States Code.

(d) The illegal drugs referred to in subsection (b) include any controlled substance as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).

(e) If the Secretary of Health and Human Services finds that a recipient of funds under this Act has failed to comply with this section, the Secretary shall notify the recipient, if the funds are paid directly to the recipient, or notify the State if the recipient receives the funds from the State, of such finding and that—

(1) no further funds shall be provided to the recipient;

(2) no further funds shall be provided to the State with respect to noncompliance by the individual recipient;

(3) further payment shall be limited to those recipients not participating in such noncompliance; and

(4) the recipient shall repay to the United States, amounts found not to have been expended in accordance with this section.

SEC. 515. In administering funds made available under this Act for research relating to the treatment of AIDS, the National Institutes of Health shall take all possible steps to ensure that all experimental drugs for the treatment of AIDS, particularly antivirals and immunomodulators, that have shown some effectiveness in treating individuals infected with the human immunodeficiency virus are tested in clinical trials as expeditiously as possible and with as many subjects as is scientifically acceptable.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1988".

(i) Such amounts as may be necessary for programs, projects or activities provided for in the Legislative Branch Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Making appropriations for the Legislative Branch for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I—CONGRESSIONAL OPERATIONS

SENATE

Mileage of the Vice President and Senators

For mileage of the Vice President and Senators of the United States, $60,000.

EXPENSE ALLOWANCES OF THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, MAJORITY AND MINORITY LEADERS, MAJORITY AND MINORITY WHIPS, AND CHAIRMEN OF THE MAJORITY AND MINORITY CONFERENCE COMMITTEES

For expense allowances of the Vice President, $10,000; the President Pro Tempore of the Senate, $10,000; Majority Leader of the Senate, $10,000; Minority Leader of the Senate, $10,000; Majority Whip of the Senate, $5,000; Minority Whip of the Senate, $5,000; and Chairmen of the Majority and Minority Conference Committees, $3,000 for each Chairman; in all, $56,000.

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, $10,000 for each such Leader, in all $20,000.

Salaries, Officers and Employees

For compensation of officers, employees, clerks to Senators, and others as authorized by law, including agency contributions, $196,196,700 which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, $1,145,000.

OFFICE OF THE PRESIDENT PRO TEMPORE

For Office of the President Pro Tempore, $153,000.

OFFICE OF THE DEPUTY PRESIDENT PRO TEMPORE

For the Office of the Deputy President Pro Tempore, $90,000.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, $1,388,000.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, $431,000.

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $556,500 for each such committee; in all, $1,113,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, $270,000.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, $115,000.

OFFICE OF THE SECRETARY

For Office of the Secretary, $8,005,000.

ADMINISTRATIVE, CLERICAL, AND LEGISLATIVE ASSISTANCE TO SENATORS

For administrative, clerical, and legislative assistance to Senators, $109,605,500.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, $44,161,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, $918,000.

AGENCY CONTRIBUTIONS

For agency contributions for employee benefits, as authorized by law, $28,802,200.

Office of the Legislative Counsel of the Senate

For salaries and expenses of the Office of the Legislative Counsel of the Senate, $1,764,000: *Provided*, That the amounts appropriated to the Office of the Legislative Counsel of the Senate for fiscal year 1987 shall remain available until September 30, 1988.

Office of Senate Legal Counsel

For salaries and expenses of the Office of Senate Legal Counsel, $633,000.

Expense Allowances of the Secretary of the Senate, Sergeant at Arms and Doorkeeper of the Senate, and Secretaries for the Majority and Minority of the Senate

For expense allowances of the Secretary of the Senate, $3,000; Sergeant at Arms and Doorkeeper of the Senate, $3,000; Secretary for the Majority of the Senate, $3,000; Secretary for the Minority of the Senate, $3,000; in all, $12,000.

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $1,101,500 for each such committee; in all, $2,203,000.

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, section 112 of Public Law 96-304 and Senate Resolution 281, agreed to March 11, 1980, $57,161,000.

EXPENSES OF UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, as authorized by section 814 of the Foreign Relations Authorization Act passed by the Senate on July 31, 1985, $325,000.

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, $666,300.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, $68,021,000: *Provided,* That of the amounts appropriated under this head in the Legislative Branch Appropriations Act, 1986 (Public Law 99-151), $2,250,000 shall remain available until September 30, 1988.

MISCELLANEOUS ITEMS

For miscellaneous items, $10,183,000: *Provided,* That, from funds appropriated to the Conference of the Majority and from funds appropriated to the Conference of the Minority for any fiscal year, such Conference may utilize such amounts as it deems appropriate for the specialized training of professional staff, subject to such limitations, insofar as they are applicable, as are imposed by the Committee on Rules and Administration with respect to such training when provided to professional staff of standing committees of the Senate.

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, for officers of the Senate and the Conference of the Majority and Conference of the Minority of the Senate, $8,500; in all, $13,000.

ADMINISTRATIVE PROVISIONS

SEC. 1. (a) The table and the sentence immediately following such table in subsection (d)(1) of section 105 of the Legislative Branch Appropriation Act, 1968 (2 U.S.C. 61-1(d)(1)), is amended to read as follows:

"$740,000 if the population of his State is less than 1,000,000;
"$775,950 if such population is 1,000,000 but less than 2,000,000;
"$811,900 if such population is 2,000,000 but less than 3,000,000;
"$847,850 if such population is 3,000,000 but less than 4,000,000;
"$883,800 if such population is 4,000,000 but less than 5,000,000;
"$919,750 if such population is 5,000,000 but less than 6,000,000;
"$955,700 if such population is 6,000,000 but less than 7,000,000;
"$991,650 if such population is 7,000,000 but less than 8,000,000;
"$1,027,600 if such population is 8,000,000 but less than 9,000,000;
"$1,063,550 if such population is 9,000,000 but less than 10,000,000;
"$1,099,500 if such population is 10,000,000 but less than 11,000,000;
"$1,135,450 if such population is 11,000,000 but less than 12,000,000;
"$1,171,400 if such population is 12,000,000 but less than 13,000,000;
"$1,207,350 if such population is 13,000,000 but less than 14,000,000;
"$1,243,300 if such population is 14,000,000 but less than 15,000,000;
"$1,279,250 if such population is 15,000,000 but less than 16,000,000;
"$1,315,200 if such population is 16,000,000 but less than 17,000,000;
"$1,351,150 if such population is 17,000,000 but less than 18,000,000;
"$1,374,150 if such population is 18,000,000 but less than 19,000,000;
"$1,397,150 if such population is 19,000,000 but less than 20,000,000;
"$1,420,150 if such population is 20,000,000 but less than 21,000,000;
"$1,443,150 if such population is 21,000,000 but less than 22,000,000;
"$1,466,150 if such population is 22,000,000 but less than 23,000,000;
"$1,489,150 if such population is 23,000,000 but less than 24,000,000;
"$1,512,150 if such population is 24,000,000 but less than 25,000,000;
"$1,535,150 if such population is 25,000,000 but less than 26,000,000;
"$1,558,150 if such population is 26,000,000 but less than 27,000,000;
"$1,581,150 if such population is 27,000,000 but less than 28,000,000; and
"$1,604,150 if such population is 28,000,000 or more.

"For any fiscal year, the population of a State shall be deemed to be whichever of the following is the higher:

"(I) the population of such State (as determined for purposes of this paragraph) for the preceding fiscal year; or

"(II) the population of such State as of the first day of such fiscal year, as determined by the latest census (provisional or otherwise) conducted prior to such first day by the Bureau of the Census within the Department of Commerce.

"If the population of any State, as determined under the preceding sentence, is not evenly divisible by 1,000,000, the population of such State shall be deemed to be increased to the next higher multiple of 1,000,000.

"If, for any period after a fiscal year has begun, the census figures of the most recent census conducted prior to the first day of such year have not been officially released, then, for such period, in the administration of this paragraph, it shall be assumed that the population of each State is the same as such State's population (as determined for purposes of this paragraph) for the preceding fiscal year.

"In the event that the term of office of a Senator begins after the first month of a fiscal year or ends (except by reason of death, resignation, or expulsion) before the last month of a fiscal year, the aggregate amount available for gross compensation of employees in the office of such Senator for such year shall be the applicable amount contained in the preceding table, divided by 12, and multiplied by the number of months in such year which are included in the Senator's term of office, counting any fraction of a month as a full month.".

(b) The amendment made by this section shall be effective in the case of fiscal years beginning after September 30, 1987.

SEC. 2. (a) Effective with respect to pay periods beginning on or after the enactment of this Act, the Chaplain of the Senate shall be compensated at a rate equal to the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) The second proviso, under the headings "SENATE" and "Office of the Chaplain", of the Legislative Branch Appropriation Act, 1970 (Public Law 91-145) is amended to read as follows: *"Provided further,* That the Chaplain of the Senate may appoint and fix the compensation of a secretary".

SEC. 3. (a) Section 192 of title I, Chapter IX, of the Supplemental Appropriations Act, 1985 (Public Law 99-88; 99 Stat. 349; 2 U.S.C. 68-5) is amended—

(1) by striking out "and", where it appears immediately after "Minority Whip of the Senate,", and inserting in lieu thereof "one for the attending physician, one as authorized by Senate Resolution 90 of the 100th Congress"; and

(2) by inserting immediately before the period at the end of such section the following: ", and such additional number as is otherwise specifically authorized by law".

(b) The amendments made by subsection (a) shall be effective in the case of fiscal years ending after September 30, 1986.

SEC. 4. Section 151(a) of Public Law 99-591 (100 Stat. 3341-3355) is amended by striking out "during fiscal year 1987".

SEC. 5. Subsection (i) of section 814 of the Foreign Relations Authorization Act, fiscal years 1986 and 1987 (Public Law 99-93), as amended by Public law 99-151, is amended by striking out "1987" and inserting "1988".

SEC. 6. Effective in the case of fiscal years beginning after September 30, 1986, the first sentence of section 107(a) of the Supplemental Appropriations Act, 1979 (Public Law 96-38; 2 U.S.C. 69a), is amended by striking out "$2,000" and inserting in lieu thereof "$4,000".

SEC. 7. The Chairman of the Majority or Minority Conference Committee of the Senate may, during the fiscal year ending September 30, 1988, at his election, transfer not more than $50,000 from the appropriation account for salaries for the Conference of the Majority and the Conference of the Minority of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6). Any transfer of funds under authority of the preceding sentence shall be made at such time or times as such chairman shall specify in writing to the Senate Disbursing Office. Any funds so transferred by the chairman of the Majority or Minority Conference Committee shall be available for expenditure by such committee in like manner and for the same purposes as are other moneys which are available for expenditure by such committee from the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6).

SEC. 8. (a) The Secretary of the Senate is authorized, with the approval of the Senate Committee on Appropriations, to transfer, during any fiscal year, from the appropriations account, within the contingent fund of the Senate, for expenses of the Office of the Secretary of the Senate, such sums as he shall specify to the Senate appropriations account, appropriated under the headings "Salaries, Officers and Employees" and "Office of the Secretary"; and any funds so transferred shall be available in like manner and for the same purposes as are other funds in the account to which the funds are transferred.

(b) The Sergeant at Arms and Doorkeeper of the Senate is authorized, with the approval of the Senate Committee on Appropriations, to transfer, during any fiscal year, from the appropriations account, within the contingent fund of the Senate, for expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, such sums as he shall specify to the appropriations account, appropriated under the headings "Salaries, Officers and Employees" and "Office of the Sergeant at Arms and Doorkeeper"; and any funds so transferred shall be available in like manner and for the same purposes as are other funds in the account to which the funds are transferred.

SEC. 9. Section 114 of Public Law 95-94, as amended (2 U.S.C. 61-1a), is amended to read as follows:

"SEC. 114. Notwithstanding any other provision of law appropriated funds are available for payment to an individual of pay from more than one position, each of which is either in the office of a Senator and the pay of which is disbursed by the Secretary of the Senate or is in another office and the pay of which is disbursed by the Secretary of the Senate out of an appropriation under the heading "SALARIES, OFFICERS, AND EMPLOYEES", if the aggregate gross pay from those positions does not exceed the maximum rate specified in section 105(d)(2) of the Legislative Appropriations Act of 1968, as amended and modified.".

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Lucie C. McKinney, widow of Stewart B. McKinney, late a Representative from the State of Connecticut, $89,500.

MILEAGE OF MEMBERS

For mileage of Members, as authorized by law, $210,000.

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $3,456,000, including: Office of the Speaker, $798,000, including $18,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $708,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $789,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, $621,000, including $5,000 for official expenses of the Majority Whip and not to exceed $149,950 for the Chief Deputy Majority Whip; Office of the Minority Whip, $540,000, including $5,000 for official expenses of the Minority Whip and not to exceed $79,150 for the Chief Deputy Minority Whip.

MEMBERS' CLERK HIRE

For staff employed by each Member in the discharge of his official and representative duties, $174,556,000.

COMMITTEE EMPLOYEES

For professional and clerical employees of standing committees, including the Committee on Appropriations and the Committee on the Budget, $49,102,000.

COMMITTEE ON THE BUDGET (STUDIES)

For salaries, expenses, and studies by the Committee on the Budget, and temporary personal services for such committee to be expended in accordance with sections 101(c), 606, 703, and 901(e) of the Congressional Budget Act of 1974, and to be available for reimbursement to agencies for services performed, $329,000.

CONTINGENT EXPENSES OF THE HOUSE

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by the House, $52,418,000.

ALLOWANCES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For allowances and expenses as authorized by House resolution or law, $174,797,000, including: Official Expenses of Members, $81,523,000; supplies, materials, administrative costs and Federal tort claims, $16,719,000; furniture and furnishings, $1,005,000; stenographic reporting of committee hearings, $550,000; reemployed annuitants reimbursements, $1,118,000; Government contributions to employees' life insurance fund, retirement funds, Social Security fund, Medicare fund, health benefits fund, and worker's and unemployment compensation, $73,260,000; and miscellaneous items including, but not limited to, purchase, exchange, maintenance, repair and operation of House motor vehicles, restaurants, interparliamentary receptions and gratuities to heirs of deceased employees of the House, $622,000: *Provided*, That effective upon enactment of this Act, an amount not to exceed $132,000 shall be made available by transfer from the appropriation for "House office buildings, 1987, No year" for deposit in the account established by section 208 of the First Supplemental Civil Functions Appropriations Act, 1941 (40 U.S.C. 174k(b)).

Such amounts as are deemed necessary for the payment of allowances and expenses under this head may be transferred between the various categories within this appropriation, "Allowances and expenses", upon the approval of the Committee on Appropriations of the House of Representatives.

COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)

For salaries and expenses, studies and examinations of executive agencies, by the Committee on Appropriations, and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act, 1946, and to be available for reimbursement to agencies for services performed, $4,300,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, $54,529,000, including: Office of the Clerk, $14,917,000; Office of the Sergeant at Arms, including overtime, as authorized by law, $21,180,000; Office of the Doorkeeper, including overtime, as authorized by law, $7,915,000; Office of the Postmaster, $2,517,000, including $48,124 for employment of substitute messengers and extra services of regular employees when required at the salary rate of not to exceed $16,766 per annum each; Office of the Chaplain, $75,000; Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $716,000; for salaries and expenses of the Office for the Bicentennial of the House of Representatives, $243,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $870,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $3,025,000; six minority employees, $447,000; the House Democratic Steering Committee and Caucus, $721,000; the House Republican Conference, $721,000; and other authorized employees, $1,182,000.

Such amounts as are deemed necessary for the payment of salaries of officers and employees under this head may be transferred between the various offices and activities within this appropriation, "Salaries, officers and employees", upon the approval of the Committee on Appropriations of the House of Representatives.

ADMINISTRATIVE PROVISIONS

SEC. 101. Of the amounts appropriated in fiscal year 1988 for the House of Representatives under the headings "Committee employees", "Standing committees, special and select", "Salaries, officers and employees", "Allowances and expenses", "House leadership offices", and "Members' clerk hire", such amounts as are deemed necessary for the payment of salaries and expenses may be transferred among the aforementioned accounts upon approval of the Committee on Appropriations of the House of Representatives.

SEC. 102. (a) One additional employee is authorized for each of the following:

(1) the House Democratic Steering and Policy Committee; and

(2) the House Republican Conference.

(b) The annual rate of pay for the positions established under subsection (a) shall not exceed 60 percent of the annual rate of pay payable from time to time for level V of the Executive Schedule under section 5316 of title 5, United States Code.

JOINT ITEMS

For joint committees, as follows:

CONTINGENT EXPENSES OF THE SENATE

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, $3,179,000.

JOINT COMMITTEE ON PRINTING

For salaries and expenses of the Joint Committee on Printing, $1,037,000.

CONTINGENT EXPENSES OF THE HOUSE

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $4,219,000, to be disbursed by the Clerk of the House.

For other joint items, as follows:

OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of $1,000 per month to the Attending Physician; (2) an allowance of $600 per month to one Senior Medical Officer while on duty in the Attending Physician's office; (3) an allowance of $200 per month each to two medical officers while on duty in the Attending Physician's office; (4) an allowance of $200 per month each to not to exceed twelve assistants on the basis heretofore provided for such assistance; and (5) $963,600 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, such amount shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $1,493,000, to be disbursed by the Clerk of the House.

CAPITOL POLICE

GENERAL EXPENSES

For purchasing and supplying uniforms; the purchase, maintenance, and repair of police motor vehicles, including two-way police radio equipment; contingent expenses, including advance payment for travel for training or other purposes, and expenses associated with the relocation of instructor personnel to and from the Federal Law Enforcement Training Center as approved by the Chairman of the Capitol Police Board, and including $85 per month for extra services performed for the Capitol Police Board by such member of the staff of the Sergeant at Arms of the Senate or the House as may be designated by the Chairman of the Board, $1,734,000, to be disbursed by the Clerk of the House: *Provided*, That the funds used to maintain the petty cash fund referred to as "Petty Cash II" which is to provide for the prevention and detection of crime shall not exceed $4,000: *Provided further*, That the funds used to maintain the petty cash fund referred to as "Petty Cash III" which is to provide for the advance of travel expenses attendant to protective assignments shall not exceed $4,000: *Provided further*, That, notwithstanding any other provision of law, the cost involved in providing basic training for members of the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1988 shall be paid by the Secretary of the Treasury from funds available to the Treasury Department.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs, $82,163,000, to be disbursed by the Clerk of the House, to be available immediately upon enactment of this Act: *Provided*, That funds appropriated for such purpose for the fiscal year ending September 30, 1987, shall remain available until expended.

CAPITOL GUIDE SERVICE

For salaries and expenses of the Capitol Guide Service, $1,137,000, to be disbursed by the Secretary of the Senate: *Provided*, That none of these funds shall be used to employ more than thirty-three individuals: *Provided further*, That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than one hundred twenty days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service.

STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate and House of Representatives, of the statements for the first session of the One Hundredth Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, $19,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Technology Assessment Act of 1972 (Public Law 92-484), including reception and representation expenses (not to exceed $3,000 from the Trust Fund), and rental of space in the District of Columbia, and those necessary to carry out the duties of the Director of the Office of Technology Assessment under section 1886 of the Social Security Act as amended by section 601 of the Social Security Amendments of 1983 (Public Law 98-21), and those necessary to carry out the duties of the Director of the Office of Technology Assessment under part B of title XVIII of the Social Security Act as amended by section 9305 of the Consolidated Omnibus Reconciliation Act of 1985 (Public Law 99-272), $16,901,000: *Provided*, That none of the funds in this Act shall be available for salaries or expenses of any employee of the Office of Technology Assessment in excess of 143 staff employees: *Provided further*, That no part of this appropriation shall be available for assessments or activities not initiated and approved in accordance with section 3(d) of Public Law 92-484, except that funds shall be available for the assessment required by Public Law 96-151: *Provided further*, That none of the funds in this Act shall be available for salaries or expenses of employees of the Office of Technology Assessment in connection with any reimbursable study for which funds are provided from sources other than appropriations made under this Act, or be available for any other administrative expenses incurred by the Office of Technology Assessment in carrying out such a study, except that funds shall be available for and reimbursement can be accepted for salaries or expenses of the Office of Technology Assessment in connection with the assessment required by section 101(b) of Public Law 99-190.

BIOMEDICAL ETHICS BOARD

SALARIES AND EXPENSES

For the Biomedical Ethics Board and the Biomedical Ethics Advisory Committee, as authorized by section 381 of the Public Health Service Act (Public Law 99-158), $100,000: *Provided*, That of the amounts appropriated under this head in the Legislative Branch Appropriations Act, 1987 (as enacted by Public Law 99-500 and Public Law 99-591), shall remain available for obligation until September 30, 1988.

CONGRESSIONAL AWARD BOARD

CONGRESSIONAL AWARD PROGRAM

Notwithstanding any other provision of law, there is appropriated to the Congressional Award Board (established by Public Law 96-114; 2 U.S.C. 801) the sum of $189,000, to be disbursed by the Clerk of the House upon vouchers approved by the Chairman of the Congressional Award Board or another member of the Board as delegated by the Chairman, to remain available without fiscal year limitation: *Provided*, That notwithstanding any provision of such Public Law 96-114, such sum shall be used by the Congressional Award Board in the same manner and for the same purposes, and subject to the same limitations, as are funds donated to such Board by private individuals: *Provided further*, That these funds may only be used for routine operational purposes and may not be allocated for the payment of any debt outstanding as of the date of enactment of this Act.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93-344), $17,886,000: *Provided*, That none of these funds shall be available for the purchase or hire of a passenger motor vehicle: *Provided further*, That none of the funds in this Act shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 226 staff employees: *Provided further*, That any sale or lease of property, supplies, or services to the Congressional Budget Office shall be deemed to be a sale or lease of such property, supplies, or services to the Congress subject to section 903 of Public Law 98-63.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For the Architect of the Capitol; the Assistant Architect of the Capitol; the Executive Assistant; and other personal services; at rates of pay provided by law, $5,925,000.

TRAVEL

Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of $10,000.

CONTINGENT EXPENSES

To enable the Architect of the Capitol to make surveys and studies, and to meet unforeseen expenses in connection with activities under his care, $48,000.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For all necessary expenses for the maintenance, care and operation of the Capitol Building and electrical substations of the Senate and House Office Buildings, under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment; not to exceed $1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; purchase or exchange, maintenance and operation of a passenger motor vehicle; for expenses of attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, and for security installations, which are approved by the Capitol Police Board, authorized by House Concurrent Resolution 550, Ninety-second Congress, agreed to September 19, 1972, the cost limitation of which is hereby further increased by $111,000, $12,793,000, of which $360,000 shall remain available until expended.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House Office Buildings, and the Capitol Power Plant, $3,404,000.

SENATE OFFICE BUILDINGS

For all necessary expenses for maintenance, care and operation of Senate Office Buildings; and furniture and furnishings, to be expended under the control and supervision of the Architect of the Capitol, $23,265,000, of which $3,943,000 shall remain available until expended: *Provided*, That $928,000 of funds provided under this head are for improvements to the Senate Restaurants kitchen in the Dirksen Building: *Provided further*, That no obligations can be made from this amount for improvements to the Senate Restaurants kitchen in the Dirksen Building without the prior approval of the Committee on Appropriations of the United States Senate.

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House Office Buildings, including the position of Superintendent of Garages as authorized by law, $30,547,000, of which $8,010,000 shall remain available until expended.

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; for lighting, heating, and power (including the purchase of electrical energy) for the Capitol, Senate and House Office Buildings, Congressional Library Buildings, and the grounds about the same, Botanic Garden, Senate garage, and for air conditioning refrigeration not supplied from plants in any of such buildings; for heating the Government Printing Office and Washington City Post Office and heating and chilled water for air conditioning for the Supreme Court Building, Union Station complex and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation; $24,583,000: *Provided*, That not to exceed $1,950,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1988.

ADMINISTRATIVE PROVISIONS

SEC. 103. Notwithstanding any other provisions of law, the Architect of the Capitol is hereby authorized to (1) develop a pilot program to determine the economic feasibility and efficiency of centralizing certain maintenance functions, to assign and reassign, without increase or decrease in basic salary or wages, any person on the employment rolls of the Office of the Architect of the Capitol, for personal services in any buildings, facilities, or grounds under his jurisdiction for which appropriations have been made and are available; (2) maintain appropriate cost and productivity records for the program; and (3) report to appropriate authorities, including the Committees on Appropriations, on the results of the program, together with recommendations for continuation or expansion of the program.

SEC. 104. The Architect of the Capitol, under the direction of the Joint Committee on the Library, is authorized to accept donations to restore and display the Statue of Freedom model.

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946, as amended by section 321 of the Legislative Reorganization Act of 1970 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $43,022,000: *Provided*, That no part of this appropriation may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration or the Senate Committee on Rules and Administration: *Provided further*, That, notwithstanding any other provisions of law, the compensation of the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

For authorized printing and binding for the Congress; for printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and for printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $70,359,000: *Provided*, That funds remaining from the unexpended balances from obligations made under prior year appropriations for this account shall be available for the purposes of the printing and binding account for the same fiscal year: *Provided further*, That this appropriation shall not be available for printing and binding part 2 of the annual report of the Secretary of Agriculture (known as the Yearbook of Agriculture) nor for copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: *Provided further*, That, to the extent that funds remain from the unexpended balance of fiscal year 1984 and fiscal year 1985 funds obligated for the printing and binding costs of publications produced for the Bicentennial of the Congress, such remaining funds shall be available for the current year printing and binding cost of publications produced for the Bicentennial: *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

This title may be cited as the "Congressional Operations Appropriations Act, 1988".

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $2,221,000.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress, not otherwise provided for, including the Speaker's Civic Achievement Awards Program, subject to authorization, development and maintenance of the Union Catalogs; custody, care and maintenance of the Library Buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog cards and other publications of the Library; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $143,866,000, of which not more than $5,000,000 shall be derived from collections credited to this appropriation during fiscal year 1988 under the Act of June 28, 1902, as amended (2 U.S.C. 150): *Provided*, That the total amount available for obligation shall be reduced by the amount by which collections are less than the $5,000,000: *Provided further*, That, of the total amount appropriated, $4,944,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, $19,061,000, of which not more than $7,000,000 shall be derived from collections credited to this appropriation during fiscal year 1988 under 17 U.S.C. 708(c), and not more than $931,000 shall be derived from collections during fiscal year 1988 under 17 U.S.C. 111(d)(3) and 116(c)(1): *Provided*, That the total amount available for obligation shall be reduced by the amount by which collections are less than the $7,931,000: *Provided further*, That $150,000 of the unobligated balance of that part of the appropriation "Salaries and Expenses, Copyright Office" for the fiscal year 1987, for the acquisition of a stand-alone data system for the processing of cable television statements and jukebox registrations, shall remain available until September 30, 1988.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the provisions of the Act approved March 3, 1931, as amended (2 U.S.C. 135a), $36,186,000.

FURNITURE AND FURNISHINGS

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, $5,816,000, of which $4,781,000 shall be available until expended only for the purchase and supply of furniture, shelving, furnishings, and related costs necessary for the renovation and restoration of the Thomas Jefferson and John Adams Library Buildings.

ADMINISTRATIVE PROVISIONS

SEC. 201. Appropriations in this Act available to the Library of Congress shall be available, in an amount not to exceed $101,390 of which $23,900 is for the Congressional Research Service, when specifically authorized by the Librarian, for expenses of attendance at meetings concerned with the function or activity for which the appropriation is made.

SEC. 202. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS-15; and

(2) grants the manager or supervisor the right to not be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term "manager or supervisor" means any management official or supervisor, as such terms are defined in section 7103(a) (10) and (11) of title 5, United States Code.

SEC. 203. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of 31 U.S.C. 1535 and 1536 shall not be used to employ more than 65 employees.

SEC. 204. No funds shall be expended by the Library of Congress for the purpose of providing long-term special study facilities for profit or non-profit business enterprises until guidelines for such use are approved by the Joint Committee on the Library.

ARCHITECT OF THE CAPITOL

Library Buildings and Grounds

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $6,741,000, of which $365,000 shall remain available until expended.

COPYRIGHT ROYALTY TRIBUNAL

Salaries and Expenses

For necessary expenses of the Copyright Royalty Tribunal, $662,000, of which $533,000 shall be derived by collections from the appropriation "Payments to Copyright Owners" for the reasonable costs incurred in proceedings involving distribution of royalty fees as provided by 17 U.S.C. 807.

GOVERNMENT PRINTING OFFICE

Office of Superintendent of Documents

SALARIES AND EXPENSES

For necessary expenses of the Office of Superintendent of Documents, including compensation of all employees in accordance with the provisions of 44 U.S.C. 305; travel expenses (not to exceed $117,000); price lists and bibliographies; repairs to buildings, elevators, and machinery; and supplying publications to the Depository Library and International Exchange Programs, $24,662,000, of which $5,500,000 representing excess receipts from the sale of publications shall be derived from the Government Printing Office revolving fund: *Provided*, That $300,000 of this appropriation shall be apportioned for use pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 1512), with the approval of the Public Printer, only to the extent necessary to provide for expenses (excluding permanent personal services) for workload increases not anticipated in the budget estimates and which cannot be provided for by normal budgetary adjustments.

Government Printing Office Revolving Fund

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the "Government Printing Office revolving fund": *Provided*, That not to exceed $5,000 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further*, That during the current fiscal year the revolving fund shall be available for the hire of eight passenger motor vehicles: *Provided further*, That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further*, That the revolving fund shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS-18: *Provided further*, That the revolving fund shall be available to acquire needed land, located in Northwest D.C., which is adjacent to the present Government Printing Office, and is bounded by Massachusetts Avenue and the southern property line of the Government Printing Office, between North Capitol Street and First Street. The land to be purchased is identified as Parcels 45-D, 45-E, 45-F, and 47-A in Square 625, and includes the alleys adjacent to these parcels, and G Street, N.W. from North Capitol Street to First Street: *Provided further*, That the revolving fund and the funds provided under the paragraph entitled "Office of Superintendent of Documents, Salaries and expenses" together may not be available for the full-time equivalent employment of more than 5,237 workyears.

Administrative Provision

Sec. 205. Funds authorized to be expended by the Government Printing Office for fiscal year 1988, not to exceed $55,000, shall be available without regard to the 25 per centum limitation of section 322 of the Economy Act of June 30, 1932, as amended, for the repair, alteration, and improvement of rented premises.

GENERAL ACCOUNTING OFFICE

Salaries and Expenses

For necessary expenses of the General Accounting Office, including not to exceed $5,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS-18; hire of one passenger motor vehicle; advance payments in foreign countries in accordance with 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6) and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6) and 4081(8), respectively); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to A.I.D. projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(b)); $329,847,000: *Provided*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including but not limited to the salary of the Executive Director and secretarial support: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences: *Provided further*, That this appropriation shall be available to finance a portion, not to exceed $50,000, of the costs of the Governmental Accounting Standards Board: *Provided further*, That $50,000 of this appropriation shall be available for the expenses of planning the triennial Congress of the International Organization of Supreme Audit Institutions (INTOSAI) to be hosted by the United States General Accounting Office in Washington, D.C., in 1992, to the extent that such expenses cannot be met from the trust authorized below: *Provided further*, That the General Accounting Office is authorized to solicit and accept contributions (including contributions from INTOSAI), to be held in trust, which shall be available without fiscal year limitation for the planning, administration, and such other expenses as the Comptroller General deems necessary to act as the sponsor of the aforementioned triennial Congress of INTOSAI. Monies in the trust not to exceed $10,000 shall be available upon the request of the Comptroller General to be expended for the purposes of the trust.

TITLE III—GENERAL PROVISIONS

Sec. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration or for the Senate issued by the Committee on Rules and Administration.

Sec. 302. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Sec. 303. Whenever any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for herein or whenever the rate of compensation or designation of any position appropriated for herein is different from that specifically established for such position by such Act, the rate of compensation and the designation of the position, or either, appropriated for or provided herein, shall be the permanent law with respect thereto: *Provided*, That the provisions herein for the various items of official expenses of Members, officers, and committees of the Senate and House, and clerk hire for Senators and Members shall be the permanent law with respect thereto.

Sec. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Sec. 305. (a) The Architect of the Capitol, in consultation with the heads of the agencies of the legislative branch, shall develop an overall plan for satisfying the telecommunications requirements of such agencies, using a common system architecture for maximum interconnection capability and engineering compatibility. The plan shall be subject to joint approval by the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, and, upon approval, shall be communicated to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate. No part of any appropriation in this Act or any other Act shall be used for acquisition of any new or expanded telecommunications system for an agency of the legislative branch, unless, as determined by the Architect of the Capitol, the acquisition is in conformance with the plan, as approved.

(b) As used in this section—

(1) the term "agency of the legislative branch" means, the office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the Congressional Budget Office; and

(2) the term "telecommunications system" means an electronic system for voice, data, or image communication, including any associated cable and switching equipment.

SEC. 306. Hereafter, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with each appropriation account in this Act, except that the accounts under the general heading "House of Representatives" shall be considered one appropriation account and one "program, project, and activity", and the accounts under the general heading "Senate" shall be considered one appropriation account and one "program, project, and activity".

SEC. 307. (a) Notwithstanding section 105 of title 4, United States Code, or any other provision of law, no person shall be required to pay, collect, or account for any sales, use, or similar excise tax, or any personal property tax, with respect to an essential support activity or function conducted by a nongovernmental person in the Capitol, the House Office Buildings, the Senate Office Buildings, the Capitol Grounds, or any other location under the control of the Congress in the District of Columbia.

(b) As used in this section—

(1) the term "essential support activity or function" means a support activity or function so designated by the Committee on House Administration of the House of Representatives or the Committee on Rules and Administration of the Senate, acting jointly or separately, as appropriate;

(2) the term "personal property tax" means a tax of a State, a subdivision of a State, or any other authority of a State, that is levied on, levied with respect to, or measured by, the value of personal property;

(3) the term "sales, use, or similar excise tax" means a tax of a State, a subdivision of a State, or any other authority of a State, that is levied on, levied with respect to, or measured by, sales, receipts from sales, or purchases, or by storage, possession, or use of personal property; and

(4) the term "State" means a State of the United States, the District of Columbia, or a territory or possession of the United States.

(c) This section shall apply to any sale, receipt, purchase, storage, possession, use, or valuation taking place after December 31, 1986.

SEC. 308. (a) Notwithstanding any other provision of law, the pay for positions described in subsection (b) shall be the amounts specified for such positions in appropriations Acts.

(b) The positions referred to in subsection (a) are: (1) the two positions of assistant referred to in the proviso in the first undesignated paragraph under the center subheadings "OFFICE OF THE ARCHITECT OF THE CAPITOL" and "SALARIES" in the Legislative Branch Appropriation Act, 1971 (40 U.S.C. 164a), and (2) the seven positions provided for in the third and fourth undesignated paragraphs under the center subheadings "OFFICE OF THE ARCHITECT OF THE CAPITOL" and "SALARIES" in the Legislative Branch Appropriation Act, 1960 (40 U.S.C. 166b-3).

(c) The pay for each position described in subsection (b) shall be the pay payable for such position with respect to the last pay period before this section takes effect, subject to any applicable adjustment during fiscal year 1988 under, or by reference to any applicable adjustment during fiscal year 1988 under, subchapter I of chapter 53 of title 5, United States Code.

(d) This section shall apply in fiscal years beginning after September 30, 1987, with respect to pay periods beginning after the date of the enactment of this Act.

SEC. 309. (a) None of the funds appropriated for fiscal year 1988 by this Act or any other law may be obligated or expended by any entity of the executive branch for the procurement from commercial sources of any printing related to the production of Government publications (including forms), unless such procurement is by or through the Government Printing Office.

(b) Subsection (a) does not apply to (1) individual printing orders costing not more than $1,000, if the work is not of a continuing or repetitive nature, (2) printing for the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or (3) printing from commercial sources that is specifically authorized by law or is of a kind that has not been routinely procured by or through the Government Printing Office.

(c) As used in this section, the term "printing" means the process of composition, platemaking, presswork, binding, and microform, and the end items of such processes.

SEC. 310. The provision of law which was derived from section 80 of the Revised Statutes and which currently is carried as the second sentence of section 131 of title 2, United States Code, is hereby repealed.

SEC. 311. (a) The first sentence of section 4(a) of Public Law 91-656 (2 U.S.C. 60a-1) is amended by striking out the period at the end and inserting "and adjust the rates of such personnel by such amounts as necessary to restore the same pay relationships that existed on December 31, 1986, between personnel and Senators and between positions.".

(b) Section 4(d) of such public law is amended by striking out the period at the end and inserting ", except in cases in which it is necessary to restore and maintain the same pay relationships that existed on December 31, 1986, between personnel and Senators and between positions.".

(c) Notwithstanding any other provision of this Act or any other provision of law, subsections (a) and (b) of this section shall be effective in the case of pay orders issued by the President pro tempore of the Senate on or after January 1, 1988.

(d) Notwithstanding any other provision of this Act, or any other provision of law, rule, or regulation, hereafter each time the President pro tempore of the Senate exercises any authority pursuant to any of the amendments made by this section with respect to rates of pay or any other matter relating to personnel whose pay is disbursed by the Secretary of the Senate, the Speaker of the House of Representatives may, with respect to personnel whose pay is disbursed by the Clerk of the House of Representatives, exercise the same authority to the extent necessary to ensure parity of treatment between personnel of the respective Houses of Congress having comparable duties and responsibilities.

This Act may be cited as the "Legislative Branch Appropriations Act, 1988".

(j) Such amounts as may be necessary for programs, projects or activities provided for in the Military Construction Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1988, and for other purposes.

MILITARY CONSTRUCTION, ARMY

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, and for construction and operation of facilities in support of the functions of the Commander-in-Chief, $977,590,000, to remain available until September 30, 1992: *Provided*, That of this amount, not to exceed $120,120,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Army" under Public Law 98-473, $6,800,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Army" under Public Law 99-173, $28,000,000 is hereby rescinded.

MILITARY CONSTRUCTION, NAVY

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $1,417,311,000, to remain available until September 30, 1992: *Provided*, That of this amount, not to exceed $130,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Navy" under Public Law 98-473, $6,800,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Navy" under Public Law 99-173, $19,400,000 is hereby rescinded.

MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $1,241,254,000, to remain available until September 30, 1992: *Provided,* That of this amount, not to exceed $115,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Air Force" under Public Law 98-473, $6,300,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Air Force" under Public Law 99-173, $18,500,000 is hereby rescinded: *Provided further,* That none of the funds appropriated for planning, design, or construction of military facilities or family housing may be used to support the relocation of the 401st Tactical Fighter Wing from Spain to another country.

Military Construction, Defense Agencies

(INCLUDING TRANSFER OF FUNDS)

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $558,446,000, to remain available until September 30, 1992: *Provided,* That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further,* That of the amount appropriated, not to exceed $55,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 98-473, $1,900,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 99-173, $5,300,000 is hereby rescinded.

North Atlantic Treaty Organization Infrastructure

(INCLUDING RESCISSION)

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, $381,000,000, to remain available until expended: *Provided,* That of the funds appropriated for "North Atlantic Treaty Organization Infrastructure" under Public Law 99-173, $8,000,000 is hereby rescinded.

Military Construction, Army National Guard

(INCLUDING RESCISSION)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $184,405,000, to remain available until September 30, 1992: *Provided,* That of the funds appropriated for "Military Construction, Army National Guard" under Public Law 99-173, $2,500,000 is hereby rescinded.

Military Construction, Air National Guard

(INCLUDING RESCISSIONS)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $151,291,000, to remain available until September 30, 1992: *Provided,* That of the funds appropriated for "Military Construction, Air National Guard" under Public Law 98-473, $200,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Air National Guard" under Public Law 99-173, $3,300,000 is hereby rescinded.

Military Construction, Army Reserve

(INCLUDING RESCISSION)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $95,100,000, to remain available until September 30, 1992: *Provided,* That of the funds appropriated for "Military Construction, Army Reserve" under Public Law 99-173, $1,800,000 is hereby rescinded.

Military Construction, Naval Reserve

(INCLUDING RESCISSION)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $73,737,000, to remain available until September 30, 1992: *Provided,* That of the funds appropriated for "Military Construction, Naval Reserve" under Public Law 99-173, $1,200,000 is hereby rescinded.

Military Construction, Air Force Reserve

(INCLUDING RESCISSIONS)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $79,300,000, to remain available until September 30, 1992: *Provided,* That of the funds appropriated for "Military Construction, Air Force Reserve" under Public Law 98-473, $200,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Air Force Reserve" under Public Law 99-173, $1,800,000 is hereby rescinded.

Family Housing, Army

(INCLUDING RESCISSIONS)

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $305,890,000; for Operation and maintenance, and for debt payment, $1,255,121,000; in all $1,561,011,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1992: *Provided further,* That of the funds appropriated for "Family Housing, Army" under Public Law 98-473, $900,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Family Housing, Army" under Public Law 99-173, $19,400,000 is hereby rescinded.

Family Housing, Navy and Marine Corps

(INCLUDING RESCISSIONS)

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $237,914,000; for Operation and maintenance, and for debt payment, $530,028,000; in all $767,942,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1992: *Provided further,* That of the funds appropriated for "Family Housing, Navy and Marine Corps" under Public Law 98-473, $400,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Family Housing, Navy and Marine Corps" under Public Law 99-173, $8,800,000 is hereby rescinded.

Family Housing, Air Force

(INCLUDING RESCISSIONS)

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $152,310,000; for Operation and maintenance, and for debt payment, $691,983,000; in all $844,293,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1992: *Provided further,* That of the funds appropriated for "Family Housing, Air Force" under Public Law 98-473, $2,400,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Family Housing, Air Force" under Public Law 99-173, $12,300,000 is hereby rescinded.

Family Housing, Defense Agencies

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $1,186,000; for Operation and maintenance, $19,514,000; in all $20,700,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1992.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), $2,800,000.

FOREIGN CURRENCY FLUCTUATIONS, CONSTRUCTION, DEFENSE

For foreign currency fluctuations, construction, Defense, $85,000,000, to remain available until expended.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except; (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in this Act shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.

SEC. 107. None of the funds appropriated in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in this Act may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. No part of the funds appropriated in this Act for dredging in the Indian Ocean may be used for the performance of the work by foreign contractors: *Provided*, That the low responsive and responsible bid of a United States contractor does not exceed the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 110. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 111. No part of the funds appropriated in this Act may be used to pay the compensation of an officer of the Government of the United States or to reimburse a contractor for the employment of a person for work in the continental United States by any such person if such person is an alien who has not been lawfully admitted to the United States.

SEC. 112. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 113. None of the funds in this Act may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 114. None of the funds appropriated in this Act may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 115. None of the funds appropriated in this Act for military construction in the United States territories and possessions in the Pacific and on Kwajalein Island may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 116. The Secretary of Defense is to inform the Committees on Appropriations and Committees on Armed Services of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

(TRANSFER OF FUNDS)

SEC. 117. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account during fiscal year 1988, shall be transferred to the appropriations for Family Housing provided in this Act, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 118. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 119. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such military department by the authorizations enacted into law during the first session of the One Hundredth Congress.

SEC. 120. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with a report by February 15, 1988, containing details of the specific actions proposed to be taken by the Department of Defense during fiscal year 1988 to encourage other member nations of the North Atlantic Treaty Organization and Japan to assume a greater share of the common defense burden of such nations and the United States.

SEC. 121. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 122. Notwithstanding any other provision of law, the Secretary of the Air Force is required to maintain legislative liaison to the House and Senate Appropriations Subcommittees on Military Construction and budgetary and fiscal management of the Military Construction and Military Family Housing appropriations in a manner identical to the method employed as of September 30, 1986.

SEC. 123. Notwithstanding any other provision of law, including the certification requirements provided in section 210 of title 23, United States Code, the Secretary of Defense is directed to provide for the design of access roads for the New Cumberland Army Depot, Pennsylvania and for the Tobyhanna Army Depot, Pennsylvania, as well as design of replacement bridges at Broad Creek and at Gales Creek on North Carolina Highway 24, within funds provided in this Act.

SEC. 124. None of the funds appropriated in this Act for planning and design activities may be used to initiate design of the Pentagon Annex.

SEC. 125. None of the funds appropriated by this or any other Act for the Department of Defense may be obligated or expended for the National Test Bed Components of the National Test Facility at Falcon Air Station, Colorado, until the Strategic Defense Initiative Organization (SDIO) has begun the development of the Phase One Strategic Defense System (SDS) Architecture and the Follow-on Strategic Defense System Architecture and the Committees on Appropriations of the Senate and the House of Representatives have thereafter received an interim report from SDIO on the Phase One System Architecture and follow-on architecture that the National Test Facility will be testing and evaluating; and until SDIO has provided a detailed report to the Committees on Appropriations of the Senate and the House of Representatives on the capability of the National Test Facility and the other components of the National Test Bed to produce the simulation, evaluation, and demonstration data needed to determine whether a proposed ballistic missile defense system satisfies the criteria of technical feasibility, cost-effectiveness at the margin, and survivability: *Provided*, That, none of the funds appropriated by this or any other Act for the National Test Facility or any other components of the National Test Bed may be used to provide any operational battle management, command, control or communications capabilities for an early deployment of a ballistic missile defense tus projects shall expire on September 30, 1989, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (3) not to exceed $133,105,000 for payment on purchase contracts entered into prior to July 1, 1975; (4) not to exceed $1,169,532,000 for rental of space; (5) not to exceed $805,384,000 for real property operations; (6) not to exceed $48,014,000 for program direction and centralized services; and (7) not to exceed $110,036,000 for design and construction services which shall remain available until expended: *Provided further,* That the Administrator of General Services is hereby directed to enter into a contract for construction of a building in Oakland, California, on a site donated by the city of Oakland. The contract shall provide, by lease or installment payments over a period not to exceed 30 years, for the payment of the purchase price, which shall not exceed $141,700,000, and reasonable interest thereon. The contract shall further provide that title to the building shall vest in the United States at or before the expiration of the contract term upon fulfillment of the terms and conditions of the contract: *Provided further,* That the Administrator of the GSA is hereby directed to enter into an agreement, pursuant to a competitive selection process, for the lease-purchase of a building in San Francisco, California, during fiscal year 1988 of approximately 430,000 office occupiable square feet on a site donated by that city: *Provided further,* That the agreement shall provide for annual lease or installment payments from funds available for the rental of space in the Federal Buildings Fund over a period not to exceed 30 years for the payment of the purchase price of such building, and shall provide for title to the building to vest in the United States on or before the expiration of the contract term upon fulfillment of the terms and conditions of the agreement: *Provided further,* That additional space may be acquired if the Administrator finds such space to be in the public interest and will not reduce the occupiable Federal space to be available in the Oakland Federal Building. The Oakland Building shall, when completed be fully occupied by federal agencies and continued full occupancy shall have the highest priority consistent with the Federal [26] interest: *Provided further,* That for the purposes of this authorization, buildings constructed pursuant to the Public Buildings Purchase Contract Act of 1954 (40 U.S.C. 356), the Public Buildings Amendments of 1972 (40 U.S.C. 490), and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further,* That none of the funds available to the General Services Administration with the exception of those for Capital Improvements for United States-Mexico Border Facilities; Other Approved Border Facility projects; and the San Francisco, California Federal building project, shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: *Provided further,* That notwithstanding any other provision of law, the Administrator of General Services is authorized, under section 210(h) of the Federal Property and Administrative Services Act of 1949, to acquire the building in Chicago, Illinois, approved under this heading in fiscal year 1987, from any commercial or private entity, through a lease to ownership transaction. Said lease shall not exceed 30 years, on such terms and conditions as he deems appropriate. These terms and conditions may include an option to permit the Federal Government, if the Administrator deems that it is in the best interest of the Federal Government, to execute a succeeding lease: *Provided further,* That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That not later than 60 days after the date of the enactment of this Act, the Administrator of General Services shall submit under the Public Buildings Act of 1959, a prospectus for acquiring by purchase or lease-purchase (1) a building which is not to exceed 1,400,000 occupiable square feet for the Environmental Protection Agency in the Washington metropolitan area, and (2) a building which is not to exceed 1,800,000 occupiable square feet for the Department of Transportation. The lease-purchase shall provide for annual lease or installment payments from funds available for the rental of space in the Federal Buildings Fund over a period not to exceed 30 years for the payment of the purchase price of such building and reasonable interest thereon and shall provide for title to the building to vest in the United States on or before the last day of the term of the lease-purchase transaction. If a lease-purchase prospectus for a building described in this paragraph is approved under the Public Buildings Act of 1959, the Administrator of General Services may enter into a transaction for the lease-purchase of such building in accordance with the terms specified in such approved prospectus and applicable provisions of law and may make annual lease or installment payments from funds available for the rental of space in such fund: *Provided further,* That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, as amended, shall be available from such revenues and collections: *Provided further,* That revenues and collections and any other sums accruing to this fund during fiscal year 1988 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $2,854,052,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriation Acts.

FEDERAL SUPPLY SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for property management activities, utilization of excess and disposal of surplus personal property, rehabilitation of personal property, transportation management activities, transportation audits by in-house personnel, procurement, and other related supply management activities through September 30, 1988, and supply distribution (including contractual services incident to receiving, handling and shipping supply items), procurement (including royalty payments), inspection, standardization, and related supply operations activities not later than March 31, 1987, including services as authorized by 5 U.S.C. 3109; $69,600,000: *Provided,* That notwithstanding any other provisions of law, costs incurred during the period October 1, 1987, through March 31, 1987, directly related to supply operations activities, not covered by this appropriation, shall be recorded as costs in the General Supply Fund, General Services Administration: *Provided further,* That the annual limitation of $5,200,000 through September 30, 1989, in the Supplemental Appropriations Act, 1985, Public Law 99-88, payable from overcharges collected, for expenses of transportation audit contracts and contract administration, is hereby superseded by Public Law 99-627 establishing permanent authority for these expenses at not to exceed 40 percent of the overpayments collected annually.

FEDERAL PROPERTY RESOURCES SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for carrying out the functions of the Administrator with respect to utilization of excess real property; the disposal of surplus real property, the utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property; the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.) including services as authorized by 5 U.S.C. 3109 and reimbursement for recurring security guard service; $12,000,000 to be derived from proceeds from transfers of excess real property and disposal of surplus real property and related personal property, subject to the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-5), and in addition, $30,000,000 for the transportation, processing, refining, storage, security, maintenance, rotation, and disposal of materials contained in or acquired for the stockpile by reimbursement from the National Defense Stockpile Transaction Fund.

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

SECTION 1. During the fiscal year ending September 30, 1988, not to exceed $35,000,000, in addition to amounts previously appropriated, all to remain available until expended, may be obligated from amounts in the National Defense Stockpile Transaction Fund, for the acquisition and upgrading of strategic and critical materials under section 6(a) (1) and (3) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a) (1) and (3)), transportation, storage, and other incidental expenses related to such acquisition and upgrades, development of current specifications of stockpile materials and the upgrading of existing stockpile materials to meet current specifications (including transportation, when economical, related to such upgrading), testing and quality studies of stockpile materials, studying future material and mobilization requirements for the stockpile and other reasonable requirements for management of the stockpile, including relocation, operating, and management expenses incident to operating the stockpile, are hereby authorized to the extent provided in Appropriations Acts.

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[26] Copy read "federal".

SEC. 2. For the fiscal year ending September 30, 1988, in addition to the funds previously appropriated for the National Defense Stockpile Transaction Fund, notwithstanding the provisions of 50 U.S.C. 98h, there are hereby appropriated $10,000,000 under this heading and $9,000,000 in section 101(b) of this joint resolution, to remain available until expended, the amounts to be allocated for the following projects:

University of Hawaii at Manoa pursuant to 50 U.S.C. 98a and 98g(a), for a grant for construction of a strategic materials research facility, $5,000,000;

University of Utah pursuant to 50 U.S.C. 98a and 98g(a)(2)(C) for a grant to pay the Federal share of the cost of construction and equipment for a Center for Biomedical Polymers, $4,000,000;

University of Massachusetts at Amherst pursuant to 50 U.S.C. 98a and 98g(a) for a grant for continued construction of a strategic materials research facility, $5,000,000;

University of Arizona pursuant to 50 U.S.C. 98a and 98g(a)(2)(C) for a grant to pay the Federal share of the cost of construction and equipment for a Center for Advanced Studies for Copper Recovery and Utilization, $4,000,000; and

University of New Mexico pursuant to 50 U.S.C. 98 a and g for a grant to study replacements for metallic alloys that use critical materials, $1,000,000.

General Management and Administration

SALARIES AND EXPENSES

For necessary expenses of agency management of activities under the control of the General Services Administration, and general administrative and staff support services not otherwise provided for; for providing accounting, records management, and other support incident to adjudication of Indian Tribal Claims by the United States Court of Claims, and services authorized by 5 U.S.C. 3109; $122,500,000, of which $800,000 shall be available only for, and is hereby specifically earmarked for personnel and associated costs in support of Congressional District and Senate State offices: *Provided*, That this appropriation shall be available, subject to reimbursement by the applicable agency, for services performed for other agencies pursuant to subsections (a) and (b) of section 1535 of title 31, United States Code.

Real Property Relocation

For expenses not otherwise provided for, $5,000,000, to remain available until expended, necessary for carrying out the functions of the Administrator with respect to relocation of Federal agencies from property which has been determined by the Administrator to be other than optimally utilized under the provisions of section 210(e) of the Federal Property and Administrative Services Act of 1949, as amended: *Provided*, That such relocations shall only be undertaken when the estimated proceeds from the disposition of the original facilities approximate the appraised fair market value of such new facilities and exceed the estimated costs of relocation. Relocation costs include expenses for and associated with acquisition of sites and facilities, and expenses of moving or repurchasing equipment and personal property. These funds may be used for payments to other Federal entities to accomplish the relocation functions: *Provided further*, That nothing in this paragraph shall be construed as relieving the Administrator of General Services or the head of any other Federal agency from any obligation or restriction under the Public Buildings Act of 1959 (including any obligation concerning submission and approval of a prospectus), the Federal Property and Administrative Services Act of 1949, as amended, or any other Federal law, or as authorizing the Administrator of General Services or the head of any other Federal agency to take actions inconsistent with statutory obligations or restrictions placed upon the Administrator of General Services or such agency head with respect to authority to acquire or dispose of real property.

Information Resources Management Service

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for carrying out Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related activities, including services as authorized by 5 U.S.C. 3109; and for the Information Security Oversight Office established pursuant to Executive Order 12356; $31,193,000.

Office of Inspector General

For necessary expenses of the Office of Inspector General; $24,334,000: *Provided*, That not to exceed $10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property.

Allowances and Office Staff for Former Presidents

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95-138; $1,198,000: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

General Services Administration—General Provisions

SECTION 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 3. Not to exceed 1 per centum of funds made available in appropriations for operating expenses and salaries and expenses, during the current fiscal year, may be transferred between such appropriations for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 4. Funds in the Federal Buildings Fund made available for fiscal year 1988 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 5. Funds hereafter made available to the General Services Administration for the payment of rent shall be available for the purpose of leasing, for periods not to exceed thirty years, space in buildings erected on land owned by the United States.

SEC. 6. The Bureau of Mines should completely vacate all space at the Columbia Plaza building no later than September 30, 1988. In the event that it becomes necessary to acquire leased space for the Bureau of Mines, the Administrator of General Services shall competitively acquire space for the Bureau of Mines and select quality space at the lowest possible cost in the Washington Metropolitan Area. If such space is acquired by GSA, the Bureau of Mines shall immediately relocate to the space acquired by the GSA.

SEC. 7. (a) The General Accounting Office shall, within 60 days after the date of enactment of this Act, submit an estimate of the fair market value of the main post office in Denver, Colorado, located at 1823 Stout Street to the General Services Administration, the Congress of the United States, the United States Postal Service, and the Administrative Office of the United States Courts.

(b) Within 30 days after obtaining the estimate made pursuant to subsection (a) the United States Postal Service shall transfer the use and benefit of the lot on which the main post office in Denver is located along with such post office building, improvements and any other structures on such lot to the General Services Administration, and from such date such lot and structures shall be considered to be held for the use and benefit of the United States courts for the Tenth Circuit.

(c) In making the transfer pursuant to subsection (b), the General Services Administration and the United States Postal Service shall use, as the market value of such property, the estimate submitted by the General Accounting Office pursuant to this section and the United States Postal Service shall receive as compensation therefor, the fair market value of such lot, buildings and improvements, as determined by the General Accounting Office.

(d) The United States Postal Service shall surrender possession of the second, third and fourth floors of such post office building to the General Services Administration not later than 1 year after the date of the transfer thereof as provided in this section and, except as provided in subsection (e), shall surrender possession of the balance of such post office building not later than 2 years after such date.

(e) The General Services Administration shall permit the United States Postal Service to continue to occupy such area on the first floor of such main post office building not in excess of 18,000 square feet as shall be determined by the General Services Administration after consultation with the Administrative Office of the United States Courts and the United States Postal Service.

(f) Pursuant to section 210(f) of the Federal Property and Administrative Service Act of 1949, the Administrator of General Services is authorized to charge the United States Postal Service for all space and services furnished to the United States Postal Service in such main post office building after the date of the conveyance provided in this section.

(g) Notwithstanding any other provision of law, the General Services Administration is hereby authorized to sell, at competitive bid, block 111, located at 20th and Curtis

Streets in Denver, Colorado, and to deposit such sale proceeds into the Federal Buildings Fund.

(h) There are authorized to be appropriated such sums as are necessary to cover the costs of obtaining such post office building for the courts for the Tenth Circuit. Such costs shall include—

(1) amounts necessary to transfer the lot, main post office building, improvements and any other structures on such lot pursuant to subsection (b);

(2) appropriate renovations of such post office building for the Tenth Circuit to use such building as the principal office of such courts; and

(3) the transfer of such courts from their current building to such post office building.

(i) There are hereby appropriated, out of the Federal Buildings Fund, such sums as may be necessary to carry out the purposes of subsection (h).

SEC. 8. The Administrator of General Services is hereby directed to submit a prospectus to the Congress within 60 days to enable the Administrator to contract for construction of two buildings not to exceed a total of 1,600,000 gross square feet of office space, plus additional parking and retail space, in New York City on sites to be acquired from the city of New York. The contracts shall provide, by lease or installment payments over a period not to exceed 30 years, from funds available for the rental of space in the Federal Buildings Fund for the payment of the purchase price, and reasonable interest thereon. The contracts shall further provide that title to the buildings shall vest in the United States at or before expiration of the contract term upon fulfillment of the terms and conditions of the contracts. If a lease-purchase prospectus for a building described in this paragraph is approved under the Public Buildings Act of 1959, the Administrator of General Services may enter into a transaction for the lease-purchase of such building in accordance with the terms specified in such approved prospectus and applicable provisions of law and may make annual lease or installment payments from the funds available for the rental of space in such Fund. The General Services Administration shall lease up to 400,000 square feet of office space and associated parking to the city of New York at rates that reflect an appropriate portion of the construction and related costs of the projects, adjusted for the value of the land acquired from the city. In addition, income accrued by the General Services Administration from the outlease of office space to the city as well as retail and related space to private organizations shall be used to offset GSA's installment payments for the cost of the facilities. Obligations of funds under these transactions shall be limited to the current fiscal year for which payments are due without regard to 31 U.S.C. 1341(a)(1)(B).

SEC. 9. The Administrator of General Services shall proceed with the site selection and design for construction of a facility of not less than 182,000 usable square feet for the Social Security Administration in Wilkes-Barre, Pennsylvania, pursuant to section 115 of the joint resolution entitled, "A Joint Resolution making continuing appropriations for the fiscal year 1987 and for other purposes", approved October 30, 1986 (100 Stat. 3341-49; Public Law 99-591).

National Archives and Records Administration

OPERATING EXPENSES

For necessary expenses in connection with National Archives and Records Administration and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $116,000,000 of which $4,000,000 for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, shall remain available until expended, and of which $6,000,000 for design and planning of a new archival facility in Maryland shall remain available until expended.

Office of Personnel Management

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, not to exceed $2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended; $101,834,000 in addition to $67,746,000 for administrative expenses for the retirement and insurance programs to be transferred from the appropriate trust funds of the Office of Personnel Management in the amounts determined by the Office of Personnel Management without regard to other statutes: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, U.S.C.: *Provided further*, That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further*, That the President's Commission on White House Fellows, established by Executive Order 11183 of October 3, 1964, may, during the fiscal year ending September 30, 1988, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

Revolving Fund

Pursuant to section 4109(d)(1) of title 5, United States Code, costs for entertainment expenses of the President's Commission on Executive Exchange shall not exceed $12,000.

Government Payment for Annuitants, Employees Health Benefits

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, $1,788,931,000, to remain available until expended.

Payment to Civil Service Retirement and Disability Fund

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, $4,720,913,000: *Provided*, That annuities authorized by the Act of May 29, 1944, as amended (22 U.S.C. 3682(e)), August 19, 1950, as amended (33 U.S.C. 771-75), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

Merit Systems Protection Board

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles; $20,957,000, together with not to exceed $1,200,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

Office of Special Counsel

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of the Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978 (Public Law 95-454), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $4,673,000

Federal Labor Relations Authority

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; $17,576,000: *Provided*, That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government Service, and compensation as authorized by 5 U.S.C 3109.

United States Tax Court

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; $27,500,000: *Provided*, That travel expenses of the judges shall be paid upon the written certificate of the judge.

This title may be cited as the "Independent Agencies Appropriations Act, 1988".

TITLE V—GENERAL PROVISIONS

This Act

SECTION 501. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans' Administration; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

SEC. 502. No part of any appropriation contained in this Act shall be available to pay the salary of any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 503. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: *Provided*, That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 506. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6-104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970: *Provided*, That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source end product. This section shall be applicable to all solicitations for bids opened after its enactment.

SEC. 507. None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, and custodians, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28.

SEC. 508. No funds appropriated in this Act shall be available for administrative expenses in connection with implementing or enforcing any provisions of the rule TD ATF-66 issued June 13, 1980, by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms on labeling and advertising of wine, distilled spirits and malt beverages, except if the expenditure of such funds is necessary to comply with a final order of the Federal court system.

SEC. 509. None of the funds appropriated or made available by this Act shall be used to competitively procure electric utility service, except where such procurement is expressly authorized by the Federal Power Act or by State law or regulation.

SEC. 510. None of the funds appropriated in this Act may be used for administrative expenses to close the Federal Information Center of the General Services Administration located in Sacramento, California.

SEC. 511. None of the funds made available by this Act for the Department of the Treasury may be used for the purpose of eliminating any existing requirement for sureties on customs bonds.

SEC. 512. None of the funds made available by this Act shall be available for any activity or for paying the salary of any government employee where funding an activity or paying a salary to a government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the 1930 Tariff Act.

SEC. 513. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, out of the Treasury Department.

SEC. 514. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 515. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any member or committee of Congress as described in paragraph (1) of this subsection.

SEC. 516. Except for vehicles provided to the President, Vice President and their families, or to the United States Secret Service, none of the funds provided in this Act to any Department or Agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than twenty-two miles per gallon. The requirements of this section may be waived by the Administrator of the General Services Administration for special purpose or special mission automobiles.

SEC. 517. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverages for abortions.

SEC. 518. The provision of section 517 shall not apply where the life of the mother would be endangered if the fetus were carried to term.

SEC. 519. No later than October 1, 1989, the Administrator of General Services, or any Federal officer assuming the Administrator's responsibilities with respect to management of the stockpile, shall use all funds authorized and appropriated before January 1, 1985 from the National Defense Stockpile Transaction Fund to evaluate, test, relocate, upgrade or purchase stockpile materials to meet National Defense Stockpile goals and specifications in effect on October 1, 1984.

SEC. 520. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6-104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

SEC. 521. None of the funds appropriated by this Act may be used to establish on a permanent basis any test or program of the "port of arrival immediate release and enforcement determination."

SEC. 522. None of the funds appropriated by this Act may be used to solicit bids, lease space, or enter into any contract to close or consolidate executive seminar centers for the Office of Personnel Management.

SEC. 523. None of the funds appropriated by this Act or any other Act in any fiscal year may be obligated or expended in any way for the purpose of the sale, lease, rental, excessing, surplusing, or disposal of any portion of land on which the Beltsville Agricultural Research Center is located at Beltsville, Maryland, without the specific approval of Congress: *Provided*, That such land may be sold, for fair market value, to the Washington Metropolitan Area Transit Authority and any proceeds from the sale of such land shall be placed in an escrow account to be available hereafter for use in the renovation and restoration of the Beltsville Agricultural Research Center, to be released as specified in advance in appropriations Acts.

SEC. 524. Not later than October 1, 1988, of the amounts made available pursuant to Section 519 of the Treasury, Postal Service and General Government Appropriations Act, 1987, as incorporated in Section 101(m) of Public Laws 99-500 and 99-591, not less than $1,000,000 shall be obligated for a pilot project to upgrade technologically obsolete cobalt deposited in the National Defense Stockpile. The funds used in this section for upgrading shall not exceed $2,000,000.

SEC. 525. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, lease, rental, excessing, surplusing or disposal of any portion of land on which the Phoenix Indian School is located at Phoenix, Arizona without the specific approval of Congress.

SEC. 526. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas administered by the Corps of Engineers, Department of the Army without the specific approval of Congress.

SEC. 527. The Administrator of General Services, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, shall acquire, by means of a lease of up to 30 years duration, space for the United States Courts in Tacoma, Washington, at the site of Union Station, Tacoma, Washington.

SEC. 528. Funds under this Act shall be available as authorized by sections 4501-4506 of title 5, United States Code, when the achievement involved is certified, or when an award for such achievement is otherwise payable, in accordance with such sections. Such funds may not be used for any purpose with respect to which the preceding sentence relates beyond fiscal year 1988.

SEC. 529. (a) Notwithstanding any other provision of law, during fiscal year 1988, the authority to establish higher rates of pay under section 5303 of title 5, United States Code, may—

(1) in addition to positions paid under any of the pay systems referred to in subsection (a) of section 5303 of title 5, U.S.C., be exercised with respect to positions paid under any other pay system established by or under Federal statute for positions within the executive branch of the Government; and

(2) in addition to the circumstance described in the first sentence of subsection (a) of section 5303 of title 5, U.S.C., be exercised based on—

(A) pay rates for the positions involved being generally less than the rates payable for similar positions held—

(i) by individuals outside the Government; or

(ii) by other individuals within the executive branch of the Government;

(B) the remoteness of the area or location involved;

(C) the undesirability of the working conditions or the nature of the work involved, including exposure to toxic substances or other occupational hazards; or

(D) any other circumstance which the President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, U.S.C., for purposes of this subparagraph) may identify.

Nothing in paragraph (2) shall be considered to permit the exercise of any authority based on any of the circumstances under such paragraph without an appropriate finding that such circumstance is significantly handicapping the Government's recruitment or retention efforts.

(b)(1) A rate of pay established during fiscal year 1988 through the exercise of any additional authority under subsection (a) of section 5303 of title 5, U.S.C.—

(A) shall be subject to revision or adjustment,

(B) shall be subject to reduction or termination (including pay retention), and

(C) shall otherwise be treated,

in the same manner as generally applies with respect to any rate otherwise established under section 5303 of title 5, United States Code.

(2) The President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subsection) may prescribe any regulations necessary to carry out this subsection.

(c) Any additional authority under this section may, during fiscal year 1988, be exercised only to the extent that amounts otherwise appropriated under this Act for purposes of section 5303 of title 5, United States Code, are available.

SEC. 530. The Director of the Office of Management and Budget shall include in the area designated as the St. Louis Metropolitan Statistical Area, the City of Sullivan, Missouri.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SEC. 601. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $6,600 except station wagons for which the maximum shall be $7,600: *Provided,* That these limits may be exceeded by not to exceed $2,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further,* That the limits set forth in this section shall not apply to electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.

SEC. 602. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922-24.

SEC. 603. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian, and Laotian refugees paroled in the United States after January 1, 1975: *Provided,* That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further,* That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than one year, or both: *Provided further,* That the above penal clause shall be in addition to, and not in substitution for any other provisions of existing law: *Provided further,* That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

SEC. 604. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 605. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided,* That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 606. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 607. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided,* That such credits received as exchanged allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

SEC. 608. No part of any appropriation contained in this or any other Act, shall be available for interagency financing of boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 609. Funds made available by this or any other Act to (1) the General Services Administration, including the fund created by the Public Building Amendments of 1972 (86 Stat. 216), and (2) the "Postal Service Fund" (39 U.S.C. 2003), shall be available for employment of guards for all buildings and areas owned or occupied by the United States or the Postal Service and under the charge and control of the General Services Administration or the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318), but shall not be restricted to certain Federal property as otherwise required by the proviso contained in said section and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318c): *Provided*, That when the Administrator of General Services delegates responsibility to protect property under his charge and control to the head of another Federal agency, that agency may employ guards to protect the property who shall have the same powers of special policemen in same manner as the foregoing.

SEC. 610. None of the funds available under this or any other Act shall be available for administrative expenses in connection with the designation for construction, arranging for financing, or execution of contracts or agreements for financing or construction of any additional purchase contract projects pursuant to section 5 of the Public Building Amendments of 1972 (Public Law 92-313) during the period beginning October 1, 1976, and ending September 30, 1988.

SEC. 611. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 612. No part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the fiscal year for which appropriations were granted.

SEC. 613. (a)(1) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal years ending September 30, 1988, or September 30, 1989, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 5348 of that title—

(1) during the period from the date of expiration of the limitation imposed by section 613 of the Treasury, Postal Service, and General Government Appropriations Act, 1987, as incorporated in section 101(m) of Public Laws 99-500 and 99-591, until the first day of the first applicable pay period that begins not less than ninety days after that date, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 613; and

(2) during the period consisting of the remainder, if any, of fiscal year 1988, and that portion of fiscal year 1989, that precedes the normal effective date of the applicable wage survey adjustment that is to be effective in fiscal year 1989, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage adjustment in the General Schedule during fiscal year 1988.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, may be paid during the periods for which subsection (a) of this section is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purpose of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1987, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1987, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1987.

(f) For the purpose of administering any provision of law, including section 8431 of title 5, United States Code, or any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit, that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate or salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section may be construed to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 614. None of the funds made available in this Act may be used to plan, implement, or administer (1) any reduction in the number of regions, districts or entry processing locations of the United States Customs Service; or (2) any consolidation or centralization of duty assessment or appraisement functions of any offices in the United States Customs Service.

SEC. 615. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to renovate, remodel, furnish, or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such renovation, remodeling, furnishing, or redecoration is expressly approved by the Committees on Appropriations of the House and Senate.

SEC. 616. (a) If any individual or entity which provides or proposes to provide child care services for Federal employees during fiscal year 1988 or any fiscal year thereafter, applies to the officer or agency of the United States charged with the allotment of space in the Federal buildings in the community or district in which such individual or entity provides or proposes to provide such service, such officer or agency may allot space in such a building to such individual or entity if—

(1) such space is available;

(2) such officer or agency determines that such space will be used to provide child care services to a group of individuals of whom at least 50 percent are Federal employees; and

(3) such officer or agency determines that such individual or entity will give priority for available child care services in such space to Federal employees.

(b)(1) If an officer or agency allots space during fiscal year 1988 or any fiscal year thereafter, to an individual or entity under subsection (a), such space may be provided to such individual or entity without charge for rent or services.

(2) If there is an agreement for the payment of costs associated with the provision of space allotted under subsection (a) or services provided in connection with such space, nothing in title 31, United States Code, or any other provision of law, shall be construed to prohibit or restrict payment by reimbursement to the miscellaneous receipts or other appropriate account of the Treasury.

(3) For the purpose of this section, the term "services" includes the providing of lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone service (including installation of lines and equipment and other expenses associated with telephone service), and security systems (including installation and other expenses associated with security systems).

SEC. 617. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 618. (a) None of the funds appropriated by this Act, or any other Act in this or any fiscal year hereafter, may be used in preparing, promulgating, or implementing any regulations relating to the Combined Federal Campaign if such regulations are not in conformance with subsection (b).

(b)(1)(A) Any requirements for eligibility to receive contributions through the Combined Federal Campaign shall not, to the extent that such requirements relate to litigation, public-policy advocacy, or attempting to influence legislation, be any more restrictive than any requirements established with respect to those subject matters under section 501(c)(3) or 501(h) of the Internal Revenue Code of 1986.

(B) Any requirements for eligibility to receive contributions through the Combined Federal Campaign shall, to the extent that such requirements relate to any subject matter other than one referred to in subparagraph (A), remain the same as the criteria in the 1984 regulations, except as otherwise provided in this section.

(C) Notwithstanding any requirement referred to in subparagraph (A) or (B), for purposes of any Combined Federal Campaign—

(i) any voluntary agency or federated group which was a named plaintiff as of September 1, 1987, in a case brought in the United States District Court for the District of Columbia, and designated as Civil Action No. 83-0928 or 86-1367, and

(ii) The Federal Employee Education and Assistance Fund,

shall be considered to have national eligibility.

(D) Public accountability standards shall remain similar to the standards which were by regulation established with respect to the 1984-1987 Combined Federal Campaigns, except that the Office of Personnel Management shall prescribe regulations under which a voluntary agency or federated group which does not exceed a certain size (as established under such regulations) may submit a copy of an appropriate Federal tax return, rather than complying with any independent auditing requirements which would otherwise apply.

(2)(A) A voluntary agency or federated group shall, for purposes of any Combined Federal Campaign in any year, be considered to have national eligibility if such agency or group—

(i) complies with all requirements for eligibility to receive contributions through the Combined Federal Campaign, without regard to any requirements relating to "local presence"; and

(ii) demonstrates that it provided services, benefits, or assistance, or otherwise conducted program activities, in—

(I) 15 or more different States over the 3-year period immediately preceding the start of the year involved; or

(II) several foreign countries or several parts of a foreign country.

For purposes of this subparagraph, an agency or federated group shall be considered to have conducted program activities in the required number of States, countries, or parts of a country, over the period of years involved, if such agency or group conducted program activities in such number of States, countries, or parts either in any single year during such period or in the aggregate over the course of such period, provided that no State, country, or part of a country is counted more than once.

(B) Notwithstanding any other provisions, eligibility requirements relating to International Services Agencies shall remain at least as inclusive as existing requirements. Any voluntary agency or federated group which attains national eligibility under subparagraph (A), and any voluntary agency which is a member of the International Services Agencies, shall be considered to have satisfied any requirements relating to "local presence".

(3)(A) If a federated group is eligible to receive donations in a Combined Federal Campaign, whether on a national level (pursuant to certification by the Office) or a local level (pursuant to certification by the local Federal coordinating committee), each voluntary agency which is a member of such group may, upon certification by the federated group, be considered eligible to participate on such national or local level, as the case may be.

(B) Notwithstanding any provision of subparagraph (A)—

(i) the Office may require a voluntary agency to provide information to support any certification submitted by a federated group with respect to such agency under subparagraph (A); and

(ii) if a determination is made, in writing after notice and opportunity to submit written comments, that the information submitted by the voluntary agency does not satisfy the applicable eligibility requirements, such agency may be barred from participating in the Combined Federal Campaign on a national or local level, as the case may be, for a period not to exceed 1 campaign year.

(4) The Office shall exercise oversight responsibility to ensure that—

(A) regulations are uniformly and equitably implemented in all local combined Federal campaigns;

(B) federated groups participating in a local combined Federal campaign are allowed to compete fairly for the role of principal combined fund organization;

(C) federated groups participating in a local combined Federal campaign are afforded—

(i) adequate opportunity to consult with the PCFO for the area involved before any plans are made final relating to the design or conduct of such campaign (including plans pertaining to any materials to be printed as part of the campaign);

(ii) adequate opportunity to participate in campaign events and other related activities; and

(iii) timely access to all reports, budgets, audits, and other records in the possession of, or under the control of, the PCFO for the areas involved; and

(D) a federated group or voluntary agency found by the Office, by a written decision issued after notice and opportunity to submit written comments, to have violated the regulations may be barred from serving as a PCFO for not to exceed 1 campaign year.

(5) The Office shall prescribe regulations to ensure that PCFOs do not make inappropriate delegations of decisionmaking authority.

(6)(A) The Office shall, in consultation with federated groups, establish a formula under which any undesignated contributions received in a local combined Federal campaign shall be allocated in any year.

(B) Under the formula for the 1990 Combined Federal Campaign, all undesignated contributions received in a local campaign shall be allocated as follows:

(i) 82 percent shall be allocated to the United Way.

(ii) 7 percent shall be allocated to the International Services Agencies.

(iii) 7 percent shall be allocated to the National Voluntary Health Agencies.

(iv) 4 percent shall, after fair and careful consideration of all eligible federated groups and agencies, be allocated by the local Federal coordinating committee among any or all of the following:

(I) National federated groups (other than any identified in clauses (i), (ii), or (iii)), except that a national federated group shall not be eligible under this subclause unless there are at least 15 members of such group participating in the local campaign, unless the members of such group collectively receive at least 4 percent of the designated contributions in the local campaign, and unless such group was granted national eligibility status for the 1987, 1988, 1989, or 1990 Combined Federal Campaign.

(II) Local federated groups.

(III) Any local, non-affiliated voluntary agency which receives at least 4 percent of the designated contributions in the local campaign.

(C) The formula set forth in subparagraph (B)—

(i) shall be phased in over the course of the 1988 and 1989 Combined Federal Campaigns;

(ii) shall be fully implemented with respect to the 1990 Combined Federal Campaigns; and

(iii) shall, with respect to any Combined Federal Campaign thereafter, be adjusted based on the experience gained in the Combined Federal Campaigns referred to in clauses (i) and (ii).

(D) Nothing in this paragraph shall apply with respect to any campaign conducted in a foreign country.

(E) All appropriate steps shall be taken to encourage donors to make designated contributions.

(7) The option for a donor to write in the name of a voluntary agency or federated group not listed in the campaign brochure to receive that individual's contribution in a local campaign shall be eliminated.

(8) The name of any individual making a designated contribution in a campaign shall, upon request of the recipient voluntary agency or federated group, be released to such agency or group, unless the contributor indicates that his or her name is not to be released. Under no circumstance may the names of contributors be sold or otherwise released by such agency or group.

(9)(A) The name of each participating voluntary agency and federated group, together with a brief description of their respective programs, shall be published in any information leaflet distributed to employees in a local combined Federal campaign. Agencies shall be arranged by federated group, with combined Federal campaign organization code numbers corresponding to each such agency and group.

[27](B) The requirement under subparagraph (A) relating to the inclusion of program descriptions may, at the discretion of a local Federal coordinating committee, be waived for a local campaign in any year if, in the immediately preceding campaign year, contributions received through the local campaign totalled less than $100,000.

(10) Employee coercion is not to be tolerated in the Combined Federal Campaign, and protections against employee coercion shall be strengthened and clarified.

(11) The Office—

(A) may not, after the date of the enactment of this Act, grant national eligibility status to any federated group unless such group has at least 15 member voluntary agencies, each of which meets the requirements for national eligibility under paragraph (2)(A); and

(B) may withdraw federation status from any federated group for a period of not to exceed 1 campaign year if it is determined, on the record after opportunity for a hearing, that the federated group has not complied with the regulatory requirements.

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[27] Copy read "(8)".

(12) The Office may bar from participation in the Combined Federal Campaign, for a period not to exceed 1 campaign year, any voluntary agency which the Office determines, in writing, and after notice and opportunity to submit written comments, did not comply with a reasonable request by the Office to furnish it with information relating to such agency's campaign accounting and auditing practices.

(c) For purposes of this section, a voluntary agency or federated group having "national eligibility" is one which is eligible to participate in each local domestic combined Federal campaign.

INDUSTRIAL FUNDING OF THE GENERAL SUPPLY FUND

SEC. 619. Industrial Funding.

[28] (a) PERMISSIBLE USES OF GENERAL SUPPLY FUND.—The last sentence of section 109(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 756(a)) is amended—

(1) by striking out "and" at the end of clause (1); and

(2) by inserting before the period at the end of clause (2) the following: ", and (3) for paying other direct costs of, and indirect costs that are reasonably related to, contracting, procurement, inspection, storage, management, distribution, and accountability of property and nonpersonal services provided by the General Services Administration or by special order through such Administration".

[29] (b) COLLECTION OF PAYMENTS FOR DEPOSIT IN FUND.—Section 109(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 756(b)) is amended by inserting after the second sentence the following new sentence: "Such prices shall also include an additional charge to recover properly allocable costs payable by the General Supply Fund under subsection (a)(3) with respect to the supplies or services concerned.".

[30] (c) IMPLEMENTATION PLAN.—Not later than February 15, 1988, the Administrator of General Services shall submit to the appropriate committees of the Congress a plan for the implementation of the amendments made by this Act. Such plan shall (1) fully describe and explain the accounting system (including the pricing and cost allocation methodology for supplies and services) to be used for such implementation, and (2) contain a schedule for completing actions necessary for such implementation.

[31] (d) EFFECTIVE DATE.—The amendments made by this Act shall take effect not later than April 1, 1988.

SEC. 620. Section 1202(b) of title 5, United States Code, is amended by adding a new sentence as follows: "Any new member serving only a portion of a seven-year term in office may continue to serve until a successor is appointed and has qualified, except that such member may not continue to serve for more than one year after the date on which the term of the member would otherwise expire, unless reappointed.".

SEC. 621. (a) Notwithstanding the provisions of sections 112 and 113 of title 3, United States Code, each Executive agency detailing any personnel shall submit a report on an annual basis in each fiscal year to the Senate and House Committees on Appropriations on all employees or members of the armed services detailed to Executive agencies, listing the grade, position, and offices of each person detailed and the agency to which each such person is detailed.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

(c) The exemptions in part (b) of this section are not intended to apply to information on the use of personnel detailed to or from the intelligence agencies which is currently being supplied to the Senate and House Intelligence and Appropriations Committees by the executive branch through budget justification materials and other reports.

(d) For the purposes of this section, the term "Executive agency" has the same meaning as defined under section 105 of title 5, United States Code (except that the provisions of section 104(2) of title 5, United States Code shall not apply) and includes the White House Office, the Executive Residence, and any office, council, or organizational unit of the Executive Office of the President.

SEC. 622. (a) None of the funds made available by this or any other Act with respect to any fiscal year may be used to make a contract for the manufacture of distinctive paper for United States currency and securities pursuant to section 5114 of title 31, United States Code, with any corporation or other entity owned or controlled by persons not citizens of the United States, or for the manufacture of such distinctive paper outside of the United States or its possessions. This subsection shall not apply if the Secretary of the Treasury determines that no domestic manufacturer of distinctive paper for United States currency or securities exists with which to make a contract and if the Secretary of the Treasury publishes in the Federal Register a written finding stating the basis for the determination.

(b) None of the funds made available by this or any other Act with respect to any fiscal year may be used to procure paper for passports granted or issued pursuant to the first section of the Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (22 U.S.C. 211a), if such paper is manufactured outside of the United States or its possessions or is procured from any corporation or other entity owned or controlled by persons not citizens of the United States. This subsection shall not apply if no domestic manufacturer for passport paper exists.

SEC. 623. INTEREST ON BACK PAY FOR FEDERAL EMPLOYEES.—(a) IN GENERAL.—Section 5596(b) of title 5, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by adding after paragraph (1) the following:

"(2)(A) An amount payable under paragraph (1)(A)(i) of this subsection shall be payable with interest.

"(B) Such interest—

"(i) shall be computed for the period beginning on the effective date of the withdrawal or reduction involved and ending on a date not more than 30 days before the date on which payment is made;

"(ii) shall be computed at the rate or rates in effect under section 6621(a)(1) of the Internal Revenue Code of 1986 during the period described in clause (i); and

"(iii) shall be compounded daily.

"(C) Interest under this paragraph shall be paid out of amounts available for payments under paragraph (1) of this subsection.".

(b) EFFECTIVE DATE.—

(1) GENERALLY.—Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to any employee found, in a final judgment entered or a final decision otherwise rendered on or after such date, to have been the subject of an unjustified or unwarranted personnel action, the correction of which entitles such employee to an amount under section 5596(b)(1)(A)(i) of title 5, United States Code.

(2) EXCEPTION.—

(A) CASES IN WHICH A RIGHT TO INTEREST WAS RESERVED.—The amendments made by subsection (a) shall also apply with respect to any claim which was brought under section 5596 of title 5, United States Code, and with respect to which a final judgment was entered or a final decision was otherwise rendered before the date of the enactment of this Act, if, under terms of such judgment or decision, a right to interest was specifically reserved, contingent on the enactment of a statute authorizing the payment of interest on claims brought under such section 5596.

(B) METHOD OF COMPUTING INTEREST.—The amount of interest payable under this paragraph with respect to a claim shall be determined in accordance with section 5596(b)(2)(B) of title 5, United States Code (as amended by this section).

(C) SOURCE.—An amount payable under this paragraph shall be paid from the appropriation made by section 1304 of title 31, United States Code, notwithstanding section 5596(b)(2)(C) of title 5, United States Code (as amended by this section) or any other provision of law.

(D) DEADLINE.—An application for a payment under this paragraph shall be ineffective if it is filed after the end of the 1-year period beginning on the date of the enactment of this Act.

(E) LIMITATION ON PAYMENTS.—Payments under this paragraph may not be made before October 1, 1988, except that interest shall continue to accrue in accordance with 5596(b)(2)(B) of title 5, United States Code.

SEC. 624. (a) Section 7701(j) of title 26, United States Code, is amended—

(1) by deleting from paragraph (1)(c) the words "the provisions of paragraph (2) and" following the words "subject to"; and

(2) by deleting paragraph (2) in its entirety and substituting in lieu thereof the following language: "NONDISCRIMINATION REQUIREMENTS.—Notwithstanding any other provision of law, the Thrift Savings Fund is

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[28] Copy read "SUB SECTION 1.".

[29] Copy read "SUB SECTION 2.".

[30] Copy read "SUB SECTION 3.".

[31] Copy read "SUB SECTION 4.".

not subject to the nondiscrimination requirements applicable to arrangements described in section 401(k) or to matching contributions (as described in section 401(m)), so long as it meets the requirements of this section.".

(b) Section 8440 of title 5, United States Code, is amended—

(1) by deleting from paragraph (a)(3) the words "the provisions of subsection (b) and" following the words "subject to"; and

(2) by deleting subsection (b) in its entirety and by substituting in lieu thereof the following language: "NONDISCRIMINATION REQUIREMENTS.—Notwithstanding any other provision of law, the Thrift Savings Fund is not subject to the nondiscrimination requirements applicable to arrangements described in section 401(k) of title 26, United States Code, or to matching contributions (as described in section 401(m) of title 26, United States Code), so long as it meets the requirements of this section.".

SEC. 625. TEMPORARY AUTHORITY TO TRANSFER LEAVE.—In order to ensure that the experimental use of voluntary leave transfers established under Public Laws 99-500 and 99-591 may continue and may cover additional employees in fiscal year 1988, the Office of Personnel Management shall establish by regulation, notwithstanding chapter 63 of title 5, United States Code, a program under which the unused accrued annual leave of officers or employees of the Federal Government may be transferred for use by other officers or employees who need such leave due to a personal emergency as defined in the regulations. The Veterans' Administration shall establish a similar program for employees subject to section 4108 of title 5, United States Code. The programs established by this section shall expire at the end of fiscal year 1988, but any leave that has been transferred to an officer or employee under the programs shall remain available for use until the personal emergency has ended, and any remaining unused transferred leave shall, to the extent administratively feasible, be restored to the leave accounts of the officers or employees from whose accounts it was originally transferred.

SEC. 626. Subsection 8902 of title 5, United States Code, is amended—

(1) by inserting in subsection (k)(1), after "as applicable," the following: "or by a qualified clinical social worker as defined in section 8901(11),";

(2) by inserting in subsection (k)(1), after "such a clinical psychologist" the following: ", qualified clinical social worker";

(3) by striking out all of subsection (k)(2) and by redesignating subsection (k)(3) as subsection (k)(2); and

(4) by striking out the last sentence in subsection (m)(2)(A).

SEC. 627. (a) Section 5 of Public Law 99-87, relating to the use of official mail in the location of missing children, is amended by striking out "two and one-half years after the date of the enactment of this Act" and inserting in lieu thereof "after December 31, 1992".

(b) Section 3(a) of Public Law 99-87 is amended by striking out "Not later than two years after the date of enactment of this Act," and inserting in lieu thereof "Not later than June 30, 1992,".

SEC. 628. SALE OF RESIDENCE OF TRANSFERRED FEDERAL EMPLOYEES AND TRANSPORTATION EXPENSES.—

(a) REIMBURSEMENT OF EXPENSES OF SALE AND PURCHASE OF A RESIDENCE UPON THE TRANSFER OF A FEDERAL EMPLOYEE.—

(1) REIMBURSEMENT OF EXPENSES.—Section 5724a(a)(4)(A) of title 5, United States Code, is amended—

(A) by inserting before the period at the end of the first sentence the following: "; and expenses, required to be paid by the employee, (i) of the sale of the residence (or the settlement of an unexpired lease) of the employee at the official station from which the employee was transferred when he was assigned to a post of duty located outside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979) and (ii) of the purchase of a residence at the new official station when the employee is transferred in the interest of the Government from a post of duty located outside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979), to an official station (other than the official station from which he was transferred when assigned to the foreign tour of duty) within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or such areas and installations in the Republic of Panama"; and

(B) by adding at the end thereof the following new sentence: "Reimbursement of expenses prescribed under this paragraph in connection with transfers from a post of duty located outside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979), shall not be allowed for any sale or settlement of unexpired lease or purchase transaction that occurs prior to official notification that the employee's return to the United States would be to an official station other than the official station from which the employee was transferred when assigned to the foreign post of duty.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (2) shall be applicable with respect to any employee transferred to or from a post of duty on or after 60 days after the date of enactment of this section.

(b) FUNDS FOR IMPLEMENTATION.—The amendments made by subsection (a) shall be carried out by agencies by the use of funds appropriated or otherwise available for the administrative expenses of each of such respective agencies. The amendments made by such subsections do not authorize the appropriation of funds in amounts exceeding the sums already authorized to be appropriated for such agencies.

SEC. 629. Notwithstanding 31 U.S.C. 1346 or section 607 of this Act, funds made available for fiscal year 1988 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided in Executive order Number 12472 (April 3, 1984).

EMPLOYEE DISCLOSURE AGREEMENTS

SEC. 630. No funds appropriated in this or any other Act for fiscal year 1988 may be used to implement or enforce the agreements in Standard Forms 189 and 4193 of the Government or any other nondisclosure policy, form or agreement if such policy, form or agreement:

(1) concerns information other than that specifically marked as classified; or, unmarked but known by the employee to be classified; or, unclassified but known by the employee to be in the process of a classification determination;

(2) contains the term "classifiable" [32];

(3) directly or indirectly obstructs, by requirement of prior written authorization, limitation of authorized disclosure, or otherwise, the right of any individual to petition or communicate with Members of Congress in a secure manner as provided by the rules and procedures of the Congress;

(4) interferes with the right of the Congress to obtain executive branch information in a secure manner as provided by the rules and procedures of the Congress;

(5) imposes any obligations or invokes any remedies inconsistent with statutory law: *Provided*, That nothing in this section shall affect the enforcement of those aspects of such nondisclosure policy, form or agreement that do not fall within subsections (1)–(5) of this section.

This Act may be cited as the "Treasury, Postal Service and General Government Appropriations Act, 1988".

(n)(1) Upon the enactment of this resolution enrolled as a hand enrollment, the Clerk of the House of Representatives shall prepare a printed enrollment of this resolution as in the case of a bill or joint resolution to which sections 106 and 107 of title 1, United States Code, apply. Such enrollment shall be a correct enrollment of this resolution as enrolled in the hand enrollment.

(2) A printed enrollment prepared pursuant to subsection (n)(1) may, in order to conform to customary style for printed laws, include corrections in spelling, punctuation, indentation, type face, and type size and other necessary stylistic corrections to the hand enrollment. Such a printed enrollment shall include notations (in the margins or as otherwise appropriate) of all such corrections.

(3) A printed enrollment prepared pursuant to subsection (n)(1) shall be signed by the presiding officers of both Houses of Congress as a correct printing of the hand enrollment of this resolution and shall be transmitted to the President.

(4) Upon certification by the President that a printed enrollment transmitted pursuant to subsection (n)(3) is a correct printing of the hand enrollment of this resolution, such printed enrollment shall be considered for all purposes as the original enrollment of this resolution and as valid evidence of the enactment of this resolution.

(5) A printed enrollment certified by the President under subsection (n)(4) shall be transmitted to the Archivist of the United States, who shall preserve it with the hand enrollment. In preparing this resolution for publication in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall use the printed enrollment certified by the President under subsection (n)(4) in lieu of the hand enrollment.

(6) As used in this section, the term "hand enrollment" means enrollment in a form other than the printed form required by

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[32] Copy read " 'classifiable' ".

sections 106 and 107 of title 1, United States Code, as authorized by the joint resolution entitled "Joint resolution authorizing the hand enrollment of the budget reconciliation bill and of the full-year continuing resolution for fiscal year 1988", approved December 1987 (H.J. Res. 426 of the 100th Congress).

(o) Federal employees furloughed as the result of any lapse in appropriations prior to the enactment of this Resolution shall be compensated at their standard rate of compensation for the period during which there was a lapse in appropriations.

All obligations incurred in anticipation of the appropriations made and authority granted by this Resolution for the purpose of maintaining the essential level of activity to protect life and property and bring about the orderly termination of Government functions are hereby ratified and approved if otherwise in accord with the provisions of this Resolution.

SEC. 102. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from December 21, 1987, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) September 30, 1988, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization (including a continuing appropriation for the full year) whenever a bill in which such applicable appropriation, fund, or authorization (including a continuing appropriation for the full year) is contained is enacted into law.

SEC. 105. Section 1515 of title 31 of the United States Code is amended by striking subsection (a) and inserting in lieu thereof the following:

"(a) An appropriation required to be apportioned under section 1512 of this title may be apportioned on a basis that indicates the need for a deficiency or supplemental appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees (including prevailing rate employees whose pay is fixed and adjusted under subchapter IV of chapter 53 of title 5) and to retired and active military personnel.".

SEC. 106. The provisions of appropriations Acts within the purview of this joint resolution, and the provisions of appropriations Acts within the purview of the following joint resolutions making continuing appropriations (section 101(c) of Public Law 96-86 (93 Stat. 657), section 101(f) of Public Law 98-151 (97 Stat. 973), section 101(b) of Public Law 98-473 (98 Stat. 1837), section 101 (a) and (c) of Public Law 99-190 (99 Stat. 1185, 1224), and section 101 (g), (i), and (l) of Public Laws 99-500 and 99-591 (100 Stat. 1783-242, 1783-287, 1783-308, 3341-242, 3341-287, 3341-308)), shall (to the extent and in the manner specified in the pertinent section of any such joint resolution) be effective as if enacted into law. Those provisions are effective on the date of enactment of the pertinent joint resolution except to the extent a different effective date is specified in the joint resolution or pertinent appropriations Act.

SEC. 107. Amounts and authorities provided by this resolution shall be in accordance with the reports accompanying the bills as passed by or reported to the House and the Senate and in the Joint Explanatory Statement of the Conference accompanying this Joint Resolution.

SEC. 108. (a) Notwithstanding any other provision of this resolution or any other law, no adjustment in rates of pay under section 5305 of title 5, United States Code, which becomes effective on or after October 1, 1987, and before October 1, 1988, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch or in the government of the District of Columbia—

(1) if the rate of salary or basic pay payable for that office or position as of September 30, 1987, was equal to or greater than the rate of basic pay then payable for level V of the Executive Schedule under section 5316 of title 5, United States Code; or

(2) to a rate exceeding the rate of basic pay payable for level V of the Executive Schedule under such section 5316 as of September 30, 1987, if, as of that date, the rate of salary or basic pay payable for that office or position was less than the rate of basic pay then payable for such level V.

(b) For purposes of subsection (a), the rate of salary or basic pay payable as of September 30, 1987, for any office or position which was not in existence on such date shall be deemed to be the rate of salary or basic pay payable to individuals in comparable offices or positions on such date, as determined under regulations prescribed—

(1) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

(2) jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

(3) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

SEC. 109. (a)(1) None of the funds appropriated for fiscal year 1988 by this resolution or any other law may be obligated or expended to enter into any contract for the construction, alteration, or repair of any public building or public work in the United States or any territory or possession of the United States with any contractor or subcontractor of a foreign country, or any supplier of products of a foreign country, during any period in which such foreign country is listed by the United States Trade Representative under subsection (c) of this section.

(2) The President or the head of a Federal agency administering the funds for the construction, alteration, or repair may waive the restrictions of paragraph (1) of this subsection with respect to an individual contract if the President or the head of such agency determines that such action is necessary in the public interest. The authority of the President or the head of a Federal agency under this paragraph may not be delegated. The President or the head of a Federal agency waiving such restrictions shall, within 10 days, publish a notice thereof in the Federal Register describing in detail the contract involved and the reason for granting the waiver.

(b)(1) Not later than 30 days after the date of enactment of this resolution, the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information or evidence concerning discrimination in construction projects against United States products and services that are available.

(c)(1) The United States Trade Representative shall maintain a list of each foreign country which—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) Such list shall include—

(A) each foreign country with respect to which an affirmative determination is made under subsection (b); and

(B) the country of Japan and any other country which has expressed a policy of denying fair and equitable market opportunities for products and services of the United States in procurement or bidding for projects described in paragraph (1) of this subsection.

(3) Any foreign country that is initially listed or that is added to the list maintained under paragraph (1) shall remain on the list until—

(A) such country removes the barriers in construction projects to United States products and services;

(B) such country submits to the President or the United States Trade Representative evidence demonstrating that such barriers have been removed; and

(C) the United States Trade Representative conducts an investigation to verify independently that such barriers have been removed and submits, at least 30 days before granting any such waiver, a report to each House of the Congress identifying the barriers and describing the actions taken to remove them.

(4) The United States Trade Representative shall publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made after publication of the original list.

(d) For purposes of this section—

(1) each foreign instrumentality, and each territory or possession of a foreign country that is administered separately for customs

purposes, shall be treated as a separate foreign country;

(2) any contractor or subcontractor that is a citizen or national of a foreign country, or is controlled directly or indirectly by citizens or nationals of a foreign country, shall be considered to be a contractor or subcontractor of such foreign country;

(3) subject to paragraph (4), any product that is produced or manufactured (in whole or in substantial part) in a foreign country shall be considered to be a product of such foreign country;

(4) the restrictions of subsection (a)(1) shall not prohibit the use, in the construction, alteration, or repair of a public building or public work, of vehicles or construction equipment of a foreign country; and

(5) the terms "contractor" and "subcontractor" include any person performing any architectural, engineering, or other services directly related to the preparation for or performance of the construction, alteration, or repair.

(e) Paragraph (a)(1) of this section shall not apply to contracts entered into prior to the date of enactment of this resolution.

(f) The provisions of this section are in addition to, and do not limit or supersede, any other restrictions contained in any other Federal law.

Sec. 110 (a) Adjustments for Employees Under Statutory Pay Systems.—

(1) Two-percent increase.—Notwithstanding any other provision of law, in the case of fiscal year 1988, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems (as defined by section 5301(c) of such title), shall be an increase of 2 percent.

(2) Uniform adjustments; delayed effective date.—Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage and shall take effect as of the beginning of the first applicable pay period beginning on or after January 1, 1988.

(b) Two Percent Military Pay Raise for Fiscal Year 1988.—Section 601 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) is amended by striking out subsections (b), (c), and (d) and inserting in lieu thereof the following:

"(b) Two Percent Increase in Basic Pay, BAQ, and BAS.—The rates of basic pay, basic allowance for quarters, and basic allowance for subsistence of members of the uniformed services are increased by 2 percent effective on January 1, 1988.

"(c) Two Percent Increase in Cadet and Midshipman Pay.—Effective on January 1, 1988, section 203(c)(1) of title 37, United States Code, is amended by striking out '$494.40' and inserting in lieu thereof '$504.30'.".

ASSISTANCE TO THE NICARAGUAN DEMOCRATIC RESISTANCE

Sec. 111. (a) There are hereby transfered to the President $3,600,000 of unobligated funds, from such accounts for which appropriations were made by Department of Defense appropriations Acts for the fiscal year 1987 or prior years, as the President shall designate, to provide humanitarian assistance to the Nicaraguan democratic resistance consistent with this section, to remain available through February 29, 1988.

(b)(1) The President is authorized to transfer or reprogram $4,500,000 of unobligated funds from such accounts for which appropriations were made by Department of Defense appropriations Acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, to provided transportation of humanitarian and other assistance previously, specifically authorized by law to the Nicaraguan domestic resistance, to remain available through February 29, 1988.

(2)(A) Transportation under paragraph (1) for lethal assistance previously authorized by law shall be suspended on January 12, 1988 and shall resume thereafter only if, after January 18, 1988, the President determines and certifies to the Congress that—

(i) at the time of such certification no ceasefire is in place that was agreed to by the Government of Nicaragua and the Nicaraguan democratic resistance;

(ii) the failure to achieve the ceasefire described in subparagraph (A)(i) results from the lack of good faith efforts by the Government of Nicaragua to achieve such a ceasefire; and

(iii) the Nicaraguan democratic resistance has engaged in good faith efforts to achieve the ceasefire described in subparagraph (A)(i).

(B) Transportation under paragraph (1) for lethal assistance previously authorized by law shall be suspended during any period in which there is in place a ceasefire described in subparagraph (A)(i), except to the extent, if any, permitted by the agreement governing such ceasefire.

(c)(1) The Department of Defense shall, through February 29, 1988, make available to the department or agency administering this section passive air defense equipment to ensure the safety of transportation provided pursuant to this section.

(2) The Department of Defense shall not charge the department or agency receiving equipment under paragraph (1) for such equipment, and shall bear the risk of loss, damage or deterioration of such equipment during the period of its use under the authority of paragraph (1).

(d)(1) The President is authorized to transfer unobligated funds from such accounts for which appropriations were made by Department of Defense appropriations Acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, solely for the indemnification through February 29, 1988, of aircraft leased after the date of enactment of this joint resolution to carry out subsection (b).

(2) On March 1, 1988, the President shall transfer the balance, if any, remaining of funds transferred under paragraph (1) to the accounts from which such funds were transferred under paragraph (1).

(e) As used in this section, the term "humanitarian assistance" means only food, clothing, shelter, medical services, medical supplies, and payment for such items.

(f) The requirements, terms and conditions of section 104 of the Intelligence Authorization Act, fiscal year 1988 (Public Law 100-178), section 8144 of the Department of Defense Appropriations Act, 1988 as contained in section 101(b) of this joint resolution, section 10 of Public Law 91-672, section 502 of the National Security Act of 1947, section 15(a) of the State Department Basic Authorities Act of 1956, and any other provision of law shall be deemed to have been met for the transfer and use consistent with this section of the funds made available by subsections (a), (b), and (d), and the transfer and use of equipment as provided in subsection (c).

(g) The authority to support, monitor, and manage the activities for which this section provides funds shall continue until February 29, 1988.

(h) Sections 203(e), 204(b), 207, 209(b), 209(c), and 216, and the first sentence of section 203(d), in "TITLE II—CENTRAL AMERICA" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591) shall apply with respect to funds made available by this section.

(i) If, on January 17, 1988, a cease-fire agreed to by the Government of Nicaragua and the Nicaraguan democratic resistance is in place and the Government of Nicaragua is in compliance with the Guatemala peace accord of August 7, 1987, then the President shall, to the maximum extent practicable, make the unobligated balance of funds transferred by subsection (a) available for administration consistent with this section by nonpolitical humanitarian international organizations.

(j)(1) The President may submit to Congress, no earlier than January 25, 1988, and no later than January 27, 1988, a request in accordance with this section for budget and other authority to provide additional assistance for the Nicaraguan democratic resistance.

(2) Only if a joint resolution approving a request made pursuant to subsection (j)(1) has been enacted into law, the President may submit to Congress one additional request under this section for budget and other authority to provide additional assistance for the Nicaraguan democratic resistance.

(3) It is the sense of Congress that any request in accordance with this section should be compatible with the Guatemala peace accord of August 7, 1987, and the decisions reached by the Central American presidents at the meeting on the report of the International Commission of Verification and Followup, and consistent with the national security interests of the United States.

(4) Each request of the President in accordance with this section shall include a detailed statement of the steps that the United States, the Central American nations, and other interested parties have taken in support of the Guatemala peace accord of August 7, 1987, and of any ceasefire agreed to by the Government of Nicaragua and the Nicaraguan democratic resistance, as well as a report on any progress made in any bilateral or multilateral talks between the United States and the Government of Nicaragua.

(5) If a request of the President in accordance with this section proposes the transfer of funds, the request shall specify the accounts from which the funds are proposed to be transferred.

(6) For purposes of this section, the term "joint resolution" means only a joint resolution introduced within one day of session after the day of session on which the Congress receives the request submitted by the President pursuant to paragraphs (1) or (2)—

(A) the matter after the resolving clause of which is as follows: "That the Congress hereby approves the additional authority and assistance for the Nicaraguan democratic resistance that the President requested pursuant to H.J. Res. 395 of the 100th Congress, the Act making continuing appropriations for fiscal year 1988.";

(B) which does not have a preamble; and

(C) the title of which is as follows: "Joint resolution relating to Central America pursuant to H.J. Res. 395 of the 100th Congress.".

(7) Any such joint resolution shall, upon introduction, be referred in the House of Representatives to the appropriate committee or committees.

(8) If all of the committees of the House of Representatives to which the first joint resolution approving a request made pursuant to subsection (j)(1) has been referred have not reported such joint resolution by the end of February 1, 1988, any committee which has not reported such joint resolution shall be discharged from further consideration thereof on February 2, 1988, and such joint resolution shall be placed on the appropriate calendar of the House.

(9) If all of the committees of the House of Representatives to which the first joint resolution approving a request made pursuant to subsection (j)(2) has been referred have not reported such joint resolution by the end of ten days of session after such joint resolution was introduced, any committee which has not reported such joint resolution shall be discharged from further consideration thereof and such joint resolution shall be placed on the appropriate calendar of the House.

(10) On February 3, 1988, it is in order for any Member of the House of Representatives (after consultation with the Speaker as to the most appropriate time for consideration) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution approving a request made pursuant to subsection (j)(1).

(11) It is in order for any Member of the House of Representatives (after consultation with the Speaker as to the most appropriate time for consideration) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution approving a request made pursuant to subsection (j)(2) at any time after such joint resolution has been on the calendar for a period of five days of session, except that it shall not be in order to consider such joint resolution prior to July 1, 1988.

(12) In the House of Representatives, the vote on final passage of the joint resolution approving a request made pursuant to subsection (j)(1) shall occur no later than February 3, 1988, and the vote on final passage of the joint resolution approving a request made pursuant to subsection (j)(2) shall occur no later than September 30, 1988.

(k)(1) The motion that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of a joint resolution in accordance with this section is highly privileged and is in order even though a previous motion to the same effect has been disagreed to. All points of order against the joint resolution and against its consideration are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of.

(2) Debate on the joint resolution shall not exceed ten hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

(3) An amendment to the joint resolution is not in order.

(4) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

(l)(1) A joint resolution described in subsection (j)(6) introduced in the Senate shall be referred to the appropriate committee of the Senate.

(2) If the committee to which is referred a joint resolution described in subsection (j)(6) has not reported such a resolution at the end of February 2, 1988, in the case of a resolution approving a request made pursuant to subsection (j)(1), hereinafter referred to as the first resolution, and at the end of 15 days of session after the introduction of a resolution approving a request made pursuant to subsection (j)(2), hereinafter referred to as the second resolution, such committee shall be discharged from further consideration of any such joint resolution. The second such resolution may not be reported before the eighth day of session after its introduction.

(3)(A) When the committee to which a resolution is referred has reported, or has been discharged (under paragraph (2)) from further consideration of, a resolution described in subsection (j)(6), notwithstanding any rule or precedent of the Senate, including rule 22, it is in order only on February 4, 1988, in the case of the first, and any time in July, August, or September 1988, in the case of the second (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is not debatable. The motion is not subject to a motion to postpone. A yea and nay vote shall occur on the motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the Senate until disposed of.

(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between the majority and the minority leaders or their designees. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of debate on a resolution described in subsection (j)(6), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution described in subsection (j)(6) shall be decided without debate.

(E) The vote on passage of the first such joint resolution in the Senate shall occur no later than 10 p.m., February 4, 1988, and on the second such joint resolution not before July 1, 1988, and no later than 10 p.m., September 30, 1988.

(4) If, before the passage by the Senate of a resolution of the Senate described in subsection (j)(6), the Senate receives from the House of Representatives a resolution described in subsection (j)(6), then the following procedures shall apply:

(A) The resolution of the House of Representatives shall not be referred to a committee.

(B) With respect to a resolution described in subsection (j)(6) in the Senate—

(i) the procedure in the Senate shall be the same as if no resolution had been received from the House; but

(ii) the vote on passage shall be on the resolution of the House.

(C) Upon disposition of the resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

(5) If the Senate receives from the House of Representatives a resolution described in subsection (j)(6) after the Senate has disposed of a Senate originated resolution, the action of the Senate with regard to the disposition of the Senate originated resolution shall be deemed to be the action of the Senate with regard to the House originated resolution.

(m)(1) Section 215 in "TITLE II—CENTRAL AMERICA" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591), and subsections (p), (s), and (t) of section 722 of the International Security and Development Cooperation Act of 1985 are hereby repealed, and the provisions of section 8066 of the Department of Defense Appropriations Act, 1985, as contained in Public Law 98-473, shall not apply to any request for assistance to the Nicaraguan democratic resistance.

(2) Subsections (j)-(l) are enacted—

(A) as an exercise in the rulemaking powers of the House of Representatives and Senate, and as such they are deemed a part of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under this section, and they supercede other rules only to the extent that they are inconsistent with such rules; and

(B) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

(3) As used in this subsection, the term "day of session" means a day on which the respective House is in session.

SEC. 136. (a) Paragraph (37) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)) is amended by adding at the end thereof the following new subparagraph:

"(F)(i) For purposes of this title a qualified football coaches plan—

"(I) shall be treated as a multiemployer plan to the extent not inconsistent with the purposes of this subparagraph; and

"(II) notwithstanding section 401(k)(4)(B) of such Code, may include a qualified cash and deferred arrangement.

"(ii) For purposes of this subparagraph, the term 'qualified football coaches plan' means any defined contribution plan which is established and maintained by an organization—

"(I) which is described in section 501(c);

"(II) the membership of which consists entirely of individuals who primarily coach football as full-time employees of 4-year colleges or universities described in section 170(b)(1)(A)(ii); and

"(III) which was in existence on September 18, 1986."

(b) The amendment made by this section shall apply to years beginning after the date of the enactment of this joint resolution.

SEC. 137. (a) The amounts made available for Star Schools under section 101(h) of this joint resolution shall be available for carrying out the provisions of title IX of the Education for Economic Security Act, relating to Star Schools, as contained in section 6005 of the Senate amendment to H.R. 5.

(b) The amounts made available for the workplace literacy program under section 101(h) of this joint resolution shall be for carrying out the provisions of section 317 of the Adult Education Act, as contained in the Senate amendment to H.R. 5.

(c) The amounts made available for dropout prevention under section 101(h) of this joint resolution shall be available for part A and part C of title VIII of the Senate amendment to H.R. 5: *Provided*, That (1) the first category of local educational agencies for allotment under part A shall include such agencies with a total enrollment of 100,000 or more students and 25 percent of the amount appropriated shall be allotted for such category, (2) the second such category shall be agencies having a total enrollment of 20,000 but less than 100,000 and 40 percent of the amount appropriated shall be allotted to the second category, and (3) the third such category of agencies shall be allotted 30 percent of the amount appropriated.

SEC. 138. (a)(1) For the purposes of making adjustments under section 619(a)(2)(E) of the Education of the Handicapped Act for fiscal year 1987, the number of handicapped children aged 3 to 5, inclusive receiving special education and related services for purposes of section 619(a)(2)(A)(ii)(II) of such Act shall be equal to the number of such children receiving special education and related services on December 1, 1987, or, if the State educational agency so chooses, the number of such children on March 1, 1988.

(2) In complying with paragraph (1), the Secretary of Education may not use the March 1 count for the purpose of this subsection unless it is received by the Secretary not later than April 15, 1988.

(3) For the purpose of this subsection, only children aged three to five, inclusive, as of December 1, 1987, may be included in the March 1, 1988, count.

(b) The provisions of subsection (a) shall be effective as if enacted on October 8, 1986.

SEC. 139. There is authorized $10,000,000 to establish the Warren G. Magnuson Foundation and Margaret Chase Smith Foundation Assistance Act.

SEC. 140. (a) In recognition of the public service of Senator Warren G. Magnuson, the Secretary of Education shall make grants, in accordance with the provisions of this joint resolution, to the Warren G. Magnuson Foundation for use in the development and activities of the Warren G. Magnuson Health Services Center at the University of Washington at Seattle, Washington, and for other health and education related activities of the Foundation.

(b) In recognition of the public service of Senator Margaret Chase Smith, the Secretary of Education shall make grants, in accordance with the provisions of this joint resolution to the Margaret Chase Smith Foundation for use in the development and activities of the Margaret Chase Smith Library Center, located in Skowhegan, Maine.

(c) No payment may be made under this joint resolution unless an application is made to the Secretary of Education at such time, in such manner, and containing or accompanied by such information as the Secretary of Education may require.

SEC. 141. (a) There are authorized to be appropriated such sums, not to exceed $5,000,000 as may be necessary to carry out the provisions of section 140(a) of this joint resolution.

(b) There are authorized to be appropriated such sums, not to exceed $5,000,000 as may be necessary to carry out the provisions of section 140(b) of this joint resolution.

(c) Funds appropriated under this joint resolution shall remain available until expended.

SEC. 144. The Committee on Rules and Administration of the Senate may provide for the distribution of unused food from the Senate cafeterias under the jurisdiction of the committee to the needy of the District of Columbia through an appropriate private distribution organization selected by the committee.

SEC. 156. (a) The Secretary of Labor is authorized to make available from funding provided by this joint resolution and authorized by title IV, part B of the Job Training Partnership Act such funds as are necessary to match a Federal Aviation Administration grant to the city of San Marcos, Texas, for the functional replacement of buildings and other facilities at the Gary Job Corps Center, San Marcos, Texas: *Provided*, That funding made available by this joint resolution for this purpose shall not exceed $372,000. Such funds are necessary to facilitate the transfer of 37 acres, more or less, at the Gary Job Corps Center to the city of San Marcos, pursuant to section 516 of the Airport and Airway Improvement Act of 1982, as amended (by pending legislation: H.R. 2310/S. 1184, awaiting conference), for development of the San Marcos Municipal Airport.

(b) Notwithstanding any other provision of law, the Secretary of Transportation is authorized, pursuant to section 505(a) of the Airport and Airway Improvement Act of 1982, as amended (by pending legislation), to issue a grant to the city of San Marcos, Texas, for the functional replacement of buildings and other improvements at the Gary Job Corps Center, San Marcos, Texas; such functional replacement shall be considered as airport development as defined in section 503(a)(2) of said Act; further, costs for such functional replacement shall be allowable costs, notwithstanding any provision of section 513(c) of said Act; funds authorized in subsection (a) of this section may be used to provide the needed matching share of the cost of such functional relocation, notwithstanding any provision of section 510 of said Act.

(c) For the purpose of this section, no Federal funds used for such functional replacement shall be considered as an expense to the United States as that term is used in section 516 of the Airport and Airway Improvement Act of 1982, as amended (by pending legislation).

(d) The 37 acres referenced in subsection (a) of this section are defined as follows: a tract of land being that part of the Job Corps site located south of and adjacent to the aircraft apron of the San Marcos Airport, Caldwell County, Texas. This tract is more particularly described in the following paragraphs:

beginning at that northwest corner of the Job Corps site which is located near the south edge of the aircraft apron, and is approximately 100 feet northeasterly of the old control tower;

thence east along the north boundary of the Job Corps site an approximate distance of 1850 feet to a point in the aircraft apron;

thence northeasterly along a line perpendicular to the center line of runway 12-30 an approximate distance of 150 feet to a point which is approximately 750 feet from the said center line;

thence southeasterly along a line in the aircraft apron and parallel to the said center line an approximate distance of 1,500 feet to a point near the southeast edge of the said apron;

thence southwest along a line perpendicular to the said center line an approximate distance of 400 feet to a point;

thence northwest along a line parallel to the said centerline an approximate distance of 150 feet to a point which is on an extension of a line northeasterly along 10th Street;

thence southwest along the said extension an approximate distance of 200 feet to a point;

thence northwest along a line parallel to the southwest side of the large solitary hangar between 9th Street and 10th Street and passing along the southwest side of this hangar an approximate distance of 700 feet to a point which is on an extension of a line northeasterly along 9th Street;

thence southwest along the extension of the line along 9th Street an approximate distance of 250 feet to a point on the southwest line of Kane Avenue East;

thence northwest along the southwest line of Kane Avenue East an approximate distance of 650 feet to an angle point in Kane Avenue;

thence west along the south line of Kane Avenue an approximate distance of 2800 feet to a point on the northwest boundary of the Job Corps site, which is on the northwest side of Kane Avenue West;

thence northeast along the said northwest boundary an approximate distance of 50 feet to a point on the north boundary of the Job Corps site;

thence east along the north boundary of the Job Corps site, which is along the north side of Kane Avenue, an approximate distance of 1250 feet to an angle point in the boundary;

thence north along the boundary an approximate distance of 150 feet to an angle point in the boundary;

thence east along the boundary an approximate distance of 250 feet to an angle point in the boundary; and

thence north along the boundary an approximate distance of 300 feet to the point of beginning.

AGRICULTURAL AID AND TRADE MISSIONS ACT

SEC. 1. AGRICULTURAL AID AND TRADE MISSIONS.

(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, under the chairmanship of the Secretary of Agriculture, the Secretary of Agriculture, the Secretary of State, and the Administrator shall jointly establish agricultural aid and trade missions to eligible countries to encourage the countries to participate in those United States agricultural aid and trade programs for which they are eligible in accordance with section 2.

(b) COMPOSITION.—A mission to an eligible country shall be composed of—

(1) representatives of the Department of Agriculture, the Department of State, and the Agency for International Development, appointed by the Secretary of Agriculture, Secretary of State, and Administrator, respectively; and

(2) not less then 3, nor more than 6, representatives of market development cooperators, tax-exempt nonprofit agribusiness organizations, private voluntary organizations, and cooperatives, appointed jointly by the Secretary of Agriculture, Secretary of State, and Administrator,

who are knowledgeable about food aid and agricultural export programs, as well as the food needs, trade potential, and economy of the eligible country.

(c) Terms.—The term of members of a mission shall terminate on submission of the report required under section 4.

(d) Compensation and Travel Expenses.—A member of a mission shall serve without compensation, if not otherwise an officer or employee of the United States, except that a member, while away from home or regular place of business in the performance of services under this chapter, shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5, United States Code.

SEC. 2. REQUIRED AND ADDITIONAL MISSIONS; ELIGIBLE COUNTRIES.

(a) Required Missions.—Missions shall be established and completed—

(1) not later than 6 months after the date of enactment of this Act, in 8 countries chosen in accordance with the criteria set forth in subsection (c); and

(2) not later than 1 year after the date of enactment of this Act, in 8 additional countries chosen in accordance with such criteria.

(b) Additional Missions.—After the completion of the missions referred to in subsection (a), a mission may be established to any foreign country chosen in accordance with the criteria set forth in subsection (c).

(c) Criteria.—

(1) Individual countries.—Subject to paragraph (2) and subsection (a), a mission shall be established to a foreign country if—

(A) the country is eligible for participation in United States agricultural aid and trade programs and such participation would be mutually advantageous to the country and the United States; and

(B) the country is friendly to the United States.

(2) Multiple countries.—In selecting countries for missions under this section, the Secretary shall—

(A) select countries that are in various stages of development and have various income levels; and

(B) consider—

(i) past participation in United States food programs;

(ii) experience with United States agricultural aid and trade programs; and

(iii) import market potential.

(d) Eligibility of Poland.—Notwithstanding any other provision of this section, the Secretary of Agriculture may establish a mission in Poland.

SEC. 3. FUNCTIONS.

The members of a mission to an eligible country shall—

(1) meet with representatives of Government agencies of the United States and the eligible country, as well as commodity boards, private enterprises, international organizations, private voluntary organizations, and cooperatives that operate in the eligible country, to assist in planning the extent to which United States agricultural aid and trade programs could be used in a mutally beneficial manner to meet the food and economic needs of the country;

(2) provide technical expertise and information to representatives of Government agencies of the United States and the eligible country and private organizations with respect to United States agricultural aid and trade programs and agricultural commodities and other assistance available to the eligible country under such programs; and

(3) assist in obtaining firm commitments for—

(A) proposals for food aid programs; and

(B) agreements for commodity sales.

SEC. 4. MISSION REPORTS.

Not later than 60 days after the completion of a mission under section 2, the mission shall submit a report that contains the findings and recommendations of the mission in carrying out its responsibilities under this chapter to the President, the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry and the Committee on Foreign Relations of the Senate, the Secretary of Agriculture, the Secretary of State, and the Administrator.

SEC. 5. PROGRESS REPORTS.

During the 2-year period beginning 1 year after the date of enactment of this Act, the Secretary of Agriculture and the Administrator shall jointly submit a quarterly report on progress made in implementing the recommendations of the missions reported under section 4, including the quantity and dollar value of commodities shipped to eligible countries and the specific development programs undertaken in accordance with this chapter, to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Foreign Relations of the Senate.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this chapter: *Provided*, That $200,000 is appropriated to carry out this chapter for fiscal year 1988.

SEC. 7. DEFINITIONS.

As used in this chapter:

(1) Administrator.—The term "Administrator" means the Administrator of the Agency for International Development.

(2) Eligible country.—The term "eligible country" means a country that is eligible under section 2(c).

(3) Mission.—The term "mission" means an agricultural aid and trade mission established under section 1.

(4) United states agricultural aid and trade programs.—The term "United States agricultural aid and trade programs" includes—

(A) programs established under titles I and II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.);

(B) the program established under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(C) the agricultural export enhancement program established under section 1127 of the Food Security Act of 1985 (7 U.S.C. 1736v);

(D) the dairy export incentive program established under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a-14);

(E) the export credit guarantee program (GSM-102) established under section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f));

(F) the intermediate export credit guarantee program (GSM-103) established under section 4(b) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(b));

(G) the food for progress program established under section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o); and

(H) other agricultural aid and trade programs authorized by the Food Security Act of 1985 (Public Law 99-198), by the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or by other applicable authorities.

Subtitle E—Public Law 480 and Related Provisions

SEC. 8. LEVEL OF SALES FOR FOREIGN CURRENCY.

Section 101(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701(b)) is amended—

(1) in paragraph (1), by adding at the end the following: "For each of the fiscal years 1988 through 1990, each agreement entered into under this title shall provide for some sale for foreign currencies for use under section 108 (except for agreements with a country the President determines is incapable of participating in section 108) unless the President determines that the level of agricultural commodities furnished under title I will be significantly reduced as a result of this sentence."; and

(2) in paragraph (2), by inserting ", or enter into sales agreements not providing for sales for foreign currencies for use under section 108," after "currencies".

SEC. 9. TERMS AND CONDITIONS OF AGREEMENTS WITH FRIENDLY COUNTRIES AND ORGANIZATIONS.

Section 103 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1703) is amended—

(1) by striking out "and" at the end of subsection (p);

(2) by striking out the period at the end of subsection (q) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(r) give favorable consideration in the allocation of commodities under this title to countries promoting the private sector through the use of section 108.".

SEC. 10. CRITERIA OF SELF-HELP MEASURES.

The first sentence of section 109(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1709(a)) is amended—

(1) by striking out "and" at the end of paragraph (10);

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(12) promoting the conservation and study of biological diversity.".

SEC. 11. USE OF COOPERATIVES TO FURNISH COMMODITIES.

The third sentence of section 202(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1722(a)) is amended by inserting "or cooperatives" after "voluntary agencies".

SEC. 12. NONEMERGENCY PROGRAMS UNDER TITLE II OF PUBLIC LAW 480.

The first sentence of section 206 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726) is amended by inserting after "extraordinary relief requirements," the following: "or for nonemergency programs conducted by nonprofit voluntary agencies or cooperatives,".

SEC. 13. REPORTS ON SALES AND BARTER AND USE OF FOREIGN CURRENCY PROCEEDS.

Section 206 of the Agricultural Trade Development and Assistance Act of 1954 (7

U.S.C. 1726) (as amended by section 655 of this Act) is further amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following:

"(b) Not later than February 15, 1988, and annually thereafter, the President shall report to Congress on sales and barter, and use of foreign currency proceeds, under this section and section 207 during the preceding fiscal year. Such report shall include information on—

"(1) the quantity of commodities furnished for such sale or barter;

"(2) the amount of funds (including dollar equivalents for foreign currencies) and value of services generated from such sales and barter in the preceding fiscal year;

"(3) how such funds and services were used;

"(4) the amount of foreign currency proceeds that were used under agreements under this section and section 207 in the preceding fiscal year, and the percentage of the quantity of all commodities and products furnished under this section and section 207 in such fiscal year such use represented;

"(5) the President's best estimate of the amount of foreign currency proceeds that will be used, under agreements under this section and section 207, in the then current fiscal year and the next following fiscal year (if all requests for such use are agreed to), and the percentage that such estimated use represents of the quantity of all commodities and products that the President estimates will be furnished under this section and section 207 in each such fiscal year;

"(6) the effectiveness of such sales, barter, and use during the preceding fiscal year in facilitating the distribution of commodities and products under this section and section 207;

"(7) the extent to which such sales, barter, or uses—

"(A) displace or interfere with commercial sales of United States agricultural commodities and products that otherwise would be made;

"(B) affect usual marketings of the United States;

"(C) disrupt world prices of agricultural commodities or normal patterns of trade with friendly countries; or

"(D) discourage local production and marketing of agricultural commodities in the countries in which commodities and products are distributed under this title; and

"(8) the President's recommendations, if any, for changes to improve the conduct of sales, barter, or use activities under this section and section 207.".

SEC. 14. USES OF FOREIGN CURRENCIES.

Section 207 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726a) is amended—

(1) in subsection (a), by inserting "or cooperative" after "agency";

(2) in subsection (b), by striking out "5 percent" and inserting in lieu thereof "10 percent"; and

(3) by adding at the end the following:

"(c) Foreign currencies generated from any partial or full sales or barter of commodities by a nonprofit voluntary agency or cooperative shall be used—

"(1) to transport, store, distribute, and otherwise enhance the effectiveness of the use of commodities and the products thereof donated under this title; and

"(2) to implement income generating, community development, health, nutrition, cooperative development, agricultural programs, and other developmental activities.".

SEC. 15. PERIODS FOR REVIEW AND COMMENT.

Title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.) is amended by adding at the end thereof the following:

"SEC. 208. PERIODS FOR REVIEW AND COMMENT.

"(a) Response.—If a proposal to make agricultural commodities available under this title is submitted by a nonprofit voluntary agency or cooperative with the concurrence of the appropriate United States Government field mission or if a proposal to make agricultural commodities available to a nonprofit voluntary agency or cooperative is submitted by the United States Government field mission, a decision on the proposal shall be provided within 45 days after receipt by the Agency for International Development office in Washington, D.C. The response shall detail the reasons for approval or denial of the proposal. If the proposal is denied, the response shall specify the conditions that would need to be met for the proposal to be approved.

"(b) Notice and Comment.—Not later than 30 days before the issuance of a final guideline to carry out this title, the President shall—

"(1) provide notice of the proposed guideline to nonprofit voluntary agencies and cooperatives that participate in programs under this title, and other interested persons, that the proposed guideline is available for review and comment;

"(2) make the proposed guideline available, on request, to the agencies, cooperatives, and others; and

"(3) take any comments received into consideration before the issuance of the final guideline.

"(c) Deadline for Submission of Commodity Orders.—Not later than 15 days after receipt of a call forward from a field mission for commodities or products that meets the requirements of this title, the order for the purchase or the supply, from inventory, of such commodities or products shall be transmitted to the Commodity Credit Corporation.".

I certify this to be a correct printing of the hand enrollment of Public Law 100-202 pursuant to section 101(n) of this joint resolution.

H.R. 3545, BUDGET RECONCILIATION ACT OF 1987

The text of the bill, H.R. 3545, follows:

H.R. 3545

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1987".

SEC. 2. TABLE OF CONTENTS.

Title I—Agriculture and related programs.
Title II—National Economic Commission.
Title III—Education programs.
Title IV—Medicare, medicaid, and other health-related programs.
Title V—Energy and environmental programs.
Title VI—Civil service and postal service programs.
Title VII—Veterans' programs.
Title VIII—Budget policy and fiscal procedures.
Title IX—Income security and related programs.
Title X—Revenues.

TITLE I—AGRICULTURE AND RELATED PROGRAMS

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This title may be cited as the "Agricultural Reconciliation Act of 1987".

(b) Table of Contents.—The table of contents is as follows:

TABLE OF CONTENTS

Sec. 1001. Short title; table of contents.

Subtitle A—Adjustments to Agricultural Commodity Programs

Sec. 1101. Target price reductions.
Sec. 1102. Loan rates.
Sec. 1103. Feed grain diversion program.
Sec. 1104. Price support reduction for non-target price commodities.
Sec. 1105. Loan rate differentials.
Sec. 1106. Storage cost adjustment.
Sec. 1107. Acreage limitation program for oats.
Sec. 1108. Producer reserve program.
Sec. 1109. Yield adjustments.
Sec. 1110. Advance payments.
Sec. 1111. Advanced emergency compensation payments for wheat.
Sec. 1112. Tobacco provisions.
Sec. 1113. Haying and grazing.

ENROLLMENT ERRATA

Pursuant to the provisions of section 8004 of this Act (appearing on page 280), changes made are indicated by footnote.

Subtitle B—Optional Acreage Diversion

Sec. 1201. Wheat optional acreage diversion program.
Sec. 1202. Feed grains optional acreage diversion program.
Sec. 1203. Regulations.

Subtitle C—Farm Program Payments

Sec. 1301. Prevention of the creation of entities to qualify as separate persons.
Sec. 1302. Payments limited to active farmers.
Sec. 1303. Definition of person: eligible individuals and entities; restrictions applicable to cash-rent tenants.
Sec. 1304. More effective and uniform application of payment limitations.
Sec. 1305. Regulations; transition rules; equitable adjustments.
Sec. 1306. Foreign persons made ineligible for program benefits.
Sec. 1307. Honey loan limitation.

Subtitle D—Prepayment of Rural Electrification Loans [1]

Chapter 1—Prepayment of Rural Electrification Loans

Sec. 1401. Prepayment of loans.
Sec. 1402. Use of funds.
Sec. 1403. Cushion of credit payments program.

Chapter 2—Rural Telephone Bank Borrowers

Sec. 1411. Rural Telephone Bank interest rates and loan prepayments.
Sec. 1412. Interest rate to be considered for purposes of assessing eligibility for loans.
Sec. 1413. Establishment of reserve for losses due to interest rate fluctuations.
Sec. 1414. Publication of Rural Telephone Bank policies and regulations.

Subtitle E—Miscellaneous

Sec. 1501. Marketing order penalties.
Sec. 1502. Study of use of agricultural commodity futures and options markets.
Sec. 1503. Authorization of appropriations for Philippine food aid initiative.
Sec. 1504. Rural industrialization assistance.
Sec. 1505. Plant variety protection fees.
Sec. 1506. Annual appropriations to reimburse the Commodity Credit Corporation for net realized losses.
Sec. 1507. Federal crop insurance.
Sec. 1508. Ethanol usage.
Sec. 1509. Demonstration of family independence program.

Subtitle A—Adjustments to Agricultural Commodity Programs

SEC. 1101. TARGET PRICE REDUCTIONS.

(a) Wheat.—Effective only for the 1988 and 1989 crops of wheat, section 107D(c)(1)(G) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(G)) is amended by striking out "$4.29 per bushel for the 1988 crop, $4.16 per bushel for the 1989 crop" and inserting in lieu thereof "$4.23 per bushel for the 1988 crop, $4.10 per bushel for the 1989 crop".

(b) Feed Grains.—Effective only for the 1988 and 1989 crops of feed grains, section 105C(c)(1)(E) of such Act (7 U.S.C. 1444e(c)(1)(E)) is amended by striking out "$2.97 per bushel for the 1988 crop, $2.88 per bushel for the 1989 crop" and inserting in lieu thereof "$2.93 per bushel for the 1988 crop, $2.84 per bushel for the 1989 crop".

(c) Cotton.—Effective only for the 1988 and 1989 crops of upland cotton, section 103A(c)(1)(D) of such Act (7 U.S.C. 1444-1(c)(1)(D)) is amended by striking out "$0.77 per pound for the 1988 crop, $0.745 per pound for the 1989 crop" and inserting in lieu thereof "$0.759 per pound for the 1988 crop, $0.734 per pound for the 1989 crop".

(d) Extra Long Staple Cotton.—Effective only for the 1988 and 1989 crops of extra long staple cotton, section 103(h)(3)(B) of such Act (7 U.S.C. 1444(h)(3)(B)) is amended—

(1) by striking out "The" and inserting in lieu thereof "Except as provided in clause (ii), the"; and

(2) by adding at the end thereof the following new clause:

"(ii) In the case of each of the 1988 and 1989 crops of extra long staple cotton, the established price for each such crop shall be 118.3 percent of the loan level determined for such crop under paragraph (2).".

(e) Rice.—Effective only for the 1988 and 1989 crops of rice, section 101A(c)(1)(D) of such Act (7 U.S.C. 1441-1(c)(1)(D)) is amended by striking out "$11.30 per hundredweight for the 1988 crop, $10.95 per hundredweight for the 1989 crop" and inserting in lieu thereof "$11.15 per hundredweight for the 1988 crop, $10.80 per hundredweight for the 1989 crop".

SEC. 1102. LOAN RATES.

(a) Wheat.—Effective only for the 1988 through 1990 crops of wheat, section 107D(a)(3)(B) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(a)(3)(B)) is amended by striking out "not be reduced by more than 5 percent from the level determined for the preceding crop." and inserting in lieu thereof the following: "not be reduced by more than—

"(i) in the case of the 1987 crop, 5 percent from the level determined for the preceding crop;

"(ii) in the case of the 1988 crop, 3 percent from the level determined for the preceding crop;

"(iii) in the case of the 1989 crop, 5 percent from the level determined for the preceding crop, plus an additional 2 percent from the level determined for the preceding crop if the Secretary, after taking into account any reduction that is provided for under paragraph (4)(A)(ii), determines that such additional percentage reduction is necessary to maintain a competitive market position for wheat; and

"(iv) in the case of the 1990 crop, 5 percent from the level determined for the preceding crop.".

(b) Feed Grains.—Effective only for the 1988 through 1990 crops of feed grains, section 105C(a)(2)(B) of such Act (7 U.S.C. 1444e(a)(2)(B)) is amended by striking out "not be reduced by more than 5 percent from the level determined for the preceding crop." and inserting in lieu thereof the following: "not be reduced by more than—

"(i) in the case of the 1987 crop, 5 percent from the level determined for the preceding crop;

"(ii) in the case of the 1988 crop, 3 percent from the level determined for the preceding crop;

"(iii) in the case of the 1989 crop, 5 percent from the level determined for the preceding crop, plus an additional 2 percent from the level determined for the preceding crop if the Secretary, after taking into account any reduction that is provided for under paragraph (3)(A)(ii), determines that such additional percentage reduction is necessary to maintain a competitive market position for feed grains; and

"(iv) in the case of the 1990 crop, 5 percent from the level determined for the preceding crop.".

(c) Cotton.—Effective only for the 1988 through 1990 crops of upland cotton, subparagraph (A) of section 103A(a)(2) of such Act (7 U.S.C. 1444-1(a)(2)(A)) is amended to read as follows:

"(A) The loan level for any crop determined under paragraph (1)(B) may not be reduced below 50 cents per pound nor more than—

"(i) in the case of the 1987 crop, 5 percent from the level determined for the preceding crop;

"(ii) in the case of the 1988 crop, 3 percent from the level determined for the preceding crop;

"(iii) in the case of the 1989 crop, 5 percent from the level determined for the preceding crop, plus an additional 2 percent from the level determined for the preceding crop if the Secretary determines that such additional percentage reduction is necessary to maintain a competitive market position for upland cotton; and

"(iv) in the case of the 1990 crop, 5 percent from the level determined for the preceding crop.".

(d) Rice.—Effective only for the 1988 through 1990 crops of rice, paragraph (2) of section 101A(a) of such Act (7 U.S.C. 1441-1(a)(2)) is amended to read as follows:

"(2) The loan level for any crop determined under paragraph (1)(B) may not be reduced by more than—

"(A) in the case of the 1987 crop, 5 percent from the level determined for the preceding crop;

"(B) in the case of the 1988 crop, 3 percent from the level determined for the preceding crop;

"(C) in the case of the 1989 crop, 5 percent from the level determined for the preceding crop, plus an additional 2 percent from the level determined for the preceding crop if the Secretary determines that such additional percentage reduction is necessary to maintain a competitive market position for rice; and

"(D) in the case of the 1990 crop, 5 percent from the level determined for the preceding crop.".

SEC. 1103. FEED GRAIN DIVERSION PROGRAM.

Effective only for the 1988 and 1989 crops of feed grains, section 105C(f)(5) of the Agricultural Act of 1949 (7 U.S.C. 1444e(f)(5)) is amended by adding at the end thereof the following new subparagraph:

"(D)(i) In the case of the 1988 and 1989 crops of corn, grain sorghums, and barley, except as provided in clause (ii), the Secretary shall make land diversion payments to producers of corn, grain sorghums, and barley, in accordance with this paragraph, under which the required reduction in the crop acreage base shall be 10 percent and the diversion payment rate shall be $1.75 per bushel for corn. The Secretary shall establish the diversion payment rate for grain sorghums and barley at such level as the Secretary determines is fair and reasonable in relation to the rate established for corn.

"(ii) In the case of the 1989 crop of corn, grain sorghums, or barley, the Secretary may waive the application of clause (i) if the Secretary determines that it is necessary to maintain an adequate supply of corn, grain sorghums, or barley.".

SEC. 1104. PRICE SUPPORT REDUCTION FOR NON-TARGET PRICE COMMODITIES.

(a) Tobacco.—Effective only for the 1988 and 1989 crops of tobacco, section 106(f) of the Agricultural Act of 1949 (7 U.S.C. 1445(f)) is amended by adding at the end thereof the following new paragraph:

"(8)(A) Notwithstanding any other provision of this subsection, in the case of each of the 1988 and 1989 crops of any kind of tobacco, the Secretary shall reduce the support level for such crop by an amount equal to 1.4 percent of the level otherwise established under this subsection. Any such reduction shall not be taken into consideration in determining the support level for a subsequent crop of tobacco.

"(B) In lieu of making any such reduction, the Secretary may impose assessments on the producers and purchasers in an amount sufficient to realize a reduction in outlays equal to the amount that would have been achieved as a result of the reduction required under subparagraph (A). Such assessments shall not apply to purchasers if it is judicially determined that the imposition of the purchaser assessment will adversely affect the contracts entered into under section 1109 of the Consolidated Omnibus Budget Reconciliation Act of 1986 (7 U.S.C. 1445-3).".

(b) Peanuts.—Effective only for the 1988 and 1989 crops of peanuts, section 108B of such Act (7 U.S.C. 1445c-2) is amended by adding at the end thereof the following new paragraph:

"(6) Notwithstanding any other provision of this section, in the case of each of the 1988 and 1989 crops of peanuts, the Secretary shall reduce outlays under the program provided for under this subsection by an amount equal to 1.4 percent of the amount of outlays that would otherwise be incurred

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[1] Copy read "loans".

in the absence of the reduction required by this paragraph.".

(c) HONEY.—Effective only for the 1987 through 1990 crops of honey, section 201(b)(1) of such Act (7 U.S.C. 1446(b)(1)) is amended by adding at the end thereof the following new subparagraph:

"(D) Notwithstanding the foregoing provisions of this paragraph, effective for each of the 1987 through 1990 crops, the loan and purchase level for honey that would otherwise apply under subparagraphs (B) and (C), without regard to this subparagraph, shall be reduced for loans and purchases made after the date of the enactment of this subparagraph by 2 cents per pound for the 1987 crop, ¾ cents per pound for the 1988 crop, ½ cent per pound for the 1989 crop, and ¼ cent per pound for the 1990 crop.".

(d) MILK.—Section 201(d)(2) of such Act (7 U.S.C. 1446(d)) is amended—

(1) in subparagraph (C), by striking out "subparagraph (A)" and inserting in lieu thereof "this paragraph"; and

(2) by adding at the end thereof the following new subparagraph:

"(F) During calendar year 1988, the Secretary shall provide for a reduction of 2½ cents per hundredweight to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use.".

(e) SUGAR.—Section 201(j) of such Act (7 U.S.C. 1446(j)) is amended by adding at the end thereof the following new paragraph:

"(7) Notwithstanding any other provision of this section, in the case of each of the 1988 and 1989 crops of sugar beets and sugarcane, the Secretary shall reduce outlays under the program provided for under this subsection by an amount equal to 1.4 percent of the amount of outlays that would otherwise be incurred in the absence of the reduction required by this paragraph.".

(f) WOOL AND MOHAIR.—Section 703(b) of the National Wool Act of 1954 (7 U.S.C. 1782) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) Except as provided in paragraphs (2) and (3), the";

(2) by striking out ": *Provided,*" and all that follows through the period and inserting in lieu thereof a period; and

(3) by adding at the end thereof the following new paragraphs:

"(2) Except as provided in paragraph (3), for the marketing years beginning January 1, 1982, and ending December 31, 1990, the support price for shorn wool shall be 77.5 percent (rounded to the nearest full cent) of the amount calculated according to paragraph (1).

"(3) For the marketing years beginning January 1, 1988, and ending December 31, 1989, the support price for shorn wool shall be 76.4 percent (rounded to the nearest full cent) of the amount calculated according to paragraph (1).".

SEC. 1105. LOAN RATE DIFFERENTIALS.

Section 403 of the Agricultural Act of 1949 (7 U.S.C. 1423) is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding provisions of this section, for each of the 1988 through 1990 crops of wheat and feed grains, no adjustment in the loan rate applicable to a particular region, State, or county for the purpose of reflecting transportation differentials may increase or decrease such regional, State, or county loan rate from the level established for the previous year by more than the percentage change in the national average loan rate plus or minus 2 percent.".

SEC. 1106. STORAGE COST ADJUSTMENT.

For the fiscal years 1988 and 1989, the Secretary of Agriculture shall ensure that expenditures of the Commodity Credit Corporation for commercial storage, transportation, and handling of commodities owned by the Corporation (excluding storage payments made in accordance with section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e)) are reduced by $230,000,000 in such fiscal years from the amount of funds otherwise projected to be expended in fiscal years 1988 and 1989 under the budget base determined under section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901) for commercial storage, transportation, and handling of such commodities. In order to achieve the savings required by this section, the Secretary shall adjust storage, handling, or transportation expenditures paid by the Corporation or take other appropriate actions.

SEC. 1107. ACREAGE LIMITATION PROGRAM FOR OATS.

Effective only for the 1988 through 1990 crops of feed grains, section 105C(f)(2) of the Agricultural Act of 1949 (7 U.S.C. 1444e(f)(2)) is amended by adding at the end thereof the following new subparagraph:

"(G) In the case of the 1988 through 1990 crops of oats, the Secretary shall not establish a percentage reduction in accordance with paragraph (1) in excess of 5 percent. In implementing this subparagraph, the Secretary shall issue regulations that provide for the fair and equitable treatment of producers on a farm for which an oat and barley crop acreage base has been established. To ensure the efficient and fair implementation of this subparagraph, the Secretary shall announce revisions of the acreage limitation program for the 1988 crop of feed grains that implement this subparagraph as soon as practicable after the date of enactment of the Agricultural Reconciliation Act of 1987. In the case of the 1990 crop of oats, the Secretary may waive the application of this subparagraph if the Secretary determines that the supply of oats will be excessive.".

SEC. 1108. PRODUCER RESERVE PROGRAM.

Subparagraph (A) of the fourth sentence of section 110(b) of the Agricultural Act of 1949 (7 U.S.C. 1445e(b)) is amended—

(1) in clause (i), by striking out "17 percent of the estimated total domestic and export usage of wheat during the then current marketing year for wheat, as determined by the Secretary" and inserting in lieu thereof "300 million bushels"; and

(2) in clause (ii), by striking out "7 percent of the estimated total domestic and export usage of feed grains during the then current marketing year for feed grains, as determined by the Secretary" and inserting in lieu thereof "450 million bushels".

SEC. 1109. YIELD ADJUSTMENTS.

Effective only for the 1988 through 1990 crops of wheat, feed grains, upland cotton, and rice, section 506(b)(2) of the Agricultural Act of 1949 (7 U.S.C. 1466(b)(2)) is amended by adding at the end thereof the following new subparagraph:

"(C) In the case of each of the 1988 through 1990 crop years for a commodity, if the farm program payment yield for a farm is reduced more than 10 percent below the farm program payment yield for the 1985 crop year, the Secretary shall make available to producers established price payments for the commodity in such amount as the Secretary determines is necessary to provide the same total return to producers as if the farm program payment yield had not been reduced more than 10 percent below the farm program payment yield for the 1985 crop year. Such payments shall be made available to producers at the time final deficiency payments are made available.".

SEC. 1110. ADVANCE PAYMENTS.

Effective only for the 1988 through 1990 crops of wheat, feed grains, upland cotton, and rice, section 107C(a) of the Agricultural Act of 1949 (7 U.S.C. 1445b-2(a)) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) If the Secretary establishes an acreage limitation or set-aside program for any of the 1988 through 1990 crops of wheat, feed grains, upland cotton, or rice under this Act and determines that deficiency payments will likely be made for such commodity for such crop, the Secretary shall make advance deficiency payments available to producers for each of such crops."; and

(2) in paragraph (2)(F), by striking out clause (iii) and inserting in lieu thereof the following new clause:

"(iii)(I) in the case of wheat and feed grains, not less than 40 percent, nor more than 50 percent, of the projected payment rate; and

"(II) in the case of rice and upland cotton, not less than 30 percent, nor more than 50 percent, of the projected payment rate,".

SEC. 1111. ADVANCED EMERGENCY COMPENSATION PAYMENTS FOR WHEAT.

Effective only for the 1987 through 1990 crops of wheat, section 107D(c)(1)(E) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(E)) is amended by adding at the end thereof the following new clauses:

"(iii) Notwithstanding any other provision of this Act, in the case of each of the 1987 through 1990 crops of wheat, the Secretary shall—

"(I) by December 1 of each of the marketing years for such crops (or, in the case of the 1987 crop, as soon as practicable after the date of enactment of the Agricultural Reconciliation Act of 1987), estimate the national weighted average market price, per bushel of wheat, received by producers during such marketing year;

"(II) by December 15 of such marketing year (or, in the case of the 1987 crop, as soon as practicable, but not later than 75 days, after the date of enactment of such Act), use the estimate to make available to producers who have elected the payment option authorized by this clause not less than 75 percent of the increase in established price payments estimated to be payable with respect to such crop under this subparagraph; and

"(III) adjust the amount of each final established price payment for wheat to reflect any difference between the amount of any estimated payment made under this clause and the amount of actual payment due under this subparagraph.

"(iv) Producers shall elect the payment option authorized by clause (iii)—

"(I) in the case of the 1987 crop of wheat, not later than 45 days after the date of the enactment of this clause; and

"(II) in the case of each of the 1988 through 1990 crops of wheat, at the time of entering into a contract to participate in the program established by this section for the crop.".

SEC. 1112. TOBACCO PROVISIONS.

(a) TRANSFER AUTHORITY.—Section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 316(h)) is amended by adding at the end thereof the following new subsection:

"(h)(1) Notwithstanding any other provision of this section, the Secretary may permit, after June 30 of any crop year, the lease and transfer of flue-cured tobacco quota assigned to a farm if—

"(A) the planted acreage of flue-cured tobacco on the farm to which the quota is assigned is determined by the Secretary to be equal to or greater than 90 percent of the farm's acreage allotment, or the planted acreage is determined to be sufficient to produce the farm marketing quota under average conditions; and

"(B) the farm's expected production of flue-cured tobacco is less than 80 percent of the farm's effective marketing quota as a result of a natural disaster condition.

"(2) Any lease and transfer of quota under this paragraph may be made to any other farm within the same State in accordance with regulations issued by the Secretary.".

(b) PERIODIC ADJUSTMENT OF YIELD FACTOR FOR[2] FLUE-CURED TOBACCO ACREAGE-POUNDAGE QUOTAS.—Section 317(a) of such Act (7 U.S.C. 1314c(a)) is amended by striking out "and at five year intervals thereafter" each place it appears in paragraphs (2), (4), and (6)(A).

(c) IMPROVED TOBACCO FIELD MEASUREMENT.—It is the sense of Congress that the Secretary of Agriculture should review current compliance procedures for acreage or poundage quotas with respect to cigar and dark-air and fire-cured tobaccos under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) to determine means of improving such procedures. The Secretary shall recommend to Congress changes in existing law that would be necessary to implement any such improvements.

SEC. 1113. HAYING AND GRAZING.

(a) WHEAT.—Effective only for the 1988 through 1990 crops of wheat, section 107D of the Agricultural Act of 1949 (7 U.S.C. 1445b-3) is amended—

(1) in subsection (c)(1)(K)—

(A) in clause (i)—

(i) by striking out "(i)"; and

(ii) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(B) by striking out clause (ii);

(2) in subsection (f)(4)—

(A) in subparagraph (B)—

(i) by striking out "Subject to subparagraph (C), the" and inserting in lieu thereof "The"; and

(ii) by striking out "hay and grazing,"; and

(B) by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph:

"(C)(i) Except as provided in clauses (ii) and (iii), haying and grazing of acreage designated as conservation use acreage for the purpose of meeting any requirements established under an acreage limitation program (including a program conducted under subsection (c)(1)(C)), set-aside program, or land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. Such 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on such acreage.

"(iii) Haying and grazing shall not be permitted for any crop under clause (i) if the Secretary determines that haying and grazing would have an adverse economic effect.".

(b) FEED GRAINS.—Effective only for the 1988 through 1990 crops of feed grains, section 105C of such Act (7 U.S.C. 1445b-3) is amended—

(1) in subsection (c)(1)(I)—

(A) in clause (i)—

(i) by striking out "(i)"; and

(ii) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(B) by striking out clause (ii);

(2) in subsection (f)(4)—

(A) in subparagraph (B)—

(i) by striking out "Subject to subparagraph (C), the" and inserting in lieu thereof "The"; and

(ii) by striking out "hay and grazing,"; and

(B) by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph:

"(C)(i) Except as provided in clauses (ii) and (iii), haying and grazing of acreage designated as conservation use acreage for the purpose of meeting any requirements established under an acreage limitation program (including a program conducted under subsection (c)(1)(B)), set-aside program, or land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. Such 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on such acreage.

"(iii) Haying and grazing shall not be permitted for any crop under clause (i) if the Secretary determines that haying and grazing would have an adverse economic effect.".

(c) COTTON.—Effective only for the 1988 through 1990 crops of upland cotton, section 103A of such Act (7 U.S.C. 1444-1) is amended—

(1) in subsection (c)(1)(G)—

(A) in clause (i)—

(i) by striking out "(i)"; and

(ii) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(B) by striking out clause (ii);

(2) in subsection (f)(3)—

(A) in subparagraph (B)—

(i) by striking out "Subject to subparagraph (C), the" and inserting in lieu thereof "The"; and

(ii) by striking out "hay and grazing,"; and

(B) by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph:

"(C)(i) Except as provided in clauses (ii) and (iii), haying and grazing of acreage designated as conservation use acreage for the purpose of meeting any requirements established under an acreage limitation program (including a program conducted under subsection (c)(1)(C)), set-aside program, or land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. Such 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on such acreage.

"(iii) Haying and grazing shall not be permitted for any crop under clause (i) if the Secretary determines that haying and grazing would have an adverse economic effect.".

(d) RICE.—Effective only for the 1988 through 1990 crops of rice, section 101A of such Act (7 U.S.C. 1441-1) is amended—

(1) in subsection (c)(1)(G)—

(A) in clause (i)—

(i) by striking out "(i)"; and

(ii) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(B) by striking out clause (ii);

(2) in subsection (f)(3)—

(A) in subparagraph (B)—

(i) by striking out "Subject to subparagraph (C), the" and inserting in lieu thereof "The"; and

(ii) by striking out "hay and grazing,"; and

(B) by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph:

"(C)(i) Except as provided in clauses (ii) and (iii), haying and grazing of acreage designated as conservation use acreage for the purpose of meeting any requirements established under an acreage limitation program (including a program conducted under subsection (c)(1)(B)), set-aside program, or land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. Such 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on such acreage.

"(iii) Haying and grazing shall not be permitted for any crop under clause (i) if the Secretary determines that haying and grazing would have an adverse economic effect.".

Subtitle B—Optional Acreage Diversion

SEC. 1201. WHEAT OPTIONAL ACREAGE DIVERSION PROGRAM.

Effective only for the 1988 through 1990 crops of wheat, section 107D(c)(1)(C) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(C)) is amended—

(1) in clause (i)(II), by striking out ", subject to the compliance of the producers with clause (ii)";

(2) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following new clauses:

"(ii) Notwithstanding any other provision of this section, any producer who elects to devote all or a portion of the permitted wheat acreage of the farm to conservation uses (or other uses as provided in subparagraph (K)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to wheat and eligible for payments under this subparagraph for such crop at a per-bushel rate established by the Secretary, except that such rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. Such projected payment rate for the crop shall be announced by the Secretary prior to the period during which wheat producers may agree to participate in the program for such crop.

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[2] Copy read "FOR".

"(iii) The Secretary shall implement this subparagraph in such a manner as to minimize the adverse effect on agribusiness and other agriculturally related economic interests within any county, State, or region. In carrying out this subparagraph, the Secretary is authorized to restrict the total amount of wheat acreage that may be taken out of production under this subparagraph, taking into consideration the total amount of wheat acreage that has or will be removed from production under other price support, production adjustment, or conservation program activities. No restrictions on the amount of acreage that may be taken out of production in accordance with this subparagraph in a crop year shall be imposed in the case of a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of a disaster that occurred during such crop year."; and

(3) in clause (iv)—

(A) by inserting "(or all)" after "such portion"; and

(B) by inserting "under this subparagraph" after "subparagraph (K))".

SEC. 1202. FEED GRAINS OPTIONAL ACREAGE DIVERSION PROGRAM.

Effective only for the 1988 through 1990 crops of feed grains, section 105C(c)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1444e(c)(1)(B)) is amended—

(1) in clause (i)(II), by striking out ", subject to the compliance of the producers with clause (ii)";

(2) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following new clauses:

"(ii) Notwithstanding any other provision of this section, any producer who elects to devote all or a portion of the permitted feed grain acreage of the farm to conservation uses (or other uses as provided in subparagraph (I)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to feed grains and eligible for payments under this subparagraph for such crop at a per-bushel rate established by the Secretary, except that such rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. Such projected payment rate for the crop shall be announced by the Secretary prior to the period during which feed grain producers may agree to participate in the program for such crop.

"(iii) The Secretary shall implement this subparagraph in such a manner as to minimize the adverse effect on agribusiness and other agriculturally related economic interests within any county, State, or region. In carrying out this subparagraph, the Secretary is authorized to restrict the total amount of feed grain acreage that may be taken out of production under this subparagraph, taking into consideration the total amount of feed grain acreage that has or will be removed from production under other price support, production adjustment, or conservation program activities. No restrictions on the amount of acreage that may be taken out of production in accordance with this subparagraph in a crop year shall be imposed in the case of a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of a disaster that occurred during such crop year."; and

(3) in clause (iv)—

(A) by inserting "(or all)" after "such portion"; and

(B) by inserting "under this subparagraph" after "subparagraph (I))".

SEC. 1203. REGULATIONS.

(a) In General.—Not later than 30 days after the date of enactment of this Act, the Secretary of Agriculture shall issue regulations implementing the amendments made to sections 107D(c)(1)(C) and 105C(c)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(C) and 1444e(c)(1)(B)) by sections 1201 and 1202, respectively.

(b) Nonreduction of Bases and Yields.—Such regulations shall include provisions that ensure that the wheat or feed grain crop acreage base and farm program payment yield for any farm will not be reduced if the producers on the farm set aside from production all, or a portion, of the producer's permitted acreage under the acreage diversion program under section 107D(c)(1)(C) or 105C(c)(1)(B) as amended by section 1201 or 1202, respectively.

(c) Effect on Landlord-Tenant Relations.—Such regulations shall ensure, to the maximum extent practicable, that the programs authorized under this subtitle will not adversely affect the relationships between landlords and tenants, regarding any crop acreage base entered into such programs, in existence on the date of enactment of this Act.

Subtitle C—Farm Program Payments

SEC. 1301. PREVENTION OF THE CREATION OF ENTITIES TO QUALIFY AS SEPARATE PERSONS.

(a) In General.—Effective beginning with the 1989 crops, the Food Security Act of 1985 is amended—

(1) in section 1001(1) (7 U.S.C. 1308), by striking out "For each" and inserting in lieu thereof "Subject to sections 1001A through 1001C, for each";

(2) in section 1001(2)—

(A) in subparagraph (A), by striking out "For each" and inserting in lieu thereof "Subject to sections 1001A through 1001C, for each"; and

(B) in subparagraph (C), by striking out "The total" and inserting in lieu thereof "Subject to sections 1001A through 1001C, the total"; and

(3) by inserting after section 1001 the following new section:

"SEC. 1001A. PREVENTION OF CREATION OF ENTITIES TO QUALIFY AS SEPARATE PERSONS; PAYMENTS LIMITED TO ACTIVE FARMERS.

"(a) Prevention of Creation of Entities to Qualify as Separate Persons.—For the purposes of preventing the use of multiple legal entities to avoid the effective application of the payment limitations under section 1001:

"(1) In general.—A person (as defined in section 1001(5)(B)(i)) that receives farm program payments (as described in paragraphs (1) and (2) of this section as being subject to limitation) for a crop year under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) may not also hold, directly or indirectly, substantial beneficial interests in more than two entities (as defined in section 1001(5)(B)(i)(II)) engaged in farm operations that also receive such payments as separate persons, for the purposes of the application of the limitations under section 1001. A person that does not receive such payments for a crop year may not hold, directly or indirectly, substantial beneficial interests in more than three entities that receive such payments as separate persons, for the purposes of the application of the limitations under section 1001.

"(2) Minimal beneficial interests.—For the purpose of this subsection, a beneficial interest in any entity that is less than 10 percent of all beneficial interests in such entity combined shall not be considered a substantial beneficial interest, unless the Secretary determines, on a case-by-case basis, that a smaller percentage should apply to one or more beneficial interests to ensure that the purpose of this subsection is achieved.

"(3) Notification by entities.—To facilitate administration of this subsection, each entity receiving such payments as a separate person shall notify each individual or other entity that acquires or holds a substantial beneficial interest in it of the requirements and limitations under this subsection. Each such entity receiving payments shall provide to the Secretary of Agriculture, at such times and in such manner as prescribed by the Secretary, the name and social security number of each individual, or the name and taxpayer identification number of each entity, that holds or acquires a substantial beneficial interest.

"(4) Notification of interest.—

"(A) In general.—If a person is notified that the person holds substantial beneficial interests in more than the number of entities receiving payments that is permitted under this subsection for the purposes of the application of the limitations under section 1001, the person immediately shall notify the Secretary, designating those entities that should be considered as permitted entities for the person for purposes of applying the limitations. Each remaining entity in which the person holds a substantial beneficial interest shall be subject to reductions in the payments to the entity subject to limitation under section 1001 in accordance with this subparagraph. Each such payment applicable to the entity shall be reduced by an amount that bears the same relation to the full payment that the person's beneficial interest in the entity bears to all beneficial interests in the entity combined. Before making such reductions, the Secretary shall notify all individuals or entities affected thereby and permit them to adjust among themselves their interests in the designated entity or entities.

"(B) Notice not provided.—If the person does not so notify the Secretary, all entities in which the person holds substantial beneficial interests shall be subject to reductions in the per person limitations under section 1001 in the manner described in subparagraph (A). Before making such reductions, the Secretary shall notify all individuals or entities affected thereby and permit them to adjust among themselves their interests in the designated entity or entities.".

SEC. 1302. PAYMENTS LIMITED TO ACTIVE FARMERS.

Effective beginning with the 1989 crops, section 1001A of the Food Security Act of 1985, as added by section 1301, is amended by adding at the end the following:

"(b) Payments Limited to Active Farmers.—

"(1) In general.—To be separately eligible for farm program payments (as described in paragraphs (1) and (2) of section 1001 as being subject to limitation) under the Agricultural Act of 1949 with respect to a particular farming operation (whether in the person's own right or as a partner in a general partnership, a grantor of a revocable trust, a participant in a joint venture, or a participant in a similar entity (as determined by the Secretary) that is the producer of the crops involved), a person must be an individual or entity described in section 1001(5)(B)(i) and actively engaged in farming with respect to such operation, as provided under paragraphs (2), (3), and (4).

"(2) GENERAL CLASSES ACTIVELY ENGAGED IN FARMING.[3]—For the purposes of paragraph (1), except as otherwise provided in paragraph (3):

"(A) INDIVIDUALS.—An individual shall be considered to be actively engaged in farming with respect to a farm operation if—

"(i) the individual makes a significant contribution (based on the total value of the farming operation) of—

"(I) capital, equipment, or land; and

"(II) personal labor or active personal management;

to the farming operation; and

"(ii) the individual's share of the profits or losses from the farming operation is commensurate with the individual's contributions to the operation; and

"(iii) the individual's contributions are at risk.

"(B) CORPORATIONS OR OTHER ENTITIES.—A corporation or other entity described in section 1001(5)(B)(i)(II) shall be considered as actively engaged in farming with respect to a farming operation if—

"(i) the entity separately makes a significant contribution (based on the total value of the farming operation) of capital, equipment, or land;

"(ii) the stockholders or members collectively make a significant contribution of personal labor or active personal management to the operation; and

"(iii) the standards provided in clauses (ii) and (iii) of paragraph (A), as applied to the entity, are met by the entity.

"(C) ENTITIES MAKING SIGNIFICANT CONTRIBUTIONS.—If a general partnership, joint venture, or similar entity (as determined by the Secretary) separately makes a significant contribution (based on the total value of the farming operation involved) of capital, equipment, or land, and the standards provided in clauses (ii) and (iii) of paragraph (A), as applied to the entity, are met by the entity, the partners or members making a significant contribution of personal labor or active personal management shall be considered to be actively engaged in farming with respect to the farming operation involved.

"(D) EQUIPMENT AND PERSONAL LABOR.—In making determinations under this subsection regarding equipment and personal labor, the Secretary shall take into consideration the equipment and personal labor normally and customarily provided by farm operators in the area involved to produce program crops.

"(3) SPECIAL CLASSES ACTIVELY ENGAGED IN FARMING.—Notwithstanding paragraph (2), the following persons shall be considered to be actively engaged in farming with respect to a farm operation:

"(A) LANDOWNERS.—A person that is a landowner contributing the owned land to the farming operation if the landowner receives rent or income for such use of the land based on the land's production or the operation's operating results, and the person meets the standard provided in clauses (ii) and (iii) of paragraph (2)(A).

"(B) FAMILY MEMBERS.—With respect to a farming operation conducted by persons, a majority of whom are individuals who are family members, an adult family member who makes a significant contribution (based on the total value of the farming operation) of active personal management or personal labor and, with respect to such contribution, who meets the standards provided in clauses (ii) and (iii) of paragraph (2)(A). For the purposes of the preceding sentence, the term 'family member' means an individual to whom another family member in the farming operation is related as lineal ancestor, lineal descendant, or sibling (including the spouses of those family members who do not make a significant contribution themselves).

"(C) SHARECROPPERS.—A sharecropper who makes a significant contribution of personal labor to the farming operation and, with respect to such contribution, who meets the standards provided in clauses (ii) and (iii) of paragraph (2)(A).

"(4) PERSONS NOT ACTIVELY ENGAGED IN FARMING.—For the purposes of paragraph (1), except as provided in paragraph (3), the following persons shall not be considered to be actively engaged in farming with respect to a farm operation:

"(A) LANDLORDS.—A landlord contributing land to the farming operation if the landlord receives cash rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for such use of the land.

"(B) OTHER PERSONS.—Any other person, or class of persons, determined by the Secretary as failing to meet the standards set out in paragraphs (2) and (3).

"(5) CUSTOM FARMING SERVICES.—A person receiving custom farming services will be considered separately eligible for payment limitation purposes if such person is actively engaged in farming based on paragraphs (1) through (3). No other rules with respect to custom farming shall apply.".

SEC. 1303. DEFINITION OF PERSON: ELIGIBLE INDIVIDUALS AND ENTITIES; RESTRICTIONS APPLICABLE TO CASH-RENT TENANTS.

Effective beginning with the 1989 crops:

(a) IN GENERAL.—Section 1001(5) of the Food Security Act of 1985 (7 U.S.C. 1308(5)) is amended—

(1) by inserting after the first sentence of subparagraph (A) the following new sentence: "Such regulations shall incorporate the provisions in subparagraphs (B) through (E) of this paragraph, paragraphs (6) and (7), and sections 1001A through 1001C.";

(2) by striking out the second sentence of subparagraph (A) and inserting in lieu thereof the following new subparagraph:

"(B)(i) For the purposes of the regulations issued under subparagraph (A), subject to clause (ii), the term 'person' means—

"(I) an individual, including any individual participating in a farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or a participant in a similar entity (as determined by the Secretary);

"(II) a corporation, joint stock company, association, limited partnership, charitable organization, or other similar entity (as determined by the Secretary), including any such entity or organization participating in the farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or as a participant in a similar entity (as determined by the Secretary); and

"(III) a State, political subdivision, or agency thereof.

"(ii)(I) Such regulations shall provide that the term 'person' does not include any cooperative association of producers that markets commodities for producers with respect to the commodities so marketed for producers.

"(II) In defining the term 'person' as it will apply to irrevocable trusts and estates, the Secretary shall ensure that fair and equitable treatment is given to trusts and estates and the beneficiaries thereof.

"(iii) Such regulations shall provide that, with respect to any married couple, the husband and wife shall be considered to be one person, except that any married couple consisting of spouses who, prior to their marriage, were separately engaged in unrelated farming operations, each spouse shall be treated as a separate person with respect to the farming operation brought into the marriage by such spouse so long as such operation remains as a separate farming operation, for the purposes of the application of the limitations under this section.";

(3) by redesignating subparagraph (B) as subparagraph (C); and

(4) by adding at the end thereof the following new subparagraphs:

"(D) Any person that conducts a farming operation to produce a crop subject to limitations under this section as a tenant that rents the land for cash (or a crop share guaranteed as to the amount of the commodity to be paid in rent) and that makes a significant contribution of active personal management but not of personal labor shall be considered the same person as the landlord unless the tenant makes a significant contribution of equipment used in the farming operation.

"(E) The Secretary may not approve (for purposes of the application of the limitations under this section) any change in a farming operation that otherwise will increase the number of persons to which the limitations under this section are applied unless the Secretary determines that the change is bona fide and substantive. In the implementation of the preceding sentence, the addition of a family member to a farming operation under the criteria set out in section 1001A(b)(1)(B) shall be considered a bona fide and substantive change in the farming operation.".

(b) LANDS OWNED BY STATES, POLITICAL SUBDIVISIONS, AND PUBLIC SCHOOLS.—Paragraph (6) of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308(6)) is amended to read as follows:

"(6) The provisions of this section that limit payments to any person shall not be applicable to land owned by a public school district or land owned by a State that is used to maintain a public school.".

SEC. 1304. MORE EFFECTIVE AND UNIFORM APPLICATION OF PAYMENT LIMITATIONS.

(a) EDUCATION PROGRAM.

(1) IN GENERAL.—The Secretary of Agriculture shall implement a payment provisions education program for appropriate personnel of the Department of Agriculture and members and other personnel of local, county, and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), for the purpose of fostering more effective and uniform application of the payment limitations and restrictions under sections 1001 through 1001C of the Food Security Act of 1985.

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[3] Copy read "CLASSES ACTIVELY ENGAGED IN FARMING".

(2) Training.—The education program shall provide training to such personnel in the fair, accurate, and uniform application to individual farming operations of the provisions of law and regulation relating to the payment provisions of sections 1001 through 1001C of the Food Security Act of 1985. Particular emphasis shall be given to the changes in the law made by sections 1301, 1302, and 1303 of this Act.

(3) Implementation.—The education program shall be fully implemented, and the training completed, not later than 30 days after the date final regulations are issued to carry out the amendments made by this subtitle.

(4) Commodity Credit Corporation.—The Secretary shall carry out the program provided under this subsection through the Commodity Credit Corporation.

(b) Schemes or Devices.—Effective beginning with the 1989 crops, the Food Security Act of 1985 is amended by inserting after section 1001A, as added by sections 1301 and 1302 of this Act, the following new section:

"SEC. 1001B. SCHEMES OR DEVICES.

"If the Secretary of Agriculture determines that any person has adopted a scheme or device to evade, or that has the purpose of evading, section 1001, 1001A, or 1001C, such person shall be ineligible to receive farm program payments (as described in paragraphs (1) and (2) of section 1001 as being subject to limitation) applicable to the crop year for which such scheme or device was adopted and the succeeding crop year.".

SEC. 1305. REGULATIONS; TRANSITION RULES; EQUITABLE ADJUSTMENTS.

(a) Regulations.—

(1) Issuance.—The Secretary of Agriculture shall issue—

(A) proposed regulations to carry out the amendments made by this subtitle not later than April 1, 1988; and

(B) final regulations to carry out such amendments not later than August 1, 1988.

(2) Field instructions.—Any field instructions relating to, or other supplemental clarifications of, the regulations issued under sections 1001 through 1001C of the Food Security Act of 1985 shall not be used in resolving issues involved in the application of the payment limitations or restrictions under such sections or regulations to individuals, other entities, or farming operations until copies of the publication are made available to the public.

(b) Allowance for Equitable Reorganizations.—To allow for the equitable reorganization of farming operations to conform to the limitations and restrictions contained in the amendments made to the Food Security Act of 1985 by this subtitle in cases in which the application of such limitations and restrictions will reduce payments to the farming operation (as determined by the Secretary), the Secretary may waive the application of the substantive change rule under section 1001(5)(E), as added by section 1303 of this Act, or any regulation of the Secretary containing a comparable rule, to any reorganization applied for prior to the final date when producers are eligible to enter into contracts to participate in the commodity programs established for the 1989 crop year, to the extent the Secretary determines appropriate to facilitate any such equitable reorganizations that does not increase such payments.

(c) Good Faith Reliance on Official Advice.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by adding at the end thereof the following new paragraph:

"(7) Regulations of the Secretary shall establish time limits for the various steps involved with notice, hearing, decision, and the appeals procedure in order to ensure expeditious handling and settlement of payment limitation disputes. Notwithstanding any other provision of law, actions taken by an individual or other entity in good faith on action or advice of an authorized representative of the Secretary may be accepted as meeting the requirement under this section or section 1001A, to the extent the Secretary deems it desirable in order to provide fair and equitable treatment.".

(d) Conservation Reserve Application.—Notwithstanding section 1234(f)(2) of the Food Security Act of 1985 (16 U.S.C. 3834(f)), paragraphs (5) through (7) of section 1001, as amended by this subtitle, and sections 1001A through 1001C, of the Food Security Act of 1985 shall apply to the conservation reserve program under subtitle D of title XII of such Act (16 U.S.C. 3831 et seq.) with respect to rental payments to persons under contracts entered into after the date of the enactment of this Act, except with respect to landlords that receive cash rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for the use of the land.

SEC. 1306. FOREIGN PERSONS MADE INELIGIBLE FOR PROGRAM BENEFITS.

Effective beginning with the 1989 crops, the Food Security Act of 1985 is amended by inserting after section 1001B, as added by section 1304 of this Act, the following new section:

"SEC. 1001C. FOREIGN PERSONS MADE INELIGIBLE FOR PROGRAM BENEFITS.

"Notwithstanding any other provision of law:

"(a) In General.—For each of the 1989 and 1990 crops, any person who is not a citizen of the United States or an alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) shall be ineligible to receive any type of production adjustment payments, price support program loans, payments, or benefits made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) with respect to any commodity produced, or land set aside from production, on a farm that is owned or operated by such person, unless such person is an individual who is providing land, capital, and a substantial amount of personal labor in the production of crops on such farm.

"(b) Corporations or Other Entities.—For purposes of subsection (a), a corporation or other entity shall be considered a person that is ineligible for production adjustment payments, price support program loans, payments, or benefits if more than 10 percent of the beneficial ownership of the entity is held by persons who are not citizens of the United States or aliens lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act, unless such persons provide a substantial amount of personal labor in the production of crops on such farm. Notwithstanding the foregoing provisions of this subsection, with respect to an entity that is determined to be ineligible to receive such payments, loans, or other benefits, the Secretary may make payments, loans, and other benefits in an amount determined by the Secretary to be representative of the percentage interests of the entity that is owned by citizens of the United States and aliens lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act.

"(c) Prospective Application.—No person shall become ineligible under this section for production adjustment payments, price support program loans, payments or benefits as the result of the production of a crop of an agricultural commodity planted, or commodity program or conservation reserve contract entered into, before the date of the enactment of this section.".

SEC. 1307. HONEY LOAN LIMITATION.

Section 1001(2)(C) of the Food Security Act of 1985 (7 U.S.C. 1308(2)(C)) is amended—

(1) by striking out clause (i); and

(2) in clause (ii), by striking out "(ii)".

Subtitle D—Rural Electrification Administration Programs

CHAPTER 1—PREPAYMENT OF RURAL ELECTRIFICATION LOANS

SEC. 1401. PREPAYMENT OF LOANS.

(a) Eligibility to Prepay.—Notwithstanding subsections (c), (d), and (e) of section 306A of the Rural Electrification Act of 1936 (7 U.S.C. 936a (c), (d), and (e)), during fiscal year 1988, a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of such Act (7 U.S.C. 936) may, at the option of the borrower, prepay such loan (or any loan advance thereunder) in accordance with subsections (a) and (b) of section 306A of such Act, except that any prepayment that would cause the total amount of such prepayments during fiscal year 1988 to exceed $2,000,000,000 shall be subject solely to the approval of the Secretary of the Treasury.

(b) Priority for Approval.—In determining which borrowers shall be permitted to prepay loans under subsection (a):

(1) The Administrator of the Rural Electrification Administration shall give priority to those 8 borrowers that were determined by the Administrator, prior to the date of the enactment of this Act, to be eligible to prepay, or that prepaid, an advance under section 306A of such Act (as in effect prior to the date of the enactment of this Act), except that to retain such priority a borrower shall—

(A) notify the Administrator in writing, within 30 days after the issuance of regulations to carry out this section, of the intent of the borrower to prepay; and

(B) complete such prepayment by disbursing funds to the Federal Financing Bank to prepay loan advances within 120 days after the issuance of such regulations.

(2) In considering requests for prepayment under subsection (a) by borrowers not described in paragraph (1), the Administrator shall permit prepayment based on the order in which borrowers are prepared to disburse funds to the Federal Financing Bank to complete such prepayments. If more than 1 borrower is so prepared at the same time, and if the combined amount of such prepayments would cause the total amount of prepayments during fiscal year 1988, under this section, to exceed $2,000,000,000, the Administrator shall—

(A) base the determination on the date on which prepayment applications have been submitted; or

(B) permit partial prepayment by two or more borrowers.

(c) Regulations.—Not later than 30 days after the date of enactment of this Act, the Administrator of the Rural Electrification Administration shall issue such regulations as are necessary to carry at this section.

(d) Study.—Not later than January 1, 1989, the Comptroller General of the United States shall—

(1) study—

(A) all benefits provided by Federal Financing Bank lending and the procedures and conditions for the prepayment of current Federal Financing Bank loans;

(B) the benefits and costs to Federal Financing Bank borrowers of making prepayments; and

(C) alternative conditions and procedures for prepayment of all Federal Financing Bank loans to balance Federal benefits with Federal costs; and

(2) submit to Congress a report describing the results of such study, together with any appropriate recommendations.

SEC. 1402. USE OF FUNDS.

The Rural Electrification Act of 1936 is amended by inserting after section 311 (7 U.S.C. 940a) the following new section:

"SEC. 312. USE OF FUNDS.

"A borrower of an insured or guaranteed electric loan under this Act may, without restriction or prior approval of the Administrator, invest its own funds or make loans or guarantees, not in excess of 15 percent of its total utility plant.".

SEC. 1403. CUSHION OF CREDIT PAYMENTS PROGRAM.

Title III of the Rural Electrification Act of 1936 (as amended by section 1402 of this Act) is amended by adding at the end thereof the following new section:

"SEC. 313. CUSHION OF CREDIT PAYMENTS PROGRAM.

"(a) Establishment.—

"(1) In general.—The Administrator shall develop and promote a program to encourage borrowers to voluntarily make deposits into cushion of credit accounts established within the Rural Electrification and Telephone Revolving Fund.

"(2) Interest.—Amounts in each cushion of credit account shall accrue interest to the borrower at a rate of 5 percent per annum.

"(3) Balance.—A borrower may reduce the balance of its cushion of credit account only if the amount obtained from the reduction is used to make scheduled payments on loans made or guaranteed under this Act.

"(b) Uses of Cushion of Credit Payments.—

"(1) In general.—

"(A) Cash balance.—Cushion of credit payments shall be held in the Rural Electrification and Telephone Revolving Fund as a cash balance in the cushion of credit accounts of borrowers.

"(B) Interest.—All cash balance amounts (obtained from cushion of credit payments, loan payments, and other sources) held by the Fund shall bear interest to the Fund at a rate equal to the weighted average rate on outstanding certificates of beneficial ownership issued by the Fund.

"(C) Credits.—The amount of interest accrued on the cash balances shall be credited to the Fund as an offsetting reduction to the amount of interest paid by the Fund on its certificates of beneficial ownership.

"(2) Rural economic development subaccount.—

"(A) Maintenance of account.—The Administrator shall maintain a subaccount within the Rural Electrification and Telephone Revolving Fund to which shall be credited, on a monthly basis, a sum determined by multiplying the outstanding cushion of credit payments made after October 1, 1987, by the difference (converted to a monthly basis) between the average weighted interest rate paid on outstanding certificates of beneficial ownership issued by the Fund and the 5 percent rate of interest provided to borrowers on cushion of credit payments.

"(B) Grants.—The Administrator is authorized, from the interest differential sums credited this subaccount and from any other funds made available thereto, to provide grants or zero interest loans to borrowers under this Act for the purpose of promoting rural economic development and job creation projects, including funding for project feasibility studies, start-up costs, incubator projects, and other reasonable expenses for the purpose of fostering rural development.

"(C) Repayments.—In the case of zero interest loans, the Administrator shall establish such reasonable repayment terms as will ensure borrower participation.

"(D) Proceeds.—All proceeds from the repayment of such loans shall be returned to the subaccount.

"(E) Number of grants.—Such loans and grants shall be made during each fiscal year to the full extent of the amounts held by the rural economic development subaccount, subject only to limitations as may be from time-to-time imposed by law.".

CHAPTER 2—RURAL TELEPHONE BANK BORROWERS

SEC. 1411. RURAL TELEPHONE BANK INTEREST RATES AND LOAN PREPAYMENTS.

(a) Findings.—Congress finds that—

(1) overcharging of Rural Telephone Bank borrowers has resulted in $179,000,000 in excess profits and has imperiled borrowers by raising costs to ratepayers;

(2) borrowers will be able to seek redress under section 408(b)(3)(G) of the Rural Electrification Act of 1936, as added by subsection (c), or may leave the Rural Telephone Bank, but in no case may the Governor of the Bank issue regulations requiring any penalty from borrowers seeking to retire debt prior to maturity; and

(3) any reduction in Federal Government[4] expenditures in the operation of the Rural Telephone Bank, from borrowers' conduct resulting from the implementation of the amendments made by subsections (b) and (c), should be included in all calculations of the budget of the United States Government, authorized under the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987.

(b) Rural Telephone Bank Loan Prepayments.—[5]

(1) Prepayments authorized.—Section 408(b) of the Rural Electrification Act of 1936 (7 U.S.C. 948(b)) is amended by adding at the end the following new paragraph:

"(8) A borrower with a loan from the Rural Telephone Bank may prepay such loan (or any part thereof) by paying the face amount thereof without being required to pay the prepayment penalty set forth in the note covering such loan, if such prepayment is not made later than September 30, 1988.".

(2) Prepayment regulations.—The Governor of the Rural Telephone Bank shall issue regulations to carry out the amendment made by paragraph (1) within 30 days after the date of enactment of this Act. Such regulations shall implement the amendment made by paragraph (1) without the addition of any restrictions not set forth in such amendment.

(c) Determination of Interest Rates on Rural Telephone Bank Loans.—Paragraph (3) of section 408(b) of the Rural Electrification Act of 1936 (7 U.S.C. 948(b)(3)) is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) On and after the date of the enactment of this paragraph, advances made on or after such date of enactment under loan commitments made on or after October 1, 1987, shall bear interest at the rate determined under subparagraph (C), but in no event at a rate that is less than 5 percent per annum.

"(C) The rate determined under this subparagraph shall be—

"(i) for the period beginning on the date the advance is made and ending at the close of the fiscal year in which the advance is made, the average yield (on the date of the advance) on outstanding marketable obligations of the United States having a final maturity comparable to the final maturity of the advance; and

"(ii) after the fiscal year in which the advance is made, the cost of money rate for such fiscal year, as determined under subparagraph (D).

"(D) Within 30 days after the end of each fiscal year, the Governor shall determine to the nearest 0.01 percent the cost of money rate for the fiscal year, by calculating the sum of the results of the following calculations:

"(i) The aggregate of all amounts received by the telephone bank during the fiscal year from the issuance of class A stock, multiplied by the rate of return payable by the telephone bank during the fiscal year, as specified in section 406(c), to holders of class A stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

"(ii) The aggregate of all amounts received by the telephone bank during the fiscal year from the issuance of class B stock, multiplied by the rate at which dividends are payable by the telephone bank during the fiscal year, as specified in section 406(d), to holders of class B stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

"(iii) The aggregate of all amounts received by the telephone bank during the fiscal year from the issuance of class C stock, multiplied by the rate at which dividends are payable by the telephone bank during the fiscal year, under section 406(e), to holders of class C stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

"(iv)(I) The sum of the results of the calculations described in subclause (II).

"(II) The amounts received by the telephone bank during the fiscal year from each issue of telephone debentures and other obligations of the telephone bank, multiplied, respectively, by the rates at which interest is payable during the fiscal year by the telephone bank to holders of each issue, each of which products is divided, respectively, by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

"(v)(I) The amount by which the aggregate of the amounts advanced by the telephone bank during the fiscal year exceeds the aggregate of the amounts received by the telephone bank from the issuance of class A stock, class B stock, class C stock, and telephone debentures and other obligations of the telephone bank during the fiscal year, multiplied by the historic cost of money rate as of the close of the fiscal year immediately preceding the fiscal year, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

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[4] Copy read "government".

[5] Copy read "Prepayments.".

"(II) For purposes of this clause, the term 'historic cost of money rate', with respect to the close of a preceding fiscal year, means the sum of the results of the following calculations: The amounts advanced by the telephone bank in each fiscal year during the period beginning with fiscal year 1974 and ending with the preceding fiscal year, multiplied, respectively, by the cost of money rate for the fiscal year (as set forth in the table in subparagraph (E)) for fiscal years 1974 through 1987, and as determined by the Governor under this subparagraph for fiscal years after fiscal year 1987), each of which products is divided, respectively, by the aggregate of the amounts advanced by the telephone bank during the period.

"(E) For purposes of subparagraph (D)(II), the cost of money rate for the fiscal years in which each advance was made shall be as set forth in the following table:

"For advances made in—	The cost of money rate shall be—
Fiscal year 1974	5.01 percent
Fiscal year 1975	5.85 percent
Fiscal year 1976	5.33 percent
Fiscal year 1977	5.00 percent
Fiscal year 1978	5.87 percent
Fiscal year 1979	5.93 percent
Fiscal year 1980	8.10 percent
Fiscal year 1981	9.46 percent
Fiscal year 1982	8.39 percent
Fiscal year 1983	6.99 percent
Fiscal year 1984	6.55 percent
Fiscal year 1985	5.00 percent
Fiscal year 1986	5.00 percent
Fiscal year 1987	5.00 percent.

For purposes of this subparagraph, the term 'fiscal year' means the 12-month period ending on September 30 of the designated year.

"(F)(i) Notwithstanding subparagraph (B), if a borrower holds a commitment for a loan under this section made on or after October 1, 1987, and before the date of the enactment of this paragraph, part or all of the proceeds of which have not been advanced as of such date of enactment, the borrower may, until the later of the date the next advance under the loan commitment is made or 90 days after such date of enactment, elect to have the interest rate specified in the loan commitment apply to the unadvanced portion of the loan in lieu of the rate which (but for this clause) would apply to the unadvanced portion under this paragraph. If any borrower makes an election under this clause with respect to a loan, the Governor shall adjust the interest rate which applies to the unadvanced portion of the loan accordingly.

"(ii)(I) If the telephone bank, pursuant to section 407(b), issues telephone debentures on any date to refinance telephone debentures or other obligations of the telephone bank, the telephone bank shall, in addition to any interest rate reduction required by any other provision of this paragraph, for the period applicable to the advance, reduce the interest rate charged on each advance made under this section during the fiscal year in which the refinanced debentures or other obligations were originally issued by the amount applicable to the advance.

"(II) For purposes of subclause (I), the term 'the period applicable to the advance' means the period beginning on the issue date described in subclause (I) and ending on the earlier of the date the advance matures or is completely prepaid.

"(III) For purposes of subclause (I), the term 'the amount applicable to the advance' means an amount which fully reflects that percentage of the funds saved by the telephone bank as a result of the refinancing which is equal to the percentage representation of the advance in all advances described in subclause (I).

"(IV) Within 60 days after any issue date described in subclause (I), the Governor shall amend the loan documentation for each advance described in subclause (I), as necessary, to reflect any interest rate reduction applicable to the advance by reason of this clause, and shall notify each affected borrower of the reduction.

"(G) Within 30 days after the publication of any determination made under subparagraph (D), any affected borrower may obtain review of the determination, or any other equitable relief as may be determined appropriate, by the United States court of appeals for the judicial circuit in which the borrower does business by filing a written petition requesting the court to set aside or modify such determination. On receipt of such a petition, the clerk of the court shall transmit a copy of the petition to the Governor. On receipt of a copy of such a petition from the clerk of the court, the Governor shall file with the court the record on which the determination is based. The court shall have jurisdiction to affirm, set aside, or modify the determination.

"(H) Within 5 days after determining the cost of money rate for a fiscal year, the Governor shall—

"(i) cause the determination to be published in the Federal Register in accordance with section 552 of title 5, United States Code; and

"(ii) furnish a copy of the determination to the Comptroller General of the United States.

"(I) The Comptroller General shall review, on an expedited basis, each determination a copy of which is received from the Governor and, within 15 days after the date of such receipt, furnish Congress a report on the accuracy of the determination.

"(J) The telephone bank shall not sell or otherwise dispose of any loan made under this section, except as provided in this paragraph.".

SEC. 1412. INTEREST RATE TO BE CONSIDERED FOR PURPOSES OF ASSESSING ELIGIBILITY FOR LOANS.

Paragraph (4) of section 408(b) of the Rural Electrification Act of 1936 (7 U.S.C. 948(b)(4)) is amended by inserting at the end the following: "For purposes of determining the creditworthiness of a borrower for a loan under this paragraph, the Governor shall assume that the loan, if made, would bear interest at a rate equal to the average yield (on the date of the determination) on outstanding marketable obligations of the United States having a final maturity comparable to the final maturity of the loan.".

SEC. 1413. ESTABLISHMENT OF RESERVE FOR LOSSES DUE TO INTEREST RATE FLUCTUATIONS.

(a) ESTABLISHMENT OF RESERVE; FUNDING.—Section 406 of the Rural Electrification Act of 1936 (7 U.S.C. 947) is amended by adding at the end the following:

"(h) There is hereby established in the telephone bank a reserve for losses due to interest rate fluctuations. Within 30 days after the date of the enactment of this subsection, the Governor of the telephone bank shall transfer to the reserve for losses due to interest rate fluctuations all amounts in the reserve for contingencies as of the date of the enactment of this subsection. Amounts in the reserve for interest rate fluctuations may be expended only to cover operating losses of the telephone bank (other than losses attributable to loan defaults) and only after taking into consideration any recommendations made by the General Accounting Office under section 1413(b) of the Rural Telephone Bank Borrowers Fairness Act of 1987.".

(b) STUDY BY GENERAL ACCOUNTING OFFICE.—Within 180 days after the date of the enactment of this Act, the General Accounting Office shall complete a study of operations of the telephone bank and report its recommendations to the Committees on Agriculture and Government Operations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate with respect to—

(1) the appropriate level of funding for the reserve for losses due to interest rate fluctuations established in section 406(h) of the Rural Electrification Act of 1936 (7 U.S.C. 947(h)) (as added by subsection (a));

(2) the circumstances under which amounts in the reserve for losses due to interest rate fluctuations should be expended;

(3) the circumstances under which amounts should be added to the reserve for losses due to interest rate fluctuations; and

(4) the disposition of excess reserves.

In such study, the General Accounting Office shall consider the effects of such recommendations on telephone bank borrowers, the subscribers of such borrowers, and the United States Government.

(c) LIMITATION ON ESTABLISHMENT OF NEW RESERVES.—Subsection (g) of section 406 of the Rural Electrification Act of 1936 (7 U.S.C. 947(g)) is amended—

(1) by striking out "reserves for losses," and inserting in lieu thereof "the reserve for loan losses,"; and

(2) by adding at the end the following: "The telephone bank may not establish any reserve other than the reserves referred to in this subsection and in subsection (h).".

SEC. 1414. PUBLICATION OF RURAL TELEPHONE BANK POLICIES AND REGULATIONS.

Notwithstanding the exemption contained in section 553(a)(2) of title 5, United States Code, the Governor of the telephone bank shall cause to be published in the Federal Register, in accordance with section 553 of title 5, United States Code, all rules, regulations, bulletins, and other written policy standards governing the operation of the telephone bank's programs relating to public property, loans, grants, benefits, or contracts. After September 30, 1988, the telephone bank may not deny a loan or advance to, or take any other adverse action against, any applicant or borrower for any reason which is based upon a rule, regulation, bulletin, or other written policy standard which has not been published pursuant to such section.

Subtitle E—Miscellaneous

SEC. 1501. MARKETING ORDER PENALTIES.

Section 8c(14) of the Agricultural Adjustment Act of 1933 (7 U.S.C. 608c(14)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) by inserting "(A)" before "Any"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) Any handler subject to an order issued under this section, or any officer, director, agent, or employee of such handler, who violates any provision of such order (other than a provision calling for payment of a pro rata share of expenses) may be assessed a civil penalty by the Secretary not exceeding $1,000 for each such violation. Each day during which such violation continues shall be deemed a separate violation, except that if the Secretary finds that a petition pursuant to paragraph (15) was filed and prosecuted by the handler in good faith and not for delay, no civil penalty may be assessed under this paragraph for such violations as occurred between the date on which the handler's petition was filed with the Secretary, and the date on which notice of the Secretary's ruling thereon was given to the handler in accordance with regulations prescribed pursuant to paragraph (15). The Secretary may issue an order assessing a civil penalty under this paragraph only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable in the district courts of the United States in any district in which the handler subject to the order is an inhabitant, or has the handler's principal place of business. The validity of such order may not be reviewed in an action to collect such civil penalty.".

SEC. 1502. STUDY OF USE OF AGRICULTURAL COMMODITY FUTURES AND OPTIONS MARKETS.

The last sentence of section 1742 of the Food Security Act of 1985 (7 U.S.C. 1421 note) is amended by striking out "1988" and inserting in lieu thereof "1989".

SEC. 1503. AUTHORIZATION OF APPROPRIATIONS FOR PHILIPPINE FOOD AID INITIATIVE.

Section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) is amended by adding at the end thereof the following new paragraph:

"(12) There is authorized to be appropriated for fiscal year 1988, in addition to any other funds authorized to be appropriated, $1,000,000 for technical assistance for the sale or barter of commodities under paragraph (7) to strengthen nonprofit private organizations and cooperatives in the Philippines.".

SEC. 1504. RURAL INDUSTRIALIZATION ASSISTANCE.

Section 310B(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(c)) is amended—

(1) by inserting "and private nonprofit corporations" after "public bodies"; and

(2) by striking out "to facilitate development of" and inserting in lieu thereof "to finance and facilitate development of small and emerging".

SEC. 1505. PLANT VARIETY PROTECTION FEES.

Section 31 of the Plant Variety Protection Act (7 U.S.C. 2371) is amended to read as follows:

"SEC. 31. PLANT VARIETY PROTECTION FEES.

"(a) IN GENERAL.—The Secretary shall, under such regulations as the Secretary may prescribe, charge and collect reasonable fees for services performed under this Act.

"(b) LATE PAYMENT PENALTY.—On failure to pay such fees, the Secretary shall assess a late payment penalty. Such overdue fees shall accrue interest as required by section 3717 of title 31, United States Code.

"(c) DISPOSITION OF FUNDS.—Such fees, late payment penalties, and accrued interest collected shall be credited to the account that incurs the cost and shall remain available without fiscal year limitation to pay the expenses incurred by the Secretary in carrying out this Act. Such funds collected (including late payment penalties and any interest earned) may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments.

"(d) ACTIONS FOR NONPAYMENT.—The Attorney General may bring an action for the recovery of charges that have not been paid in accordance with this Act against any person obligated for payment of such charges under this Act in any United States district court or other United States court for any territory or possession in any jurisdiction in which the person is found, resides, or transacts business. The court shall have jurisdiction to hear and decide the action.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act.".

SEC. 1506. ANNUAL APPROPRIATIONS TO REIMBURSE THE COMMODITY CREDIT CORPORATION FOR NET REALIZED LOSSES.

(a) IN GENERAL.—The first sentence of section 2 of Public Law 87-155 (15 U.S.C. 713a-11) is amended by striking out ", commencing with the fiscal year ending June 30, 1961" and inserting in lieu thereof "by means of a current, indefinite appropriation".

(b) OPERATING EXPENSES.—No funds may be appropriated for operating expenses of the Commodity Credit Corporation except as authorized under section 2 of Public Law 87-155 to reimburse the Corporation for net realized losses.

(c) EFFECTIVE DATE.—This section and the amendment made by this section shall apply beginning with fiscal year 1988.

SEC. 1507. FEDERAL CROP INSURANCE.

It is the sense of Congress that, in carrying out the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation—

(1) should not be required to assume 100 percent of all loss adjustments in the Federal crop insurance program; and

(2) should assume and perform the loss adjustment obligations of a reinsured company if the Corporation determines that such company's loss adjustment performance and practices are not carried out in accordance with the applicable reinsurance agreement.

SEC. 1508. ETHANOL USAGE.

(a) FINDINGS.—Congress finds that—

(1) the United States is dependent for a large and growing share of its energy needs on the Middle East at a time when world petroleum reserves are declining;

(2) the burning of gasoline causes pollution;

(3) ethanol can be blended with gasoline to produce a cleaner source of fuel;

(4) ethanol can be produced from grain, a renewable resource that is in considerable surplus in the United States;

(5) the conversion of grain into ethanol would reduce farm program costs and grain surpluses; and

(6) increasing the quantity of motor fuels that contain at least 10 percent ethanol from current levels to 50 percent by 1992 would create thousands of new jobs in ethanol production facilities.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Administrator of the Environmental Protection Agency should use authority provided under the Clean Air Act (42 U.S.C. 7401 et seq.) to require greater use of ethanol as motor fuel.

SEC. 1509. DEMONSTRATION OF FAMILY INDEPENDENCE PROGRAM.

The Food Stamp Act of 1977 is amended by adding after section 20 (7 U.S.C. 2029) the following new section:

"SEC. 21. DEMONSTRATION OF FAMILY INDEPENDENCE PROGRAM.

"(a) IN GENERAL.—Upon written application of the State of Washington (in this section referred to as the 'State') and after the approval of such application by the Secretary, the State may conduct a Family Independence Demonstration Project (in this section referred to as the 'Project') in all or in part of the State in accordance with this section to determine whether the Project, as an alternative to providing benefits under the food stamp program, would more effectively break the cycle of poverty and would provide families with opportunities for economic independence and strengthened family functioning.

"(b) NATURE OF PROJECT.—In an application submitted under subsection (a), the State shall provide the following:

"(1) Except as provided in this section, the provisions of chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall apply to the operation of the Project.

"(2) All of the following terms and conditions shall be in effect under the Project:

"(A)(i) Except as provided in clause (ii), individuals with respect to whom benefits may be paid under part A of title IV of the Social Security Act, and such other individuals as are included in the Project pursuant to chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall be eligible to participate in the Project in lieu of receiving benefits under the food stamp program and cash assistance under any other Federal program covered by the Project.

"(ii) Individuals who receive only child care or medical benefits under the Project shall not be eligible to receive food assistance under the Project. Such individuals may receive coupons under the food stamp program if eligible.

"(B) Individuals who participate in the Project shall receive for each month an amount of cash assistance that is not less than the total value of the assistance such individuals would otherwise receive, in the aggregate, under the food stamp program and any cash-assistance Federal program covered by the Project for such month, including income and resource exclusions and deductions, and benefit levels.

"(C)(i) The State may provide a standard benefit for food assistance under the Project, except that individuals who participate in the Project shall receive as food assistance for a month an amount of cash that is not less than the value of the assistance such individuals would otherwise receive under the food stamp program.

"(ii) The State may provide a cash benefit for food assistance equal to the value of the thrifty food plan.

"(D) Each month participants in the Project shall be notified by the State of the amount of Project assistance that is provided as food assistance for such month.

"(E) The State shall have a program to require participants to engage in employment and training activities carried out under chapter 434 of the 1987 Washington Laws, as enacted in May 1987.[6]

"(F) Food assistance shall be provided under the Project—

"(i) to any individual who is accepted for participation in the Project, not later than 30 days after such individual applies to participate in the Project;

"(ii) to any participant for the period that begins on the date such participant applies to participate in the Project, except that the amount of such assistance shall be reduced to reflect the pro rata value of any coupons received under the food stamp program for such period for the benefit of such participant; and

"(iii) until—

"(I) the participant's cash assistance under the Project is terminated;

"(II) such participant is informed of such termination and is advised of the eligibility requirements for participation in the food stamp program;

"(III) the State determines whether such participant will be eligible to receive coupons as a member of a household under the food stamp program; and

"(IV) coupons under the food stamp program are received by such participant if such participant will be eligible to receive coupons as a member of a household under the food stamp program.

"(G)(i)[7] Paragraphs (1)(B), (8), (10), and (19) of section 11(e) shall apply with respect to the participants in the Project in the same manner as such paragraphs apply with respect to participants in the food stamp program.

"(ii) Each individual who contacts the State in person during office hours to make what may reasonably be interpreted as an oral or written request to participate in the Project shall receive and shall be permitted to file on the same day that such contact is first made, an application form to participate in the Project.

"(iii) The Project shall provide for telephone contact by, mail delivery of forms to and mail return of forms by, and subsequent home or telephone interview with, the elderly persons, physically or mentally handicapped, and persons otherwise unable, solely because of transportation difficulties and similar hardships, to appear in person.

"(iv) An individual who applies to participate in the Project may be represented by another person in the review process if the other person has been clearly designated as the representative of such individual for that purpose, by such individual or the spouse of such individual, and, in the case of the review process, the representative is an adult who is sufficiently aware of relevant circumstances, except that the State may—

"(I) restrict the number of individuals who may be represented by such person; and

"(II) otherwise establish criteria and verification standards for representation under this clause.

"(v) The State shall provide a method for reviewing applications to participate in the Project submitted by, and distributing food assistance under the Project to, individuals who do not reside in permanent dwellings or who have no fixed mailing address. In carrying out the preceding sentence, the State shall take such steps as are necessary to ensure that participation in the Project is limited to eligible individuals.

"(3) An assurance that the State will allow any individual to apply to participate in the food stamp program without applying to participate in the Project.

"(4) An assurance that the cost of food assistance provided under the Project will not be such that the aggregate amount of payments made under this section by the Secretary to the State over the period of the Project will exceed the sum of—

"(A) the anticipated aggregate value of the coupons that would have been distributed under the food stamp program if the individuals who participate in the Project had participated instead in the food stamp program; and

"(B) the portion of the administrative costs for which the State would have received reimbursement under—

"(i) subsections (a) and (g) of section 16 (without regard to the first proviso to such subsection (g)) if the individuals who participated in the Project had participated instead in the food stamp program; and

"(ii) section 16(h) if the individuals who participated in the Project had participated in an employment and training program under section 6(d)(4);

except that this paragraph shall not be construed to prevent the State from claiming payments for additional households that would qualify for benefits under the food stamp program in the absence of a cash out of such benefits as a result of changes in economic, demographic, and other conditions in the State or a subsequent change in the benefit levels approved by the State legislature.

"(5) An assurance that the State will continue to carry out the food stamp program while the State carries out the Project.

"(6) If there is a change in existing State law that would eliminate guaranteed benefits or reduce the rights of applicants or participants under this section during, or as a result of participation in, the Project, the Project shall be terminated.

"(7) An assurance that the Project shall include procedures and due process guarantees no less beneficial than those which are available under Federal law and under State law to participants in the food stamp program.

"(8)(A) An assurance that, except as provided in subparagraph (B), the State will carry out the Project during a 5-year period beginning on the date the first individual is approved for participation in the Project.

"(B) The Project may be terminated 180 days after—

"(i) the State gives notice to the Secretary that it intends to terminate the Project; or

"(ii) the Secretary, after notice and an opportunity for a hearing, determines that the State materially failed to comply with this section.

"(c) Funding.—If an application submitted under subsection (a) by the State complies with the requirements specified in subsection (b), then the Secretary shall—

"(1) approve such application; and

"(2) from funds appropriated under this Act, pay the State for—

"(A) the actual cost of the food assistance provided under the Project; and

"(B) the percentage of the administrative costs incurred by the State to provide food assistance under the Project that is equal to the percentage of the State's aggregate administrative costs incurred in operating the food stamp program in the most recent fiscal year for which data are available, that was paid under subsections (a), (g), and (h) of section 16 of this Act.

"(d)(1) Project Application.—Unless and until an application to participate in the Project is approved, and food assistance under the Project is made available to the applicant—

"(A) such application shall also be treated as an application to participate in the food stamp program; and

"(B) section 11(e)(9) shall apply with respect to such application.

"(2) Coupons provided under the food stamp program with respect to an individual who—

"(A) is participating in such program; and

"(B) applies to participate in the Project;

may not be reduced or terminated because such individual applies to participate in the Project.

"(3) For purposes of the food stamp program, individuals who participate in the Project shall not be considered to be members of a household during the period of such participation.

"(e) Waiver.—The Secretary shall (with respect to the Project) waive compliance with any requirement contained in this Act (other than this section) that (if applied) would prevent the State from carrying out the Project or effectively achieving its purpose.

"(f) Construction.—For purposes of any other Federal, State or local law—

"(1) cash assistance provided under the Project that represents food assistance shall be treated in the same manner as coupons provided under the food stamp program are treated; and

[8] "(2) participants in the program who receive food assistance under the Project shall be treated in the same manner as recipients of coupons under the food stamp program are treated.

"(g) Project Audits.—The Comptroller General of the United States shall—

"(1) conduct periodic audits of the operation of the Project to verify the amounts payable to the State from time to time under subsection (b)(4); and

"(2) submit to the Secretary of Agriculture, the Secretary of Health and Human Services, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of each such audit.

"(h) Evaluation.—With funds appropriated under section 18(a)(1), the Secretary shall conduct, in consultation with the Secretary of Health and Human Services, an evaluation of the Project.".

TITLE II—NATIONAL ECONOMIC COMMISSION

SEC. 2101. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the National Economic Commission (in this subtitle referred to as the "Commission").

SEC. 2102. MEMBERSHIP OF COMMISSION.

(a) Appointment.—The Commission shall be initially composed of 12 members, appointed not later than March 1, 1988. After the meeting of the Presidential Electors in December 1988, the Commission shall be expanded to 14 members. The members shall be as follows:

(1) 2 citizens of the United States, appointed by the President.

(2) 1 Senator and 2 citizens of the United States, appointed by the President pro tem-

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[6] Copy read "May, 1987.".

[7] Copy read "'(H)(i)".

[8] Copy had wrong indention for paragraph "'(2)".

pore of the Senate upon the recommendations of the Majority Leader of the Senate.

(3) 1 Senator and 1 citizen of the United States, appointed by the President pro tempore of the Senate upon the recommendation of the Minority Leader of the Senate.

(4) 1 Member of the House of Representatives and 2 citizens of the United States, appointed by the Speaker of the House of Representatives.

(5) 1 Member of the House of Representatives and 1 citizen of the United States, appointed by the Minority Leader of the House of Representatives.

(6) 2 citizens of the United States, 1 of whom is a Democrat and 1 of whom is a Republican, appointed by the President-elect as established by the allocation of electoral college votes in the Presidential election of November 8, 1988.

(b) Additional Qualifications.—

(1) Individuals appointed under subsection (a)(1) may be officers or employees of the Executive Branch or may be private citizens.

(2) Individuals who are not Members of the Congress, and are appointed under paragraphs (2) through (6) of subsection (a) shall be individuals who—

(A) are leaders of business or labor, distinguished academics, State or local government officials, or other individuals with distinctive qualifications or experience; and

(B) are not officers or employees of the United States.

(c) Chairperson.—The Commission shall elect a Chairperson from among the members of the Commission.

(d) Quorum.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(e) Voting.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(f) Vacancies.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(g) Prohibition of Additional Pay.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission. Members appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the government service to the extent funds are available for such expenses.

SEC. 2103. FUNCTIONS OF COMMISSION.

(a) Specific Recommendations.—The Commission shall make specific recommendations regarding the following:

(1) Methods to reduce the Federal budget deficit while promoting economic growth and encouraging saving and capital formation.

(2) A means of ensuring that the burden of achieving the Federal budget deficit reduction goals of the United States does not undermine economic growth and is equitably distributed and not borne disproportionately by any one economic group, social group, region or State.

(b) Final Report.—

(1) Subject to section 2103(b)(3), the Commission shall submit to the President and to the Congress on March 1, 1989, a final report which shall contain a detailed statement of the findings and conclusions of the Commission, including its recommendations for administrative and legislative action that the Commission considers advisable.

(2) Any recommendation may be made by the Commission to the President and to the Congress only if adopted by a majority vote of the members of the Commission who are present and voting.

(3) On February 1, 1989, the President may issue an order extending the date for submission of the final report to September 1, 1989.

SEC. 2104. POWERS OF COMMISSION.

(a) Hearings.—The Commission may, for the purpose of carrying out this subtitle, hold such hearings and sit and act at such times and places, as the Commission may find advisable.

(b) Rules and Regulations.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(c) Assistance From Federal Agencies.—

(1) The Commission may request from the head of any Federal agency or instrumentality such information as the Commission may require for the purpose of this subtitle. Each such agency or instrumentality shall, to the extent permitted by law and subject to the exceptions set forth in section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), furnish such information to the Commission, upon request made by the Chairperson of the Commission.

(2) Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(A) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(B) detail any of the personnel of such agency or instrumentality to the Commission, on a non-reimburseable basis, to assist the Commission in carrying out its duties under this subtitle, except that any expenses of the Commission incurred under this subparagraph shall be subject to the limitation on total expenses set forth in section 2105(b).

(c) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(d) Contracting.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this subtitle, subject to the limitation on total expenses set forth in section 2105(b).

(e) Staff.—Subject to such rules and regulations as may be adopted by the Commission, the Chairperson of the Commission (subject to the limitation on total expenses set forth in section 2105(b)) shall have the power to appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director, and of such additional staff as the Chairperson deems advisable to assist the Commission, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

(f) Advisory Committee.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 2105. EXPENSES OF COMMISSION.

(a) In General.—Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury.

(b) Limitation.—The total expenses of the Commission shall not exceed $1,000,000.

(c) GAO Audit.—Prior to the termination of the Commission, pursuant to section 2106, the Comptroller General of the United States shall conduct an audit of the financial books and records of the Commission to determine that the limitation on expenses has been met, and shall include its determination in an opinion to be included in the report of the Commission.

SEC. 2106. TERMINATION OF COMMISSION.

The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits its report.

TITLE III—EDUCATION PROGRAMS

Subtitle A—Guaranteed Student Loan Program Savings

SEC. 3001. RECOVERY OF EXCESS CASH RESERVES ACCUMULATED UNDER THE GUARANTEED STUDENT LOAN PROGRAM.

(a) In General.—Section 422 of the Higher Education Act of 1965 (20 U.S.C. 1072) is amended by adding at the end thereof the following new subsection:

"(e) Reduction of Excess Cash Reserves.—

"(1) Limitation on maximum cash reserves.—A guaranty agency shall not accumulate cash reserves in excess of the greater of—

"(A) 40 percent of the total amount paid by that agency on insurance claims during the preceding fiscal year;

"(B) 0.3 percent of original principal amount of loans that are insured by that agency and that are outstanding at the end of such preceding fiscal year;

"(C) an amount which, when combined with all other parts of total agency reserves, equals 0.4 percent of such original principal amount;

"(D) $500,000; or

"(E) the amount required to comply with the reserve requirements of a State law as in effect on October 17, 1986.

"(2) Recovery of excess cash reserves.—The Secretary shall, not later than March 31, 1988, determine for each guaranty agency the maximum cash reserve permitted under paragraph (1) for fiscal year 1986. Subject to paragraphs (3) and (4), if the Secretary determines that any guaranty agency had, at the end of fiscal year 1986, a cash reserve that exceeded such maximum, the Secretary shall direct the agency to eliminate such excess by any one or more of the following methods, as selected by the guaranty agency:

"(A) by repaying any advances to such agency made by the Secretary under this section that are not required to be repaid under subsection (d);

"(B) by withholding and canceling claims for reimbursement otherwise payable under section 428(c)(1);

"(C) by reducing the amount of payments for which application will be made by such agency under section 428(f); or

"(D) by any other method of reducing payments from or increasing payments to the Federal Government, including payment of additional reinsurance fees in addition to the fees required by section 428(c)(9), as proposed by the agency and agreed to by the Secretary.

"(3) APPEALS BASED ON SPECIAL CIRCUMSTANCES.—(A) If the Secretary determines, on the basis of an application from a guaranty agency, that—

"(i) the agency's financial position has deteriorated significantly since the end of the preceding fiscal year;

"(ii) significant changes in the economic circumstances (such as a change in agency current cash reserves) or the loan insurance program render the limitations of paragraph (1) inadequate for the continued functioning of the agency; or

"(iii) in recovering funds as required by this subsection, a guaranty agency would be compelled to violate contractual obligations existing on the date of enactment of this subsection that require a specified level of reserve funds to be maintained by such agency;

the Secretary may waive, in whole or in part, the imposition of the remedies required by paragraph (2) for such agency.

"(B) The Secretary shall respond to request for waivers from guaranty agencies in an expedited manner and, except for unusual circumstances or with the consent of the guaranty agency, shall resolve such request within 6 weeks of submission.

"(4) RECOVERY LIMITS.—The Secretary shall not require a total reduction of cash reserves for all guaranty agencies in excess of $250,000,000 during fiscal year 1988. If the total of cash reserves of all guaranty agencies exceeds the maximum amounts permitted under paragraph (1) by more than $250,000,000, the Secretary shall ratably reduce the amounts that guaranty agencies are directed to eliminate under paragraph (2), so that the total excess cash reserves to be eliminated equals $250,000,000.

"(5) DEFINITIONS.—As used in this subsection—

"(A) the 'cash reserves' for any guaranty agency for any fiscal year are equal to the agency's cumulative cash receipts less the agency's cumulative cash disbursements at the end of such fiscal year;

"(B) the 'total reserves' for any guaranty agency for any fiscal year are equal to the agency's cash reserves plus the agency's cumulative accounts receivable less the agency's accounts payable, as of the end of such fiscal year;

"(C) the term 'cumulative cash receipts' includes such receipts as insurance premiums, Federal reinsurance payments, and collections on defaulted loans;

"(D) the term 'cumulative cash disbursements' includes such disbursements as payments for default claims, repayment of Federal advances, transfers to other State activities, and payment of collection costs and other operating costs;

"(E) the term 'accounts receivable' includes Federal reinsurance payments and administrative cost allowances owed but not yet paid to the guaranty agency, as of the end of a fiscal year; and

"(F) the term 'accounts payable' includes collections and reinsurance fees due (but not paid) to the Department of Education, as of the end of a fiscal year.".

(b) CONFORMING AMENDMENTS.—

(1) The second sentence of section 428(c)(1)(A) of such Act (20 U.S.C. 1078(c)(1)(A)) is amended by striking out "shall be deemed" and inserting "shall, subject to section 422(e), be deemed".

(2) Section 428(c)(9)(A) of such Act is amended by striking out "an amount equal to" and inserting "an amount, subject to section 422(e), equal to".

(3) The second sentence of section 428(f)(1)(B) of such Act is amended by striking out "shall be deemed" and inserting "shall, subject to section 422(e), be deemed".

SEC. 3002. REPEAL.

(a) IN GENERAL.—Subsection (e) of section 422 of the Higher Education Act of 1965 (20 U.S.C. 1072) is repealed on September 30, 1989.

(b) CONFORMING AMENDMENTS.—

(1) Effective September 30, 1989, the second sentence of section 428(c)(1)(A) of such Act (20 U.S.C. 1078(c)(1)(A)) is amended by striking out "shall, subject to section 422(e), be deemed" and inserting "shall be deemed".

(2) Effective September 30, 1989, section 428(c)(9)(A) of such Act is amended by striking out "an amount, subject to section 422(e), equal to" and inserting "an amount equal to".

(3) Effective September 30, 1989, the second sentence of section 428(f)(1)(B) of such Act is amended by striking out "shall, subject to section 422(e), be deemed" and inserting "shall be deemed".

SEC. 3003. INFORMATION ON DEFAULTS REQUIRED.

(a) GENERAL RULE.—The first sentence of section 428(k)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078(k)(1)) is amended—

(1) by striking out "In" and inserting in lieu thereof "Notwithstanding any other provision of law, in"; and

(2) by striking out "may" and inserting in lieu thereof "shall".

(b) CONFORMING AMENDMENT.—The second sentence of section 428(k)(1) of such Act is amended by striking out "may" and inserting in lieu thereof "shall".

Subtitle B—Sale of College Facilities and Housing Loans

SEC. 3101. SALE OF COLLEGE FACILITIES AND HOUSING LOANS.

Section 783 of the Higher Education Act of 1965 (20 U.S.C. 1132i-2) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this title, after September 30, 1988, the Secretary shall not sell any of such obligations. Any agreement providing for delaying payment (with respect to obligations sold) until after September 30, 1988, or for delaying delivery of such obligations or delaying taking other actions in furtherance of such a sale until after such date, shall be considered to be a violation of the preceding sentence.".

TITLE IV—MEDICARE, MEDICAID, AND OTHER HEALTH-RELATED PROGRAMS

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PART 1—RELATING ONLY TO PART A

SEC. 4001. EXTENSION OF REDUCTIONS UNDER SEQUESTER ORDER.

Notwithstanding any other provision of law (including any other provision of this Act), the reductions in the amount of payments required under title XVIII of the Social Security Act made by the final sequester order issued by the President on November 20, 1987, pursuant to section 252(b) of the Balanced Budget Emergency Deficit Control Act of 1985 shall continue to be effective (as provided by sections 252(a)(4)(B) and 256(d)(2) of such Act) through—

(1) March 31, 1988, with respect to payments for inpatient hospital services under such title (including payments under section 1886 of such title attributable or allocated to part A of such title); and

(2) December 31, 1987, with respect to payments for other items and services under part A of such title.

SEC. 4002. BASIC HOSPITAL PROSPECTIVE PAYMENT RATES.

(a) BASIC UPDATE FACTOR FOR PPS HOSPITALS.—Clause (i) of section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended by striking "and for fiscal year 1988" in subclause (II) and all that follows through the end of such clause and inserting after such subclause the following:

"(III) for fiscal year 1988, 3.0 percent for hospitals located in a rural area, 1.5 percent for hospitals located in a large urban area (as defined in subsection (d)(2)(D)), and 1.0 percent for other hospitals,

"(IV) for fiscal year 1989, the market basket percentage increase minus 1.5 percent for hospitals located in a rural area, the market basket percentage increase minus 2.0 percent for hospitals located in a large urban area, and the market basket percentage increase minus 2.5 percent for other hospitals, and

"(V) for fiscal year 1990 and each subsequent fiscal year, the market basket percentage for hospitals in all areas.".

(b) LARGE URBAN AREA DEFINED.—The second sentence of section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D))[16*] is amended by inserting after "under subsection (a) by regulation;" the following: "the term 'large urban area' means, with respect to a fiscal year, such an urban area which the Secretary determines (in the publication described in subsection (e)(5)(B) before the fiscal year) has a population of more than 1,000,000 (as determined by the Secretary based on the most recent available population data published by the Bureau of the Census);".

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[9] Copy read "Sec. 4052.".
[10] Copy read "Sec. 4053.".
[11] Copy read "Sec. 4054.".
[12] Copy read "Sec. 4055.".
[13] Copy read "peer".
[14] Copy read "states", and "state", respectively.
[15] Copy read "california.".
[16] Copy read "northern mariana islands.".

[16*] Copy read "(42 U.S.C. 1395www(d)(2)(D))".

(c) Adjustment for Hospitals in Large Urban Areas or in Rural Areas.—

(1) In general.—Section 1886(d)(3) of such Act (42 U.S.C. 1395ww(d)(3)) is amended—

(A) in the matter before subparagraph (A), by striking "urban or rural areas" and inserting "large urban, other urban, or rural areas";

(B) in first sentence of subparagraph (A)—

(i) by striking "The Secretary" and inserting "(i) For discharges occuring in a fiscal year beginning before October 1, 1987, the Secretary",

(ii) by striking "each of fiscal years 1985, 1986, 1987, and 1988" and inserting "the fiscal year involved", and

(iii) by striking ", and adjusted for subsequent fiscal years in accordance with the final determination of the Secretary under subsection (e)(4), and adjusted to reflect the most recent case-mix data available,";

(C) by adding at the end of subparagraph (A) the following new clauses:

"(ii) For discharges occurring in a fiscal year beginning on or after October 1, 1987, the Secretary shall compute an average standardized amount for hospitals located in a large urban area, for hospitals located in a rural area, and for hospitals located in urban areas, within the United States and within each region, equal to the respective average standardized amount computed for the previous fiscal year under this subparagraph increased by the applicable percentage increase under subsection (b)(3)(B)(i) with respect to hospitals located in the respective areas for the fiscal year involved.

"(iii) Average standardized amounts computed under this paragraph shall be adjusted to reflect the most recent case-mix data available."; and

(D) in subparagraph (D)—

(i) by striking "URBAN AND RURAL HOSPITALS" in the heading and inserting "HOSPITALS IN DIFFERENT AREAS",

(ii) in clause (i), by inserting "(or, for discharges occurring on or after April 1, 1988, in a large urban area or other urban area)" after "urban area" the first place it appears, and

(iii) in clause (i), by inserting "such" before "an urban area" the second place it appears.

(2) Conforming amendments.—Section 1886(d)(9)(A) of such Act (42 U.S.C. 1395ww(d)(9)(A)) is amended—

(A) in clause (ii)(I), by striking "an urban area, and" and inserting "a large urban area,";

(B) by redesignating subclause (II) of clause (ii) as subclause (III); and

(C) by inserting after subclause (I) of clause (ii) the following new subclause:

"(II) such rate for hospitals located in other urban areas, and".

(d) Establishment of Regional Floor.—Section 1886(d)(1)(A)(iii) of such Act (42 U.S.C. 1395ww(d)(1)(A)(iii)) is amended by inserting before the period at the end the following: ", or, if greater for discharges occurring during the period beginning on April 1, 1988, and ending on September 30, 1990, the sum of (I) 85 percent of the national adjusted DRG prospective payment rate determined under paragraph (3) for such discharges, and (II) 15 percent of the regional adjusted DRG prospective payment rate determined under such paragraph".

(e) Update for PPS-Exempt Hospitals.—Section 1886(b)(3)(B) of such Act (42 U.S.C. 1395ww(b)(3)(B)) is amended—

(1) in clause (i), by striking "subparagraph (A) for 12-month cost reporting periods beginning during a fiscal year and for purposes of",

(2) in clause (ii), by striking "(ii) For purposes of clause (i)" and inserting "(iii) For purposes of this subparagraph", and

(3) by inserting after clause (i) the following new clause:

"(ii) For purposes of subparagraph (A), the 'applicable percentage increase' for 12-month cost reporting periods beginning during—

"(I) fiscal year 1986, is 0.5 percent,

"(II) fiscal year 1987, is 1.15 percent,

"(III) fiscal year 1988, is the market basket percentage increase minus 2.0 percentage points, and

"(IV) subsequent fiscal years is the market basket percentage increase.".

(f) Related Conforming and Technical Amendments.—

(1) Section 1886 of such Act (42 U.S.C. 1395ww) is further amended—

(A) by adding at the end of subsection (d)(2)(D) the following new sentence: "For purposes of payment under this subsection, a hospital is considered to be located in an urban area or large urban area, respectively, if the hospital is paid under this subsection at the rate for hospitals located in such an area.";

(B) in subsection (e)(3)(B), by striking "or determine";

(C) in subsection (e)(4)—

(i) by striking "for fiscal year 1988" and inserting "for each fiscal year (beginning with fiscal year 1988)",

(ii) by striking "and shall determine for each subsequent fiscal year" and all that follows through "fiscal year, and", and

(iii) by amending the last sentence to read as follows: "The appropriate change factor may be different for all large urban subsection (d) hospitals, other urban subsection (d) hospitals, urban subsection (d) Puerto Rico hospitals, rural subsection (d) hospitals, and rural subsection (d) Puerto Rico hospitals, and all other hospitals and units not paid under subsection (d), and may vary among such other hospitals and units."; and

(D) in paragraph (5), by striking "or determination" each place it appears.

(2) Subsection (a)(1)(B)(ii) of section 107 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) is amended, effective as of the date of the enactment of such Act, by inserting ", the target percentage and DRG percentage shall be those specified in subsection (d)(1)(C)(iv) of such section, and the applicable percentage increase in a hospital's target amount shall be deemed to be 0 percent" before the period at the end.

(g) Effective Dates.—

(1) PPS HOSPITALS, DRG PORTION OF PAYMENT.—In the case of a subsection (d) hospital (as defined in paragraph (6))—

(A) the amendments made by subsections (a) and (c) shall apply to payments made under section 1886(a)(1)(A)(iii) of the Social Security Act on the basis of discharges occurring on or after April 1, 1988, and

(B) for discharges occurring on or after October 1, 1988, the applicable percentage increase (described in section 1886(d)(3)(B) of such Act)[17] for discharges occurring during fiscal year 1987 is deemed to have been such percentage increase as amended by subsection (a).

(2) PPS SOLE COMMUNITY HOSPITALS, HOSPITAL SPECIFIC PORTION OF PAYMENT.—In the case of a subsection (d) hospital which receives payments made under section 1886(d)(1)(A) of the Social Security Act because it is a sole community hospital—

(A) the amendment made by subsections (a) and (c) shall apply to payments under section 1886(d)(1)(A)(ii)(I) of the Social Security Act made on the basis of discharges occurring during a cost reporting period of a hospital, for the hospital's cost reporting period beginning on or after October 1, 1987;

(B) notwithstanding subparagraph (A), for cost reporting period beginning during fiscal year 1988, the applicable percentage increase (as defined in section 1886(d)(3)(B) of such Act) for the—

(i) first 51 days of the cost reporting period shall be 0 percent,

(ii) next 132 days of such period shall be 2.7 percent, and

(iii) remainder of such period of the cost reporting period shall be the applicable percentage increase (as so defined, as amended by subsection (a)); and

(C) for cost reporting periods beginning on or after October 1, 1988, the applicable percentage increase (as so defined) with respect to the previous cost reporting period shall be deemed to have been the applicable percentage increase (as so defined, as amended by subsection (a)).

(3) PPS-EXEMPT HOSPITALS.—In the case of a hospital that is not a subsection (d) hospital—

(A) the amendments made by subsection (e) shall apply to cost reporting periods beginning on or after October 1, 1987;

(B) notwithstanding subparagraph (A), for the hospital's cost reporting period beginning during fiscal year 1988, payment under title XVIII of the Social Security Act shall be made as though the applicable percentage increase described in section 1886(b)(3)(B) of such Act were equal to the product of 2.7 percent and the ratio of 315 to 366; and

(C) for cost reporting periods beginning on or after October 1, 1988, the applicable percentage increase (as so defined) with respect to the cost reporting period beginning during fiscal year 1988 shall be deemed to have been 2.7 percent.

(4) DEFINITION, REGIONAL FLOOR, AND TECHNICAL AND CONFORMING AMENDMENTS.—The amendments made by subsections (b) and (d) and paragraphs (1) and (2) of subsection (f) shall take effect on the date of the enactment of this Act.

(5) TRANSITION FOR LARGE URBAN AREA RATES.—In computing the average standardized amount for hospitals located in a large urban area or other urban area under section 1886(d)(3)(A)(ii) of the Social Security Act (as amended by subsection (c)) for fiscal year 1988, the reference to "the respective average standardized amount computed for the previous fiscal year under this subparagraph" is deemed a reference to the average standardized amount computed for hospitals located in an urban area for the 51-day period beginning on October 1, 1987.

(6) DEFINITION.—In this subsection, the term "subsection (d) hospital" has the meaning given such term in section 1886(d)(10)(B) of the Social Security Act.

SEC. 4003. INCREASE IN DISPROPORTIONATE SHARE ADJUSTMENT AND REDUCTION IN INDIRECT MEDICAL EDUCATION PAYMENTS.

(a) Reduction in Indirect Medical Education Payments.—

(1) Section 1886(d)(5)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

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[17] Copy read "Act))".

(A) in subclause (I), by striking "2" and inserting in lieu thereof "1.89"; and

(B) in subclause (II), by striking "1.5" and inserting in lieu thereof "1.43".

(2) Section 1886(d)(3)(C)(ii) of such Act (42 U.S.C. 1395ww(d)(3)(C)(ii)) is amended by inserting "and by section 4003(a)(1) of the Omnibus Budget Reconciliation Act of 1987" after "1985" each place it appears in subclauses (I) and (II).

(b) Increase in Disproportionate Share Adjustment.—Section 1886(d)(5)(F) of such Act (42 U.S.C. 1395ww(d)(5)(B))—

(1) in clause (iii), by striking "15 percent" and inserting "25 percent", and

(2) in clause (iv)(I), by striking "the lesser of 15 percent, or".

(c) Extension of Disproportionate Share Adjustment.—Sections 1886(d)(2)(C)(iv) (42 U.S.C. 1395ww(d)(2)(C)(iv)), 1886(d)(3)(C)(ii)(I) (42 U.S.C. 1395ww(d)(3)(C)(ii)(I)), 1886(d)(3)(C)(ii)(II) (42 U.S.C. 1395ww(d)(3)(C)(ii)(II)), 1886(d)(5)(B)(ii)(I) (42 U.S.C. 1395ww(d)(5)(B)(ii)(I)), 1886(d)(5)(B)(ii)(II) (42 U.S.C. 1395ww(d)(5)(B)(ii)(II)), and 1886(d)(5)(F)(i) (42 U.S.C. 1395ww(d)(5)(F)(i)) of the Social Security Act are each amended by striking "1989" and inserting in lieu thereof "1990".

(d) Special Rule.—In the case of a hospital which—

(1) consists of 2 inpatient hospital facilities which are more than 4 miles apart and each of which is in a separate political jurisdiction within the same State and one of which meets the criteria under section 1886(d)(5)(F) of the Social Security Act for serving a significantly disproportionate number of low-income patients as if that facility were a separate hospital; and

(2) receives payments for inpatient hospital services under title XVIII of the Social Security Act which are less than the hospital's reasonable costs,

the Secretary of Health and Human Services, upon application by the hospital, may treat each of the facilities of the hospital as separate hospitals for purposes of applying section 1886(d)(5)(F) of the Social Security Act, for discharges occurring on or after October 1, 1988.

(e) Effective Date.—The amendments made by this section shall apply to payments for discharges occurring on or after October 1, 1988.

SEC. 4004. PROVISIONS RELATING TO WAGE INDEX.

(a) Survey.—Section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)) is amended by adding at the end the following: "Not later than October 1, 1990 (and at least every 36 months thereafter), the Secretary shall update the factor under the preceding sentence on the basis of a survey conducted by the Secretary (and updated as appropriate) of the wages and wage-related costs of subsection (d) hospitals in the United States. To the extent determined feasible by the Secretary, such survey shall measure the earnings and paid hours of employment by occupational category and shall exclude data with respect to the wages and wage-related costs incurred in furnishing skilled nursing facility services.".

(b) Clinic Hospital Wage Indices.—In calculating the wage index under section 1886(d) of the Social Security Act for purposes of making payment adjustments after September 30, 1988, as required under paragraphs (2)(H) and (3)(E) of such section, in the case of any institution which received the waiver specified in section 602(k) of the Social Security Amendments of 1983, the Secretary of Health and Human Services shall include wage costs paid to related organization employees directly involved in the delivery and administration of care provided by the related organization to hospital inpatients. For purposes of the preceding sentence, the term "wage costs" does not include costs of overhead or home office administrative salaries or any costs that are not incurred in the hospital's Metropolitan Statistical Area.

SEC. 4005. RURAL HOSPITALS.

(a) Revision of Standards for Including a Rural County in an Urban Area.—

(1) Treating certain rural hospitals adjacent to urban areas as urban hospitals.—Section 1886(d)(8) of the Social Security Act (42 U.S.C. 1395ww(d)(8))—

(A) by redesignating clauses (i) and (ii) of subparagraphs (A) and (B) as subclauses (I) and (II), respectively,

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(C) by inserting "(A)" after "(8)", and

(D) by adding at the end the following new subparagraph:

"(B) The Secretary shall treat a hospital located in a rural county adjacent to one or more urban areas as being located in the urban metropolitan statistical area to which the greatest number of workers in the county commute, if—

"(i) the rural county would otherwise be considered part of an urban area but for the fact that the rural county does not meet the standard relating to the rate of commutation between the rural county and the central county or counties of any adjacent urban area; and

"(ii) either (I) the number of residents of the rural county who commute for employment to the central county or counties of any adjacent urban area is equal to at least 15 percent of the number of residents of the rural county who are employed, or (II) the sum of the number of residents of the rural county who commute for employment to the central county or counties of any adjacent urban area and the number of residents of any adjacent urban area who commute for employment to the rural county is at least equal to 20 percent of the number of residents of the rural county who are employed.

"(C) The Secretary shall make a proportional adjustment in the standardized amount determined under paragraph (3) for hospitals located in an urban area to assure that the provisions of subparagraph (B) do not result in aggregate payments under this section that are greater or less than those that would otherwise be made. The Secretary shall make such adjustment in payments under this section to hospitals located in rural areas as are necessary to assure that the aggregate of payments to rural hospitals not affected by subparagraph (B) are not changed as a result of the application of subparagraph (B).".

(2) Location of hospital.—For purposes of section 1886 of the Social Security Act, Watertown Memorial Hospital in Watertown, Wisconsin is deemed to be located in Jefferson County, Wisconsin.

(3) Effective date.—This section, and the amendments made by paragraph (1), shall apply to discharges occurring on or after October 1, 1988.

(b) Expansion of Swing-Bed Program.—

(1) Expansion to hospitals with fewer than 100 beds.—Section 1883(b)(1) of the Social Security Act (42 U.S.C. 1395tt(b)(1)) is amended by striking "50 beds" and inserting "100 beds".

(2) Requirements for hospitals with more than 49 beds.—Section 1883(d) of such Act (42 U.S.C. 1395dd(d)) is amended—

(A) by inserting "(1)" after "(d)", and

(B) by adding at the end the following new paragraphs:

"(2)(A) Any agreement under this section with a hospital with more than 49 beds shall provide that no payment may be made for extended care services which are furnished to an extended care patient after the end of the 5-day period (excluding weekends and holidays) beginning on an availability date for a skilled nursing facility, unless the patient's physician certifies, within such 5-day period, that the transfer of that patient to that facility is not medically appropriate on the availability date. The Secretary shall prescribe regulations to provide for notice by skilled nursing facilities of availability dates to hospitals which have agreements under this section and which are located within the same geographic region (as defined by the Secretary).

"(B) In this paragraph:

"(i) The term 'availability date' means, with respect to an extended care patient at a hospital, any date on which a bed is available for the patient in a skilled nursing facility located within the geographic region in which the hospital is located.

"(ii) The term 'extended care patient' means an individual being furnished extended care services at a hospital pursuant to an agreement with the Secretary under this section.

"(3) In the case of an agreement for a cost reporting period under this section with a hospital that has more than 49 beds, payment may not be made in the period for patient-days of extended care services that exceed 15 percent of the product of the number of days in the period and the average number of licensed beds in the hospital in the period.".

(3) Report.—The Secretary of Health and Human Services shall report to Congress, not later than February 1, 1989, concerning—

(A) the proportion of admissions to hospitals for extended care services under section 1883 of the Social Security Act which are denied or approved by a peer review organization under section 1154(a)(1) of such Act, and

(B) on recommendations for methods of encouraging hospitals that—

(i) have a low occupancy rate,

(ii) are eligible to enter (but have not entered) into an agreement under section 1883 of such Act, and

(iii) are located in areas with a need for additional providers of extended care services,

to enter into such agreements.

(4) Effective date.—The amendments made by paragraphs (1) and (2) shall apply to agreements under section 1883 of the Social Security Act entered into after March 31, 1988.

(c) Payments to Sole Community Hospitals.—

(1) Section 1886(d)(5)(C)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(C)(ii)) is amended—

(A) by striking "1988" in the second sentence and inserting "1990", and

(B) by inserting after the second sentence the following: "A subsection (d) hospital that meets the criteria for classification as a sole community hospital and otherwise qualifies for the adjustment authorized by the preceding sentence may qualify for such an adjustment without regard to the formula by which payments are determined for the hospital under paragraph (1)(A).".

(2)(A) The amendments made by paragraph (1) shall apply to cost reporting periods beginning on or after October 1, 1987.

(B) The Secretary of Health and Human Services shall take appropriate steps to ensure that the total amount paid in a fiscal year under title XVIII of the Social Security Act by reason of the amendment made by paragraph (1)(B) does not exceed $5,000,000 in the case of fiscal year 1988 and $10,000,000 for fiscal year 1989.

(d) Medicare Classification of Rural Referral Centers.—

(1) Extension of classification.—

(A) In general.—The first sentence of section 1886(d)(5)(C)(i)(I) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(C)(i)(I)) is amended by striking "500" and inserting "275".

(B) Effective date.—The amendment made by subparagraph (A) shall apply to discharges occurring on or after April 1, 1988.

(2) Study.—

(A) In general.—The Secretary of Health and Human Services shall provide for a study of the criteria used for the classification of hospitals as rural referral centers under section 1886(d)(5)(C)(i) of the Social Security Act. The study shall include an examination of—

(i) the extent that hospitals classified as rural referral centers receive more or less than their actual costs of providing inpatient hospital services, and

(ii) the appropriateness of providing for payment for such centers at a rate other than the rate for a hospital located in an other urban area.

(B) Report.—The Secretary shall report to Congress, by not later than March 1, 1989, on the study conducted under subparagraph (A) and on recommendations for the criteria that should be applied under section 1886(d)(5)(C)(i) of the Social Security Act for the classification of hospitals as rural referral centers for cost reporting periods beginning on or after October 1, 1989.

(e) Grant Program for Rural Health Care Transition.—

(1) The Administrator of the Health Care Financing Administration, in consultation with the Assistant Secretary for Health (or a designee), shall establish a program of grants to assist eligible small rural hospitals and their communities in the planning and implementation of projects to modify the type and extent of services such hospitals provide in order to adjust for one or more of the following factors:

(A) Changes in clinical practice patterns.

(B) Changes in service populations.

(C) Declining demand for acute-care inpatient hospital capacity.

(D) Declining ability to provide appropriate staffing for inpatient hospitals.

(E) Increasing demand for ambulatory and emergency services.

(F) Increasing demand for appropriate integration of community health services.

(G) The need for adequate access (including appropriate transportation) to emergency care and inpatient care in areas in which a significant number of underutilized hospital beds are being eliminated.

(H) The Administrator shall submit a final report on the program to the Congress not later than 180 days after all projects receiving a grant under the program are completed.

Each demonstration project under this subsection shall demonstrate methods of strengthening the financial and managerial capability of the hospital involved to provide necessary services. Such methods may include programs of cooperation with other health care providers, of diversification in services furnished (including the provision of home health services), of physician recruitment, and of improved management systems.

(2) For purposes of this subsection, the term "eligible small rural hospital"[18] means any non-Federal, short-term general acute care hospital that—

(A) is located in a rural area (as determined in accordance with subsection (d)),

(B) has less than 100 beds, and

(C) is not for profit.

(3)(A) Any eligible small rural hospital that desires to modify the type or extent of health care services that it provides in order to adjust for one or more of the factors specified in paragraph (1) may submit an application to the Governor of the State in which it is located. The application shall specify the nature of the project proposed by the hospital, the data and information on which the project is based, and a timetable (of not more than 24 months) for completion of the project. The application shall be submitted on or before a date specified by the Administrator and shall be in such form as the Administrator may require.

(B) The Governor shall transmit any application submitted pursuant to subparagraph (A) to the Secretary not later than 30 days after it is received by the Governor, accompanied by any comments with respect to the application that the Governor deems appropriate.

(C) The Governor of a State may designate an appropriate State agency to receive and comment on applications submitted under subparagraph (A).

(4) A hospital shall be considered to be located in a rural area for purposes of this subsection if it is treated as being located in a rural area for purposes of section 1886(d)(3)(D) of the Social Security Act.

(5) In determining which hospitals making application under paragraph (3) will receive grants under this subsection, the Administrator shall take into account—

(A) any comments received under paragraph (3)(B) with respect to a proposed project;

(B) the effect that the project will have on—

(i) reducing expenditures from the Federal Hospital Insurance Trust Fund,

(ii) improving the access of medicare beneficiaries to health care of a reasonable quality;

(C) the extent to which the proposal of the hospital, using appropriate data, demonstrates an understanding of—

(i) the primary market or service area of the hospital, and

(ii) the health care needs of the elderly and disabled that are not currently being met by providers in such market or area, and

(D) the degree of coordination that may be expected between the proposed project and—

(i) other local or regional health care providers, and

(ii) community and government leaders,

as evidenced by the availability of support for the project (in cash or in kind) and other relevant factors.

(6) A grant to a hospital under this subsection may not exceed $50,000 a year and may not exceed a term of 2 years.

(7)(A) Except as provided in subparagraphs (D) and (C), a hospital receiving a grant under this subsection may use the grant for any of expenses incurred in planning and implementing the project with respect to which the grant is made.

(B) A hospital receiving a grant under this subsection for a project may not use the grant to retire debt incurred with respect to any capital expenditure made prior to the date on which the project is initiated.

(C) Not more than one-third of any grant made under this subsection may be expended for capital-related costs (as defined by the Secretary for purposes of section 1886(a)(4) of the Social Security Act) of the project.

(8)(A) A hospital receiving a grant under this section shall furnish the Administrator with such information as the Administrator may require to evaluate the project with respect to which the grant is made and to ensure that the grant is expended for the purposes for which it was made.

(B) The Administrator shall report to the Congress at least once every 6 months on the program of grants established under this subsection. The report shall assess the functioning and status of the program, shall evaluate the progress made toward achieving the purposes of the program, and shall include any recommendations the Secretary may deem appropriate with respect to the program. In preparing the report, the Secretary shall solicit and include the comments and recommendations of private and public entities with an interest in rural health care.

(C) The Administrator shall submit a final report on the program to the Congress not later than 180 days after all projects receiving a grant under the program are completed.

(9) For purposes of carrying out the program of grants under this subsection, there are authorized to be appropriated from the Federal Hospital Insurance Trust Fund $15,000,000 for each of the fiscal years 1989 and 1990.

SEC. 4006. PAYMENTS FOR HOSPITAL CAPITAL.

(a) Reductions in Payments for Capital.—Section 1886(g)(3)(A) of the Social Security Act (42 U.S.C. 1395ww(g)(3)(A)) is amended—

(A) in clause (ii), by striking ", and" and inserting "on or after October 1, 1987, and before January 1, 1988,".

(B) by striking clause (iii) and inserting the following:

"(iii) 12 percent for payments attributable to portions of cost reporting periods or discharges (as the case may be) in fiscal year 1988, occurring on or after January 1, 1988, and

"(iv) 15 percent to portions of cost reporting periods or discharges (as the case may) be occurring during fiscal year 1989.".

(b) Prospective Payment for Capital-Related Costs.—

(1) In general.—Paragraph (1) of section 1886(g) of such Act (42 U.S.C. 1395ww(g)) is amended to read as follows:

"(g)(1)(A) Notwithstanding section 1861(v), instead of any amounts that are otherwise payable under this title with respect to the reasonable costs of subsection (d) hospitals and subsection (d) Puerto Rico hospitals for capital-related costs of inpatient hospital services, the Secretary shall, for hospital cost reporting periods beginning on or after October 1, 1991, provide for payments for such costs in accordance with a prospective payment system established by the Secretary.

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[18] Copy read " 'eligible small rural hospital' ".

"(B) Such system—

"(i) shall provide for (I) a payment on a per discharge basis, and (II) an appropriate weighting of such payment amount as relates to the classification of the discharge;

"(ii) may provide for an adjustment to take into account variations in the relative costs of capital and construction for the different types of facilities or areas in which they are located;

"(iii) may provide for such exceptions (including appropriate exceptions to reflect capital obligations) as the Secretary determines to be appropriate, and

"(iv) may provide for suitable adjustment to reflect hospital occupancy rate.

"(C) In this paragraph, the term 'capital-related costs' has the meaning given such term by the Secretary under subsection (a)(4) as of September 30, 1987, and does not include a return on equity capital.".

(2) CONFORMING AMENDMENT.—Section 1886 of such Act is amended—

(A) in subsection (a)(4), by striking "with respect to costs incurred in cost reporting periods beginning prior to October 1 of 1987 (or of such later year as the Secretary may, in his discretion, select), other capital-related costs, as defined by the Secretary" and inserting "other capital-related costs (as defined by the Secretary for periods before October 1, 1987)", and

(B) by striking subparagraph (C) of subsection (g)(3).

(3) EFFECTIVE DATES.—The amendment made by paragraph (1) shall take effect on October 1, 1987. The amendments made by paragraph (2) shall apply to cost reporting periods beginning on or after October 1, 1987.

(c) PROPAC REPORT ON ADJUSTMENT FOR HOSPITAL OCCUPANCY.—The Prospective Payment Assessment Commission shall study and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, by not later than May 1, 1988, on the suitability and feasibility of linking payment for capital-related costs under part A of title XVIII of the Social Security Act to hospital occupancy rates.

SEC. 4007. REPORTING HOSPITAL INFORMATION.

(a) DEVELOPMENT OF DATA BASE.—The Secretary of Health and Human Services (in [19] this section referred to as the "Secretary") shall develop and place into effect not later than June 1, 1989, a data base of the operating costs of inpatient hospital services with respect to all hospitals under title XVIII of the Social Security Act, which data base shall be updated at least once every quarter (and maintained for the 12-month period preceding any such update). The data base under this subsection may include data from preliminary cost reports (but the Secretary shall make available an updata analysis of the differences between preliminary and settled cost reports).

(b) REPORTING OF INFORMATION ELECTRONICALLY.—

[20] (1) Subject to paragraph (2), with respect to hospital cost reporting periods beginning on or after October 1, 1989, the Secretary shall place into effect a standardized electronic cost reporting format for hospitals under the medicare program.

(2) The Secretary may delay or waive the implementation of such format in particular instances where such implementation would result in financial hardship (in particular with respect to a small percentage of medicare volume).

(c) DEMONSTRATION PROJECT.—

(1) The Secretary of Health and Human Services shall provide for a 3-year demonstration project to develop, and determine the costs and benefits of establishing a uniform system for the reporting by medicare participating hospitals of balance sheet and information described in paragraph (2). In contracting the project, the Secretary shall require hospitals in at least 2 States, one of which maintains a uniform hospital reporting system, to report such information based on standard information established by the Secretary.

(2) The information described in this paragraph is as follows:

(A) Hospital discharges (classified by category of service and by class of primary payer).

(B) Patient days (classified by category of service and by class of primary payer).

(C) Licensed beds, staffed beds, and occupancy (by category of service).

(D) Outpatient visits (classified by class of primary payer).

(E) Inpatient charges and revenues (classified by class of primary payer).

(F) Outpatient charges and revenues (classified by class of primary payer).

(G) Inpatient and outpatient hospital expenses (by cost-center classified for operating and capital).

(H) Reasonable costs.

(I) Other income.

(J) Uncompensated care (classified by bad debt and charity care).

(K) Capital acquisitions.

(L) Capital assets.

(3) The Secretary shall develop the system under subsection (c) in a manner so as—

(A) to facilitate the submittal of the information in the report in an electronic form, and

(B) to be compatible with the needs of the medicare prospective payment system.

(4) The Secretary shall prepare and submit, to the Prospective Payment Assessment Commission, the Comptroller General, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, by not later than 45 days after the end of each calendar quarter, data collected under the system.

(5) In paragraph (3):

(A) The terms "bad debt" and "charity care" have such meanings as the Secretary establishes.

(B) The term "class" means, with respect to payers, the programs under this title VIII of the Social Security Act, a State plan approved under title XIX of such Act, other third party-payers, and self-paying individuals.

(6) [21] The Secretary shall set aside at least $1,000,000 for each of fiscal years 1988, 1989, and 1990 from existing research funds to develop the format, according to paragraph (1), and at least $2,000,000 from program operations funds for data collection and analysis, but total funds shall not exceed $15,000,000 over 3 years.

(7) [22] The Comptroller General shall analyze the adequacy of the existing system for reporting of hospital information and the costs and benefits of data reporting under the demonstration system and will recommend improvements in hospital data collection and in analysis and display of data in support of policy making.

[23] (d) CONSULTATION.—The Secretary shall consult representatives of the hospital industry in carrying out the provisions of this section.

SEC. 4008. OTHER PROVISIONS RELATING TO PAYMENT FOR INPATIENT HOSPITAL SERVICES.

(a) MASSACHUSETTS MEDICARE REPAYMENT.—The Secretary of Health and Human Services shall not, on or after the date of the enactment of this Act, and before January 1, 1989, recoup from, or otherwise reduce payments to, hospitals in the State of Massachusetts because of alleged overpayments to such hospitals under part A of title XVIII of the Social Security Act which occurred during the period of the statewide hospital reimbursement demonstration project conducted in that State, between October 1, 1982, and June 30, 1986, under section 402 of the Social Security Amendments of 1967 and section 222 of the Social Security Amendments of 1972.

(b) CLARIFICATION OF SECTION 1814(b) STATE WAIVER AUTHORITY.—

(1) APPLICATION OF AGGREGATE TEST.—Section 1814(b)(3)(B) of the Social Security Act (42 U.S.C. 1395f(b)(3)(B)) is amended by striking "rate of increase for the previous three-year period" and inserting "aggregate rate of increase from October 1, 1983, to the most recent date for which annual data are available".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(c) CONTINUATION OF BAD DEBT RECOGNITION FOR HOSPITAL SERVICES.—In making payments to hospitals under title XVIII of the Social Security Act, the Secretary of Health and Human Services shall not make any change in the policy in effect on August 1, 1987, with respect to payment under title XVIII of the Social Security Act to providers of service for reasonable costs relating to unrecovered costs associated with unpaid deductible and coinsurance amounts incurred under such title (including criteria for what constitutes a reasonable collection effort).

(d) HOSPITAL OUTLIER PAYMENTS AND POLICY.—

(1) INCREASE IN OUTLIER PAYMENTS FOR BURN CENTER DRGS.—

(A) IN GENERAL.—For discharges classified in diagnosis-related groups relating to burn cases and occurring on or after April 1, 1988, and before October 1, 1989, the marginal cost of care permitted by the Secretary of Health and Human Services under section 1886(d)(5)(A)(iii) of the Social Security Act shall be 90 percent of the appropriate per diem cost of care or 90 percent of the cost for cost outliers.

(B) BUDGET NEUTRALITY.—Subparagraph (A) shall be implemented in a manner that ensures that total payments under section 1886 of the Social Security Act are not increased or decreased by reason of the adjustments required by such subparagraph.

(2) LIMITATION ON CHANGES IN OUTLIER REGULATIONS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, except as required to implement specific provisions required under statute, the Secretary of Health and Human Services is not authorized to issue in final form, after the date of the enactment of this Act and before September 1, 1988, any final regulation which changes the method of payment for outlier cases under section 1886(d)(5)(A) of the Social Security Act.

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[19] Copy read "Services, (in".

[20] Copy read "ELECTRONICALLY.—Subject".

[21] Copy read "(7)".

[22] Copy read "(8)".

[23] "(d)" Paragraph had wrong indention.

(B) PROPAC[24] REPORT.—The chairman of the Prospective Payment Assessment Commission shall report to the Congress and the Secretary of Health and Human Services, by not later than June 1, 1988, on the method of payment for outlier cases under such section and providing more adequate and appropriate payments with respect to burn outlier cases.

(3) REPORT ON OUTLIER PAYMENTS.—The Secretary of Health and Human Services shall include in the annual report submitted to the Congress pursuant to section 1875(b) of the Social Security Act a comparison with respect to hospitals located in an urban area and hospitals located in a rural area in the amount of reductions under section 1886(d)(3)(B) of the Social Security Act and additional payments under section 1886(d)(5)(A) of such Act.

(e) MISCELLANEOUS ACCOUNTING PROVISION.—Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986, subsection (d) of section 9307 of such Act is amended to read as follows:

"(d) MISCELLANEOUS ACCOUNTING PROVISION.—Notwithstanding any other provision of law, for purposes of section 1886(d)(1)(A) of the Social Security Act, in the case of a hospital that—

"(1) had a cost reporting period beginning on September 28, 29, or 30 of 1985,

"(2) is located in a State in which inpatient hospital services were paid in fiscal year 1985 pursuant to a Statewide demonstration project under section 402 of the Social Security Amendments of 1967 and section 222 of the Social Security Amendments of 1972, and

"(3) elects, by notice to the Secretary of Health and Human Services by not later than April 1, 1988, to have this subsection apply,

during the first 7 months of such cost reporting period the 'target percentage' shall be 75 percent and the 'DRG percentage' shall be 25 percent, and during the remaining 5 months of such period the 'target percentage' and the 'DRG percentage' shall each be 50 percent.".

SEC. 4009. MISCELLANEOUS PROVISIONS.

(a) RESPONSIBILITIES OF MEDICARE HOSPITALS IN EMERGENCY CASES.—

(1) INCREASE IN CIVIL MONETARY PENALTY.—Section 1867(d)(2) of the Social Security Act (42 U.S.C. 1395dd(d)(2)) is amended by striking "$25,000" and inserting "$50,000".

(2) EXCLUSION FROM MEDICARE PROGRAM FOR VIOLATIONS.—Section 1867(d)(1) of such Act is amended by adding at the end the following new sentence:

"If a civil money penalty is imposed on a responsible physician under paragraph (2), the Secretary may impose the sanction described in section 1842(j)(2)(A) (relating to barring from participation in the medicare program) in the same manner as it is imposed under section 1842(j).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions occurring on or after the date of the enactment of this Act.

(b) DESIGNATION OF PEDIATRIC HOSPITALS AS MEETING CERTIFICATION AS HEART TRANSPLANT FACILITY.—For purposes of determining whether a pediatric hospital that performs pediatric heart transplants meets the criteria established by the Secretary of Health and Human Services for facilities in which the heart transplants performed will be considered to meet the requirement of section 1862(a)(1)(A) of the Social Security Act, the Secretary shall treat such a hospital as meeting such criteria if—

(1) the hospital's pediatric heart transplant program is operated jointly by the hospital and another facility that meets such criteria,

(2) the unified program shares the same transplant surgeons and quality assurance program (including oversight committee, patient protocol, and patient selection criteria), and

(3) the hospital demonstrates to the satisfaction of the Secretary that it is able to provide the specialized facilities, services, and personnel that are required by pediatric heart transplant patients.

(c) WAIVER OF INPATIENT LIMITATIONS FOR THE CONNECTICUT HOSPICE.[25]—Subsection (a) of section 9307 of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) by striking "TEMPORARY" in the heading, and

(2) by striking "for hospice care provided before October 1, 1988,".

(d) REVISION OF APPOINTMENT PROCESS FOR PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.—

(1) IN GENERAL.—Section 1886(e)(6)(B) of the Social Security Act (42 U.S.C. 1395ww(e)(6)(B)) is amended—

(A) in the first sentence, by striking "provide expertise and experience in the provision and financing of health care" and inserting "include individuals with national recognition for their expertise in health economics, hospital reimbursement, hospital financial management, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives,"; and

(B) by striking the last sentence.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to appointments made after the date of the enactment of this Act.

(e) PSYCHOLOGISTS' SERVICES FURNISHED TO HOSPITAL INPATIENTS.—

(1) IN GENERAL.—Section 1861(b)(3) of such Act (42 U.S.C. 1395x(b)(3)) is amended by inserting "(including clinical psychologist (as defined by the Secretary))" after "others" the first place it appears.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to services furnished on or after April 1, 1988.

(f) HOSPITAL CONDITION OF PARTICIPATION RELATED TO INDIVIDUAL RESPONSIBLE FOR CARE OF PATIENT.—Section 1861(e)(4) of such Act (42 U.S.C. 1395x(e)(4)) is amended by inserting "with respect to whom payment may be made under this title" after "patient".

(g) DELAY IN REQUIREMENTS RELATING TO HOSPITAL STANDARDS FOR ORGAN TRANSPLANTS AND STANDARDS FOR ORGAN PROCUREMENT AGENCIES.—

(1) Section 9318(b)(2) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 107(c) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, is amended by striking "November 21, 1987" and inserting "March 31, 1988".

(2) The amendment made by paragraph (1) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

(h) PROPAC STUDIES AND REPORTS.—

(1) PROPAC REPORTS ON STUDY OF DRG RATES FOR HOSPITALS IN RURAL AND URBAN AREAS.—The Prospective Payment Assessment Commission shall evaluate the study conducted by the Secretary of Health and Human Services pursuant to section 603(a)(2)(C)(i) of the Social Security Amendments of 1983 (relating to the feasibility, impact, and desirability of eliminating or phasing out separate urban and rural DRG prospective payment rates) and report its conclusions and recommendations to the Congress not later than March 1, 1988.

(2) PROPAC REPORT ON SEPARATE URBAN PAYMENT RATES.—The Prospective Payment Assessment Commission shall evaluate the desirability of maintaining separate DRG prospective payment rates for hospitals located in large urban areas (as defined in section 1886(d)(2)(D)) of the Social Security Act) and in other urban areas, and shall report to Congress on such evaluation not later than January 1, 1989.

(3) REPORT ON ADJUSTMENT FOR NON-LABOR COSTS.—The Prospective Payment Assessment Commission shall perform an analysis to determine the feasibility and appropriateness of adjusting the non-wage-related portion of the adjusted average standardized amounts under section 1886(d)(3) of the Social Security Act based on area differences in hospitals' costs (other than wage-related costs) and input prices. The Commission shall report to the Congress on such analysis by not later than October 1, 1989.

(i) SPECIAL RULE.—In the case of New England county metropolitan areas, the Secretary of Health and Human Services shall apply the second sentence of section 1886(d)(2)(D) of the Social Security Act, as amended by section 4001(b) of this subtitle, as though 970,000 were substituted for 1,000,000.

(j) TECHNICAL CORRECTIONS.—

(1) Section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)) is amended by inserting a comma after "educational activities".

(2) Section 1886(d)(5)(C)(i)(II) of such Act (42 U.S.C. 1395ww(d)(5)(C)(i)(II)) is amended by inserting "index" after "case mix" both places it appears.

(3) Section 1886(d)(5)(F) of such Act (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(A) in clause (i)(II), by striking "such revenues" the second place it appears and inserting "such net inpatient care revenues", and

(B) in clause (iv)(I), by striking "subclause (III)" and inserting "clause (v)".

(4) Section 1886(d)(9) of such Act (42 U.S.C. 1395ww(d)(9)) is amended by moving the matter in subparagraph (B) before clause (i) 2 ems to the left so the left margin of such matter is aligned with the left margin of the matter in subparagraph (A) before clause (i).

(5) Section 1886(h)(4)(C) of such Act (42 U.S.C. 1395ww(h)(4)(C)) is amended by striking "subparagraph (E)" and inserting "subparagraph (D)".

(6) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986—

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[24] Copy read "PROPAC".

[25] Copy read "LIMITATIONS FOR THE CONNECTICUT HOSPICE.".

(A) subparagraph (B) of section 9307(c)(1) of such Act is amended to read as follows:

"(B) in paragraph (2)—

"(i) by striking subparagraphs (A) and (B),

"(ii) in subparagraph (C), by striking 'such subsection' and inserting 'of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)' and by redesignating such subparagraph as subparagraph (A), and

"(iii) by amending subparagraph (D) to read as follows:

" '(B) The amendments made by subparagraph (A) apply to discharges occurring on or after May 1, 1986.' ";

(B) section 9302(a)(2)(C) of such Act is amended by striking "1866(e)(5)" and inserting "1886(e)(5)";

(C) section 9320(h)(1) of such Act is amended by striking "before the period" and inserting "before the semicolon";

(D) section 9321(c)(4) of such Act is amended by striking "second sentence" and all that follows through "operating costs" and inserting "second sentence of section 1886(a)(4) of the Social Security Act, from the term 'operating costs'";

(E) the second sentence of section 9335(d)(2) of such Act is amended by striking "establish" and inserting "designate"; and

(F) section 9321(c)(3) of such Act is amended by inserting "section 1861(v)(1)(O) and 1886(g)(2) of the Social Security Act and" after "implementing".

(7) Section 218(v) of the Social Security Act (42 U.S.C. 418(v)) is amended by striking paragraph (3).

(8) Effective as if included in the Tax Reform Act of 1986, section 1895(d)(6)(C) of such Act is amended by striking "603" and inserting "2203".

PART 2—PROVISIONS RELATING TO PARTS A AND B

Subpart A—Health Maintenance Organization Reforms

SEC. 4011. BENEFICIARY PROTECTION.

(a) Post-Contract Protection for Enrollees with Eligible Organizations Under[26] the Medicare Program.—

(1) Section 1876(c)(3) of such Act (42 U.S.C. 1395mm(b)(2)) is amended by adding at the end the following new subparagraph:

"(F) Each eligible organization that provides items and services pursuant to a contract under this section shall provide assurances to the Secretary that in the event the organization ceases to provide such items and services, the organization shall provide or arrange for supplemental coverage of benefits under this title related to a pre-existing condition with respect to any exclusion period, to all individuals enrolled with the entity who receive benefits under this title, for the lesser of six months or the duration of such period.".

(2) The amendment made by paragraph (1) shall apply with respect to contracts entered into or renewed on or after the date of enactment of this Act.

(b) Notification of Termination of Risk-Sharing Contract.—

(1) Section 1876(c)(3) of such Act, as amended by subsection (a)(1), is further amended by adding at the end the following new subparagraph:

"(G)(i) Each eligible organization having a risk-sharing contract under this section shall notify individuals eligible to enroll with the organization under this section and individuals enrolled with the organization under this section that—

"(I) the organization is authorized by law to terminate or refuse to renew the contract, and

"(II) termination or nonrenewal of the contract may result in termination of the enrollments of individuals enrolled with the organization under this section.

"(ii) The notice required by clause (i) shall be included in—

"(I) any marketing materials described in subparagraph (C) that are distributed by an eligible organization to individuals eligible to enroll under this section with the organization, and

"(II) any explanation provided to enrollees by the organization pursuant to subparagraph (E).".

(2) The amendment made by paragraph (1) shall apply to contracts entered into or renewed on or after the date of the enactment of this Act.

SEC. 4012. PAYMENTS FOR HOSPITAL SERVICES.

(a) In General.—Section 1866(a)(1) of such Act (42 U.S.C. 1395cc(a)(1)) is amended by inserting immediately after subparagraph (N) the following new subparagraph:

"(O) in the case of hospitals and skilled nursing facilities, to accept as payment in full for inpatient hospital and extended care services that are covered under this title and are furnished to any individual enrolled with an eligible organization with a risk-sharing contract under section 1876 the amounts (in the case of hospitals) or limits (in the case of skilled nursing facilities) that would be made as a payment in full under this title if the individuals were not so enrolled.".

(b) Repeal.—Section 1876(g)(4) of the Social Security Act (42 U.S.C. 1395mm(g)(4)) is repealed.

(c) Implementation.—The Secretary of Health and Human Services shall provide (in machine readable form) to eligible organizations under section 1876 of the Social Security Act medicare DRG rates for payments required by the amendment made by paragraph (2) and data on cost pass-through items for all inpatient services provided to medicare beneficiaries enrolled with such organizations.

(d) Effective Date.—The amendments made by subsections (a) and (b) shall apply to admissions occurring on or after April 1, 1988, or, if later, the earliest date the Secretary can provide the information required under subsection (c) in machine readable form.

SEC. 4013. TWO-YEAR EXTENSION ON PERIOD FOR BENEFIT STABILIZATION.

(a) In General.—Section 1876(g)(5) of the Social Security Act (42 U.S.C. 1395mm(g)(5)), as added by the amendment made by section 2350(a)(2) of the Deficit Reduction Act of 1984, is amended by striking "four" and inserting "six".

(b) Effective Date.—The amendment made by subsection (a) shall be effective as if included in the enactment of the amendment made by section 2350(a)(2) of the Deficit Reduction Act of 1984.

SEC. 4014. CIVIL MONEY PENALTIES AND INTERMEDIATE SANCTIONS AGAINST HMOS/CMPS.

Section 1876(i)(6) of the Social Security Act (42 U.S.C. 1395mm) is amended to read as follows:

"(6)(A) If the Secretary determines that an eligible organization with a contract under this section—

"(i) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(ii) imposes premiums on individuals enrolled under this section in excess of the premiums permitted;

"(iii) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this section;

"(iv) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this section) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

"(v) misrepresents or falsifies information that is furnished—

"(I) to the Secretary under this section, or

"(II) to an individual or to any other entity under this section; or

"(vi) fails to comply with the requirements of subsection (g)(6)(A);

the Secretary may provide for any of the remedies described in subparagraph (B).

"(B) The remedies described in this subparagraph are—

"(i) civil money penalties of not more than $25,000 for each determination under subparagraph (A) or, with respect to a determination under clause (iv) or (v)(I), of not more than $100,000 for each such determination,

"(ii) suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(iii) suspension of payment to the organization under this section for individuals enrolled after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under clause (i) in the same manner as they apply to a civil money penalty under that section.".

SEC. 4015. MEDICARE PAYMENT DEMONSTRATION PROJECTS.

(a) Medicare Insured Group Demonstration Projects.—

(1) The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") may provide for capitation demonstration projects (in this subsection referred to as "projects") with an entity which is an eligible organization with a contract with the Secretary under section 1876 of the Social Security Act or which meets the restrictions and requirements of this subsection. The Secretary may not approve a project unless it meets the requirements of this subsection.

(2) The Secretary may not conduct more than 3 projects and may not expend, from funds under title XVIII of the Social Security Act, more than $600,000,000 in any fiscal year for all such projects.

(3) The per capita rate of payment under a project—

(A) may be based on the adjusted average per capita cost (as defined in section 1876(a)(4) of the Social Security Act) determined only with respect to the group of individuals involved (rather than with respect to medicare beneficiaries generally), but

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[26] Copy read "UNDER".

(B) the rate of payment may not exceed the lesser of—

(i) 95 percent of the adjusted average per capita cost described in subparagraph (A), or

(ii)(I) in the 4th year or 5th year of a project, 115 percent of the adjusted average per capita cost (as defined in section 1876(a)(4) of such Act) for classes of individuals described in section 1876(a)(1)(B) of that Act, or

(II) in any subsequent year of a project, 95 percent of the adjusted average per capita cost (as defined in section 1876(a)(4)) for such classes.

(4) If the payment amounts made to a project are greater than the costs of the project (as determined by the Secretary or, if applicable, on the basis of adjusted community rates described in section 1876(e)(3) of the Social Security Act), the project—

(A) may retain the surplus, but not to exceed 5 percent of the average adjusted per capita cost determined in accordance with paragraph (3)(A), and

(B) with respect to any additional surplus not retained by the project, shall apply such surplus to additional benefits for individuals served by the project or return such surplus to the Secretary.

(5) Enrollment under the project shall be voluntary. Individuals enrolled with the project may terminate such enrollment as of the beginning of the first calendar month following the date on which the request is made for such termination. Upon such termination, such individuals shall retain the same rights to other health benefits that such individuals would have had if they had never enrolled with the project without any exclusion or waiting period for pre-existing conditions.

(6) The requirements of—

(A) subsection (c)(3)(C) (relating to dissemination of information),

(B) subsection (c)(3)(E) (annual statement of rights),

(C) subsection (c)(5) (grievance procedures),

(D) subsection (c)(6) (on-going quality),

(E) subsection (g)(6) (relating to prompt payment of claims),

(F) subsection (i)(3)(A) and (B) (relating to access to information and termination notices),

(G) subsection (i)(6) (relating to providing necessary services), and

(H) subsection (i)(7) (relating to agreements with peer review organizations),

of section 1876 of the Social Security Act shall apply to a project in the same manner as they apply to eligible organizations with risk-sharing contracts under such section.

(7) The benefits provided under a project must be at least actuarially equivalent to the combination of the benefits available under title XVIII of the Social Security Act and the benefits available through any alternative plans in which the individual can enroll through the the employer. The project shall guarantee the actuarial value of benefits available under the employer plan for the duration of the project.

(8) A project shall comply with all applicable State laws.

(9) The Secretary may not authorize a project unless the entity offering the project demonstrates to the satisfaction of the Secretary that it has the necessary financial reserves to pay for any liability for benefits under the project (including those liabilities for health benefits under medicare and any supplemental benefits).

(10) The Comptroller General shall monitor projects under this subsection and shall report periodically (not less often than once every year) to the Committee on Finance of the Senate and the Committee on Energy and Commerce and Committee on Ways and Means of the House of Representatives on the status of such projects and the affect on such projects of the requirements of this section and shall submit a final report to each such committee on the results of such projects.

(b) PAYMENT METHODOLOGY REFORM DEMONSTRATIONS PROJECTS.—

(1) The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") is specifically authorized to conduct demonstration projects under this subsection for the purpose of testing alternative payment methodologies pertaining to capitation payments under title XVIII of the Social Security Act, including—

(A) computing adjustments to the average per capita cost under section 1876 of such Act on the basis of health status or prior utilization of services, and

(B) accounting for geographic variations in cost in the adjusted average per capita costs applicable to an eligible organization under such section which differs from payments currently provided on a county-by-county basis.

(2) No project may be conducted under this subsection—

(A) with an entity which is not an eligible organization (as defined in section 1876(b) of the Social Security Act), and

(B) unless the project meets all the requirements of subsections (c) and (i)(3) of section 1876 of such Act.

(3) There are authorized to be appropriated to carry out projects under this subsection $5,009,000 in each of fiscal years 1989 and 1990.

(c) APPLICATION OF PROVISIONS.—The provisions of subsection (a)(2) and the first sentence of subsection (b) of section 402 of the Social Security Amendments of 1967 shall apply to the demonstration projects under this section in the same manner as they apply to experiments under subsection (a)(1) of that section.

SEC. 4016. DELAY IN EFFECTIVE DATE IN PHYSICIAN INCENTIVE RULES FOR HEALTH MAINTENANCE ORGANIZATIONS.

Section 9313(c)(2)(B) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "April 1, 1989" and inserting "April 1, 1990".

SEC. 4017. GAO STUDY AND REPORTS ON MEDICARE CAPITATION.

(a) STUDY.—The Comptroller General shall conduct a study on medicare capitation rates that shall include an analysis and assessment of—

(1) the current method for computing per capita rates of payment under section 1876 of the Social Security Act (including the method for determining the United States per capita cost);

(2) the method for establishing relative costs for geographic areas and the data used to establish age, sex, and other weighting factors;

(3) ways to refine the calculation of adjusted average per capita costs under section 1876 of such Act (including making adjustments for health status or prior utilization of services and improvements in the definition of geographic areas);

(4) the extent to which individuals enrolled with organizations with a risk-sharing contract with the Secretary under section 1876 of such Act differ in utilization and cost from fee-for-service beneficiaries and ways for modifying enrollment patterns through program changes or for reflecting the differences in rates through group experience rating or other means;

(5) approaches for limiting the liability of the contracting organization under section 1876 of such Act in catastrophic cases;

(6) ways of establishing capitation rates on a basis other than fee-for-service experience in areas with high prepaid market penetration; and

(7) methods for providing the rate levels necessary to maintain access to quality prepaid services in rural or medically underserved areas (while maintaining cost savings).

(b) REPORTS.—

(1) Not later than January 1 of 1989 and 1990, the Comptroller General shall submit to the Committee on Finance of the Senate and the Committee on Energy and Commerce and Committee on Ways and Means of the House of Representatives interim reports on the progress of the study conducted under subsection (a).

(2) Not later than January 1, 1991, the Comptroller General shall submit to each such committee a final report on the results of such study.

SEC. 4018. SPECIAL RULES.

(a) ASSIGNMENT OF MEMBERS FOR HIP HEALTH MAINTENANCE ORGANIZATION.—Section 1876(f) of such Act (42 U.S.C. 1395mm(f)) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3)(A) An eligible organization described in subparagraph (B) may elect, for purposes of determining the compliance of a subdivision, subsidiary, or affiliate described in subparagraph (B)(iii) with the requirement of paragraph (1) for the period before October 1, 1992, to have members of the subdivision, subsidiary, or affiliate considered to be members of the parent organization.

"(B) An eligible organization described in this subparagraph is an eligible organization which—

"(i) is described in section 1903(m)(2)(B)(iii);

"(ii) has members who have a collectively bargained contractual right to obtain health benefits from the organization;

"(iii) elects to provide benefits under a risk-sharing contract to individuals residing in a service area, who have a collectively bargained contractual right to obtain benefits from the organization, through a subdivision, subsidiary, or affiliate which itself is an eligible organization serving the area and which is owned or controlled by the parent eligible organization; and

"(iv) has assumed any risk of insolvency and quality assurance with respect to individuals receiving benefits through such a subdivision, subsidiary, or affiliate.".

(b) EXTENSION OF WAIVERS FOR SOCIAL HEALTH MAINTENANCE ORGANIZATIONS.—

(1) The Secretary of Health and Human Services shall extend without interruption, through September 30, 1992, the approval of waivers granted under subsection (a) of section 2355 of the Deficit Reduction Act of 1984 for the demonstration project described in subsection (b) of that section, subject to the terms and conditions (other than duration of the project) established under that section (as amended by paragraph (2) of this subsection).

(2) Section 2355(b)(5) of the Deficit Reduction Act of 1984 is amended by inserting

"(i) who is a licensed health professional (as defined in subparagraph (F)), or

"(ii) who volunteers to provide such services without monetary compensation.

"(F) In this paragraph, the term 'licensed health professional' means a physician, physician assistant, nurse practitioner, physical, speech, or occupational therapist, registered professional nurse, licensed practical nurse, or licensed or certified social worker.

"(4) With respect to durable medical equipment furnished to individuals for whom the agency provides items and services, suppliers of such equipment do not use (on a full-time, temporary, per diem, or other basis) any individual who does not meet minimum training standards (established by the Secretary by October 1, 1988) for the demonstration and use of any such equipment furnished to individuals with respect to whom payments may be made under this title.

"(5) The agency includes an individual's plan of care required under section 1861(m) as part of the clinical records described in section 1861(o)(3).

"(6) The agency operates and provides services in compliance with all applicable Federal, State, and local laws and regulations (including the requirements of section 1124) and with accepted professional standards and principles which apply to professionals providing items and services in such an agency.

"(b) It is the duty and responsibility of the Secretary to assure that the conditions of participation and requirements specified in or pursuant to section 1861(o) and subsection (a) of this section and the enforcement of such conditions and requirements are adequate to protect the health and safety of individuals under the care of a home health agency and to promote the effective and efficient use of public moneys.".

(c) Effective Date.—Except as otherwise provided, the amendments made by subsections (a) and (b) shall apply to home health agencies as of the first day of the 18th calendar month that begins after the date of the enactment of this Act.

SEC. 4022. STANDARD AND EXTENDED SURVEY.

(a) In General.—Section 1891 of the Social Security Act (as added by section 4021) is amended by adding at the end the following new subsections:

"(c)(1) Any agreement entered into or renewed by the Secretary pursuant to section 1864 relating to home health agencies shall provide that the appropriate State or local agency shall conduct, without any prior notice, a standard survey of each home health agency. Any individual who notifies (or causes to be notified) a home health agency of the time or date on which such a survey is scheduled to be conducted is subject to a civil money penalty of not to exceed $2,000. The Secretary shall provide for imposition of civil money penalties under this clause in a manner similar to that for the imposition of civil money penalties under section 1128A. The Secretary shall review each State's or local agency's procedures for scheduling and conduct of standard surveys to assure that the State or agency has taken all reasonable steps to avoid giving notice of such a survey through the scheduling procedures and the conduct of the surveys themselves.

"(2)(A) Except as provided in subparagraph (B), each home health agency shall be subject to a standard survey not later than 15 months after the date of the previous standard survey conducted under this paragraph. The statewide average interval between standard surveys of any home health agency shall not exceed 12 months.

"(B) If not otherwise conducted under subparagraph (A), a standard survey (or an abbreviated standard survey) of an agency—

"(i) may be conducted within 2 months of any change of ownership, administration, or management of the agency to determine whether the change has resulted in any decline in the quality of care furnished by the agency, and

"(ii) shall be conducted within 2 months of when a significant number of complaints have been reported with respect to the agency to the Secretary, the State, the entity responsible for the licensing of the agency, the State or local agency responsible for maintaining a toll-free hotline and investigative unit (under section 1864(a)), or any other appropriate Federal, State, or local agency.

"(C) A standard survey conducted under this paragraph with respect to a home health agency—

"(i) shall include (to the extent practicable), for a case-mix stratified sample of individuals furnished items or services by the agency—

"(I) visits to the homes of such individuals, but only with the consent of such individuals, for the purpose of evaluating (in accordance with a standardized reproducible assessment instrument (or instruments) approved by the Secretary under subsection (d)) the extent to which the quality and scope of items and services furnished by the agency attained and maintained the highest practicable functional capacity of each such individual as reflected in such individual's written plan of care required under section 1861(m) and clinical records required under section 1861(o)(3); and

"(II) a survey of the quality of care and services furnished by the agency as measured by indicators of medical, nursing, and rehabilitative care;

"(ii) shall be based upon a protocol that is developed, tested, and validated by the Secretary not later than January 1, 1989; and

"(iii) shall be conducted by an individual—

"(I) who meets minimum qualifications established by the Secretary not later than July 1, 1989,

"(II) who is not serving (or has not served within the previous 2 years) as a member of the staff of, or as a consultant to, the home health agency surveyed respecting compliance with the conditions of participation specified in or pursuant to section 1861(o) or subsection (a) of this section, and

"(III) who has no personal or familial financial interest in the home health agency surveyed.

"(D) Each home health agency that is found, under a standard survey, to have provided substandard care shall be subject to an extended survey to review and identify the policies and procedures which produced such substandard care and to determine whether the agency has complied with the conditions of participation specified in or pursuant to section 1861(o) or subsection (a) of this section. Any other agency may, at the Secretary's or State's discretion, be subject to such an extended survey (or a partial extended survey). The extended survey shall be conducted immediately after the standard survey (or, if not practical, not later than 2 weeks after the date of completion of the standard survey).

"(E) Nothing in this paragraph shall be construed as requiring an extended (or partial extended) survey as a prerequisite to imposing a sanction against an agency under subsection (e) on the basis of the findings of a standard survey.

"(d)(1) Not later than January 1, 1989, the Secretary shall designate an assessment instrument (or instruments) for use by an agency in complying with subsection (c)(2)(C)(I).

"(2)(A) Not later than January 1, 1991, the Secretary shall—

"(i) evaluate the assessment process,

"(ii) report to Congress on the results of such evaluation, and

"(iii) based on such evaluation, make such modifications in the assessment process as the Secretary determines are appropriate.

"(B) The Secretary shall periodically update the evaluation conducted under subparagraph (A), report the results of such update to Congress, and, based on such update, make such modifications in the assessment process as the Secretary determines are appropriate.

"(3) The Secretary shall provide for the comprehensive training of State and Federal surveyors in matters relating to the performance of standard and extended surveys under this section, including the use of any assessment instrument (or instruments) designated under paragraph (1).".

(b) Effective Date.—Except as otherwise specifically provided in section 1891(d) of the Social Security Act (as added by subsection (a)), the amendment made by subsection (a) shall become effective on the first day of the 18th calendar month to begin after the date of the enactment of this Act.

SEC. 4023. ENFORCEMENT.

Section 1891 of the Social Security Act (as added by section 4021 and amended by section 4022) is further amended by adding at the end the following new subsections:

"(e)(1) If the Secretary determines on the basis of a standard, extended, or partial extended survey or otherwise, that a home health agency that is certified for participation under this title is no longer in compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a) and determines that the deficiencies involved immediately jeopardize the health and safety of the individuals to whom the agency furnishes items and services, the Secretary shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in subsection (f)(2)(A)(iii) or terminate the certification of the agency, and may provide, in addition, for 1 or more of the other remedies described in subsection (f)(2)(A).

"(2) If the Secretary determines on the basis of a standard, extended, or partial extended survey or otherwise, that a home health agency that is certified for participation under this title is no longer in compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a) and determines that the deficiencies involved do not immediately jeopardize the health and safety of the individuals to whom the agency furnishes items and services, the Secretary may (for a period not to exceed 6 months) impose intermediate sanctions developed pursuant to subsection (f), in lieu of terminating the certification of the agency. If, after such a period of intermediate sanctions, the agency is still no longer in compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a), the Secretary shall terminate the certification of the agency.

"(3) If the Secretary determines that a home health agency that is certified for participation under this title is in compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a) but, as of a previous period, did not meet such requirements, the Secretary may provide for a civil money penalty under subsection (f)(2)(A)(i) for the days in which it finds that the agency was not in compliance with such requirements.

"(4) The Secretary may continue payments under this title with respect to a home health agency not in compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a) over a period of not longer than 6 months, if—

"(A) the State or local survey agency finds that it is more appropriate to take alternative action to assure compliance of the agency with the requirements than to terminate the certification of the agency,

"(B) the agency has submitted a plan and timetable for corrective action to the Secretary for approval and the Secretary approves the plan of corrective action, and

"(C) the agency agrees to repay to the Federal Government payments received under this subparagraph if the corrective action is not taken in accordance with the approved plan and timetable.

The Secretary shall establish guidelines for approval of corrective actions requested by home health agencies under this subparagraph.

"(f)(1) The Secretary shall develop and implement, by not later than April 1, 1989—

"(A) a range of intermediate sanctions to apply to home health agencies under the conditions described in subsection (e), and

"(B) appropriate procedures for appealing determinations relating to the imposition of such sanctions.

"(2)(A) The intermediate sanctions developed under paragraph (1) shall include—

"(i) civil money penalties for each day of noncompliance,

"(ii) suspension of all or part of the payments to which a home health agency would otherwise be entitled under this title with respect to items and services furnished by a home health agency on or after the date on which the Secretary determines that intermediate sanctions should be imposed pursuant to subsection (e)(2), and

"(iii) the appointment of temporary management to oversee the operation of the home health agency and to protect and assure the health and safety of the individuals under the care of the agency while improvements are made in order to bring the agency into compliance with all the requirements specified in or pursuant to section 1861(o) or subsection (a).

The temporary management under clause (iii) shall not be terminated until the Secretary has determined that the agency has the management capability to ensure continued compliance with all the requirements referred to in that clause.

"(B) The sanctions specified in subparagraph (A) are in addition to sanctions otherwise available under State or Federal law and shall not be construed as limiting other remedies, including any remedy available to an individual at common law.

"(C) A finding to suspend payment under subparagraph (A)(ii) shall terminate when the Secretary finds that the home health agency is in substantial compliance with all the requirements specified in or pursuant to section 1861(o) and subsection (a).

"(3) The Secretary shall develop and implement, by not later than April 1, 1989, specific procedures with respect to the conditions under which each of the intermediate sanctions developed under paragraph (1) is to be applied, including the amount of any fines and the severity of each of these sanctions. Such procedures shall be designed so as to minimize the time between identification of deficiencies and imposition of these sanctions and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies.".

(b) Effective Date.—Except as otherwise specifically provided in subsections (e) and (f) of section 1891 of the Social Security Act (as added by subsection (a)), the amendment made by subsection (a) shall become effective on the first day of the 18th calendar month to begin after the date of the enactment of this Act.

SEC. 4024. REQUIREMENT THAT INDIVIDUAL BE CONFINED TO HOME.

(a) Part A.—Section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)) is amended by adding at the end the following: "For purposes of paragraph (2)(C), an individual shall be considered to be 'confined to his home' if the individual has a condition, due to an illness or injury, that restricts the ability of the individual to leave his or her home except with the assistance of another individual or the aid of a supportive device (such as crutches, a cane, a wheelchair, or a walker), or if the individual has a condition such that leaving his or her home is medically contraindicated. While an individual does not have to be bedridden to be considered 'confined to his home', the condition of the individual should be such that there exists a normal inability to leave home, that leaving home requires a considerable and taxing effort by the individual, and that absences of the individual from home are infrequent or of relatively short duration, or are attributable to the need to receive medical treatment.".

(b) Part B.—Section 1835(a) of such Act (42 U.S.C. 1395n(a)) is amended by adding at the end the following: "For purposes of paragraph (2)(A), an individual shall be considered to be 'confined to his home' if the individual has a condition, due to an illness or injury, that restricts the ability of the individual to leave his or her home except with the assistance of another individual or the aid of a supportive device (such as crutches, a cane, a wheelchair, or a walker), or if the individual has a condition such that leaving his or her home is medically contraindicated. While an individual does not have to be bedridden to be considered 'confined to his home', the condition of the individual should be such that there exists a normal inability to leave home, that leaving home requires a considerable and taxing effort by the individual, and that absences of the individual from home are infrequent or of relatively short duration, or are attributable to the need to receive medical treatment.".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall apply to items and services provided on or after January 1, 1988.

SEC. 4025. HOME HEALTH TOLL-FREE HOTLINE AND INVESTIGATIVE UNIT.

(a) In General.—Section 1864(a) of the Social Security Act (42 U.S.C. 1395aa(a)) is amended by adding at the end the following:

"Any agreement under this subsection shall provide for the appropriate State or local agency to maintain a toll-free hotline (1) to collect, maintain, and continually update information on home health agencies located in the State or locality that are certified to participate in the program established under this title (which information shall include any significant deficiencies found with respect to patient care in the most recent certification survey conducted with respect to the agency, when that survey was completed, whether corrective actions have been taken or are planned, and the sanctions, if any, imposed under this title with respect to the agency) and (2) to receive complaints (and answer questions) with respect to home health agencies in the State or locality. Any such agreement shall provide for such agency to maintain a unit for investigating such complaints that possesses enforcement authority and has access to survey and certification reports, information gathered by any private accreditation agency pursuant to an agreement with the Secretary under section 1864, and consumer medical records (but only with the consent of the consumer or his or her legal representative).".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to agreements entered into or renewed on or after the date of enactment of this Act.

SEC. 4026. HOME HEALTH AGENCY COST LIMITS.

(a) Data Used to Determine Limits.—

(1) Section 1861(v)(1)(L) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clause:

"(iii) In establishing limits under this subparagraph, the Secretary shall—

"(I) utilize a wage index that is based on audited wage data obtained from home health agencies, and

"(II) base such limits on the most recent audited wage data available, which data may be for cost reporting periods beginning no earlier than July 1, 1985.".

(2) The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after July 1, 1988.

(b) Study of Limits.—The Secretary of Health and Human Services shall study and report to the Congress, not later than June 1, 1988, on—

(1) whether the separate schedules of cost limits currently applied to home health agencies under title XVIII of the Social Security Act located in urban and rural areas accurately reflect differences in the costs of urban and rural home health agencies, and

(2) the appropriateness of modifying such limits to take into account the proportion of agency patients who are from urban and rural areas.

SEC. 4027. HOME HEALTH PROSPECTIVE PAYMENT DEMONSTRATION PROJECT.

(a) In General.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall provide for a demonstration project to develop and test alternative methods of paying home health agencies on a prospective basis for services furnished under the medicare and medicaid programs. The project shall be designed in a manner to enable the Secretary to evaluate the effects of various methods of prospective payment (including payments on a per-visit, per-case, and per-episode basis) on program expenditures, access to, and quality of, home health care, and home health agency operations. The Secretary shall assure that services are first furnished under the project not later than July 1, 1988, and, for this purpose, the Secretary may reinstate a previously awarded contract, or award a sole source contract, to carry out the project.

(b) Funding.—The provisions of subsection (a)(2) and the first sentence of subsection (b) of section 402 of the Social Security Amendments of 1967 shall apply to the demonstration project under subsection (a) of this section as they apply to experiments under subsection (a)(1) of that section.

(c) Report.—The Secretary shall submit to Congress, not later than one year after the date of the enactment of this Act, an interim report on the demonstration project and, not later than four years after the date of the enactment of this Act, a final report on the results of the project.

Subpart C—Other Provisions

SEC. 4031. PAYMENT CYCLE STANDARDS.

(a) Payment Floor Standards.—

(1) Section 1816(c) of the Social Security Act (42 U.S.C. 1395h(c)) is amended by adding at the end the following new paragraph:

"(3)(A) Each agreement under this section shall provide that no payment shall be issued, mailed, or otherwise transmitted with respect to any claim submitted under this title within the applicable number of calendar days after the date on which the claim is received.

"(B) In this paragraph, the term 'applicable number of calendar days' means—

"(i) with respect to claims received in the 3-month period beginning July 1, 1988, 10 days, and

"(ii) with respect to claims received in the 12-month period beginning October 1, 1988, 14 days.".

(2) Section 1842(c) of such Act (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(3)(A) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall provide that no payment shall be issued, mailed, or otherwise transmitted with respect to any claim submitted under this title within the applicable number of calendar days after the date on which the claim is received.

"(B) In this paragraph, the term 'applicable number of calendar days' means—

"(i) with respect to claims received in the 3-month period beginning July 1, 1988, 10 days, and

"(ii) with respect to claims received in the 12-month period beginning October 1, 1988, 14 days.".

(3)(A) The amendments made by paragraphs (1) and (2) shall apply to claims received on or after July 1, 1988.

(B) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816 of the Social Security Act and contracts under section 1842 of such Act, and regulations, to such extent as may be necessary to implement the provisions of this subsection on a timely basis.

(b) Prohibition of Other Policies Intended to Slow Down Medicare Payments.—Notwithstanding any other provision of law, except as specifically provided in this section, the Secretary of Health and Human Services is not authorized to issue, after the date of the enactment of this Act, and before October 1, 1990, any final regulation, instruction, or other policy change which is primarily intended to have the effect of slowing down claims processing, or delaying payment of claims, under title XVIII of the Social Security Act.

(c) Budget Considerations.—For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this section is a necessary (but secondary) result of a significant policy change.

SEC. 4032. DENIALS AND RECONSIDERATIONS OF CLAIMS FOR HOME HEALTH SERVICES, EXTENDED CARE SERVICES, AND POST-HOSPITAL EXTENDED CARE SERVICES.

(a) Notification and Physician Review.—Section 1816 of the Social Security Act (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(j) An agreement with an agency or organization under this section shall require that, with respect to a claim for home health services, extended care services, or post-hospital extended care services submitted by a provider to such agency or organization that is denied, such agency or organization—

"(1) furnish the provider and the individual with respect to whom the claim is made with a written explanation of the denial and of the statutory or regulatory basis for the denial; and

"(2) promptly notify such individual and the provider of disposition of such reconsideration.".

(b) Performance Standards for Fiscal Intermediaries and Carriers.—Section 1816(f) of such Act (42 U.S.C. 1395h(f)) is amended by adding at the end the following: "Such standards and criteria shall include with respect to claims for services furnished under this part by any provider of services other than a hospital whether such agency or organization is able to process 75 percent of reconsiderations within 60 days (except in the case of the fiscal year 1989, 66 percent of reconsiderations) and 90 percent of reconsiderations within 90 days and the extent to which its determinations are reversed on appeal.".

(c) Effective Date.—

(1)(A) The amendment made by subsection (a) shall apply with respect to claims received on or after January 1, 1988.

(B) The amendment made by subsection (b) shall apply with respect to claims filed on or after October 1, 1988.

(2) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816 and contracts under section 1842 of the Social Security Act, and regulations, to such extent as may be necessary to implement the amendments made by subsections (a) and (b) on a timely basis.

SEC. 4033. PERMITTING DISABLED INDIVIDUALS TO RENEW ENTITLEMENT TO MEDICARE AFTER GAINFUL EMPLOYMENT WITHOUT A 2-YEAR WAITING PERIOD.

(a) In General.—

(1) Section 226(f) of the Social Security Act (42 U.S.C. 426(f)) is amended by inserting before the period at the end the following: ", unless the physical or mental impairment which is the basis for disability is the same as (or directly related to) the physical or mental impairment which served as the basis for disability in such previous period".

(2)(A) The amendment made by subsection (a) shall apply to months beginning after the end of the 60-day period beginning on the date of enactment of this Act.

(B) The amendment made by subsection (a) shall not apply so as to include (for the purposes described in section 226(f) of the Social Security Act) monthly benefits paid for any month in a previous period (described in that section) that terminated before the end of the 60-day period described in paragraph (1).

SEC. 4034. APPLICATION OF SECONDARY PAYER PROVISIONS TO GOVERNMENTAL ENTITIES.

(a) In General.—Section 1862(b)(4)(B)(i) of the Social Security Act (42 U.S.C. 1395y(b)(4)(B)(i)), as added by the amendment made by section 9319(a) of the Omnibus Budget Reconciliation Act of 1986, is amended by striking "section 5000(b) of the Internal Revenue Code of 1986" and inserting "subsection (b) of section 5000 of the Internal Revenue Code of 1986 without regard to subsection (d) of such section".

(b) Effective Date.—The amendment made by subsection (a) shall be effective as if included in the enactment of section 9319(a) of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4035. PUBLICATION AND NOTIFICATION OF POLICIES.

(a) Requiring Publication of Intermediary and Carrier Budget Methodology.—

(1) Section 1816(c)(1) of the Social Security Act (42 U.S.C. 1395h(c)(1)) is amended by adding at the end the following sentence: "The Secretary shall cause to have published in the Federal Register, by not later than September 1 before each fiscal year, data, standards, and methodology to be used to establish budgets for fiscal intermediaries under this section for that fiscal year, and shall cause to be published in the Federal Register for public comment, at least 90 days before such data, standards, and methodology are published, the data, standards, and methodology proposed to be used.".

(2) Section 1842(c)(1) of such Act (42 U.S.C. 1395u(c)(1)) is amended by adding at the end the following sentence: "The Secretary shall cause to have published in the Federal Register, by not later than September 1 before each fiscal year, data, standards, and methodology to be used to establish budgets for carriers under this section for that fiscal year, and shall cause to be published in the Federal Register for public comment, at least 90 days before such data, standards, and methodology are published, the data, standards, and methodology proposed to be used.".

(3) The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to budgets for fiscal years beginning with fiscal year 1989.

(b) Publication as Regulations of Significant Policies.—Section 1871(a) of such Act (42 U.S.C. 1395hh(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) No rule, requirement, or other statement of policy (other than a national coverage determination) that establishes or changes a substantive legal standard governing the scope of benefits, the payment for services, or the eligibility of individuals, entities, or organizations to furnish or receive services or benefits under this title shall take effect unless it is promulgated by the Secretary by regulation under paragraph (1).".

(c) Miscellaneous Publication and Information Access Provisions.—Section 1871 of such Act (42 U.S.C. 1395hh) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall publish in the Federal Register, not less frequently than every 3 months, a list of all manual instructions, interpretative rules, statements of policy, and guidelines of general applicability which—

"(A) are promulgated to carry out this title, but

"(B) are not published pursuant to subsection (a)(1) and have not been previously published in a list under this subsection.

"(2) Effective June 1, 1988, each fiscal intermediary and carrier administering claims for extended care, post-hospital extended care, home health care, and durable medical equipment benefits under this title shall make available to the public all interpretative materials, guidelines, and clarifications of policies which relate to payments for such benefits.

"(3) The Secretary shall to the extent feasible make such changes in automated data collection and retrieval by the Secretary and fiscal intermediaries with agreements under section 1816 as are necessary to make easily accessible for the Secretary and other appropriate parties a data base which fairly and accurately reflects the provision of extended care, post-hospital extended care and home health care benefits pursuant to this title, including such categories as benefit denials, results of appeals, and other relevant factors, and selectable by such categories and by fiscal intermediary, service provider, and region.".

SEC. 4036. END-STAGE RENAL DISEASE AMENDMENTS.

(a) Implementation of Primary Payer Requirements for End-Stage Renal Disease Program.—

(1) Section 1862(b)(2)(A) of the Social Security Act (42 U.S.C. 1395y(b)(2)(A)) is amended by striking "(ii)" and all that follows through "under this title" and inserting "(ii) can reasonably be expected to be made under such a plan".

(2) The amendment made by paragraph (1) shall apply with respect to items and services furnished on or after 30 days after the date of the enactment of this Act.

(b) Limitation of Minimum Utilization Rate Requirement for End-Stage Renal Disease Transplantations.—The last sentence of section 1881(b)(1) of such Act (42 U.S.C. 1395rr(b)(1)) is amended by striking "covered procedures and for self-dialysis training programs" and inserting "transplantations".

(c) Extension of Deadline for Establishing Protocols on Reuse of Dialysis Filters and Other Dialysis Supplies as It Relates to the Reuse of Bloodlines.—

(1)(A) Section 9335(k)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by inserting "(or July 1, 1988, with respect to protocols that relate to the reuse of bloodlines)" after "October 1, 1987".

(B) The amendment made by subparagraph (A) shall be effective as if included in the enactment of section 9335(k)(2) of the Omnibus Budget Reconciliation Act of 1986.

(2) Section 1881(f)(7)(B) of the Social Security Act (42 U.S.C. 1395rr(f)(7)(B)) is amended by inserting "(or July 1, 1988, with respect to protocols that relate to the reuse of bloodlines)" after "January 1, 1988".

(d) Studies of End-Stage Renal Disease Program.—

(1) The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall arrange for a study of the end-stage renal disease program within the medicare program.

(2) Among other items, the study shall address—

(A) access to treatment by both individuals eligible for medicare benefits and those not eligible for such benefits;

(B) the quality of care provided to end-stage renal disease beneficiaries, as measured by clinical indicators, functional status of patients, and patient satisfaction;

(C) the effect of reimbursement on quality of treatment;

(D) major epidemiological and demographic changes in the end-stage renal disease population that may affect access to treatment, the quality of care, or the resource requirements of the program; and

(E) the adequacy of existing data systems to monitor these matters on a continuing basis.

(3) The Secretary shall submit to Congress, not later than 3 years after the date of the enactment of this Act, a report on the study.

(4) The Secretary shall request the National Academy of Sciences, acting through the Institute of Medicine, to submit an application to conduct the study described in this section. If the Academy submits an acceptable application, the Secretary shall enter into an appropriate arrangement with the Academy for the conduct of the study. If the Academy does not submit an acceptable application to conduct the study, the Secretary may request one or more appropriate nonprofit private entities to submit an application to conduct the study and may enter into an appropriate arrangement for the conduct of the study by the entity which submits the best acceptable application.

(5) Section 1881 of the Social Security Act (42 U.S.C. 1395rr) is amended—

(A) in subsection (c)(2)(F), by striking "and subsection (g)",

(B) by striking the last sentence of subsection (c)(6),

(C) by striking subsection (g), and

(D) by redesignating subsection (h), as added by section 20 of the Medicare and Medicaid Patient and Program Protection Act of 1987 (Public Law 100-93), as subsection (g).

SEC. 4037. MEDICARE HEARINGS AND APPEALS.

(a) Maintaining Current System for Hearings and Appeals.—Any hearing conducted under section 1869(b)(1) of the Social Security Act prior to the earliest of the date on which the Secretary of Health and Human Services submits the report required to be submitted by the Secretary under subsection (b)(1) or September 1 shall be conducted by Administrative Law Judges of the Office of Hearings and Appeals of the Social Security Administration in the same manner as are hearings conducted under section 205(b)(1) of such Act.

(b) Study and Report on Use of Telephone Hearings.—

(1) The Secretary of Health and Human Services and the Comptroller General of the United States shall each conduct a study on holding hearings under section 1869(b)(1) of the Social Security Act by telephone and shall each report the results of the study not later than 6 months after the date of enactment of this Act.

(2) The studies under paragraph (1) shall focus on whether telephone hearings allow for a full and fair evidentiary hearing, in general, or with respect to any particular category of claims and shall examine the possible improvements to the hearing process (such as cost-effectiveness, convenience to the claimant, and reduction in time under the process) resulting from the use of such hearings as compared to the adoption of other changes to the process (such as expansions in staff and resources).

SEC. 4038. RURAL HEALTH MEDICAL EDUCATION DEMONSTRATION PROJECT.

(a) In General.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into agreements with four sponsoring hospitals submitting applications under this subsection to conduct demonstration projects to assist resident physicians in developing field clinical experience in rural areas.

(b) Nature of Project.—Under a demonstration project conducted under subsection (a), a sponsoring hospital entering into an agreement with the Secretary under such subsection shall enter into arrangements with a small rural hospital to provide to such rural hospital, for a period of one to three months of training, physicians (in such number as the agreement under subsection (a) may provide) who have completed one year of residency training.

(c) Selection.—In selecting from among applications submitted under subsection (a), the Secretary shall ensure that four small rural hospitals located in different counties participate in the demonstration project and that—

(1) two of such hospitals are located in rural counties of more than 2,700 square miles (one of which is east of the Mississippi River and one of which is west of such river); and

(2) two of such hospitals are located in rural counties with (as determined by the Secretary) a severe shortage of physicians (one of which is east of the Mississippi River and one of which is west of such river).

(d) Clarification of Payment.—For purposes of section 1886 of the Social Security Act—

(1) with respect to subsection (d)(5)(B) of such section, any resident physician participating in the project under subsection (a) for any part of a year shall be treated as if he or she were working at the appropriate sponsoring hospital with an agreement under subsection (a) on September 1 of such year (and shall not be treated as if working at the small rural hospital); and

(2) with respect to subsection (h) of such section, the payment amount permitted under such subsection for a sponsoring hospital with an agreement under subsection (a) shall be increased (for the duration of the project only) by an amount equal to the amount of any direct graduate medical education costs (as defined in paragraph (5) of such subsection (h)) incurred by such hospital in supervising the education and training activities under a project under subsection (a).

(e) Duration of Project.—Each demonstration project under subsection (a) shall be commenced not later than six months after the date of enactment of this Act and shall be conducted for a period of three years.

(f) Definition.—In this section, the term "sponsoring hospital" means a hospital that receives payments under sections 1886(d)(5)(B) and 1886(h) of the Social Security Act.

SEC. 4039. MISCELLANEOUS AND TECHNICAL PROVISIONS.

(a) Clarification of Criminal Penalties for Willful Misrepresentations.—Subsection (c) of section 1128B of the Social Security Act (42 U.S.C. 1320a-7(b)),[28] as redesignated by section 4(d) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (Public Law 100-93), is amended—

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[28] Copy read "1320a-7b)),".

(1) by striking "institution or facility" each place it appears and inserting "institution, facility, or entity", and

(2) by inserting "(including an eligible organization under section 1876(b))" after "other entity".

(b) Podiatrists.—

(1) Section 1861(r)(3) of the Social Security Act (42 U.S.C. 1395x(r)(3)) is amended—

(A) by striking "subsection (s) of this section" and inserting "subsections (k), (m), (p)(1), and (s) of this section and sections 1814(a), 1832(a)(2)(F)(ii), and 1835", and

(B) by striking "; and for the purposes" and all that follows through "which he is legally authorized to perform".

(2) Section 1861(b)(6) of such Act (42 U.S.C. 1395x(b)(6)) is amended by striking "Council on Podiatry Education of the American Podiatry Association" and inserting "Council on Podiatric Medical Education of the American Podiatric Medical Association".

(c) Recovery of Payments for Certain Pacemaker Devices.—

(1) Section 1862(h) of such Act (42 U.S.C. 1395y(h)) is amended—

(A) in paragraph (1)(B), by striking "law," and inserting "law (and any amount paid to a provider under any such warranty),";

(B) in paragraph (1)(D), by striking "(3)," and inserting "(3), in determining the amount subject to repayment under paragraph (2)(C),";

(C) in paragraph (2)—

(i) by striking "and" at the end of subparagraph (A),

(ii) by striking the period at the end of subparagraph (B) and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(C) to make repayment to the Secretary of amounts paid under this title to the provider with respect to any cardiac pacemaker device or lead which has been replaced by the manufacturer, or for which the manufacturer has made payment to the provider, under an express or implied warranty."; and

(D) in paragraph (4)(B)—

(i) by striking "or has" and inserting ", has", and

(ii) by striking "(2)(B)," and inserting "(2)(B), or has failed to make repayment to the Secretary as required under paragraph (2)(C),".

(2) The amendments made by paragraph (1) shall become effective on January 1, 1988.

(d) Extend and Clarify Prohibition on Cost Savings Policies Before Beginning of Fiscal Year.—Notwithstanding any other provision of law, except as required to implement specific provisions required under statute, the Secretary of Health and Human Services is not authorized to issue in final form, after the date of the enactment of this Act and before October 15, 1988, any regulation, instruction, or other policy which is estimated by the Secretary to result in a net reduction in expenditures under title XVIII of the Social Security Act in fiscal year 1989 of more than $50,000,000.

(e) Moratorium on Prior Authorization for Home Health and Post-Hospital Extended Care Services.—The Secretary of Health and Human Services shall not implement any voluntary or mandatory program of prior authorization for home health services, extended care services, or post-hospital extended care services under part A or B of title XVIII of the Social Security Act at any time prior to six months after the date on which the Congress receives the report required under section 9305(k)(4) of the Omnibus Budget Reconciliation Act of 1986.

(f) Delay in Publishing Regulations with Respect to Deeming the Status of Entities.—The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall not deem any entity to be a provider of services (as defined in section 1861(u) of the Social Security Act) for purposes of title XVIII of such Act—

(1) on any date prior to 6 months after the date on which the Secretary has published a proposed rule with respect to the deeming of the entity, and

(2) until the Secretary publishes a final rule with respect to the deeming of the entity.

(g) Use of Interim Final Regulations.—The Secretary of Health and Human Services shall issue such regulations (on an interim or other basis) as may be necessary to implement this subtitle and the amendments made by this subtitle.

PART 3—RELATING TO PART B

Subpart A—Provisions Relating to Payments for Physicians' Services

SEC. 4041. FREEZE IN PAYMENTS FOR PHYSICIANS' SERVICES; EXTENSION OF SEQUESTER ORDER.

(a) Three-Month Freeze on Increases in Physician Payments.—

(1) In general.—Section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended—

(A) in subsection (b)(4)—

(i) in subparagraph (A), by redesignating clause (v) as clause (vi) and by inserting after clause (iv) the following new clause:

"(v) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during the 3-month period beginning January 1, 1988, the Secretary shall not set any level higher than the same level as was set for the 12-month period beginning January 1, 1987.", and

(ii) in subparagraph (B), by adding at the end the following new clause:

"(iii) In determining the reasonable charge under paragraph (3) for physicians' services furnished during the 3-month period beginning January 1, 1988, the customary charges shall be the same customary charges as were recognized under this section for the 12-month period beginning January 1, 1987."; and

(B) in subsection (j)(1)(C), by adding at the end thereof the following new clause:

"(vii) Notwithstanding any other provision of this subparagraph, the maximum allowable actual charge for a particular physician's service furnished by a nonparticipating physician to individuals enrolled under this part during the 3-month period beginning on January 1, 1988, shall be the amount determined under this subparagraph for 1987. The maximum allowable actual charge for any such service otherwise determined under this subparagraph for 1988 shall take effect on April 1, 1988.".

(2) Extension of physician participation agreements and related provisions.—Notwithstanding any other provision of law—

(A) subject to the last sentence of this paragraph, each agreement with a participating physician in effect on December 31, 1987, under section 1842(h)(1) of the Social Security Act shall remain in effect for the 3-month period beginning on January 1, 1988;

(B) the effective period for agreements under such section entered into for 1988 shall be the nine-month period beginning on April 1, 1988, and the Secretary shall provide an opportunity for physicians to enroll as participating physicians prior to April 1, 1988;

(C) instead of publishing, under section 1842(h)(4) of the Social Security Act at the beginning of 1988, directories of participating physicians for 1988, the Secretary shall provide for such publication, at the beginning of the 9-month period beginning on April 1, 1988, of such directories of participating physicians for such period; and

(D) instead of providing to nonparticipating physicians, under section 1842(b)(3)(G) of the Social Security Act at the beginning of 1988, a list of maximum allowable actual charges for 1988, the Secretary shall provide, at the beginning of the 9-month period beginning on April 1, 1988, to such physicians such a list for such 9-month period.

An agreement with a participating physician in effect on December 31, 1987, under section 1842(h)(1) of the Social Security Act shall not remain in effect for the period described in subparagraph (A) if the participating physician requests on or before December 31, 1987, that the agreement be terminated.

(3)(A) Section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended—

(i) in subsection (b)(2), by adding at the end the following: "In establishing such standards and criteria, the Secretary shall provide a system to measure a carrier's performance of responsibilities described in paragraph (3)(H) and subsection (h)."; and

(ii) in subsection (c)(1), by inserting "(A)" after "(c)(1)" and by adding at the end the following new subparagraph:

"(B) Of the amounts appropriated for administrative activities to carry out this part, the Secretary shall provide payments, totaling 1 percent of the total payments to carriers for claims processing in any fiscal year, to carriers under this section, to reward carriers for their success in increasing the proportion of physicians in the carrier's service area who are participating physicians or in increasing the proportion of total payments for physicians' services which are payments for such services rendered by participating physicians.".

(B) Section 9332(a) of the Omnibus Budget Reconciliation Act of 1986 is amended—

(i) by striking paragraphs (2) and (3),

(ii) in paragraph (4)(B), by striking "under paragraph (2)" and inserting "under the last sentence of section 1842(b)(2) of the Social Security Act", and

(iii) in paragraph (4)(C)—

(I) by striking "under paragraph (3)" and inserting "under section 1842(c)(1)(B) of the Social Security Act",

(II) by striking "April" and inserting "July", and

(III) by striking "at the end of 1987" and inserting "before April 1, 1988".

(b) Extension of Reduction Under Sequester Order.—Notwithstanding any other provision of law (including any other provision of this Act), the reductions in the amount of payments required under title XVIII of the Social Security Act made by the final sequester order issued by the President on November 20, 1987, pursuant to section 252(b) of the Balanced Budget Emergency Deficit Control Act of 1985 shall continue to be effective (as provided by sections 252(a)(4)(B) and 256(d)(2) of such Act) through March 31, 1988, with respect to payments for physicians' services under part B of such title.

SEC. 4042. GENERAL UPDATE IN PAYMENTS FOR PHYSICIANS' SERVICES.

(a) Increase in MEI for 1988 and 1989.—Section 1842(b)(4) of the Social Security Act (42 U.S.C. 1395u(b)(4)) is amended by adding at the end the following new subparagraph:

"(F)(i) For purposes of this part for physicians' services furnished in 1987, the percentage increase in the MEI is 3.2 percent.

"(ii) For purposes of this part for physicians' services furnished in 1988, on or after April 1, the percentage increase in the MEI is—

"(I) 3.6 percent for primary care services (as defined in subparagraph (E)(iii)), and

"(II) 1 percent for other physicians' services.

"(iii) For purposes of this part for physicians' services furnished in 1989, the percentage increase in the MEI is—

"(I) 3.0 percent for primary care services; and

"(II) 1 percent for other physician's services.".

(b) Primary Care Services Defined.—Section 1842(b)(4)(E) of such Act (42 U.S.C. 1395u(b)(4)(E)) is amended by adding at the end thereof the following new clause:

"(iii) The term 'primary care services' means physicians' services which constitute office medical services, emergency department services, home medical services, skilled nursing, intermediate care, and long-term care medical services, or nursing home, boarding home, domiciliary, or custodial care medical services.".

(c) Participating Physician Differential.—Section 1842(b)(4)(A)(iv) of such Act (42 U.S.C. 1395u(b)(4)(A)(iv)) is amended—

(1) by striking "96 percent" and inserting "applicable percent", and

(2) by adding at the end the following: "In the previous sentence, the term 'applicable percent' means for services furnished (I) on or after January 1, 1987, and before April 1, 1988, 96 percent, (II) on or after April 1, 1988, and before January 1, 1988, 95.5 percent, and (III) on or after January 1, 1989, 95 percent.".

SEC. 4043. INCENTIVE PAYMENTS FOR PHYSICIANS' SERVICES FURNISHED IN UNDERSERVED AREAS.

(a) In General.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(m) In the case of physicians' services furnished to an individual, who is covered under the insurance program established by this part and who incurs expenses for such services, in an area that is designated (under section 332(a)(1)(A) of the Public Health Service Act) as a class 1 or class 2 health manpower shortage area, in addition to the amount otherwise paid under this part, there also shall be paid to the physician (or to an employer or facility in the cases described in clause (A) of section 1842(b)(6)) (on a monthly or quarterly basis) from the Federal Supplementary Medical Insurance Trust Fund an amount equal to 5 percent of the payment amount for the service under this part.".

(b) Study.—The Secretary of Health and Human Services shall study and report to Congress, by not later than January 1, 1990, on the feasibility of making additional payments described in section 1833(m) of the Social Security Act with respect to physician services which are performed in health manpower shortage areas located in urban areas.

(c) Effective Date.—The amendments made by this subsection (a) shall apply with respect to services furnished in a rural area (as defined in section 1886(d)(2)(D) of the Social Security Act)[29] on or after January 1, 1989, and to other services furnished on or after January 1, 1991.

SEC. 4044. ADJUSTMENT IN PREVAILING CHARGE LEVEL FOR PRIMARY CARE SERVICES.

(a) Increase in Prevailing Charges for Primary Care Services.—Section 1842(b)(4)(A) of the Social Security Act (42 U.S.C. 1395u(b)(4)(A)), as amended by section 4041(a)(1) of this subtitle, is further amended by redesignating clause (vi) as clause (vii) and by inserting after clause (v) the following new clause:

"(vi) Before each year (beginning with 1989), the Secretary shall establish a prevailing charge floor for primary care services (as defined in subparagraph (E)(iii)) equal to 50 percent of the average of the prevailing charge levels (determined, for participating physicians under the third and fourth sentences of paragraph (3) and under paragraph (4), without regard to this clause and without regard to physician specialty) for such service for all localities in the United States (weighted by the relative frequency of the service in each locality) for the year.".

(b) Effective Date.—The amendments made by subsection (a) shall apply to payment for physicians' services furnished on or after January 1, 1989.

SEC. 4045. REDUCTION IN PREVAILING CHARGE LEVEL FOR OVERPRICED PROCEDURES.

(a) In General.—Paragraph (10) of section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is amended to read as follows:

"(10)(A)(i) In determining the reasonable charge under paragraph (3) for procedures described in subparagraph (C) and performed during the 9-month period beginning on April 1, 1988, the prevailing charge for such procedure for participating and nonparticipating physicians shall be the prevailing charge otherwise recognized for such procedure for 1987—

"(I) subject to clause (iii), reduced by 2.0 percent, and

"(II) further reduced by the applicable percentage specified in clause (ii).

"(ii) For purposes of clause (i), the applicable percentage specified in this clause is—

"(I) 15 percent, in the case of a prevailing charge otherwise recognized (without regard to this paragraph and determined without regard to physician specialty) that is at least 150 percent of the weighted national average (as determined by the Secretary) of such prevailing charges for such procedure for all localities in the United States for 1987;

"(II) 0 percent, in the case of a prevailing charge that does not exceed 85 percent of such weighted national average; and

"(III) in the case of any other prevailing charge, a percent determined on the basis of a straight-line sliding scale, equal to 9/13 of a percentage point for each percent by which the prevailing charge exceeds 85 percent of such weighted national average.

"(iii) In no case shall the reduction under clause (i) for a procedure result in a prevailing charge in a locality for 1988 which is less than 85 percent of the Secretary's estimate of the weighted national average of such prevailing charges for such procedure for all localities in the United States for 1987 (based upon the best available data and determined without regard to physician specialty) after making the reduction described in clause (i)(II).

"(B) The procedures described in this subparagraph are as follows: bronchoscopy, carpal tunnel repair, cataract surgery, coronary artery bypass surgery, diagnostic and/or therapeutic dilation and curettage, knee arthroscopy, knee arthroplasty, pacemaker implantation surgery, total hip replacement, suprapubic prostatectomy, transurethral resection of the prostate, and upper gastrointestinal endoscopy.

"(C) In the case of a reduction in the reasonable charge for a physicians' service under subparagraph (A), if a nonparticipating physician furnishes the service to an individual entitled to benefits under this part, after the effective date of such reduction, the physician's actual charge is subject to a limit under subsection (j)(1)(D).

"(D) There shall be no administrative or judicial review section 1869 or otherwise of any determination under subparagraph (A) or under paragraph (11)(B)(ii).".

(b) Modification of Geographic Index.—Section 1845(e)(4)(A)(i) of such Act (42 U.S.C. 1395w-1(e)(4)(A)(i)) is amended by inserting "and costs of living" after "costs of practice".

(c) Consolidated Charge Limitation Provisions.—

(1) Penalties for excess charges.—Section 1842 of such Act is further amended—

(A) in subsection (b)(11)(C)—

(i) in clause (i), by striking "(subject to clause (iv))" and all that follows through the end and inserting the following: ", the physician's actual charge is subject to a limit under subsection (j)(1)(D).";

(ii) in clause (i), by striking "(i)" after "(C)"; and

(iii) by striking clauses (ii) through (iv); and

(B) in subsection (j)(1), by adding at the end the following new subparagraph:

"(D)(i) If an action described in clause (ii) results in a reduction in a reasonable charge for a physicians' service or item and a nonparticipating physician furnishes the service or item to an individual entitled to benefits under this part after the effective date of such action, the physician may not charge the individual more than 125 percent of the reduced payment allowance (as defined in clause (iii)) plus (for services or items furnished during the 12-month period (or 9-month period in the case of an action described in clause (ii)(II)) beginning on the effective date of the action) ½ of the amount by which the physician's maximum allowable actual charge for the service or item for the previous 12-month period exceeds such 125 percent level.

"(ii) The first sentence of clause (i) shall apply to—

"(I) an adjustment under subsection (b)(8)(B) (relating to inherent reasonableness),

"(II) a reduction under subsection (b)(10)(A) (relating to certain overpriced procedures),

"(III) a reduction under subsection (b)(11)(B) (relating to certain cataract procedures), and

"(IV) an adjustment under section 1833(l)(3)(B) (relating to physician supervision of certified registered nurse anesthetists).

"(iii) In clause (i), the term 'reduced payment allowance' means, with respect to an action—

"(I) under subsection (b)(8)(B), the inherently reasonable charge established under subsection (b)(8); or

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[29] Copy read "Act))".

"(II) under subsection (b)(10)(A) or (b)(11)(B) or under section 1833(l)(3)(B), the prevailing charge for the service after the action.

"(iv) If a physician knowingly and willfully imposes a charge in violation of clause (i) (whether or not such charge violates subparagraph (B)), the Secretary may apply sanctions against such physician in accordance with paragraph (2).

"(v) Clause (i) shall not apply to items and services furnished after the earlier of (I) December 31, 1990, or (II) one-year after the date the Secretary reports to Congress, under section 1845(e)(3), on the development of the relative value scale under section 1845.".

(2) Conforming amendments.—(A) Section 1833(l)(6) of such Act (42 U.S.C. 1395l(l)(6)) is amended—

(i) in subparagraph (A), by striking "(subject to subparagraph (D))" and all that follows through the end and inserting the following: "after the effective date of the reduction, the physician's actual charge is subject to a limit under section 1842(j)(1)(D).";

(ii) in subparagraph (A), by striking "(A)" after "(6)"; and

(iii) by striking subparagraphs (B) through (D).

(B) Section 1842(b)(11)(B)(i) of such Act (42 U.S.C. 1395u(b)(11)(B)(i)) is amended by striking "and shall be further reduced" and all that follows through "1988".

(C) Section 9334(b)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "1842(b)(10)" and inserting "1842(j)(1)(D)".

(d) Effective Date.—The amendments made by this section shall apply to items and services furnished on or after April 1, 1988, except the amendment made by subsection (c)(2)(B) shall apply to services furnished on or after January 1, 1988.

SEC. 4046. LIMITS ON PAYMENT FOR OPHTHALMIC ULTRASOUND.

(a) In General.—Section 1842 of the Social Security Act (42 U.S.C. 1395u), as previously amended by this subpart is amended—

(1) in subsection (b)(11)—

(A) in subparagraph (C), as redesignated under section 4045(c)(1)(A)(ii) of this title, by inserting "or (C)" after "subparagraph (B)";

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) The prevailing charge level determined with respect to A-mode ophthalmic ultrasound procedures may not exceed 5 percent of the prevailing charge level established with respect to extracapsular cataract removal with lens implantation."; and

(2) in subparagraph (D) of subsection (j)(1), as added by section 4045(c)(1)(B) of this subtitle—

(A) in clause (ii), by striking "and" at the end of subclause (III), by redesignating subclause (IV) as subclause (V) and by inserting before such subclause the following new subclause:

"(IV) a prevailing charge limit is established under subsection (b)(11)(C)(i), and"; and

(B) in clause (iii)(II), by striking "or (b)(11)(B)" and inserting ", (b)(11)(B), or (b)(11)(C)(i)".

(b) Effective Date.—The amendments made by subsection (a) shall apply to services furnished on or after April 1, 1988.

SEC. 4047. CUSTOMARY CHARGES FOR PRIMARY CARE SERVICES OF NEW PHYSICIANS.

(a) In General.—Section 1842(b)(4) of the Social Security Act, as amended by section 4042(a), is further amended by adding at the end thereof the following new subparagraph:

"(G) In determining the customary charges for physicians' services (other primary care services and other than services furnished in a rural area (as defined in section 1886(d)(2)(D)) that is designated, under section 332(a)(1)(A) of the Public Health Service Act, as a health manpower shortage area) for which adequate actual charge data are not available because a physician has not yet been in practice for a sufficient period of time, the Secretary shall set a customary charge at a level no higher than 80 percent of the prevailing charge (as determined under the third and fourth sentences of paragraph (3) and under paragraph (4)) for a service.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to physicians who first furnish services to medicare beneficiaries after April 1, 1988.

SEC. 4048. PAYMENT FOR PHYSICIAN ANESTHESIA SERVICES.

(a) In General.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is further amended by adding at the end the following new paragraph:

"(14)(A) In determining the reasonable charge under paragraph (3) of a physician for medical direction of two or more nurse anesthetists performing, on or after April 1, 1988, and before January 1, 1991, anesthesia services in whole or in part concurrently, the number of base units which may be recognized with respect to such medical direction for each concurrent procedure (other than cataract surgery or an iridectomy) shall be reduced by—

"(i) 10 percent, in the case of medical direction of 2 nurse anesthetists concurrently,

"(ii) 25 percent, in the case of medical direction of 3 nurse anesthetists concurrently, and

"(iii) 40 percent, in the case of medical direction of 4 nurse anesthetists concurrently.

"(B) In determining the reasonable charge under paragraph (3) of a physician for medical direction of two or more nurse anesthetists performing, on or after January 1, 1989, and before January 1, 1991, anesthesia services in whole or in part concurrently, the number of base units which may be recognized with respect to such medical direction for each concurrent cataract surgery or iridectomy procedure shall be reduced by 10 percent.

"(C) The Secretary shall require claims for physicians' services for medical direction of nurse anesthetists during the periods in which the provisions of subparagraph (A) or (B) apply to indicate the number of such anesthetists being medically directed concurrently at any time during the procedure, the name of each nurse anesthetist being directed, and the type of procedure for which the services are provided.".

(b) Development of Uniform Relative Value Guide.—The Secretary of Health and Human Services, in consultation with groups representing physicians who furnish anesthesia services, shall establish by regulation a relative value guide for use in all carrier localities in making payment for physician anesthesia services furnished under part B of title XVIII of the Social Security Act on and after January 1, 1989. Such guide shall be designed so as to result in expenditures under such title for such services in an amount that would not exceed the amount of such expenditures which would otherwise occur.

(c) Study of Prevailing Charges for Anesthesia Services.—The Secretary of Health and Human Services shall conduct a study of the variations in conversion factors used by carriers under section 1842(b) of the Social Security Act to determine the prevailing charge for anesthesia services and shall report the results of the study and make recommendations for appropriate adjustments in such factors not later than January 1, 1989.

(d) GAO Studies.—(1) The Comptroller General shall conduct a study—

(A) to determine the average anesthesia times reported for medicare reimbursement purposes,

(B) to verify those times from patient medical records,

(C) to compare anesthesia times to average surgical times, and

(D) to determine whether the current payments for physician supervision of nurse anesthetists are excessive.

The Comptroller General shall report to Congress, by not later than January 1, 1989, on such study and in the report include recommendations regarding the appropriateness of the anesthesia times recognized by medicare for reimbursement purposes and recommendations regarding adjustments of payments for physician supervision of nurse anesthetists.

(2) The Comptroller General shall conduct a study on the impact of the amendment made by subsection (a), and shall report to Congress on the results of such study by April 1, 1990.

SEC. 4049. FEE SCHEDULES FOR RADIOLOGIST SERVICES.

(a) In General.—Part B of title XVIII of the Social Security Act is amended—

(1) in section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by section 4062(c)(3) of this subtitle by striking "and" before "(I)", and by adding at the end the following new clause: "and (J) with respect to expenses incurred for radiologist services (as defined in section 1834(b)(5)), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or the amount provided under the fee schedule established under section 1834(b),"; and

(2) by adding at the end of section 1834, as subsequently inserted by section 4062(a) of this subtitle, the following new subsection:

"(b) Fee Schedules for Radiologist Services.—

"(1) Development.—The Secretary shall develop—

"(A) a relative value scale to serve as the basis for the payment for radiologist services under this part, and

"(B) using such scale and appropriate conversion factors, fee schedules (on a regional, statewide, or carrier service area basis) for payment for radiologist services under this part, to be implemented for such services furnished during 1989.

"(2) Consultation.—In carrying out paragraph (1), the Secretary shall regularly consult closely with the Physician Payment Review Commission, the American College of Radiology, and other organizations representing physicians or suppliers who furnish radiologist services and shall share with them the data and data analysis being used to make the determinations under paragraph (1), including data on variations in current medicare payments by geographic area, and by service and physician specialty.

"(3) CONSIDERATIONS.—In developing the relative value scale and fee schedules under paragraph (1), the Secretary—

"(A) shall take into consideration variations in the cost of furnishing such services among geographic areas and among different sites where services are furnished, and

"(B) may also take into consideration such other factors respecting the manner in which physicians in different specialties furnish such services as may be appropriate to assure that payment amounts are equitable and designed to promote effective and efficient provision of radiologist services by physicians in the different specialties.

"(4) SAVINGS.—

"(A) BUDGET NEUTRAL FEE SCHEDULES.—The Secretary shall develop preliminary fee schedules for 1989, which are designed to result in the same amount of aggregate payments (net of any insurance and deductibles under section 1835(a)(1)(I) and 1833(b)) for radiologist services furnished in 1989 as would have been made if this subsection had not been enacted.

"(B) INITIAL SAVINGS.—The fee schedules established for payment purposes under this subsection for services furnished in 1989 shall be 97 percent of the amounts permitted under these[30] preliminary fee schedules developed under subparagraph (A).

"(C) SUBSEQUENT UPDATING.—Radiologist services furnished in subsequent years, the fee schedules shall be the schedules for the previous year updated by the percentage increase in the MEI (as defined in section 1842(b)(4)(E)(ii)) for the year.

"(D)[31] NONPARTICIPATING PHYSICIANS.—Each fee schedule so established shall provide that the payment rate recognized for nonparticipating physicians and suppliers is equal to the appropriate percent (as defined in section 1842(b)(4)(A)(iv)) of the payment rate recognized for participating physicians and suppliers.

"(5) LIMITING CHARGES OF NONPARTICIPATING PHYSICIANS.—

"(A) IN GENERAL.—In the case of radiologist services furnished after January 1, 1989, for which payment is made under a fee schedule under this subsection, if a nonparticipating physician or supplier furnishes the service to an individual entitled to benefits under this part, the physician or supplier may not charge the individual more than the limiting charge (as defined in subparagraph (B)).

"(B) LIMITING CHARGE DEFINED.—In subparagraph (A), the term 'limiting charge' means, with respect to a service furnished—

"(i) in 1989, 125 percent of the amount specified for the service in the appropriate fee schedule established under paragraph (1),

"(ii) in 1990, 120 percent of the amount specified for the service in the appropriate fee schedule established under paragraph (1), and

"(iii) after 1990, 115 percent of the amount specified for the service in the appropriate fee schedule established under paragraph (1).

"(C) ENFORCEMENT.—If a physician or supplier knowingly and willfully imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).

"(6)[32] RADIOLOGIST SERVICES DEFINED.—For the purposes of this subsection, section 1833(a)(1)(I), and section 1842(h)(1)(B), the term 'radiologist services' only includes radiologic services performed by, or under the direction or supervision of, a physician—

"(A) who is certified, or eligible to be certified, by the American Board of Radiology, or

"(B) for whom radiologic services account for at least 50 percent of billings made under this part.".

(b) DEADLINES AND EFFECTIVE DATE.—

(1) The Secretary of Health and Human Services shall establish the relative value scale and fee schedules for radiologist services (under section 1834(b) of the Social Security Act) by not later than August 1, 1988, and shall report to Congress on the development of such fee schedules not later than August 1, 1988.

(2) The amendments made by this section shall apply to services performed on or after January 1, 1989, and until such time as the Secretary of Health and Human Services implements physician fee schedules based on the relative value scale developed under section 1845(e) of the Social Security Act.

SEC. 4050. FEE SCHEDULES FOR PHYSICIAN PATHOLOGY SERVICES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall develop—

(1) a relative value scale to serve as the basis for the payment for physician pathology services under part B of title XVIII of the Social Security Act,

(2) using such scale and appropriate conversion factors, proposed fee schedules (on a regional, statewide, or carrier service area basis) for payment for physician pathology services under such part, that could be implemented for such services furnished during 1990, and

(3) an appropriate index to be applied to updating such fee schedules annually for physician pathology services furnished in years after 1990.

(b) CONSULTATION.—In carrying out subsection (a), the Secretary shall regularly consult closely with the Physician Payment Review Commission, the College of American Pathologists, and other organizations representing physicians who furnish physician pathology services and shall share with them the data and data analysis being used to make the determinations under subsection (a), including data on variations in current medicare payments by geographic area, and by service and physician specialty.

(c) CONSIDERATION.—In developing the fee schedules under subsection (a), the Secretary shall take into consideration variations in the cost of furnishing physician pathology services among geographic areas.

(d) REPORT.—The Secretary shall report, not later than April 1, 1989, to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the relative value scale, fee schedules, and the index developed under this section. Such report shall include recommendations on how to protect medicare beneficiaries against excessive charges for physician pathology services above the payment amounts established by the fee schedules.

SEC. 4051. ELIMINATION OF MARKUP FOR CERTAIN PURCHASED SERVICES.

(a) IN GENERAL.—Section 1842 of the Social Security Act (42 U.S.C. 1935u) is amended by adding at the end the following new subsection:

"(n)(1) If a physician's bill or a request for payment for services billed by a physician includes a charge to a patient for a diagnostic test described in section 1861(s)(3) (other than a clinical diagnostic laboratory test) for which payment does not indicate that the billing physician personally performed or supervised the performance of the test or that another physician with whom the physician who shares his practice personally performed or supervised the test, the amount payable with respect to the test shall be determined as follows:

"(A) If the bill or request for payment indicates that the test was performed by a supplier, identifies the supplier, and indicates the amount the supplier charged the billing physician, payment for the test (less the applicable deductible and coinsurance amounts) shall be the actual acquisition costs (net of any discounts) or, if lower, the supplier's reasonable charge to individuals enrolled under this part for the test.

"(B) If the bill or request for payment (i) does not indicate who performed the test, or (ii) indicates that the test was performed by a supplier but does not identify the supplier or include the amount charged by the supplier, no payment shall be made under this part.

"(2) A physician may not bill an individual enrolled under this part—

"(A) any amount other than any applicable deductible and coinsurance for a diagnostic test for which payment is made pursuant to paragraph (1)(A), or

"(B) any amount for a diagnostic test for which payment may not be made pursuant to paragraph (1)(B).

"(3) If a physician knowingly and willfully in repeated cases bills one or more individuals in violation of paragraph (2), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).".

(b) ADJUSTMENT IN MEDICARE PREVAILING CHARGES.—

(1) REVIEW.—The Secretary of Health and Human Services shall review payment levels under part B of title XVIII of the Social Security Act for diagnostic tests (described in section 1861(s)(3) of such Act, but excluding clinical diagnostic laboratory tests) which are commonly performed by independent suppliers, sold as a service to physicians, and billed by such physicians, in order to determine the reasonableness of payment amounts for such tests (and for associated professional services component of such tests). The Secretary may require physicians and suppliers to provide such information on the purchase or sale price (net of any discounts) for such tests as is necessary to complete the review and make the adjustments under this subsection. The Secretary shall also review the reasonableness of payment levels for comparable in-office diagnostic tests.

(2) ESTABLISHMENT OF REVISED PAYMENT SCREENS.—If, as a result of such review, the Secretary determines, after notice and opportunity of at least 60 days for public comment, that the current prevailing charge levels (under the third and fourth sentences of section 1842(b) of the Social Security Act) for any such tests or associated professional services are excessive, the Secretary shall establish such charge levels at levels which, consistent with assuring that the test is widely and consistently available to medicare beneficiaries, reflect a reasonable price for the test without any markup. Al-

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ternatively, the Secretary, pursuant to guidelines published after notice and opportunity of at least 60 days for public comment, may delegate to carriers with contracts under section 1842 of the Social Security Act the establishment of new prevailing charge levels under this paragraph. When such charge levels are established, the provisions of section 1842(j)(1)(D) of such Act shall apply in the same manner as they apply to a reduction under section 1842(b)(8)(A) of such Act.

(c) Effective Dates.—

(1) The amendment made by subsection (a) shall apply to diagnostic tests performed on or after April 1, 1988.

(2) The Secretary of Health and Human Services shall complete the review and make an appropriate adjustment of prevailing charge levels under subsection (b) for items and services furnished no later than January 1, 1989.

SEC. 4052. COLLECTION OF PAST-DUE AMOUNTS OWED BY PHYSICIANS WHO BREACHED CONTRACTS UNDER THE NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM.

(a) In General.—Title XVIII of the Social Security Act, as previously amended by this subtitle, is amended by adding at the end thereof the following new section:

"OFFSET OF PAYMENTS TO PHYSICIANS TO COLLECT PAST-DUE OBLIGATIONS ARISING FROM BREACH OF SCHOLARSHIP CONTRACT

"Sec. 1892. (a) In General.—

"(1)(A) Subject to subparagraph (B), the Secretary shall enter into an agreement under this section with any physician who, by reason of a breach of a contract entered into by such physician pursuant to the National Health Service Corps Scholarship Program, owes a past-due obligation to the United States (as defined in subsection (b)).

"(B) The Secretary shall not enter into an agreement with a physician under this section to the extent—

"(i)(I) the physician has entered into a contract with the Secretary pursuant to section 204(a)(1) of the Public Health Service Amendments of 1987, and

"(II) the physician has fulfilled or (as determined by the Secretary) is fulfilling the terms of such contract; or

"(ii) the liability of the physician under such section 204(a)(1) has otherwise been relieved under such section; or

"(iii) the physician is performing such physician's service obligation under a forbearance agreement entered into with the Secretary under subpart II of part D of title III of the Public Health Service Act.

"(2) The agreement under this section shall provide that—

"(A) deductions shall be made from the amounts otherwise payable to the physician under this title, in accordance with a formula and schedule agreed to by the Secretary and the physician, until such past-due obligation (and accrued interest) have been repaid;

"(B) payment under this title for services provided by such physician shall be made only on an assignment-related basis;

"(C) if the physician does not provide services, for which payment would otherwise be made under this title, of a sufficient quantity to maintain the offset collection according to the agreed upon formula and schedule—

"(i) the Secretary shall immediately inform the Attorney General, and the Attorney General shall immediately commence an action to recover the full amount of the past-due obligation, and

"(ii) subject to paragraph (3), the Secretary shall immediately exclude the physician from the program under this title, until such time as the entire past-due obligation has been repaid.

"(3) If the physician refuses to enter into an agreement or breaches any provision of the agreement—

"(A) the Secretary shall immediately inform the Attorney General, and the Attorney General shall immediately commence an action to recover the full amount of the past-due obligation, and

"(B) subject to paragraph (3), the Secretary shall immediately exclude the physician from the program under this title, until such time as the entire past-due obligation has been repaid.

"(4) The Secretary shall not bar a physician pursuant to paragraph (2)(C)(ii) or paragraph (3)(B) if such physician is a sole community physician or sole source of essential specialized services in a community.

"(b) Past-Due Obligation.—For purposes of this section, a past-due obligation is any amount—

"(1) owed by a physician to the United States by reason of a breach of a scholarship contract under section 338E of the Public Health Service Act, and

"(2) which has not been paid by the deadline established by the Secretary pursuant to section 338E of the Public Health Service Act, and has not been canceled, waived, or suspended by the Secretary pursuant to such section.

"(c) Collection Under This Section Shall Not Be Exclusive.—This section shall not preclude the United States from applying other provisions of law otherwise applicable to the collection of obligations owed to the United States, including (but not limited to) the use of tax refund offsets pursuant to section 3720A of title 31, United States Code, and the application of other procedures provided under chapter 37 of title 31, United States Code.

"(d) Collection From Providers and Health Maintenance Organizations.—

"(1) In the case of a physician who owes a past-due obligation, and who is an employee of, or affiliated by a medical services agreement with, a provider having an agreement under section 1866 or a health maintenance organization or competitive medical plan having a contract under section 1833 or section 1876, the Secretary shall deduct the amounts of such past-due obligation from amounts otherwise payable under this title to such provider, organization, or plan.

"(2) Deductions shall be in accordance with a formula and schedule agreed to by the Secretary, the physician and the provider, organization, or plan. The deductions shall be made from the amounts otherwise payable to the physician under this title as long as the physician continued to be employed or affiliated by a medical services agreement.

"(3) Such deduction shall not be made until 6 months after the Secretary notifies the provider, organization, or plan of the amount to be deducted and the particular physicians to whom the deductions are attributable.

"(4) A deduction made under this subsection shall relieve the physician of the obligation (to the extent of the amount collected) to the United States, but the provider, organization, or plan shall have a right of action to collect from such physician the amount deducted pursuant to this subsection (including accumulated interest).

"(5) No deduction shall be made under this subsection if, within the 6-month period after notice is given to the provider, organization, or plan, the physician pays the past-due obligation, or ceases to be employed by the provider, organization, or plan.

"(6) The Secretary shall also apply the provisions of this subsection in the case of a physician who is a member of a group practice, if such group practice submits bills under this program as a group, rather than by individual physicians.

"(e) Transfer From Trust Funds.—Amounts equal to the amounts deducted pursuant to this section shall be transferred from the Trust Fund from which the payment to the physician, provider, or other entity would otherwise have been made, to the general fund in the Treasury, and shall be credited as payment of the past-due obligation of the physician from whom (or with respect to whom) the deduction was made.".

(b) Conforming Reference.—Section 338E(b)(1) of the Public Health Service Act (42 U.S.C. 254o(b)(1)) is amended by adding at the end thereof the following new sentence: "Amounts not paid within such period shall be subject to collection through deductions in Medicare payments pursuant to section 1892 of the Social Security Act.".

(c) Effective Date.—The amendments made by this section shall be effective on the date of the enactment of this Act.

SEC. 4052. ELIMINATION OF 1975 FLOOR FOR PREVAILING PHYSICIAN CHARGES.

(a) In General.—Section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)) is amended by striking the next-to-last sentence (which begins "Notwithstanding the provisions of").

(b) Effective Date.—The amendment made by subsection (a) shall apply to payment for services furnished on or after January 1, 1988.

SEC. 4053. APPLICATION OF MAXIMUM ALLOWABLE ACTUAL CHARGE (MAAC).

(a) Application on Individual Charge Basis.—Section 1842(j)(1) of the Social Security Act (42 U.S.C. 1395u(j)(1)) is amended—

(1) in the first sentence of subparagraph (B)(i), by striking "each such physician's actual charges" and inserting "the actual charges of each such physician";

(2) in the second sentence of subparagraph (B)(i), by striking "for such a service a physician's actual charge (as defined in subparagraph (C)(vi)" and inserting "on a repeated basis for such a service an actual charge"; and

(3) in subparagraph (C)(vi), by striking "and subparagraph (B)".

(b) Adjustment.—In the case of a physician who did not have actual charges under title XVIII of the Social Security Act for a procedure in the calendar quarter beginning on April 1, 1984, but who establishes to the satisfaction of a carrier that he or she had actual charges (whether under such title or otherwise) for the procedure performed prior to June 30, 1984, the carrier shall compute the maximum allowable actual charge under section 1842(j) of the Social Security Act for such procedure performed by such physician in 1988 based on such physician's actual charges for the procedure.

(c) Effective Date.—The amendment made by subsection (a) shall apply to charges imposed for services furnished on or after April 1, 1988.

SEC. 4054. APPLYING COPAYMENT AND DEDUCTIBLE TO CERTAIN OUTPATIENT PHYSICIANS' SERVICES.

Notwithstanding any other provision of law, payment under part B of title XVIII of the Social Security Act for physicians' services specified in section 1833(i)(1) of such Act and furnished on or after April 1, 1988, in an ambulatory surgical center or hospital outpatient department on an assignment-related basis shall be subject to the deductible under section 1833(b) of such Act and 20 percent coinsurance.

SEC. 4055. PHYSICIAN PAYMENT STUDIES.

(a) Definitions of Medical and Surgical Procedures.—

(1) Report on variations in carrier payment practice.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct a study of variations in payment practices for physicians' services among the different carriers under section 1842 of the Social Security Act. Such study shall examine carrier variations in the services included in global fees and pre- and post-operative services included in payment for the operation. The Secretary shall report to Congress on such study by not later than May 1, 1988.

(2) Uniform definitions of procedures for payment purposes.—The Secretary shall develop, in consultation with appropriate national medical specialty societies and by not later than July 1, 1989, uniform definitions of physicians' services (including appropriate classification scheme for procedures) which could serve as the basis for making payments for such services under part B of title XVIII of the Social Security Act. In developing such list, to the extent practicable—

(A) ancillary services commonly performed in conjunction with a major procedure would be included with the major procedure;

(B) pre- and post-procedure services would be included in the procedure; and

(C) similar procedures would be listed together if the procedures are similar in resource requirements.

(b) Expansion of Relative Value Scale (RVS) Study.—

(1) Additional services.—The Secretary shall expand the study being conducted, under section 1845(e) of the Social Security Act, to develop a relative value scale for physicians' services to include physicians' services in the fields of cardiology, dermatology, emergency medicine, gastroenterology, hematology, infectious disease, nephrology, neurology, neurosurgery, nuclear medicine, oncology, physical medicine and rehabilitation, plastic surgery, pulmonary medicine, and radiation therapy, and for physicians who specialize in osteopathic procedures.

(2) No delay in current study.—The expansion under paragraph (1) shall not be conducted in a manner that delays the completion of the current study or the report to Congress required under section 1845(e)(3) of the Social Security Act. The Secretary shall report to Congress on the services described in paragraph (1) by not later than October 1, 1989.

(3) Prompt submittal of study results to Physician Payment Review Commission.—The Secretary shall submit to the Physician Payment Review Commission a copy of any report submitted to the Secretary pursuant to a cooperative agreement in the fulfillment of the requirement of section 1845(e) of such Act, with all relevant supporting data (including survey data, analytic data files, and file documentation), by no later than 30 days after the date the final report is received by the Secretary.

(c) Other Physician Payment Studies.—

(1) Fee schedule implementation.—The Secretary shall conduct a study of changes in the payment system for physicians' services, under part B of title XVIII of the Social Security Act, that would be required for the implementation of a national fee schedule for such services furnished on or after January 1, 1990. Such study shall identify any major technical problems related to such implementation and recommendations on ways in which to address such problems. The Secretary shall report to the Congress on such study by not later than July 1, 1989.

(2) Volume and intensity of physician services.—The Secretary shall conduct a study of issues relating to the volume and intensity of physicians' services under part B of title XVIII of the Social Security Act, including—

(A) historical trends with regard to increases in the volume and intensity of physicians' services furnished on a per enrollee basis (with appropriate adjustments to account for changes in the demographic composition of the medicare population);

(B) geographic variations in volume and intensity in physicians' services;

(C) an analysis of the effectiveness of methods currently used under such part to ensure that payments under such part are made only for services which are medically necessary;

(D) the development and analysis of alternative methods to control the volume of services; and

(E) the impact of the implementation of the relative value scale developed under section 1845(e) of such Act on the volume and intensity of physicians' services.

The Secretary shall submit to Congress an interim report on such study not later than May 1, 1988, and a final report on such study not later than May 1, 1989.

(3) Survey of out-of-pocket costs of medicare beneficiaries for health care services.—The Secretary shall conduct a survey to determine the distribution of—

(A) the liabilities and expenditures for health care services of individuals entitled to benefits under title XVIII of the Social Security Act, including liabilities for charges (not paid on an assignment-related basis) in excess of the reasonable charge recognized, and

(B) the collection rates among different classes of physicians for such liabilities, including collection rates for required coinsurance and for charges (not paid on an assignment-related basis) in excess of the reasonable charge recognized.

The Secretary shall report to Congress on such study by not later than July 1, 1990.

(d) Study of Payment for Chemotherapy in Physicians' Offices.—

(1) In general.—The Secretary shall study ways of modifying part B of title XVIII of the Social Security Act to permit adequate payment under such part for the costs associated with providing chemotherapy to cancer patients in physicians' offices. The study shall be performed in consultation with physicians and other health care providers who are experts in cancer therapy and with representation of health insurers who have experience in these payment issues.

(2) Report.—The Secretary shall report to Congress on the results of the study by not later than April 1, 1989.

Subpart B—Provisions Relating to Payments for Other Services

SEC. 4061. EXTENSION OF REDUCTION FOR OTHER PART B ITEMS AND SERVICES PAYMENTS UNDER SEQUESTER ORDER.

Notwithstanding any other provision of law (including any other provision of this Act), the reductions in the amount of payments required under title XVIII of the Social Security Act made by the final sequester order issued by the President on November 20, 1987, pursuant to section 252(b) of the Balanced Budget Emergency Deficit Control Act of 1985 shall continue to be effective (as provided by sections 252(a)(4)(B) and 256(d)(2) of such Act) through March 31, 1988, with respect to payments for all items and services (other than physicians' services) under part B of such title.

SEC. 4062. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT, PROSTHETIC DEVICES, ORTHOTICS, AND PROSTHETICS.

(a) 1-Year Freeze on Charge Limitations.—

(1) In general.—In imposing limitations on allowable charges for items and services (other than physicians' services) furnished in 1988 under part B of title XVIII of such Act and for which payment is made on the basis of the reasonable charge for the item or service, the Secretary of Health and Human Services shall not impose any limitation at a level higher than the same level as was in effect in December 1987.

(2) Transition.—The provisions of section 4041(a)(2) (other than subparagraph (D) thereof) of this subtitle shall apply to suppliers of items and services described in paragraph (1), and directories of participating suppliers of such items and services, in the same manner as such section applies to physicians furnishing physicians' services, and directories of participating physicians.

(b) Amount and Frequency of Payment for Durable Medical Equipment, Prosthetic Devices, Orthotics, and Prosthetics.—Part B of title XVIII of the Social Security Act is amended by inserting after section 1833 the following new section:

"SPECIAL PAYMENT RULES FOR PARTICULAR SERVICES

"Sec. 1834. (a) Payment for Durable Medical Equipment, Prosthetic Devices, Orthotics, and Prosthetics.—

"(1) General rule for payment.—

"(A) In general.—With respect to a covered item (as defined in paragraph (13)) for which payment is determined under this subsection, payment shall be made in the frequency specified in paragraphs (2) through (7) and in an amount equal to 80 percent of the payment basis described in subparagraph (B).

"(B) Payment basis.—The payment basis described in this subparagraph is the lesser of—

"(i) the actual charge for the item, or

"(ii) the payment amount recognized under paragraphs (2) through (7) of this subsection for the item;

except that clause (i) shall not apply if the covered item is furnished by a public home health agency (or by another home health agency which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low income) free of charge or at nominal charges to the public.

"(C) Exclusive payment rule.—This subsection shall constitute the exclusive provision of this title for payment for covered items under this part.

"(2) PAYMENT FOR INEXPENSIVE AND OTHER ROUTINELY PURCHASED DURABLE MEDICAL EQUIPMENT.—

"(A) IN GENERAL.—Payment for an item of durable medical equipment (as defined in paragraph (13)(A))—

"(i) the purchase price of which does not exceed $150, or

"(ii) which the Secretary determines is acquired at least 75 percent of the time by purchase,

shall be made on a rental basis or in a lump-sum amount for the purchase of the item. The payment amount recognized for purchase or rental of such equipment is the amount specified in subparagraph (B) for purchase or rental, except that the total amount of rental payments with respect to an item may not exceed the payment amount specified in subparagraph (B) with respect to the purchase of the item.

"(B) PAYMENT AMOUNT.—For purposes of subparagraph (A), the amount specified in this subparagraph, with respect to the purchase or rental of an item furnished in a carrier service area—

"(i) in 1989 is the average allowed charge in the area for the purchase or rental, respectively, of the item for the 12-month period ending on June 30, 1987, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 6-month period ending with December 1987; or

"(ii) in a subsequent year, is the amount specified in this subparagraph for the preceding year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of that preceding year.

"(3) PAYMENT FOR ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—

"(A) IN GENERAL.—Payment for a covered item (such as ventilators, aspirators, IPPB machines, and nebulizers) for which there must be frequent and substantial servicing in order to avoid risk to the patient's health shall be made on a monthly basis for the rental of the item and the amount recognized is the amount specified in subparagraph (B).

"(B) PAYMENT AMOUNT.—For purposes of subparagraph (A), the amount specified in this subparagraph, with respect to an item or device furnished in a carrier service area—

"(i) in 1989 is the average allowable charge in the area for the rental of the item or device for the 12-month period ending with June 1987,[33] increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 6-month period ending with December 1987; or

"(ii) in a subsequent year, is the amount specified in this subparagraph for the preceding year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of that preceding year.

"(4) PAYMENT FOR CERTAIN CUSTOMIZED ITEMS.—Payment with respect to a covered item that is uniquely constructed or substantially modified to meet the specific needs of an individual patient shall be made in a lump-sum [34] amount for the purchase of the item in a payment amount based upon the carrier's individual consideration for that item, and for the reasonable and necessary maintenance and service for parts and labor not covered by the supplier's or manufacturer's warranty, when necessary during the period of medical need, and the amount recognized for such maintenance and service shall be paid on a lump-sum, as needed basis based upon the carrier's individual consideration for that item.

"(5) PAYMENT FOR OXYGEN AND OXYGEN EQUIPMENT.—

"(A) IN GENERAL.—Payment for oxygen and oxygen equipment shall be made on a monthly basis in the monthly payment amount recognized under paragraph (9) for oxygen and oxygen equipment (other than portable oxygen equipment), subject to subparagraphs (B) and (C).

"(B) ADD-ON FOR PORTABLE OXYGEN EQUIPMENT.—When portable oxygen equipment is used, but subject to subparagraph (D), the payment amount recognized under subparagraph (A) shall be increased by the monthly payment amount recognized under paragraph (9) for portable oxygen equipment.

"(C) VOLUME ADJUSTMENT.—When the attending physician prescribes an oxygen flow rate—

"(i) exceeding 4 liters per minute, the payment amount recognized under subparagraph (A), subject to subparagraph (D), shall be increased by 50 percent, or

"(ii) of less than 1 liter per minute, the payment amount recognized under subparagraph (A) shall be decreased by 50 percent.

"(D) LIMIT ON ADJUSTMENT.—When portable oxygen equipment is used and the attending physician prescribes an oxygen flow rate exceeding 4 liters per minute, there shall only be an increase under either subparagraph (B) or (C), whichever increase is larger, and not under both such subparagraphs.

"(6) PAYMENT FOR OTHER COVERED ITEMS (OTHER THAN DURABLE MEDICAL EQUIPMENT).—Payment for other covered items (other than durable medical equipment and other covered items described in paragraph (3), (4), or (5)) shall be made in a lump-sum amount for the purchase of the item in the amount of the purchase price recognized under paragraph (8).

"(7) PAYMENT FOR OTHER ITEMS OF DURABLE MEDICAL EQUIPMENT.—

"(A) IN GENERAL.—In the case of an item of durable medical equipment not described in paragraphs (2) through (6)—

"(i) payment shall be made on a monthly basis for the rental of such item during the period of medical need (but payments under this subparagraph may not extend over a period of continuous use of longer than 15 months), and, subject to subparagraph (B), the amount recognized for each such month is 10 percent of the purchase price recognized under paragraph (8) with respect to the item;

"(ii) during the succeeding 6-month period of medical need, no payment shall be made for rental or servicing of the item; and

"(iii) during the first month of each succeeding 6-month period of medical need, a service and maintenance payment may be made (for parts and labor not covered by the supplier's or manufacturer's warranty, as determined by the Secretary to be appropriate for the particular type of durable medical equipment) and the amount recognized for each such 6-month period is the lower of (I) a reasonable and necessary maintenance and servicing fee established by the carrier, or (II) 10 percent of the total of the purchase price recognized under paragraph (8) with respect to the item.

The Secretary shall determine the meaning of the term 'continuous' in subparagraph (A).

"(B) RANGE FOR RENTAL AMOUNTS.—

"(i) FOR 1989.—For items furnished during 1989, the payment amount recognized under subparagraph (A)(i) shall not be more than 115 percent, and shall not be less than 85 percent, of the prevailing charge established for rental of the item January 1987, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 6-month period ending with December 1987.

"(ii) FOR 1990.—For items furnished during 1990, the payment amount recognized under subparagraph (A)(i) shall not be more than the maximum amount established under clause (i), and shall not be less than the minimum amount established under such clause, for 1989, each such amount increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June 1989.

"(8) PURCHASE PRICE RECOGNIZED FOR MISCELLANEOUS DEVICES AND ITEMS.—For purposes of paragraphs (6) and (7), the amount that is recognized under this paragraph as the purchase price for a covered item is the amount described in subparagraph (C) of this paragraph, determined as follows:

"(A) COMPUTATION OF LOCAL PURCHASE PRICE.—Each carrier under section 1842 shall compute a base local purchase price for the item as follows:

"(i) The carrier shall compute a base local purchase price, for each item described—

"(I) in paragraph (6) equal to the average allowable charge in the locality for the purchase of the item for the 12-month period ending with June 1987, or

"(II) in paragraph (7) equal to the average of the purchase prices on the claims submitted on an assignment-related basis for the unused item supplied during the 6-month period ending with December 1986.

"(ii) The carrier shall compute a local purchase price, with respect to the furnishing of each particular item—

"(I) in 1989, equal to the base local purchase price computed under clause (i) increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 6-month period ending with December 1987, or

"(II) in 1990, 1991, or 1992, equal to the local purchase price computed under this clause for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(B) COMPUTATION OF REGIONAL PURCHASE PRICE.—With respect to the furnishing of a particular item in each region (as defined in section 1886(d)(2)(D)), the Secretary shall compute a regional purchase price—

"(i) for 1991, and for 1992, equal to the average (weighted by relative volume of all claims among carriers) of the local purchase prices for the carriers in the region computed under subparagraph (A)(ii)(II) for the year, and

"(ii) for each subsequent year, equal to the regional purchase price computed under this subparagraph for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

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[33] Copy read "June, 1987,".

[34] Copy read "lump sum".

"(C) PURCHASE PRICE RECOGNIZED.—For purposes of paragraphs (6) and (7) and subject to subparagraph (D), the amount that is recognized under this paragraph as the purchase price for each item furnished—

"(i) in 1989 or 1990, is 100 percent of the local purchase price computed under subparagraph (A)(ii)(I);

"(ii) in 1991, is the sum of (I) 75 percent of the local purchase price computed under subparagraph (A)(ii)(II) for 1991, and (II) 25 percent of the regional purchase price computed under subparagraph (B) for 1991;

"(iii) in 1992, is the sum of (I) 50 percent of the local purchase price computed under subparagraph (A)(ii)(II) for 1992, and (II) 50 percent of the regional purchase price computed under subparagraph (B) for 1992; and

"(iv) in 1993 or a subsequent year, is the regional purchase price computed under subparagraph (B) for that year.

"(D) RANGE ON AMOUNT RECOGNIZED.—The amount that is recognized under subparagraph (C) as the purchase price for an item furnished—

"(i) in 1991, may not exceed 130 percent, and may not be lower than 80 percent, of the average of the purchase prices recognized under such subparagraph for all the carrier service areas in the United States in that year; and

"(ii) in a subsequent year, may not exceed 125 percent, and may not be lower than 85 percent, of the average of the purchase prices recognized under such subparagraph for all the carrier service areas in the United States in that year.

"(9) MONTHLY PAYMENT AMOUNT RECOGNIZED WITH RESPECT TO OXYGEN AND OXYGEN EQUIPMENT.—For purposes of paragraph (5), the amount that is recognized under this paragraph for payment for oxygen and oxygen equipment is the monthly payment amount described in subparagraph (C) of this paragraph. Such amount shall be computed separately (i) for all items of oxygen and oxygen equipment (other than portable oxygen equipment) and (ii) for portable oxygen equipment (each such group referred to in this paragraph as an 'item').

"(A) COMPUTATION OF LOCAL MONTHLY PAYMENT RATE.—Each carrier under this section shall compute a base local payment rate for each item as follows:

"(i) The carrier shall compute a base local average monthly payment rate per beneficiary as an amount equal to (I) the total reasonable charges for the item during the 12-month period ending with December 1986, divided by (II) the total number of months for all beneficiaries receiving the item in the area during the 12-month period for which the carrier made payment for the item under this title.

"(ii) The carrier shall compute a local average monthly payment rate for the item applicable—

"(I) to 1989, equal to 95 percent of the base local average monthly payment rate computed under clause (i) for the item increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 6-month period ending with December 1987, or

"(II) to 1990 and to 1991, equal to the local average monthly payment rate computed under this clause for the item for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(B) COMPUTATION OF REGIONAL MONTHLY PAYMENT RATE.—With respect to the furnishing of an item in each region (as defined in section 1886(d)(2)(D)), the Secretary shall compute a regional monthly payment rate—

"(i) for 1991, and 1992, equal to the average (weighted by relative volume of all claims among carriers) of the local monthly payment rates for the carriers in the region computed under subparagraph (A)(ii)(II) for the year, and

"(ii) for each subsequent year, equal to the regional monthly payment rates computed under this subparagraph for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(C) MONTHLY PAYMENT AMOUNT RECOGNIZED.—For purposes of paragraph (5), the amount that is recognized under this paragraph as the base monthly payment amount for each item furnished—

"(i) in 1989 and in 1990, is 100 percent of the local average monthly payment rate computed under subparagraph (A)(ii)(I) for the item;

"(ii) in 1991, is the sum of (I) 75 percent of the local average monthly payment rate computed under subparagraph (A)(ii)(II) for the item for 1991, and (II) 25 percent of the regional monthly payment rate computed under subparagraph (B)(i) for the item for 1991;

"(iii) in 1992, is the sum of (I) 50 percent of the local average monthly payment rate computed under subparagraph (A)(ii)(II) for the item for 1992, and (II) 50 percent of the regional monthly payment rate computed under subparagraph (B)(i) for the item for 1992; and

"(iv) in a subsequent year, is the regional monthly payment rate computed under subparagraph (B) for the item for that year.

"(D) RANGE ON AMOUNT RECOGNIZED.—The amount that is recognized under subparagraph (C) as the base monthly payment amount for an item furnished—

"(i) in 1991, may not exceed 130 percent, and may not be lower than 80 percent, of the average of the base monthly payment amounts recognized under such subparagraph for all the carrier service areas in the United States in that year; and

"(ii) in a subsequent year, may not exceed 125 percent, and may not be lower than 85 percent, of the average of the base monthly payment amounts recognized under such subparagraph for all the carrier service areas in the United States in that year.

"(10) EXCEPTIONS AND ADJUSTMENTS.—

"(A) AREAS OUTSIDE CONTINENTAL UNITED STATES.—Exceptions to the amounts recognized under the previous provisions of this subsection shall be made to take into account the unique circumstances of covered items furnished in Alaska, Hawaii, or Puerto Rico.

"(B) ADJUSTMENT FOR INHERENT REASONABLENESS.—For covered items furnished on or after January 1, 1991, the Secretary is authorized to apply the provisions of paragraphs (8) and (9) (other than subparagraph (D)) of section 1842(b) to covered items and suppliers of such items.

"(C) TRANSCUTANEOUS ELECTRICAL NERVE STIMULATOR (TENS).—In order to permit an attending physician time to determine whether the purchase of a transcutaneous electrical nerve stimulator is medically appropriate for a particular patient, the Secretary may determine an appropriate payment amount for the initial rental of such item for a period of not more than 2 months. If such item is subsequently purchased, the payment amount with respect to such purchase is the payment amount determined under paragraph (2).

"(11) IMPROPER BILLING AND REQUIREMENT OF PHYSICIAN ORDER.—

"(A) IMPROPER BILLING FOR CERTAIN RENTAL ITEMS.—Notwithstanding any other provision of this title, a supplier of a covered item for which payment is made under this subsection and which is furnished on a rental basis shall continue to supply the item without charge (other than a charge provided under this subsection for the servicing of the item) after rental payments may no longer be made under this subsection. If a supplier knowingly and willfully violates the previous sentence, the Secretary may apply sanctions against the supplier under subsection (j)(2) in the same manner such sanctions may apply with respect to a physician.

"(B) REQUIREMENT OF PHYSICIAN ORDER.—The Secretary is authorized to require, for specified covered items, that payment may be made under this subsection with respect to the item only if a physician has communicated to the supplier, before delivery of the item, a written order for the item.

"(12) REGIONAL CARRIERS.—The Secretary may designate, by regulation under section 1842, one carrier for each region (as defined in section 1886(d)(2)(D)) to process all claims within the region for covered items under this section.

"(13) COVERED ITEM.—In this subsection, the term 'covered item' means—

"(A) durable medical equipment (as defined in section 1861(n)), including such equipment described in section 1861(m)(5);

"(B) prosthetic devices (described in section 1861(s)(8)), but not including parenteral and enteral nutrition nutrients, supplies, and equipment; and

"(C) orthotics and prosthetics (described in section 1861(s)(9));

but does not include intraocular lenses.

"(14) CARRIER.—In this subsection, any reference to the term 'carrier' includes a reference, with respect to durable medical equipment furnished by a home health agency as part of home health services, to a fiscal intermediary.".

(c) STUDY AND EVALUATION.—(1) The Secretary of Health and Human Services shall monitor the impact of the amendments made by this section on the availability of covered items and shall evaluate the appropriateness of the volume adjustment for oxygen and oxygen equipment under section 1834(a)(5)(C) of the Social Security Act (as amended by subsection (b) of this section). The Secretary shall report to Congress, by not later than January 1, 1991, on such impact and on the evaluation and shall include in such report recommendations for changes in payment methodology for covered items under section 1834(a) of such Act.

(2) Before January 1, 1991, the Secretary may not conduct any demonstration project respecting alternative methods of payment for covered items under title XVIII of the Social Security Act.

(3) In this subsection, the term "covered item" has the meaning given such term in section 1834(a)(13) of the Social Security Act (as amended by subsection (b) of this section).

(4) The Secretary shall, upon written request, provide the data and information used in determining the payment amounts

for covered items under section 1834(a) of the Social Security Act.

(5) The Comptroller General shall conduct a study on the appropriateness of the level of payments allowed for covered items under the medicare program, and shall report to Congress on the results of such study (including recommendations on the transition to regional or national rates) by not later than January 1, 1991. Entities furnishing such items which fail to provide the Comptroller General with reasonable access to necessary records to carry out the study under this paragraph are subject to exclusion from the medicare program under section 1128(a) of the Social Security Act.

(d) Conforming Amendments.—

(1) Section 1814 of such Act (42 U.S.C. 1395f) is amended—

(A) in subsection (j)(2)(B), by amending subparagraph (B) to read as follows:

"(B) Section 1834(a)(1)(B).", and

(B) in subsection (k), by striking all that follows "shall be" and insert "the amount described in section 1834(a)(1).".

(2) Section 1832(a) of such Act (42 U.S.C. 1395k(a)) is amended—

(A) in paragraph (2)(A), by inserting "(other than items described in subparagraph (G))" after "services";

(B) in paragraph (2)(B), by inserting "(other than items described in subparagraph (G))" after "medical and other health services"; and

(C) in paragraph (2)—

(i) by striking "and" at the end of subparagraph (E),

(ii) by striking the period at the end of subparagraph (F) and inserting "; and", and

(iii) by adding at the end the following new subparagraph:

"(G) covered items (described in section 1834(a)(13)) furnished by a provider of services or by others under arrangements with them made by a provider of services.".

(3) Section 1833(a) of such Act (42 U.S.C. 1395l(a)) is amended—

(A) in paragraph (1)—

(i) by striking "; and" at the end of clause (G) and inserting a comma, and

(ii) by adding at the end the following: "and (I) with respect to covered items (described in section 1834(a)(13)), the amounts paid shall be the amounts described in section 1834(a)(1),";

(B) in paragraph (2)—

(i) by striking "and (F)" and inserting "(F), and (G)", and

(ii) in subparagraph (A), by striking "(other than durable medical equipment)";

[34a](C) by striking "and" at the end of paragraph (3);

[34b](D) by striking the period at the end of paragraph (4) and inserting "; and"; and

[34c](E) by adding at the end the following new paragraph:

"(5) in the case of covered items (described in section 1834(a)(13)) the amounts described in section 1834(a)(1).".

(4) Section 1866(a)(2)(A) of such Act (42 U.S.C. 1395cc(a)(2)(A)) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence of this subparagraph, a home health agency may charge such an individual or person, with respect to covered items subject to payment under section 1834(a), the amount of any deduction imposed under section 1833(b) and 20 percent of the payment basis described in section 1834(a)(2).".

(5) Section 1889 of such Act (42 U.S.C. 1395zz) is repealed.

(e) Effective Date.—The amendments made by this section shall apply to covered items furnished on or after January 1, 1989.

SEC. 4063. PAYMENT FOR INTRAOCULAR LENSES.

(a) Provided in Physician's Office.—Section 1842 of the Social Security Act (42 U.S.C. 1395u), as previously amended is amended—

(1) in subsection (b)(11)(C), as inserted by section 4046(a)(1)(C) of this subtitle—

(A) by inserting "(i)" after "(C)" and by adding at the end the following new clause:

"(ii) The reasonable charge for an intraocular lens implanted during cataract surgery in a physician's office may not exceed the actual acquisition cost for the lens (taking into account any discount) plus a handling fee (not to exceed 5 percent of such actual acquisition cost).", and

(b)[35] in subparagraph (D), as so redesignated and as amended by section 4046(a)(1) of this subtitle, by inserting "or item" after "service" or "services" each place either appears; and

(2) in subsection (j)(1)(D), as added by section 4045(c)(1)(B) of this subtitle and as amended by 4046(a)(2) of this subtitle—

(A) in clause (ii), by striking "and" at the end of subclause (IV), by redesignating subclause (V) as subclause (VI) and by inserting before such subclause the following new subclause:

"(IV) a reasonable charge limit is established under subsection (b)(11)(C)(ii), and"; and

(B) in clause (iii)—

(i) by striking "or" at the end of subclause (I),

(ii) in subclause (II), by striking "(b)(11)(C)" and inserting "(b)(11)(C)(i)",

(iii) by striking the period at the end of subclause (II) and inserting "; or", and

(iv) by adding at the end the following new subclause:

"(III) under subsection (b)(11)(C)(ii), the payment allowance established under such subsection.".

(b) Provided in Ambulatory Surgical Centers.—Section 1833(i)(2)(A) of such Act (42 U.S.C. 1395l(i)(2)(A)) is amended—

(1) by striking "and" at the end of clause (i),

(2) by striking the period at the end of clause (ii) and inserting ", and", and

(3) by inserting after clause (ii) the following new clause:

"(iii) in the case of implantation of an intraocular lens during cataract surgery includes payment which is reasonable and related to the cost of acquiring the class of lens involved.".

(c) Effective Date.—The amendments made by this section shall apply to items furnished on or after July 1, 1988.

(d) Special Rule.—With respect to the establishment of a reasonable charge limit under section 1842(b)(11)(C)(ii) of the Social Security Act, in applying section 1842(j)(1)(D)(i) of such Act, the matter beginning with "plus" shall be considered to have been deleted.

SEC. 4064. CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) Limitation on Changes in Fee Schedules.—

(1) 3-MONTH FREEZE IN FEE SCHEDULES.—Notwithstanding any other provision of law, any change in the fee schedules for clinical laboratory diagnostic laboratory tests under part B of title XVIII of such Act which would have become effective for tests furnished on or after January 1, 1988, shall not be effective for tests furnished during the 3-month period beginning on January 1, 1988.

(2) No CPI INCREASE IN 1988.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not adjust the fee schedules established under section 1833(h) of the Social Security Act for 1988 to take into account any increase in the consumer price index.

(b) Fee Schedules and Payment Limits.—

(1) Rebasing of fee schedules for certain automated and similar tests.—Section 1833(h)(2) of the Social Security Act (42 U.S.C. 1395l(h)(2)) is amended by adding at the end the following: "In establishing fee schedules under the first sentence of this paragraph with respect to automated tests and tests (other than cytopathology tests) which before July 1, 1984, the Secretary made subject to a limit based on lowest charge levels under the sixth sentence of section 1842(b)(3) performed after March 31, 1988, the Secretary shall reduce by 8.3 percent the fee schedules otherwise established for 1988.".

(2) Nationwide payment limits.—Section 1833(h)(4)(B) of such Act is amended—

(A) in clause (i), by striking "January" and inserting "April", and

(B) by amending clause (ii) to read as follows:

"(ii) March 31, 1988, and so long as a fee schedule for the test has not been established on a nationwide basis, is equal to the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

(3) Effective dates.—The amendments made by paragraphs (1) and (2) shall apply with respect to services furnished on or after April 1, 1988.

(4) GAO study of fee schedules.—The Comptroller General shall conduct a study of the level of the fee schedules established for clinical diagnostic laboratory services under section 1833(h)(2) of the Social Security Act to determine, based on the costs of, and revenues received for, such tests the appropriateness of such schedules. The Comptroller General shall report to the Congress on the results of such study by not later than January 1, 1990. Suppliers of such tests which fail to provide the Comptroller General with reasonable access to necessary records to carry out the study under this paragraph are subject to exclusion from the medicare program under section 1128(a) of the Social Security Act.

(c) Limitation on Application of 2 Percent Hospital Lab Differential.—Section 1833(h)(2) of such Act is amended by striking "hospital laboratory" and inserting "laboratory in a sole community hospital".

(d) Intermediate Sanctions.—

(1) Part B of title XVIII of such Act is amended by adding at the end thereof the following new section:

"INTERMEDIATE SANCTIONS FOR PROVIDERS OF CLINICAL DIAGNOSTIC LABORATORY TESTS

"Sec. 1846. (a) If the Secretary determines that any provider or clinical laboratory certified for participation under this title no longer substantially meets the conditions of participation specified under this title with respect to the provision of clinical diagnostic laboratory tests under this part, the Secretary may (for a period not to exceed one year) impose intermediate sanctions developed pursuant to subsection (b), in lieu of canceling immediately the certification of the provider or clinical laboratory.

[34a] Copy read "(B)".

[34b] Copy read "(C)".

[34c] Copy read "(D)".

[35] Copy read "(C)".

"(b)(1) The Secretary shall develop and implement—

"(A) a range of intermediate sanctions to apply to providers or certified clinical laboratories under the conditions described in subsection (a), and

"(B) appropriate procedures for appealing determinations relating to the imposition of such sanctions.

"(2)(A) The intermediate sanctions developed under paragraph (1) shall include—

"(i) directed plans of correction,

"(ii) civil fines and penalties,

"(iii) payment for the costs of onsite monitoring by an agency responsible for conducting certification surveys, and

"(iv) suspension of all or part of the payments to which a provider or certified clinical laboratory would otherwise be entitled under this title with respect to clinical diagnostic laboratory tests provided on or after the date in which the Secretary determines that intermediate sanctions should be imposed pursuant to subsection (a).[36]

"(B) The sanctions specified in subparagraph (A) are in addition to sanctions otherwise available under State or Federal law.

"(3) The Secretary shall develop and implement specific procedures with respect to when and how each of the intermediate sanctions developed under paragraph (1) is to be applied, the amounts of any fines, and the severity of each of these penalties. Such procedures shall be designed so as to minimize the time between identification of violations and imposition of these sanctions and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies.".

(2) The amendment made by paragraph (1) shall become effective on January 1, 1990.

(e) State Certification of High-Volume Physician Office Labs.—

(1) Section 1861(s) of such Act (42 U.S.C. 1395x(s)) is amended, in the sentence following paragraph (11), by inserting "a laboratory not independent of a physician's office that has a volume of clinical diagnostic laboratory tests exceeding 5,000 per year" after "physician's office,".

(2) The amendment made by paragraph (1) shall apply to diagnostic tests performed on or after January 1, 1990.

SEC. 4065. RETURN ON EQUITY PAYMENTS TO OUTPATIENT DEPARTMENTS.

(a) In General.—Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) is amended by adding at the end thereof the following new subparagraph:

"(S) Such regulations shall not include provision for specific recognition of any return on equity capital with respect to hospital outpatient departments.".

(b) Conforming Amendment.—Section 1881(b)(2)(C) of such Act (42 U.S.C. 1395rr(b)(2)(C)) is amended by striking "facilities" and inserting "facilities (other than hospital outpatient departments)".

(c) Effective Date.—The amendments made by this section shall become effective on January 1, 1988.

SEC. 4066. PAYMENTS TO HOSPITAL OUTPATIENT DEPARTMENTS FOR RADIOLOGY.

(a) Amounts Payable.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended—

(1) in subsection (a)(2)—

(A) by striking "and" in subparagraph (C),

(B) by adding "and" at the end of subparagraph (D), and

(C) by adding at the end thereof the following new subparagraph:

"(E) with respect to—

"(i) outpatient hospital radiology services (including diagnostic and therapeutic radiology, nuclear medicine and CAT scan procedures, magnetic resonance imaging, and ultrasound and other imaging services), and

"(ii) effective for procedures performed on or after October 1, 1989, diagnostic procedures (as defined by the Secretary) described in section 1861(s)(3) (other than diagnostic x-ray tests and diagnostic laboratory tests),

the amount determined under subsection (n);"; and

(2) by adding at the end, as previously amended, the following new subsection:

"(n)(1)(A) The aggregate amount of the payments to be made for all or part of a cost reporting period beginning on or after October 1, 1988 under this part for services described in subsection (a)(2)(E) shall be equal to the lesser of—

"(i) the amount determined with respect to such services under subsection (a)(2)(B), or

"(ii) the blend amount for radiology services and diagnostic procedures determined in accordance with subparagraph (B).

"(B)(i) The blend amount for radiology services and diagnostic procedures for a cost reporting period is the sum of—

"(I) the cost proportion (as defined in clause (ii)) of the amount described in subparagraph (A)(i); and

"(II) the charge proportion (as defined in clause (ii)(II)) of 62 percent (for services described in subsection (a)(2)(E)(i)), or (for procedures described in subsection (a)(2)(E)(ii)), 42 percent or such other percent established by the Secretary (or carriers acting pursuant to guidelines issued by the Secretary) based on prevailing charges established with actual charge data, of 80 percent of the prevailing charge for participating physicians for the same services as if they were furnished in a physician's office in the same locality as determined under section 1842(b).

"(ii) In this subparagraph:

"(I) The term 'cost proportion' means 65 percent for all or any part of cost reporting periods which occur in fiscal year 1989 and 50 percent for other cost reporting periods.

"(II) The term 'charge proportion' means 35 percent for all or any parts of cost reporting periods which occur in fiscal year 1989 and 50 percent for other cost reporting periods.".

(b) Conforming Amendment.—Section 1833(a)(2)(B) of such Act (42 U.S.C. 1395l(a)(2)(B)) is amended in the matter preceding clause (i) by striking "(C) or (D)" and inserting "(C), (D), or (E)".

(c) Effective Date.—The amendments made by subsection (a) shall apply with respect to outpatient hospital radiology services furnished on or after October 1, 1988, and other diagnostic procedures performed on or after October 1, 1989.

SEC. 4067. UPDATING MAXIMUM RATE OF PAYMENT PER VISIT FOR INDEPENDENT RURAL HEALTH CLINICS.

(a) In General.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is further amended by inserting after subsection (e) the following new subsection:

"(f) In establishing limits under subsection (a) on payment for rural health clinic services provided by independent rural health clinics, the Secretary shall establish such limit, for services provided—

"(1) in 1988, after March 31, at $46, and

"(2) in a subsequent year, at the limit established under this subsection for the previous year increased by the percentage increase in the medicare economic index (referred to in the fourth sentence of section 1842(b)(3)) applicable to physicians' services furnished as of the first day of that year.".

(b) Report on Rates.—The Secretary of Health and Human Services shall report to Congress, by not later than March 1, 1989, on the adequacy of the amounts paid under title XVIII of the Social Security Act for rural health clinic services provided by independent rural health clinics.

(c) Effective Date.—The amendment made by subsection (a) shall apply to services furnished on or after April 1, 1988.

SEC. 4068. PAYMENT FOR AMBULATORY SURGERY AT EYE, AND EYE AND EAR, SPECIALTY HOSPITALS.

(a) In General.—Section 1833(i)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395l(i)(3)(B)(ii)) is amended—

(1) by striking "In" and inserting "Subject to the last sentence of this clause, in"; and

(2) by adding at the end thereof the following:

"In the case of a hospital that makes application to the Secretary and demonstrates that it specializes in eye services or eye and ear services (as determined by the Secretary), receives more than 30 percent of its total revenues from outpatient services and was an eye specialty hospital or an eye and ear specialty hospital on October 1, 1987, the cost proportion and ASC proportion in effect under subclauses (I) and (II) for cost reporting periods beginning in fiscal year 1988 shall remain in effect for cost reporting periods beginning in fiscal year 1989 or fiscal year 1990.".

(b) Development of Prospective Payment Methodology for Outpatient Hospital Services.—Section 1135(d) of the Social Security Act (42 U.S.C. 1320b-5(d)) is amended—

(1) by adding at the end of paragraph (3) the following: "In establishing such rates, the Secretary shall consider whether a differential payment rate is appropriate for speciality hospitals."; and

(2) by adding at the end the following new paragraph:

"(7) The Secretary shall solicit the views of the Prospective Payment Assessment Commission in developing the systems under paragraphs (1) and (6), and shall include in the Secretary's reports under this subsection any views the Commission may submit with respect to such systems.".

(c) Effective Date.—The amendments made by subsection (a) shall be effective as if included in the amendment made by section 9343(a)(1)(B) of the Omnibus Budget Reconciliation Act of 1986.

Subpart C—Eligibility and Benefits Changes

SEC. 4070. COVERAGE OF MENTAL HEALTH SERVICES.

(a) Outpatient Services Under Part B.—Section 1833(c) of the Social Security Act (42 U.S.C. 1395l(c)) is amended—

(1) by striking "$312.50" and inserting "$1375.00"; and

(2) by adding at the end thereof the following:

"For purposes of this subsection, the term 'treatment' does not include brief office visits (as defined by the Secretary) for the sole purpose of prescribing or monitoring prescription drugs used in the treatment of such disorders.".

(b) Partial Hospitalization Coverage.—

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[36] Subparagraphs "'(i)", "'(ii)", "'(iii)", and "'(iv)" indented incorrectly.

(1) Section 1861(s)(2)(B) of such Act (42 U.S.C. 1395x(s)(2)(B)) is amended by inserting "and partial hospitalization services incident to such services" before the semicolon.

(2) Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"(ff)(1) The term 'partial hospitalization services' means the items and services described in paragraph (2) prescribed by a physician and provided under a program described in paragraph (3) under the supervision of a physician pursuant to an individualized, written plan of treatment established and periodically reviewed by a physician (in consultation with appropriate staff participating in such program), which plan sets forth the physician's diagnosis, the type, amount, frequency, and duration of the items and services provided under the plan, and the goals for treatment under the plan.

"(2) The items and services described in this paragraph are—

"(A) individual and group therapy with physicians or psychologists (or other mental health professionals to the extent authorized under State law),

"(B) occupational therapy requiring the skills of a qualified occupational therapist,

"(C) services of social workers, trained psychiatric nurses, and other staff trained to work with psychiatric patients,

"(D) drugs and biologicals furnished for therapeutic purposes (which cannot, as determined in accordance with regulations, be self-administered),

"(E) individualized activity therapies that are not primarily recreational or diversionary,

"(F) family counseling (the primary purpose of which is treatment of the individual's condition),

"(G) patient training and education (to the extent that training and educational activities are closely and clearly related to individual's care and treatment),

"(H) diagnostic services, and

"(I) such other items and services as the Secretary may provide (but in no event to include meals and transportation);

that are reasonable and necessary for the diagnosis or active treatment of the individual's condition, reasonably expected to improve or maintain the individual's condition and functional level and to prevent relapse or hospitalization, and furnished pursuant to such guidelines relating to frequency and duration of services as the Secretary shall by regulation establish (taking into account accepted norms of medical practice and the reasonable expectation of patient improvement).

"(3) A program described in this paragraph is a program which is hospital-based or hospital-affiliated (as defined by the Secretary) and which is a distinct and organized intensive ambulatory treatment service offering less than 24-hour-daily care.".

(3) Section 1835(a)(2) of such Act (42 U.S.C. 1395n(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(C) by inserting after subparagraph (E) the following new subparagraph:

"(F) in the case of partial hospitalization services, (i) the individual would require inpatient psychiatric care in the absence of such services, (ii) an individualized, written plan for furnishing such services has been established by a physician and is reviewed periodically by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician.".

(4) Section 1833(c) of such Act, as amended by subsection (a), is further amended at the end thereof by inserting "or partial hospitalization services that are not directly provided by a physician" before the period.

(c) Effective Date; Implementation.—

(1) The amendment made by subsection (a)(1) shall apply with respect to calendar years beginning with 1988; except that with respect to 1988, any reference in section 1833(c) of the Social Security Act, as amended by subsection (a), to "$1375.00" is deemed a reference to "$562.50". The amendment made by subsection (a)(2) shall apply to services furnished on or after January 1, 1989.

(2)(A) The amendments made by subsection (b) shall become effective on the date of enactment of this Act.

(B) The Secretary of Health and Human Services shall implement the amendments made by subsection (b) so as to ensure that there is no additional cost to the medicare program by reason of such amendments.

SEC. 4071. COVERAGE OF INFLUENZA VACCINE AND ITS ADMINISTRATION.

(a) In General.—Section 1861(s)(10)(A) of the Social Security Act (42 U.S.C. 1395x(a)(10)(A)) is amended by inserting before the semicolon the following: "and influenza vaccine and its administration".

(b) Contingent Effective Date; Demonstration Project.—

(1) The provisions of subsection (e) of section 4072 of this subpart shall apply to this section in the same manner as it applies to section 4072.

(2) In conducting the demonstration project pursuant to paragraph (1), in order to determine the cost effectiveness of including influenza vaccine in the medicare program, the Secretary of Health and Human Services is required to conduct a demonstration of the provision of influenza vaccine as a service for medicare beneficiaries and to expend $25,000,000 each year of the demonstration project for this purpose. In conducting this demonstration, the Secretary is authorized to purchase in bulk influenza vaccine and to distribute it in a manner to make it widely available to medicare beneficiaries, to develop projects to provide vaccine in the same manner as other covered medicare services in large scale demonstration projects, including statewide projects, and to engage in other appropriate use of moneys to provide influenza vaccine to medicare beneficiaries and evaluate the cost effectiveness of its use. In determining cost effectiveness, the Secretary shall consider the direct cost of the vaccine, the utilization of vaccine which might otherwise not have occurred, the costs of illnesses and nursing home days avoided, and other relevant factors, except that extended life for beneficiaries shall not be considered to reduce the cost effectiveness of the vaccine.

SEC. 4072. PAYMENT FOR THERAPEUTIC SHOES FOR INDIVIDUALS WITH SEVERE DIABETIC FOOT DISEASE.

(a) Coverage Under Part B.—Section 1861(s) of the Social Security Act (42 U.S.C. 1395x(s)) is amended—

(1) by redesignating paragraphs (12) through (15) as paragraphs (13) through (16), respectively,

(2) by striking out "and" at the end of paragraph (10),

(3) by striking out the period at the end of paragraph (11) and inserting "; and", and

(4) by inserting after paragraph (11) the following new paragraph:

"(12) extra-depth shoes with inserts or custom molded shoes for an individual with diabetes, if—

"(A) the physician who is managing the individual's diabetic condition (i) documents that the individual has peripheral neuropathy with evidence of callus formation, a history of pre-ulcerative calluses, a history of previous ulceration, foot deformity, or previous amputation, or poor circulation, and (ii) certifies that the individual needs such shoes under a comprehensive plan of care related to the individual's diabetic condition;

"(B) the particular type of shoes are prescribed by a podiatrist or other qualified physician (as established by the Secretary); and

"(C) the shoes are fitted and furnished by a podiatrist or other qualified individual (such as a pedorthist or orthotist, as established by the Secretary) who is not the physician described in subparagraph (A) (unless the Secretary finds that the physician is the only such qualified individual in the area).".

(b) Limitation on Benefit.—Section 1833 of such Act (42 U.S.C. 1395) is amended by inserting after subsection (e) the following new subsection:

"(f)(1) In the case of shoes described in section 1861(s)(12)—

"(A) no payment may be made under this part for the furnishing of more than one pair of shoes for any individual for any calendar year, and

"(B) with respect to expenses incurred in any calendar year, no more than the limit established under paragraph (2) shall be considered as incurred expenses for purposes of subsections (a) and (b).

Payment for shoes under this part shall be considered to include payment for any expenses for the fitting of such shoes.

"(2)(A) Except as provided by the Secretary under subparagraphs (B) and (C), the limit established under this paragraph—

"(i) for the furnishing of one pair of custom molded shoes is $300;

"(ii) for the furnishing of extra-depth shoes and inserts is—

"(I) $100 for the pair of shoes itself, and

"(II) $50 for inserts for a pair of shoes.

"(B) The Secretary or a carrier may establish limits for shoes that are lower than the limits established under subparagraph (A) if the Secretary finds that shoes and inserts of an appropriate quality are readily available at or below such lower limits.

"(C) For each year after 1988, each dollar amount under subparagraph (A) or (B) (as previously adjusted under this subparagraph) shall be increased by the same percentage increase as the Secretary provides with respect to durable medical equipment for that year, except that if such increase is not a multiple of $1, it shall be rounded to the nearest multiple of $1.

"(3) In this title, the term 'shoes' includes, except for purposes of subparagraphs (A)(ii) and (B) of paragraph (2), inserts for extra-depth shoes.".

(c) Modification of Exclusion.—Section 1862(a)(8) of such Act (42 U.S.C. 1395y(a)(8)) is amended by inserting ", other than shoes furnished pursuant to section 1861(s)(12)" before the semicolon.

(d) Conforming Amendments.—Sections 1864(a), 1865(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) of such Act (42 U.S.C. 1395aa(a), 1395bb(a), 1396a(a)(9)(C), 1396n(a)(1)(B)(ii)(I)) are each amended by striking out "paragraphs (12) and (13)" and inserting "paragraphs (13) and (14)".

(e) Contingent Effective Date; Demonstration Project.—

(1) The amendments made by this section shall become effective (if at all) in accordance with paragraph (2).

(2)(A) The Secretary of Health and Human Services (in this paragraph referred to as the "Secretary"), shall establish a demonstration project to begin on October 1, 1988, to test the cost-effectiveness of furnishing therapeutic shoes under the medicare program to the extent provided under the amendments made by this section to a sample group of medicare beneficiaries.

(B)(i) The demonstration project under subparagraph (A) shall be conducted for an initial period of 24 months. Not later than October 1, 1990, the Secretary shall report to the Congress on the results of such project. If the Secretary finds, on the basis of existing data, that furnishing therapeutic shoes under the medicare program to the extent provided under the amendments made by this section is cost-effective, the Secretary shall include such finding in such report, such project shall be discontinued, and the amendments made by this section shall become effective on November 1, 1990.

(ii) If the Secretary determines that such finding cannot be made on the basis of existing data, such project shall continue for an additional 24 months. Not later than April 1, 1993, the Secretary shall submit a final report to the Congress on the results of such project. The amendments made by this section shall become effective on the first day of the first month to begin after such report is submitted to the Congress unless the report contains a finding by the Secretary that furnishing therapeutic shoes under the medicare program to the extent provided under the amendments made by this section is not cost-effective (in which case the amendments made by this section shall not become effective).

SEC. 4073. COVERAGE OF CERTIFIED NURSE-MIDWIFE SERVICES.

(a) Coverage of Services.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (J);

(2) by adding "and" at the end of subparagraph (K); and

(3) by adding at the end thereof the following new subparagraph:

"(L) certified nurse-midwife services;".

(b) Payment of Benefits.—

(1) Section 1832(a)(2)(B) of such Act (42 U.S.C. 1395k(a)(2)(B)) is amended—

(A) by striking "and" at the end of clause (ii);

(B) by striking the semicolon at the end of clause (iii) and inserting a comma; and

(C) by adding at the end thereof the following new clause:

"(iv) certified nurse-midwife services; and".

(2) Section 1833(a)(1) of such Act (42 U.S.C. 1395k(a)(1)) is amended—

(A) by striking "and" at the end of clause (F);

(B) by striking "services; and" in clause (G) and inserting "services,"; and

(C) [37] by adding at the end thereof the following: "and (I) with respect to certified nurse-midwife services under section 1861(s)(2)(L), the amounts paid shall be the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph (but in no event more than 65 percent of the prevailing charge that would be allowed for the same service performed by a physician);".

(3) Section 1833 of such Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(m) In the case of certified nurse-midwife services for which payment may be made under this part only pursuant to section 1861(s)(2)(L), payment may only be made under this part for such services on an assignment-related basis.".

(c) Definition.—Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"Certified Nurse-Midwife Services

"(ff)(1) The term 'certified nurse-midwife services' means such services furnished by a certified nurse-midwife (as defined in paragraph (2)) and such services and supplies furnished as an incident to his service which the certified nurse-midwife is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) as would otherwise be covered if furnished by a physician or as an incident to a physician's service.

"(2) The term 'certified nurse-midwife' means a registered nurse who has successfully completed a program of study and clinical experience meeting guidelines prescribed by the Secretary, or has been certified by an organization recognized by the Secretary, and performs services in the area of management of the care of mothers and babies throughout the maternity cycle.".

(d) [38] Conforming Changes.—

(1) Section 1905(a)(17) of such Act (42 U.S.C. 1396d(a)(17)) is amended by striking "as defined in subsection (m)" and inserting "as defined in section 1861(ff)".

(2) Section 1905 of such Act (42 U.S.C. 1396d) is amended by striking subsection (m).

(e) [39] Effective Date.—The amendments made by this section shall be effective with respect to services performed on or after July 1, 1988.

SEC. 4074. COVERAGE OF SOCIAL WORKER SERVICES FURNISHED BY A HEALTH MAINTENANCE ORGANIZATION TO ITS MEMBERS.

(a) In General.—Section 1861(s)(2)(H)(ii) of the Social Security Act (42 U.S.C. 1395x(s)(2)(H)(ii)) is amended—

(1) by inserting "or by a clinical social worker (as defined in subsection (ff))" after "clinical psychologist (as defined by the Secretary)"; and

(2) by striking "incident to his services" and inserting "incident to such clinical psychologist's services or clinical social worker's services".

(b) Clinical Social Worker Defined.—Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Clinical Social Worker

"(ff) The term 'clinical social worker' means an individual who—

"(1) possesses a master's or doctor's degree in social work;

"(2) after obtaining such degree has performed at least 2 years of supervised clinical social work; and

"(3)(A) is licensed or certified as a clinical social worker by the State in which the services are performed, or

"(B) in the case of an individual in a State which does not provide for licensure or certification—

"(i) has completed at least 2 years or 3,000 hours of post-master's degree supervised clinical social work practice under the supervision of a master's level social worker in an appropriate setting (as determined by the Secretary), and

"(ii) meets such other criteria as the Secretary establishes.".

(c) Effective Date.—The amendments made by this section shall be effective with respect to services performed on or after January 1, 1988.

SEC. 4075. CLARIFICATION OF COVERAGE OF DRUGS USED IN IMMUNOSUPPRESSIVE THERAPY.

(a) In General.—Section 1861(s)(2)(J) of the Social Security Act (42 U.S.C. 1395x(s)(2)(J)) is amended by striking "immunosuppressive drugs" and inserting "prescription drugs used in immunosuppressive therapy".

(b) Effective Date.—The amendment made by subsection (a) shall apply to drugs dispensed on or after the date of the enactment of this Act.

SEC. 4076. SERVICES OF A PHYSICIAN ASSISTANT.

(a) Services Covered.—Section 1861(s)(2)(K) of the Social Security Act (42 U.S.C. 1395x(s)(2)(K)) is amended by inserting ", in a rural area (as defined in section 1886(d)(2)(D)) that is designated, under section 332(a)(1)(A) of the Public Health Service Act, as a health manpower shortage area," after "1905(c))".

(b) Effective Date.—The amendments made by this section shall apply with respect to services furnished on or after January 1, 1989.

SEC. 4077. PSYCHOLOGIST SERVICES IN CLINICS.

(a) Coverage of Psychologists' Services Furnished at Rural Health Clinics.—

(1) Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking "physician assistant or by a nurse practitioner" and inserting "physician assistant or a nurse practitioner (as defined in paragraph (3)), or by a clinical psychologist (as defined by the Secretary),".

(2) The amendment made by paragraph (1) shall be effective with respect to services furnished on or after the date of enactment of this Act.

(b) Direct Payment for Psychologists' Services Furnished at a Community Mental Health Center.—

(1) Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended, is amended—

(A) by striking "and" at the end of subparagraph (K);

(B) by adding "and" at the end of subparagraph (L); and

(C) by adding at the end thereof the following new subparagraph:

"(M) qualified psychologist services;".

(2) Section 1832(a)(2)(B) of such Act (42 U.S.C. 1395k(a)(2)(B)) is amended—

(A) by striking "and" at the end of clause (ii);

(B) by striking the semicolon in clause (iii) and inserting a comma; and

(C) by adding at the end thereof the following new clause:

"(iv) qualified psychologist services; and".

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[37] Copy read "(D)".

[38] Copy read "(c)".

[39] Copy read "(d)".

(3) Section 1833(a)(1) of such Act (42 U.S.C. 1395k(a)(1)) is amended—

(A) by striking "and" at the end of subparagraph (G);

(B) by striking "services; and" in subparagraph (H) and inserting "services,";

(C) by adding "and" at the end of subparagraph (I); and

(D) by adding at the end thereof the following new subparagraph: "(J) with respect to qualified psychologist services under section 1861(s)(2)(M), the amounts paid shall be the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph;".

(4) The subsection added by section 4073(b)(3) of this subpart is amended by inserting "and in the case of qualified psychologists services for which payment may be made under this part only pursuant to section 1861(s)(2)(M)" after "1861(s)(2)(L)".

(5) Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"Qualified Psychologist Services

"(gg) The term 'qualified psychologist services' means such services and such services and supplies furnished as an incident to his service furnished by a clinical psychologist (as defined by the Secretary) at a community mental health center (as such term is used in the Public Health Service Act) which the psychologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) as would otherwise be covered if furnished by a physician or as an incident to a physician's service.".[40]

(6)[41] The amendments made by this subsection shall be effective with respect to services performed on or after July 1, 1988.

SEC. 4078. PROVISION OF OFFSITE COMPREHENSIVE OUTPATIENT REHABILITATION SERVICES.

Section 1861(cc)(1) of the Social Security Act (42 U.S.C. 1395x(cc)(1)) is amended by adding at the end thereof the following: "In the case of physical therapy, occupational therapy, and speech pathology services, there shall be no requirement that the item or service be furnished at any single fixed location if the item or service is furnished pursuant to such plan and payments are not otherwise made for the item or service under this title.".

SEC. 4079. DEMONSTRATION PROJECTS TO PROVIDE PAYMENT ON A PREPAID, CAPITATED BASIS FOR COMMUNITY NURSING AND AMBULATORY CARE FURNISHED TO MEDICARE BENEFICIARIES.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into an agreement with not less than four eligible organizations submitting applications under this section to conduct demonstration projects to provide payment on a prepaid, capitated basis for community nursing and ambulatory care furnished to any individual entitled to benefits under part A and enrolled under part B of title XVIII of the Social Security Act (other than an individual medically determined to have end-stage renal disease) who resides in the geographic area served by the organization and enrolls with such organization (in accordance with subsection (c)(2)).

(b) DEFINITIONS OF COMMUNITY NURSING AND AMBULATORY CARE AND ELIGIBLE ORGANIZATION.—As used in this section:

(1) The term "community nursing and ambulatory care" means the following services:

(A) Part-time or intermittent nursing care furnished by or under the supervision of registered professional nurses.

(B) Physical, occupational, or speech therapy.

(C) Social and related services supportive of a plan of ambulatory care.

(D) Part-time or intermittent services of a home health aide.

(E) Medical supplies (other than drugs and biologicals) and durable medical equipment while under a plan of care.

(F) Medical and other health services described in paragraphs (2)(H)(ii) and (5) through (9) of section 1861(s) of the Social Security Act.

(G) Rural health clinic services described in section 1861(aa)(1)(C) of such Act.

(H) Certain other related services listed in section 1915(c)(4)(B) of such Act to the extent the Secretary finds such services are appropriate to prevent the need for institutionalization of a patient.

(2) The term "eligible organization" means a public or private entity, organized under the laws of any State, which meets the following requirements:

(A) The entity (or a division or part of such entity) is primarily engaged in the direct provision of community nursing and ambulatory care.

(B) The entity provides directly, or through arrangements with other qualified personnel, the services described in paragraph (1).

(C) The entity provides that all nursing care (including services of home health aids) is furnished by or under the supervision of a registered nurse.

(D) The entity provides that all services are furnished by qualified staff and are coordinated by a registered professional nurse.

(E) The entity has policies governing the furnishing of community nursing and ambulatory care that are developed by registered professional nurses in cooperation with (as appropriate) other professionals.

(F) The entity maintains clinical records on all patients.

(G) The entity has protocols and procedures to assure, when appropriate, timely referral to or consultation with other health care providers or professionals.

(H) The entity complies with applicable State and local laws governing the provision of community nursing and ambulatory care to patients.

(I) The requirements of subparagraphs (B), (D), and (E) of section 1876(b)(2) of the Social Security Act.

(c) AGREEMENTS WITH ELIGIBLE ORGANIZATIONS TO[42] CONDUCT DEMONSTRATION PROJECTS.—

(1) The Secretary may not enter into an agreement with an eligible organization to conduct a demonstration project under this section unless the organization meets the requirements of this subsection and subsection (d) with respect to members enrolled with the organization under this section.

(2) The organization shall have an open enrollment period for the enrollment of individuals under this section. The duration of such period of enrollment and any other requirement pertaining to enrollment or termination of enrollment shall be specified in the agreement with the organization.

(3) The organization must provide to members enrolled with the organization under this section, through providers and other persons that meet the applicable requirements of titles XVIII and XIX of the Social Security Act, community nursing and ambulatory care (as defined in subsection (b)(1)) which is generally available to individuals residing in the geographic area served by the organization, except that the organization may provide such members with such additional health care services as the members may elect, at their option, to have covered.

(4) The organization must make community nursing and ambulatory care (and such other health care services as such individuals have contracted for) available and accessible to each individual enrolled with the organization under this section, within the area served by the organization, with reasonable promptness and in a manner which assures continuity.

(5) Section 1876(c)(5) of the Social Security Act shall apply to organizations under this section in the same manner as it applies to organizations under section 1876 of such Act.

(6) The organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to such individuals under the demonstration project conducted under this section, which program (A) stresses health outcomes and (B) provides review by health care professionals of the process followed in the provision of such health care services.

(7) Under a demonstration project under this section—

(A) the Secretary could require the organization to provide financial or other assurances (including financial risk-sharing) that minimize the inappropriate substitution of other services under title XVIII of such Act for community nursing services; and

(B) if the Secretary determines that the organization has failed to perform in accordance with the requirements of the project (including meeting financial responsibility requirements under the project, any pattern of disproportionate or inappropriate institutionalization) the Secretary shall, after notice, terminate the project.

(d) DETERMINATION OF PER CAPITA PAYMENT RATES.—

(1) The Secretary shall determine for each 12-month period in which a demonstration project is conducted under this section, and shall announce (in a manner intended to provide notice to interested parties) not later than three months before the beginning of such period, with respect to each eligible organization conducting a demonstration project under this section, a per capita rate of payment for each class of individuals who are enrolled with such organization who are entitled to benefits under part A and enrolled under part B of title XVIII of the Social Security Act.

(2)(A) Except as provided in paragraph (3), the per capita rate of payment under paragraph (1) shall be determined in accordance with this paragraph.

(B) The Secretary shall define appropriate classes of members, based on age, disability status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence.

(C) The per capita rate of payment under paragraph (1) for each such class shall be equal to 95 percent of the adjusted average per capita cost (as defined in subparagraph (D)) for that class.

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[40] Copy read "service.".

[41] Copy read "(5)".

[42] Copy read "WITH ELIGIBLE ORGANIZATIONS TO".

(D) For purposes of subparagraph (C), the term 'adjusted average per capita cost' means the average per capita amount that the Secretary estimates in advance (on the basis of actual experience, or retrospective actuarial equivalent based upon an adequate sample and other information and data, in a geographic area served by an eligible organization or in a similar area, with appropriate adjustments to assure actuarial equivalence) would be payable in any contract year for those services covered under parts A and B of title XVIII of the Social Security Act and types of expenses otherwise reimbursable under such parts A and B which are described in subparagraphs (A) through (G) of subsection (b)(1) (including administrative costs incurred by organizations described in sections 1816 and 1842 of such Act), if the services were to be furnished by other than an eligible organization.

(3) The Secretary shall, in consultation with providers, health policy experts, and consumer groups develop capitation-based reimbursement rates for such classes of individuals entitled to benefits under part A and enrolled under part B of the Social Security Act as the Secretary shall determine. Such rates shall be applied in determining per capita rates of payment under paragraph (1) with respect to at least one eligible organization conducting a demonstration project under this section.

(4)(A) In the case of an eligible organization conducting a demonstration project under this section, the Secretary shall make monthly payments in advance and in accordance with the rate determined under paragraph (2) or (3), except as provided in subsection (e)(3)(B), to the organization for each individual enrolled with the organization.

(B) The amount of payment under paragraph (2) or (3) may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this section and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

(5) The payment to an eligible organization under this section for individuals enrolled under this section with the organization and entitled to benefits under part A and enrolled under part B of the Social Security Act shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established under such Act in such proportions from each such trust fund as the Secretary deems to be fair and equitable taking into consideration benefits attributable to such parts A and B, respectively.

(6) During any period in which an individual is enrolled with an eligible organization conducting a demonstration project under this section, only the eligible organization (and no other individual or person) shall be entitled to receive payments from the Secretary under this title for community nursing and ambulatory care (as defined in subsection (b)(1)) furnished to the individual.

(e) RESTRICTION ON PREMIUMS, DEDUCTIBLES, COPAYMENTS, AND COINSURANCE.—

(1) In no case may the portion of an eligible organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (with respect to community nursing and ambulatory care) to individuals who are enrolled under this section with the organization, exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this section with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this section with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B of the Social Security Act, if they were not members of an eligible organization.

(2) If the eligible organization provides to its members enrolled under this section services in addition to community nursing and ambulatory care, election of coverage for such additional services shall be optional for such members and such organization shall furnish such members with information on the portion of its premium rate or other charges applicable to such additional services. In no case may the sum of—

(A) the portion of such organization's premium rate charged, with respect to such additional services, to members enrolled under this section, and

(B) the actuarial value of its deductibles, coinsurance, and copayments charged, with respect to such services to such members

exceed the adjusted community rate for such services (as defined in section 1876(e)(3) of the Social Security Act).

(3)(A) Subject to subparagraphs (B) and (C), each agreement to conduct a demonstration project under this section shall provide that if—

(i) the adjusted community rate, referred to in paragraph (2), for community nursing and ambulatory care covered under parts A and B of title XVIII of the Social Security Act (as reduced for the actuarial value of the coinsurance and deductibles under those parts) for members enrolled under this section with the organization,

is less than

(ii) the average of the per capita rates of payment to be made under subsection (d)(1) at the beginning of the 12-month period (as determined on such basis as the Secretary determines appropriate) described in such subsection for members enrolled under this section with the organization,

the eligible organization shall provide to such members the additional benefits described in section 1876(g)(3) of the Social Security Act which are selected by the eligible organization and which the Secretary finds are at least equal in value to the difference between that average per capita payment and the adjusted community rate (as so reduced).

(B) Subparagraph (A) shall not apply with respect to any organization which elects to receive a lesser payment to the extent that there is no longer a difference between the average per capita payment and adjusted community rate (as so reduced).

(C) An organization conducting a demonstration project under this section may provide (with the approval of the Secretary) that a part of the value of such additional benefits under subparagraph (A) be withheld and reserved by the Secretary as provided in section 1876(g)(5) of the Social Security Act.

(4) The provisions of paragraphs (3), (5), and (6) of section 1876(g) of the Social Security Act shall apply in the same manner to agreements under this section as they apply to risk-sharing contracts under section 1876 of such Act, and, for this purpose, any reference in such paragraphs to paragraph (2) is deemed a reference to paragraph (3) of this subsection.

(5) Section 1876(e)(4) of the Social Security Act shall apply to eligible organizations under this section in the same manner as it applies to eligible organizations under section 1876 of such Act.

(f) COMMENCEMENT AND DURATION OF PROJECTS.—Each demonstration project under this section shall begin not later than July 1, 1989, and shall be conducted for a period of three years.

(g) REPORT.—Not later than January 1, 1992, the Secretary shall submit to the Congress a report on the results of the demonstration projects conducted under this section.

SEC. 4080. PART B PREMIUM.

Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended—

(1) in subsection (e), by striking "1989" each place it appears and inserting in lieu thereof "1990";

(2) in subsection (f)(1), by striking "or 1987" and inserting in lieu thereof "1987, or 1988"; and

(3) in subsection (f)(2), by striking "or 1988" and inserting in lieu thereof "1988, or 1989".

Subpart D—Other Provisions

SEC. 4081. SUBMISSION OF CLAIMS TO SUPPLEMENTAL INSURANCE CARRIERS.

(a) IN GENERAL.—Section 1842(h)(3) of the Social Security Act (42 U.S.C. 1395u(h)(3)) is amended by inserting "(A)" after "(3)" and by adding at the end the following new subparagraph:

"(B) The Secretary shall establish a procedure whereby an individual enrolled under this part may assign, in an appropriate manner on the form claiming a benefit under this part for an item or service furnished by a participating physician or supplier, the individual's rights of payment under a medicare supplemental policy (described in section 1882(g)(1)) in which the individual is enrolled. In the case such an assignment is properly executed and a claims determination is made by a carrier with a contract under this section, the carrier shall transmit to the private entity issuing the medicare supplemental policy notice of such fact and including such information as the Secretary determines is generally provided to enable the entity to decide whether (and the amount of) any payment is due under the policy. The Secretary may enter into arrangements for the transmittal of such information to entities electronically. The Secretary shall impose user fees for the transmittal of information under this subparagraph, whether electronically or otherwise.".

(b) MEDIGAP POLICY STANDARDS.—Section 1882 of such Act (42 U.S.C. 1395ss) is amended—

(1) in subsection (b)(1)—

(A) by amending subparagraph (B) to read as follows:

"(B) includes requirements equal to or more stringent than the requirements described in paragraphs (2) and (3) of subsection (c);",

[43] (B) by adding "and" at the end of subparagraph (C), and

[43] (C) by inserting after subparagraph (C) the following new subparagraph:

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[43] Paragraphs (B) and (C) were indented wrong.

"(D) provides the Secretary periodically (but at least annually) with a list containing the name and address of the issuer of each such policy and the name and number of each such policy (including an indication of policies that have been previously approved, newly approved, or withdrawn from approval since the previous list was provided),";

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting "; and", and

(C) by inserting after paragraph (2) the following new paragraph:

"(3)(A) accepts a notice under section 1842(h)(3)(B) as a claims form for benefits under such policy in lieu of any claims form otherwise required and agrees to make a payment determination on the basis of the information contained in such claims form;

"(B) where such a notice is received—

"(i) provides notice to such physician or supplier and the beneficiary of the payment determination, and

"(ii) provides any appropriate payment directly to the participating physician or supplier involved;

"(C) provides each enrollee at the time of enrollment a card listing the policy name and number and a single mailing address to which notices under section 1842(h)(3)(B) respecting the policy are to be sent;

"(D) agrees to pay any user fees established under section 1842(h)(3)(B) with respect to information transmitted to the issuer of the policy; and

"(E) provides to the Secretary at least annually, for transmittal to carriers, a single mailing address to which notices under section 1842(h)(3)(B) respecting the policy are to be sent.".

(c) Effective Dates.—(1) The amendment made by subsection (a) shall apply to contracts with carriers for claims for items and services furnished by participating physicians and suppliers on or after January 1, 1989.

(2)(A) The amendments made by subsection (b) shall apply to medicare supplemental policies as of January 1, 1989 (or, if applicable, the date established under subparagraph (B)).

(B) In the case of a State which the Secretary of Health and Human Services identifies as—

(i) requiring State legislation (other than legislation appropriating funds) in order for medical supplemental policies to be changed to meet the requirements of section 1882(c)(3) of the Social Security Act, and

(ii) having a legislature which is not scheduled to meet in 1988 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1989, and in which legislation described in clause (i) may be considered.

SEC. 4082. REVISION OF PART B HEARINGS.

(a) Clarification of OBRA Amendment.—Section 1869(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ff(b)(3)(B)) is amended by striking "chapter 5" and inserting "section 553".

(b) Expedited Administrative Hearing Where Only Issues of Law.—Section 1869(b) of such Act (42 U.S.C. 1395ff(b)) is amended by adding at the end the following new paragraph:

"(5) In an administrative hearing pursuant to paragraph (1), where the moving party alleges that there are no material issues of fact in dispute, the administrative law judge shall make an expedited determination as to whether any such facts are in dispute and, if not, shall determine the case expeditiously.".

(c) Timely Carrier Hearings on Part B Appeals.—Section 1842(b)(5) of such Act (42 U.S.C. 1395u(b)(5)) is amended—

(1) by inserting "(A)" after "(5)", and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary shall establish standards for evaluating carriers' performance of reviews of initial carrier determinations and of fair hearings under paragraph (3)(C), under which a carrier is expected—

"(i) to complete such reviews, within 45 days after the date of a request by an individual enrolled under this part for such a review, in 95 percent of such requests, and

"(ii) to make a final determination, within 120 days after the date of receipt of a request by an individual enrolled under this part for a fair hearing under paragraph (3)(C), in 90 percent of such cases.".

(d) GAO Study.—The Comptroller General shall conduct a study concerning the cost effectiveness of requiring hearings with a carrier under part B of title XVIII of the Social Security Act before having a hearing before an administrative law judge respecting carrier determinations under that part. The Comptroller General shall report to the Congress on the results of such study by not later than June 30, 1989.

(e) Effective Dates.—(1) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to requests for hearings filed after the end of the 60-day period beginning on the date of the enactment of this Act.

(3) The amendments made by subsection (c) shall apply to evaluation of performance of carriers under contracts entered into or renewed on or after October 1, 1988.

SEC. 4083. PROVISIONS RELATING TO PHYSICIAN PAYMENT REVIEW COMMISSION.

(a) Revision of Appointment Process for the Physician Payment Review Commission.—

(1) In general.—Section 1845(a) of the Social Security Act (42 U.S.C. 1395w-1(a)(3)) is amended—

(A) in paragraph (1), by striking "with expertise in the provision and financing of physicians' services" and inserting "with national recognition for their expertise in health economics, physician reimbursement, medical practice, and other related fields"; and

(B) in paragraph (3), by striking the last sentence.

(2) Effective date.—The amendment made by paragraph (1) shall apply to appointments made after the date of the enactment of this Act.

(b) Treatment of Employees for Certain Purposes.—

(1) In [44] general.—Section 1886(e)(6)(D) of the Social Security Act (42 U.S.C. 1395ww(e)(6)(D)) is amended by adding at the end the following: "For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.".

(2) Effective date.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

(c) Change in Date for Annual Report of Physician Payment Review Commission.—

(1) Section 1845(b)(1) of such Act (42 U.S.C. 1395w-1(b)(1)) is amended by striking "March 1" and inserting "March 31".

(2) The amendment made by paragraph (1) shall apply with respect to reports for years after 1987.

SEC. 4084. TECHNICAL AMENDMENTS RELATED TO CERTIFIED REGISTERED NURSE ANESTHETISTS.

(a) In General.—Section 1833(l) of the Social Security Act (42 U.S.C. 1395l(l)), as added by section 9320(e) of the Omnibus Budget Reconciliation Act of 1986, is amended—

(1) in paragraph (2), by striking "1985" and inserting "1985 and such other data as the Secretary determines necessary"; and

(2) in paragraph (5)(A), by striking "or group practice" each place it appears and inserting "group practice, or ambulatory surgical center".

(b) Effective Date.—The amendments made by subsection (a) shall apply as if included in the amendment made by section 9320(e)(2) of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4085. MISCELLANEOUS AND TECHNICAL PROVISIONS.

(a) Prompt Submittal of Data by Secretary.—Section 1845 of the Social Security Act (42 U.S.C. 1395w-1) is amended by adding at the end the following new subsection:

"(f)(1) Not later than October 1st of each year (beginning with 1988), the Secretary shall transmit to the Physician Payment Review Commission, to the Congressional Budget Office, and to the Congressional Research Service of the Library of Congress national data (known as the Part B Medicare Annual Data System) for the previous year respecting part B of this title.

"(2) In order to ensure that the data are available for transmittal under paragraph (1) on a timely basis, the Secretary shall require, in the standards and criteria established under section 1842(b)(2), that carriers submit data for a year under the system referred to in paragraph (1) not later than July 1st of the following year.

"(3) The Secretary, in consultation with the Physician Payment Review Commission, the Congressional Budget Office, and the Congressional Research Service of the Library of Congress, shall establish and annually revise standards for the data reporting system described in paragraph (1).

"(4) The Secretary shall also provide to the entities described in paragraph (1) additional data respecting the program under this part as may be reasonably requested by them on an agreed-upon schedule.

"(5) The Secretary shall develop, in consultation with the Physician Payment Review Commission, the Congressional Budget Office, and the Congressional Research Service of the Library of Congress, a system for providing to each of such entities on a quarterly basis summary data on aggregate expenditures under this part by type of service and by type of provider. Such data shall be provided not later than 90 days after the end of each quarter (for quarters beginning with the calendar quarter ending on March 31, 1989).".

(b) Clarification of Penalties for Unassigned Laboratory Services.—

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[44] Copy read "General.".

(1) IN GENERAL.—Section 1833(h)(5) of the Social Security Act (42 U.S.C. 1395l(h)(5)) is amended by adding at the end the following new subparagraph:

"(D) If a person knowingly and willfully and on a repeated basis bills an individual enrolled under this part for charges for a clinical diagnostic laboratory test for which payment may only be made on an assignment-related basis under subparagraph (C), the Secretary may apply sanctions against the person in the same manner as the Secretary may apply sanctions against a physician in accordance with section 1842(j)(2).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to procedures performed on or after January 1, 1988.

(c) EXTENSION OF MORATORIUM ON LABORATORY PAYMENT DEMONSTRATION.—Section 9204(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 9339(e) of the Omnibus Budget Reconciliation Act of 1986, is amended by striking "January 1, 1988" and inserting "January 1, 1989".

(d) PROMPT PAYMENT FOR COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES.—

(1) Section 1816(c)(2)(C) of the Social Security Act (42 U.S.C. 1395h(c)(2)(C)) is amended by striking "or hospice program" and inserting "hospice program, comprehensive outpatient rehabilitation facility, or rehabilitation agency".

(2)(A) The amendment made by paragraph (1) shall apply to claims received on or after the date of enactment of this Act.

(B) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816, and regulations, to such extent as may be necessary to implement the amendment made by paragraph (1).

(e) CAPACITY TO[45] SET GEOGRAPHIC PAYMENT LIMITS.—The Secretary of Health and Human Services shall develop the capability to implement (for services furnished on or after January 1, 1989) geographic limits on charges and payments under part B of title XVIII of the Social Security Act for physicians' services based on statewide, regional, or national average (or percentile in a distribution) of prevailing charges or payment amounts (weighted by frequency of services). Any such limits shall take into account adjustments for geographic differences in cost of practice and cost of living.

(f) DELAY IN EFFECTIVE DATE FOR ESTABLISHING PHYSICIAN IDENTIFIER SYSTEM.—Section 9202(g) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking "July 1, 1987" and inserting "October 1, 1988".

(g) DATE FOR APPLYING CIVIL PENALTIES FOR IMPROPER USE OF ASSISTANTS IN PERFORMING CATARACT SURGERY.—

(1) Section 1842(k) of the Social Security Act (42 U.S.C. 1395u(k)) is amended in paragraphs (1) and (2) by striking "(j)(2)" each place it appears and inserting "(j)(2) in the case of surgery performed on or after March 1, 1987".

(2) The amendment made by paragraph (1) shall be effective as if included in section 9307(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985.

(h) UTILIZATION SCREENS FOR PHYSICIAN SERVICES PROVIDED TO PATIENTS IN REHABILITATION HOSPITALS.—

(1) The Secretary of Health and Human Services shall establish (in consultation with appropriate physician groups, including those representing rehabilitative medicine) a separate utilization screen for physician visits to patients in rehabilitation hospitals and rehabilitative units (and patients in long-term care hospitals receiving rehabilitation services) to be used by carriers under section 1842 of the Social Security Act in performing functions under subsection (a) of such section related to the utilization practices of physicians in such hospitals and units.

(2) Not later than 12 months after the date of enactment of this Act, the Secretary of Health and Human Services shall take appropriate steps to implement the utilization screen established under paragraph (1).

(i) TECHNICAL AMENDMENTS.—

(1) Section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) is amended—

(A) in paragraphs (1)(D)(i) and (2)(D)(i), by striking, "on the basis of an assignment described in section 1842(b)(3)(B)(ii), under the procedure described in section 1870(f)(1)," and inserting "on an assignment-related basis";

(B) in paragraph (1), by striking "and" before "(G)"; and

(C) in subsection (b)(3)(A), by striking "on the basis of an assignment described in section 1842(b)(3)(B)(ii), under the procedure described in section 1870(f)(1)" and inserting "on an assignment-related basis".

(2) Section 1833(h)(1)(C) of such Act (42 U.S.C. 1395l(h)(1)(C)) is amended by inserting before the period the following: ", and ending on December 31, 1989. For such tests furnished on or after January 1, 1990, the fee schedule shall be established on a nationwide basis".

(3) Section 1833(h)(5)(A) of such Act (42 U.S.C. 1395l(h)(5)(A)) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", and", and by adding at the end the following new clause:

"(iii) in the case of a clinical diagnostic laboratory test provided under an arrangement (as defined in section 1861(w)(1)) made by a hospital, payment shall be made to the hospital.".

(4) Section 1835(a)(2)(C) of such Act (42 U.S.C. 1395n(a)(2)(C)) is amended by striking the second comma at the end of clause (i).

(5) Section 1842(b)(3)(C) of such Act (42 U.S.C. 1395u(b)(3)(C)) is amended by striking "not more than" and inserting "less than".

(6) Section 1842(h)(5) of such Act (42 U.S.C. 1395u(h)(5)) is amended by striking "the" before "participation".

(7) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986, section 1842(j)(1) of the Social Security Act (42 U.S.C. 1395u(j)(1)) is amended—

(A) in subparagraph (C)(i), by inserting "maximum allowable" after "If the physician's",

(B) in subparagraph (C)(v), by striking "1987" and inserting[46] "1986", and

(C) by adding at the end of subparagraph (C) the following new clause:

"(vii) In the case of a nonparticipating physician who was a participating physician during a previous period, for the purpose of computing the physician's maximum allowable actual charge during the physician's period of nonparticipation, the physician shall be deemed to have had a maximum allowable actual charge during the period of participation, and such deemed maximum allowable actual charge shall be determined accordingly to clauses (i) through (vi).".

(8) Paragraph (4) of section 1845(e) of the Social Security Act (42 U.S.C. 1395w-1(e)) is amended by moving the alignment of each of its provisions (including any clauses therein) 2 ems to the left.

(9) Section 1861(b)(4) of such Act (42 U.S.C. 1395x(b)(4)) is amended by striking the comma before "anesthesia" and inserting "and" and by striking "certified" the second place it appears.

(10) The heading of subsection (g) of section 1861 of such Act (42 U.S.C. 1395x) is amended to read as follows:

"Outpatient Occupational Therapy Services".

(11) Section 1861(s) of such Act (42 U.S.C. 1395x(s)), as amended by section 9367(a) of this Act, is amended by striking "which—" before paragraph (15) and all that follows through the end of paragraph (16) and inserting the following: "which would not be included under subsection (b) if it were furnished to an inpatient of a hospital.".

(12) Section 1861(v)(5)(A) of such Act (42 U.S.C. 1395x(v)(5)(A)) is amended by striking "section 1861(p)" and "section 1861(g)" and inserting "subsection (p)" and "subsection (g)", respectively.

(13) The heading of subsection (bb) of section 1861 of such Act (42 U.S.C. 1395x) is amended to read as follows:

"Services of a Certified Registered Nurse Anesthetist".

(14) The heading of subsection (ee) of section 1861 of such Act (42 U.S.C. 1395x) is amended to read as follows:

"Discharge Planning Process".

(15) Section 1862(a)(1)(A) of such Act (42 U.S.C. 1395y(a)(1)(A)) is amended by striking "or (D)" and inserting "(D), or (E)".

(16) Section 1862(a)(14) of such Act (42 U.S.C. 1395y(a)(14)) is amended by striking "an patient" and inserting "a patient".

(17) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986, section 1866(g) of the Social Security Act (42 U.S.C. 1395cc(g)) is amended by striking "for a hospital outpatient service" and all that follows through "subsection (a)(1)(H)" and inserting "inconsistent with an arrangement under subsection (a)(1)(H) or in violation of the requirement for such an arrangement".

(18) Section 1869(a) of the Social Security Act (42 U.S.C. 1395ff(a)) is amended by inserting "or a claim for benefits with respect to home health services under part B" before "shall".

(19) Section 1869(b)(2) of such Act (42 U.S.C. 1395ff(b)(2)) is amended by inserting "and (1)(D)" after "paragraph (1)(C)" each place it appears.

(20) Section 1875(c)(3)(B) of such Act (42 U.S.C. 1395ll(c)(3)(B)) is amended by striking "years 1987" and inserting "year 1987".

(21) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986—

(A) section 9313(d)(3) of such Act is amended by striking "2 years after the date of the enactment of this Act" and inserting "January 1, 1990";

(B) section 9332(a)(3) of such Act is amended by inserting before the period at the end the following: "or in increasing the proportion of total payments for physicians' services which are payments for such services rendered by participating physicians";

(C) section 9335(j)(2) of such Act is amended by inserting before the period at the end the following: "except that, until network administrative organizations are established under section 1881(c)(1)(A) of the Social Security Act (as amended by subsection (d)(1) of this section), the distribution of payments described in the last sentence of section 1881(b)(7) of such Act shall be made based on the distribution of payments under section 1881 of such Act to network administrative organizations for fiscal year 1986"; and

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[45] Copy read "TO".

[46] Copy read "insert".

(D) section 9343 of such Act is amended—

(i) amending subparagraph (A) of subsection (e)(2) to read as follows:

"(2)(A) Section 1833 (42 U.S.C. 1395l) is amended—

"(i) in subsection (a)(1)(F), by striking '(i)(3)' and inserting '(i)(4)', and

"(ii) in subsection (b)(3), by striking 'or under subsection (i)(2) or (i)(4)'.";

(ii) in subsection (h)(2), by striking "(d)" and inserting "(c)" and by adding at the end the following: "The amendments made by subsection (c) shall apply to services furnished after June 30, 1987."; and

(iii) in subsection (h)(4), by striking "(c)" and inserting "(d)".

PART 4—PEER REVIEW ORGANIZATIONS

SEC. 4091. CONTRACT PROVISIONS.

(a) EXTENSIONS OF PEER REVIEW CONTRACT PERIOD.—

(1) ONE-TIME EXTENSIONS TO PERMIT STAGGERING OF EXPIRATION DATES.—

(A) IN GENERAL.—In order to permit the Secretary of Health and Human Services an adequate time to complete contract renewal negotiations with utilization and quality control peer review organizations under part B of title XI of the Social Security Act and to provide for a staggered period of contract expiration dates, notwithstanding section 1153(c) of such Act, the Secretary may provide for extensions of existing contracts, but the total of such extensions may not exceed 24 months for any contract.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to renewals occurring on or after the date of the enactment of this Act.

(2) 3-YEAR CONTRACT PERIOD.—

(A) Section 1153(c)(3) of such Act (42 U.S.C. 1320c-2(c)(3)) is amended by striking "two" and "biennial" and inserting "three" and "triennial", respectively.

(B) The amendment made by subparagraph (A) shall apply with respect to contracts entered into or renewed on or after the date of the enactment of this Act.

(b) CONTRACT REQUIREMENTS.—

(1) Section 1153 of the Social Security Act (42 U.S.C. 1320c-2) is amended by adding at the end the following new subsection:

"(h)(1) The Secretary shall publish in the Federal Register any new policy or procedure adopted by the Secretary that affects substantially the performance of contract obligations under this section not less than 30 days before the date on which such policy or procedure is to take effect. This paragraph shall not apply to the extent it is inconsistent with a statutory deadline.

"(2) The Secretary shall publish in the Federal Register the general criteria and standards used for evaluating the efficient and effective performance of contract obligations under this section and shall provide opportunity for public comment with respect to such criteria and standards.

"(3) The Secretary shall regularly furnish each peer review organization with a contract under this section with a report that documents the performance of the organization in relation to the performance of other such organizations.".

(2) Section 1153(e) of such Act (42 U.S.C. 1320c-2(e)) is amended—

(A) by inserting "(1)" after "(e)";

(B) by striking "Contracting" and inserting "Except as provided in paragraph (2), contracting"; and

(C) by adding at the end the following new paragraph:

"(2) If a peer review organization with a contract under this section is required to carry out a review function in addition to any function required to be carried out at the time the Secretary entered into or renewed the contract with the organization, the Secretary shall, before requiring such organization to carry out such additional function, negotiate the necessary contractual modifications, including modifications that provide for an appropriate adjustment (in light of the cost of such additional function) to the amount of reimbursement made to the organization.".

(3) The amendments made by paragraphs (1) and (2) shall become effective on the date of enactment of this Act.

SEC. 4092. PREFERENCE IN CONTRACTING WITH IN-STATE ORGANIZATIONS.

(a) IN GENERAL.—Section 1153 of the Social Security Act (42 U.S.C. 1320c-2), as amended by section 4091(b)(1) of this part, is further amended by adding at the end the following new subsection:

"(i)(1) Notwithstanding any other provision of this section, the Secretary shall not renew a contract with any organization that is not an in-State organization (as defined in paragraph (3)) unless the Secretary has first complied with the requirements of paragraph (2).

"(2)(A) Not later than six months before the date on which a contract period ends with respect to an organization that is not an in-State organization, the Secretary shall publish in the Federal Register—

"(i) the date on which such period ends; and

"(ii) the period of time in which an in-State organization may submit a proposal for the contract ending on such date.

"(B) If one or more qualified in-State organizations submits a proposal within the period of time specified under subparagraph (A)(ii), the Secretary shall not automatically renew the current contract on a noncompetitive basis, but shall provide for competition for the contract in the same manner as a new contract under subsection (b).

"(3) For purposes of this subsection, an in-State organization is an organization that has its primary place of business in the State in which review will be conducted (or, which is owned by a parent corporation the headquarters of which is located in such State).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to contracts scheduled to be renewed on or after the first day of the eighth month to begin after the date of enactment of this Act.

SEC. 4093. REQUIRING REASONABLE NOTICE AND OPPORTUNITY FOR DISCUSSION PRIOR TO DENIAL OF CLAIM.

(a) IN GENERAL.—Section 1154(a)(3) of the Social Security Act (42 U.S.C. 1320c-3(a)(3)) is amended to read as follows:

"(3)(A) Subject to subparagraph (B), whenever the organization makes a determination that any health care services or items furnished or to be furnished to a patient by any practitioner or provider are disapproved, the organization shall promptly notify such patient and the agency or organization responsible for the payment of claims under title XVIII of this Act of such determination.

"(B) The notification under subparagraph (A) shall not occur until 20 days after the date that the organization has—

"(i) made a preliminary notification to such practitioner or provider of such proposed determination, and

"(ii) provided such practitioner or provider an opportunity for discussion and review of the proposed determination.

The discussion and review conducted under subparagraph (B)(ii) shall not affect the rights of a practitioner or provider to a formal reconsideration of a determination under this part (as provided under section 1155).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to determinations made on or after April 1, 1988.

SEC. 4094. PEER REVIEW NORMS AND EDUCATION.

(a) STANDARDS APPLIED BY PROs.—Section 1154(a)(6) of the Social Security Act (42 U.S.C. 1320c-3(a)(6)) is amended by adding after and below subparagraph (B) thereof the following:

"As a component of the norms described in clause (i) or (ii), the organization shall take into account the special problems associated with delivering care in remote rural areas, the availability of service alternatives to inpatient hospitalization, and other appropriate factors (such as the distance from a patient's residence to the site of care, family support, availability of proximate alternative sites of care, and the patient's ability to carry out necessary or prescribed self-care regimens) that could adversely affect the safety or effectiveness of treatment provided on an outpatient basis.".

(b) ON-SITE REVIEW.—Section 1154(a) of such Act (42 U.S.C. 1320c-3(a)) is amended by adding at the end the following new paragraph:

"(15) During each year of the contract entered into under section 1153(b), the organization shall perform significant on-site review activities, including on-site review at least [47] 20 percent of the rural hospitals in the organization's area.".

(c) REPORTS TO PROVIDERS AND EDUCATIONAL ACTIVITIES.—

(1)(A) Section 1154(a)(6) of such Act [48] (42 U.S.C. 1320c-3(a)(6)) is amended—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(ii) by inserting "(A)" after "(6)", and

(iii) by adding at the end the following:

"(B) The organization shall—

"(i) offer to provide, several times each year, for a physician representing the organization to meet (at a hospital or at a regional meeting) with medical and administrative staff of each hospital (the services of which are reviewed by the organization) respecting the organization's review of the hospital's services for which payment may be made under title XVIII, and

"(ii) publish (not less often than annually) and distribute to providers and practitioners whose services are subject to review a report that describes the organization's findings with respect to the types of cases in which the organization has frequently determined that (I) inappropriate or unnecessary care has been provided, (II) services were rendered in an inappropriate setting, or (III) services did not meet professionally recognized standards of health care.".

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[47] Copy read "review at at least".

[48] Copy read "1154(a)(6) such Act".

(B) The amendments made by subparagraph (A) shall apply to contracts under part B of title XI of the Social Security Act entered into or renewed more than 6 months after the date of the enactment of this Act.

(2)(A) Section 1154(a)(4)(B) of the Social Security Act (42 U.S.C. 1320c-3(a)(4)(B)) is amended—

(i) by inserting before the period at the end of the first sentence the following: "and whether individuals enrolled with an eligible organization have adequate access to health care services provided by or through such organization (as determined, in part, by a survey of individuals enrolled with the organization who have not yet used the organization to receive such services). The contract of each organization shall also provide that with respect to health care provided by a health maintenance organization or competitive medical plan under section 1876, the organization shall maintain a beneficiary outreach program designed to apprise individuals receiving care under such section of the role of the peer review system, of the rights of the individual under such system, and of the method and purposes for contacting the organization"; and

(ii) by striking "previous sentence" and inserting "previous two sentences".

(B) Section 1154(a)(7)(A) of such Act (42 U.S.C. 1320c-3(a)(7)(A)) is amended—

(i) by inserting "(i)" after "(A)",

(ii) by striking the semicolon and inserting "; and", and

(iii) by adding at the end thereof the following new clause:

"(ii) in the case of psychiatric and physical rehabilitation services, make arrangements to ensure that (to the extent possible) initial review of such services be made by a physician who is trained in psychiatry or physical rehabilitation (as appropriate).".

(C) The amendments made by this paragraph shall apply with respect to contracts entered into or renewed on or after the date of enactment of this Act.

(d) Peer Review Emphasis on Educational Activities.—

(1) Section 1153(c) of such Act (42 U.S.C. 1320c-2(c)) is amended by adding after and below paragraph (8) the following: "In evaluating the performance of utilization and quality control peer review organizations under contracts under this part, the Secretary shall place emphasis on the performance of such organizations in educating providers and practitioners (particularly those in rural areas) concerning the review process and criteria being applied by the organization.".

(2) The amendment made by paragraph (1) shall apply to contracts under part B of title XI of the Social Security Act as of January 1, 1988.

(e) Telecommunications Demonstration Projects.—The Secretary of Health and Human Services shall enter into agreements with entities submitting applications under this subsection (in such form as the Secretary may provide) to establish demonstration projects to examine the feasability of requiring instruction and oversight of rural physicians, in lieu of imposing sanctions, through use of video communication between rural hospitals and teaching hospitals under this title. Under such demonstration projects, the Secretary may provide for payments to physicians consulted via video communication systems. No funds may be expended under the demonstration projects for the acquisition of capital items including computer hardware.

SEC. 4095. PREEXCLUSION HEARINGS.

(a) In General.—Section 1156(b) of the Social Security Act (42 U.S.C. 1320c-5(b)) is amended by adding at the end the following new paragraph:

"(5) Before the Secretary may effect an exclusion under paragraph (2) in the case of a provider or practitioner located in a rural health manpower shortage area (HMSA) or in a county with a population of less than 70,000, the provider or practitioner adversely affected by the determination is entitled to a hearing before an administrative law judge (described in section 205(b)) respecting whether the provider or practitioner should be able to continue furnishing services to individuals entitled to benefits under this Act, pending completion of the administrative review procedure under paragraph (4). If the judge does not determine, by a preponderance of the evidence, that the provider or practitioner will pose a serious risk to such individuals if permitted to continue furnishing such services, the Secretary shall not effect the exclusion under paragraph (2) until the provider or practitioner has been provided reasonable notice and opportunity for an administrative hearing thereon under paragraph (4).".

(b) Effective Date.—The amendment made by subsection (a) shall apply to determinations made by the Secretary of Health and Human Services under section 1156(b) of the Social Security Act on or after the date of the enactment of this Act.

(c) Transition for Current Cases.—In the case of a practitioner or person—

(1) for whom a notice of determination under section 1156(b) of the Social Security Act has been provided within 365 days before the date of the enactment of this Act,

(2) who has not exhausted the administrative remedies available under section 1156(b)(4) of such Act for review of the determination, and

(3) who requests, within 90 days after the date of the enactment of this Act, a hearing established under this subsection,

the Secretary of Health and Human Services shall provide for a hearing described in section 1156(b)(5) of the Social Security Act (as amended by subsection (a) of this section).

(d) Redeterminations in Certain Cases.—If, in hearing under subsection (c), the judge does not determine, by a preponderance of the evidence, that the provider or practitioner will pose a serious risk to individuals entitled to benefits under title XVIII of the Social Security Act if permitted to continue or resume furnishing such services, the Secretary shall not effect the exclusion (or shall suspend the exclusion, if previously effected) under paragraph (2) of section 1156(b) of such Act until the provider or practitioner has been provided an administrative hearing thereon under paragraph (4) of such section, notwithstanding any failure by the provider or practitioner to request the hearing on a timely basis.

(e) Report on Improvements in Procedures for Imposing Sanctions.—Not later than one year after the date of enactment of this Act, the Secretary of Health and Human Services shall report to Congress on the improved procedures for imposing sanctions against a practitioner or person under section 1156 of the Social Security Act established through agreement by the Health Care Financing Administration, the American Association of Retired Persons, the American Medical Association, and the Office of the Inspector General in the Department of Health and Human Services. The report shall set forth such improved procedures, describe the response of physicians and providers to the procedures, assess whether the procedures effect an appropriate balance between procedural fairness and the need for ensuring quality medical care, comment on the alternative provider-patient notification procedure contained in the agreement, and recommend whether such procedures should apply to institutional providers of health care services.

SEC. 4096. LIMITATION OF BENEFICIARY LIABILITY FOR SERVICES DISALLOWED BY PEER REVIEW ORGANIZATIONS.

(a) Part B Services.—

(1) Section 1842 of the Social Security Act (42 U.S.C 1395u) is amended—

(A) in subsection (b)(3)(ii), by inserting "(and to refund amounts already collected)" after "agrees not to charge", and by striking "and (II)" and inserting ", (II) the physician or other person furnishing such service agrees not to charge (and to refund amounts already collected) for services for which payment under this title is denied under section 1154(a)(2) by reason of a determination under section 1154(a)(1)(B), and (III)";

(B) in subsection (l)(1)(A)(iii), by inserting "(I)" after "(iii)" and by inserting before the comma the following: "or (II) payment under this title for such services is denied under section 1154(a)(2) by reason of a determination under section 1154(a)(1)(B)"; and

(C) in subsection (l)(1)(C), by inserting "in the case described in subparagraph (A)(iii)(I)" after "to an individual".

(2) Section 1870(f) of such Act (42 U.S.C. 1395gg(f)) is amended by striking "that the reasonable charge is the full charge for the services" each place it appears and inserting "to the terms specified in subclauses (I) and (II) of section 1842(b)(3)(B)(ii) with respect to the services".

(b) Indemnification.—Section 1879(b) of such Act (42 U.S.C. 1395pp(b)) is amended—

(1) in the first sentence, by striking ", subject to the deductible and coinsurance provisions of this title,", and

(2) by adding at the end the following: "No item or service for which an individual is indemnified under this subsection shall be taken into account in applying any limitation on the amount of items and services for which payment may be made to or on behalf of the individual under this title.".

(c) Patient Liability for Hospital Charges During Appeal of Discharge Notice.—

(1) Section 1154(e)(2) of such Act (42 U.S.C. 1320c-3(e)(2)) is amended by adding at the end thereof the following: "If the hospital requests such a review, it shall also notify the patient that the review has been requested.".

(2) Sections 1154(e)(3)(A)(i) (42 U.S.C. 1320c-3(e)(3)(A)(i)) and 1154(e)(3)(B) (42 U.S.C. 1320c-3(e)(3)(B)) of such Act are each amended by inserting "or (2)" after "paragraph (1)".

(d) Effective Date.—The amendments made by this section shall apply to services furnished on or after January 1, 1988.

SEC. 4097. SEPARATE FUNDING LEVELS.

(a) Aggregate Funding.—Section 1866(a)(1)(F)(i)(III) of the Social Security Act (42 U.S.C. 1395cc(a)(1)(F)(i)(III)) is amended—

(1) by striking "1986" and inserting "1988"; and

(2) inserting "and for any direct or administrative costs incurred as a result of review functions added with respect to a subsequent fiscal year" after "inflation".

(b) Payment.—Section 1866(a)(4)(C)(ii) of such Act (42 U.S.C. 1395cc(a)(4)(C)(ii)) is amended to read as follows:

"(ii) shall not be less in the aggregate for a fiscal year—

"(I) in the case of hospitals, than the amount specified in paragraph (1)(F)(i)(III), and

"(II) in the case of facilities and agencies, than the amounts the Secretary determines to be sufficient to cover the costs of such organizations' conducting the activities described in subparagraph (A) with respect to such facilities or agencies under part B of title XI.".

(c) Effective Date.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 1988.

Subtitle B—Medicaid

PART 1—ELIGIBILITY AND BENEFITS

SEC. 4101. MEDICAID BENEFITS FOR POOR CHILDREN AND PREGNANT WOMEN.

(a) Medicaid Optional Coverage for Additional Low-Income Pregnant Women and Children.—

(1) Section 1902(l) of the Social Security Act (42 U.S.C. 1396a(l)) is amended—

(A) in paragraph (2)—

(i) by striking "(2) For purposes of paragraph (1)" and inserting "(2)(A) For purposes of paragraph (1) with respect to individuals described in subparagraph (A) or (B) of that paragraph",

(ii) by striking "100 percent" and inserting "185 percent", and

(iii) by adding at the end the following new subparagraph:

"(B) If a State elects, under subsection (a)(10)(A)(ii)(IX), to cover individuals not described in subparagraph (A) or (B) of paragraph (1), for purposes of that paragraph and with respect to individuals not described in such subparagraphs the State shall establish an income level which is a percentage (not more than 100 percent, or, if less, the percentage established under subparagraph (A)) of the income official poverty line described in subparagraph (A)."; and

(B) in paragraph (3)(D), by inserting "appropriate" after "applied is the".

(2) Section 1902(e)(4) of such Act (42 U.S.C. 1396a(e)(4)) is amended by adding at the end the following new sentence: "During the period in which a child is deemed under the preceding sentence to be eligible for medical assistance, the medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires).".

(3) The amendments made by this subsection shall apply to medical assistance furnished on or after July 1, 1988.

(b) Allowing Accelerated Coverage of Children Up [48a] to Age 5.—

(1) Section 1902(l)(1) of such Act (42 U.S.C. 1396a(l)(1)) is amended—

(A) by inserting "and" at the end of subparagraph (B), and

(B) by striking subparagraphs (C) through (F) and inserting the following:

"(C) children born after September 30, 1983, and who have attained one year of age but have not attained 2, 3, 4, or 5 years of age (as selected by the State),".

(2)(A) Section 1902(l) of such Act is further amended—

(i) in paragraph (3)(C), by striking ", (C), (D), (E), or (F)" and inserting "or (C)", and

(ii) in paragraph (4)(B)(ii), by striking ", (D), (E), or (F)".

(B) Section 1902(e)(7) of such Act (42 U.S.C. 1396a(e)(7)) is amended by striking ", (C), (D), (E), or (F)" and inserting "or (C)".

(C) Section 9401(f)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "(A)" after "(2)" and by striking subparagraphs (B) through (D).

(3) The amendments made by this subsection shall apply with respect to medical assistance furnished on or after July 1, 1988.

(c) Coverage of Children Up [49] to Age 8.—

(1) Section 1905(n)(2) of such Act (42 U.S.C. 1396d(n)(2)) is amended by striking "is under 5 years of age" and inserting "has not attained the age of 7 (or any age designated by the State that exceeds 7 but does not exceed 8)".

(2) Section 1902(l)(1)(C) of such Act, as amended by subsection (b)(1)(B), is further amended by striking "or 5 years" and inserting "5, 6, 7, or 8 years".

(3)(A) The amendments made by this subsection shall apply to medical assistance furnished on or after October 1, 1988.

(B) For purposes of section 1905(n)(2) of the Social Security Act (as amended by subsection (a)) for medical assistance furnished during fiscal year 1989, any reference to "age of 7" is deemed to be a reference to "age of 6".

(d) Premium.—

(1) Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended—

(A) in subsection (a)(1), by inserting "(except for a premium imposed under subsection (c))" before the semicolon;

(B) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(C) by inserting after subsection (b) the following new subsection:

"(c)(1) The State plan of a State may at the option of the State provide for imposing a monthly premium (in an amount that does not exceed the limit established under paragraph (2)) with respect to an individual described in subparagraph (A) or (B) of section 1902(l)(1) who is receiving medical assistance on the basis of section 1902(a)(10)(A)(ii)(IX) and whose family income (as determined in accordance with the methodology specified in section 1902(l)(3)) equals or exceeds 150 percent of the nonfarm income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(2) In no case may the amount of any premium imposed under paragraph (1) exceed 10 percent of the amount by which the family income (less expenses for the care of a dependent child) of an individual exceeds 150 percent of the line described in paragraph (1).

"(3) A State shall not require prepayment of a premium imposed pursuant to paragraph (1) and shall not terminate eligibility of an individual for medical assistance under this title on the basis of failure to pay any such premium until such failure continues for a period of not less than 60 days. The State may waive payment of any such premium in any case where the State determines that requiring such payment would create an undue hardship.

"(4) A State may permit State or local funds available under other programs to be used for payment of a premium imposed under paragraph (1). Payment of a premium with such funds shall not be counted as income to the individual with respect to whom such payment is made.".

(2) The amendments made by paragraph (1) shall become effective on July 1, 1988.

(e) Miscellaneous Provisions Relating to Services for Pregnant Women and Children.—

(1) Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)) is amended, in subdivision (VII) of the matter following subparagraph (E), by striking "and postpartum" and inserting "postpartum, and family planning".

(2) Section 1902(e)(5) of such Act (42 U.S.C. 1396a(e)(5)) is amended by striking "until the end of the 60-day period beginning on the last day of her pregnancy" and inserting "through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends".

(3) Section 1902(l)(3)(E) of such Act (42 U.S.C. 1396a(l)(3)(E)) is amended by inserting after "title IV" the following: "(except to the extent such methodology is inconsistent with clause (D) of subsection (a)(17))".

(4) Section 1902(l)(4)(A) of such Act (42 U.S.C. 1396a(l)(4)(A)) is amended by striking "April 17, 1986" and inserting "July 1, 1987".

(5) Section 1902(l)(4) of such Act (42 U.S.C. 1396a(l)(4)) is amended by adding at the end the following new subparagraph:

"(C) A State plan may not provide, in its election of the option of furnishing medical assistance to individuals described in paragraph (1), that such individuals must apply for benefits under part A of title IV as a condition of applying for, or receiving, medical assistance under this title.".

(6)(A) The amendment made by paragraph [50] (1) shall become effective on the date of enactment of this Act.

(B) The amendments made by paragraphs (2) and (3) shall be effective as if they had been included in the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985.

(C) The amendment made by paragraph (4) shall apply to elections made on or after the enactment of this Act.

(D) The amendment made by paragraph (5) shall apply as if included in the enactment of section 9401 of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4102. HOME AND COMMUNITY-BASED SERVICES FOR THE ELDERLY.

(a) In General.—

(1) Section 1915 of the Social Security Act (42 U.S.C. 1396n) is amended—

(A) by transferring subsection (d) to the end of such section and redesignating it as subsection (h), and

(B) by inserting after subsection (c) the following new subsection:

"(d)(1) Subject to paragraph (2), the Secretary shall grant a waiver to provide that a State plan approved under this title shall include as 'medical assistance' under such plan payment for part or all of the cost of home or community-based services (other than room and board) which are provided pursuant to a written plan of care to individuals 65 years of age or older with respect to whom there has been a determination that but for the provision of such services the individuals would be likely to require the level of care provided in a skilled nursing facility or intermediate care facility the cost of which could be reimbursed under the State plan.

[48a] Copy read "UP".

[49] Copy read "UP".

[50] Copy read "paragraphs".

"(2) A waiver shall not be granted under this subsection unless the State provides assurances satisfactory to the Secretary that—

"(A) necessary safeguards (including adequate standards for provider participation) have been taken to protect the health and welfare of individuals provided services under the waiver and to assure financial accountability for funds expended with respect to such services;

"(B) with respect to individuals 65 years of age or older who—

"(i) are entitled to medical assistance for skilled nursing or intermediate care facility services under the State plan,

"(ii) may require such services, and

"(iii) may be eligible for such home or community-based services under such waiver,

the State will provide for an evaluation of the need for such skilled nursing facility or intermediate care facility services; and

"(C) such individuals who are determined to be likely to require the level of care provided in a skilled nursing facility or intermediate care facility are informed of the feasible alternatives to the provision of skilled nursing facility or intermediate care facility services, which such individuals may choose if available under the waiver.

Each State with a waiver under this subsection shall provide to the Secretary annually, consistent with a reasonable data collection plan designed by the Secretary, information on the impact of the waiver granted under this subsection on the type and amount of medical assistance provided under the State plan and on the health and welfare of recipients.

"(3) A waiver granted under this subsection may include a waiver of the requirements of section 1902(a)(1) (relating to statewideness), section 1902(a)(10)(B) (relating to comparability), and section 1902(a)(10)(C)(i)(III) (relating to income and resource rules applicable in the community). Subject to a termination by the State (with notice to the Secretary) at any time, a waiver under this subsection shall be for an initial term of 3 years and, upon the request of a State, shall be extended for additional 5-year periods unless the Secretary determines that for the previous waiver period the assurances provided under paragraph (2) have not been met. A waiver may provide, with respect to post-eligibility treatment of income of all individuals receiving services under the waiver, that the maximum amount of the individual's income which may be disregarded for any month is equal to the amount that may be allowed for that purpose under a waiver under subsection (c).

"(4) A waiver under this subsection may, consistent with paragraph (2), provide medical assistance to individuals for case management services, homemaker/home health aide services and personal care services, adult day health services, respite care, and other medical and social services that can contribute to the health and well-being of individuals and their ability to reside in a community-based care setting.

"(5)(A) In the case of a State having a waiver approved under this subsection, notwithstanding any other provision of section 1903 to the contrary, the total amount expended by the State for medical assistance with respect to skilled nursing facility services, intermediate care facility services, and home and community-based services under the State plan for individuals 65 years of age or older during a waiver year under this subsection may not exceed the projected amount determined under subparagraph (B).

"(B) For purposes of subparagraph (A), the projected amount under this subparagraph is the sum of the following:

"(i) The aggregate amount of the State's medical assistance under this title for skilled nursing facility services and intermediate care facility services furnished to individuals who have attained the age of 65 for the base year increased by a percentage which is equal to the lesser of 7 percent times the number of years beginning after the base year and ending before the waiver year involved or the sum of—

"(I) the percentage increase (based on an appropriate market-basket index representing the costs of elements of such services) between the base year and the waiver year involved, plus

"(II) the percentage increase between the base year and the waiver year involved in the number of residents in the State who have attained the age of 65, plus

"(III) 2 percent for each year beginning after the base year and ending before the waiver year.

"(ii) The aggregate amount of the State's medical assistance under this title for home and community-based services for individuals who have attained the age of 65 for the base year increased by a percentage which is equal to the lesser of 7 percent times the number of years beginning after the base year and ending before the waiver year involved or the sum of—

"(I) the percentage increase (based on an appropriate market-basket index representing the costs of elements of such services) between the base year and the waiver year involved, plus

"(II) the percentage increase between the base year and the waiver year involved in the number of residents in the State who have attained the age of 65, plus

"(III) 2 percent for each year beginning after the base year and ending before the waiver year.

"(iii) The Secretary shall develop and promulgate by regulation (by not later than October 1, 1989)—

"(I) a method, based on an index of appropriately weighted indicators of changes in the wages and prices of the mix of goods and services which comprise both skilled nursing facility services and intermediate care facility services (regardless of the source of payment for such services), for projecting the percentage increase for purposes of clause (i)(I);

"(II) a method, based on an index of appropriately weighted indicators of changes in the wages and prices of the mix of goods and services which comprise home and community-based services (regardless of the source of payment for such services), for projecting the percentage increase for purposes of clause (ii)(I); and

"(III) a method for projecting, on a State specific basis, the percentage increase in the number of residents in each State who are over 75 years of age for any period.

Effective on and after the date the Secretary promulgates the regulation under clause (iii), any reference in this subparagraph to the 'lesser of 7 percent' shall be deemed to be a reference to the 'greater of 7 percent'.

"(C) In this paragraph:

"(i) The term 'home and community-based services' includes services described in sections 1905(a)(7) and 1905(a)(8), services described in subsection (c)(4)(B), services described in paragraph (4)(B), personal care services, and services furnished pursuant to a waiver under subsection (c).

"(ii)(I) Subject to subclause (II), the term 'base year' means the most recent year (ending before the date of the enactment of this subsection) for which actual final expenditures under this title have been reported to, and accepted by, the Secretary.

"(II) For purposes of subparagraph (C), in the case of a State that does not report expenditures on the basis of the age categories described in such subparagraph for a year ending before the date of the enactment of this subsection, the term 'base year' means fiscal year 1989.

"(iii) The term 'intermediate care facility services' does not include services furnished in an institution certified in accordance with section 1905(d).

"(6)(A) A determination by the Secretary to deny a request for a waiver (or extension of waiver) under this subsection shall be subject to review to the extent provided under section 1116(b).

"(B) Notwithstanding any other provision of this Act, if the Secretary denies a request of the State for an extension of a waiver under this subsection, any waiver under this subsection in effect on the date such request is made shall remain in effect for a period of not less than 90 days after the date on which the Secretary denies such request (or, if the State seeks review of such determination in accordance with subparagraph (A), the date on which a final determination is made with respect to such review).".

(2) The amendments made by paragraph (1) shall become effective on January 1, 1988.

(b) CONFORMING AMENDMENTS.—

(1) Section 1902(a)(10)(A)(ii)(VI) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)(VI)) is amended by striking "section 1915(c)" each place it appears and inserting "subsection (c) or (d) of section 1915".

(2) Section 1915(h) of such Act, as redesignated by subsection (a), is amended by striking "(c)" and inserting in lieu thereof "(c) or (d)".

(c) EXTENSION OF WAIVER.—In the case of a State which, as of December 1, 1987, has a waiver approved with respect to elderly individuals under section 1915(c) of the Social Security Act, which waiver is scheduled to expire before July 1, 1988, if the State notifies the Secretary of Health and Human Services of the State's intention to file an application for a waiver under section 1915(d) of such Act (as amended by subsection (a) of this section), the Secretary shall extend approval of the State's waiver, under section 1915(c) of such Act, on the same terms and conditions through September 30, 1988.

SEC. 4103. PHYSICIANS' SERVICES FURNISHED BY DENTISTS.

(a) CLARIFYING COVERAGE.—Section 1905(a)(5) of the Social Security Act (42 U.S.C. 1396d(a)(5)) is amended by inserting "(A)" after "(5)" and by inserting before the under this subsection (a) shall include impacts on—

"(1) education, including facilities and personnel for elementary and secondary schools, community colleges, vocational and technical schools and universities;

"(2) public health, including the facilities and personnel for treatment and distribution of water, the treatment of sewage, the control of pests and the disposal of solid waste;

"(3) law enforcement, including facilities and personnel for the courts, police and sheriff's departments, district attorneys and public defenders and prisons;

"(4) fire protection, including personnel, the construction of fire stations, and the acquisition of equipment;

"(5) medical care, including emergency services and hospitals;

"(6) cultural and recreational needs, including facilities and personnel for libraries and museums and the acquisition and expansion of parks;

"(7) distribution of public lands to allow for the timely expansion of existing, or creation of new, communities and the construction of necessary residential and commercial facilities;

"(8) vocational training and employment services;

"(9) social services, including public assistance programs, vocational and physical rehabilitation programs, mental health services, and programs relating to the abuse of alcohol and controlled substances;

"(10) transportation, including any roads, terminals, airports, bridges, or railways associated with the facility and the repair and maintenance of roads, terminals, airports, bridges, or railways damaged as a result of the construction, operation, and closure of the facility;

"(11) equipment and training for State and local personnel in the management of accidents involving high-level radioactive waste;

"(12) availability of energy;

"(13) tourism and economic development, including the potential loss of revenue and future economic growth; and

"(14) other needs of the State and local governments that would not have arisen but for the characterization of the site and the construction, operation, and eventual closure of the repository facility.".

SEC. 5032. PARTICIPATION OF STATES.

(a) FINANCIAL ASSISTANCE.—Section 116(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10136(c)) is amended to read as follows:

"(c) FINANCIAL ASSISTANCE.—(1)(A) The Secretary shall make grants to the State of Nevada and any affected unit of local government for the purpose of participating in activities required by this section and section 117 or authorized by written agreement entered into pursuant to section 117(c). Any salary or travel expense that would ordinarily be incurred by such State or affected unit of local government, may not be considered eligible for funding under this paragraph.

"(B) The Secretary shall make grants to the State of Nevada and any affected unit of local government for purposes of enabling such State or affected unit of local government—

"(i) to review activities taken under this subtitle with respect to the Yucca Mountain site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of a repository on such State, or affected unit of local government and its residents;

"(ii) to develop a request for impact assistance under paragraph (2);

"(iii) to engage in any monitoring, testing, or evaluation activities with respect to site characterization programs with regard to such site;

"(iv) to provide information to Nevada residents regarding any activities of such State, the Secretary, or the Commission with respect to such site; and

"(v) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken under this subtitle with respect to such site.

"(C) Any salary or travel expense that would ordinarily be incurred by the State of Nevada or any affected unit of local government may not be considered eligible for funding under this paragraph.

"(2)(A)(i) The Secretary shall provide financial and technical assistance to the State of Nevada, and any affected unit of local government requesting such assistance.

"(ii) Such assistance shall be designed to mitigate the impact on such State or affected unit of local government of the development of such repository and the characterization of such site.

"(iii) Such assistance to such State or affected unit of local government of such State shall commence upon the initiation of site characterization activities.

"(B) The State of Nevada and any affected unit of local government may request assistance under this subsection by preparing and submitting to the Secretary a report on the economic, social, public health and safety, and environmental impacts that are likely to result from site characterization activities at the Yucca Mountain site. Such report shall be submitted to the Secretary after the Secretary has submitted to the State a general plan for site characterization activities under section 113(b).

"(C) As soon as practicable after the Secretary has submitted such site characterization plan, the Secretary shall seek to enter into a binding agreement with the State of Nevada setting forth—

"(i) the amount of assistance to be provided under this subsection to such State or affected unit of local government; and

"(ii) the procedures to be followed in providing such assistance.

"(3)(A) In addition to financial assistance provided under paragraphs (1) and (2), the Secretary shall grant to the State of Nevada and any affected unit of local government an amount each fiscal year equal to the amount such State or affected unit of local government, respectively, would receive if authorized to tax site characterization activities at such site, and the development and operation of such repository, as such State or affected unit of local government taxes the non-Federal real property and industrial activities occurring within such State or affected unit of local government.

"(B) Such grants shall continue until such time as all such activities, development, and operation are terminated at such site.

"(4)(A) The State of Nevada or any affected unit of local government may not receive any grant under paragraph (1) after the expiration of the 1-year period following—

"(i) the date on which the Secretary notifies the Governor and legislature of the State of Nevada of the termination of site characterization activities at the site in such State;

"(ii) the date on which the Yucca Mountain site is disapproved under section 115; or

"(iii) the date on which the Commission disapproves an application for a construction authorization for a repository at such site;

whichever occurs first.

"(B) The State of Nevada or any affected unit of local government may not receive any further assistance under paragraph (2) with respect to a site if repository construction activities or site characterization activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

"(C) At the end of the 2-year period beginning on the effective date of any license to receive and possess for a repository in a State, no Federal funds, shall be made available to such State or affected unit of local government under paragraph (1) or (2), except for—

"(i) such funds as may be necessary to support activities related to any other repository located in, or proposed to be located in, such State, and for which a license to receive and possess has not been in effect for more than 1 year;

"(ii) such funds as may be necessary to support State activities pursuant to agreements or contracts for impact assistance entered into, under paragraph (2), by such State with the Secretary during such 2-year period; and

"(iii) such funds as may be provided under an agreement entered into under title IV.

"(5) Financial assistance authorized in this subsection shall be made out of amounts held in the Waste Fund.

"(6) No State, other than the State of Nevada, may receive financial assistance under this subsection after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987.".

SEC. 5033. PARTICIPATION OF INDIAN TRIBES.

Section 118(b)(5) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10138(b)(5)) is amended by—

(1) striking "or" at the end of clause (ii); and

(2) adding at the end the following new clause:

"(iv) the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987;".

PART D—NUCLEAR WASTE NEGOTIATOR

SEC. 5041. NUCLEAR WASTE NEGOTIATOR.

The Nuclear Waste Policy Act of 1982 is amended by adding at the end the following new title:

"TITLE IV—NUCLEAR WASTE NEGOTIATOR

"DEFINITION

"SEC. 401. For purposes of this title, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, any other territory or possession of the United States, and the Republic of the Marshall Islands.

"THE OFFICE OF THE NUCLEAR WASTE NEGOTIATOR

"SEC. 402. (a) ESTABLISHMENT.—There is established within the Executive Office of the President the Office of the Nuclear Waste Negotiator.

"(b) THE NUCLEAR WASTE NEGOTIATOR.—(1) The Office shall be headed by a Nuclear Waste Negotiator who shall be appointed by the President, by and with the advice and consent of the Senate. The Negotiator shall hold office at the pleasure of the President, and shall be compensated at the rate provided for level III of the Executive Schedule in section 5314 of title 5, United States Code.

"(2) The Negotiator shall attempt to find a State or Indian tribe willing to host a repository or monitored retrievable storage facility at a technically qualified site on reasonable terms and shall negotiate with any State or Indian tribe which expresses an interest in hosting a repository or monitored retrievable storage facility.

"DUTIES OF THE NEGOTIATOR

"Sec. 403. (a) Negotiations With Potential Hosts.—(1) The Negotiator shall—

"(A) seek to enter into negotiations on behalf of the United States, with—

"(i) the Governor of any State in which a potential site is located; and

"(ii) the governing body of any Indian tribe on whose reservation a potential site is located; and

"(B) attempt to reach a proposed agreement between the United States and any such State or Indian tribe specifying the terms and conditions under which such State or tribe would agree to host a repository or monitored retrievable storage facility within such State or reservation.

"(2) In any case in which State law authorizes any person or entity other than the Governor to negotiate a proposed agreement under this section on behalf of the State, any reference in this title to the Governor shall be considered to refer instead to such other person or entity.

"(b) Consultation With Affected States, Subdivisions of States, and Tribes.—In addition to entering into negotiations under subsection (a), the Negotiator shall consult with any State, affected unit of local government, or any Indian tribe that the Negotiator determines may be affected by the siting of a repository or monitored retrievable storage facility and may include in any proposed agreement such terms and conditions relating to the interest of such States, affected units of local government, or Indian tribes as the Negotiator determines to be reasonable and appropriate.

"(c) Consultation With Other Federal Agencies.—The Negotiator may solicit and consider the comments of the Secretary, the Nuclear Regulatory Commission, or any other Federal agency on the suitability of any potential site for site characterization. Nothing in this subsection shall be construed to require the Secretary, the Nuclear Regulatory Commission, or any other Federal agency to make a finding that any such site is suitable for site characterization.

"(d) Proposed Agreement.—(1) The Negotiator shall submit to the Congress any proposed agreement between the United States and a State or Indian tribe negotiated under subsection (a) and an environmental assessment prepared under section 404(a) for the site concerned.

"(2) Any such proposed agreement shall contain such terms and conditions (including such financial and institutional arrangements) as the Negotiator and the host State or Indian tribe determine to be reasonable and appropriate and shall contain such provisions as are necessary to preserve any right to participation or compensation of such State, affected unit of local government, or Indian tribe under sections 116(c), 117, and 118(b).

"(3)(A) No proposed agreement entered into under this section shall have legal effect unless enacted into Federal law.

"(B) A State or Indian tribe shall enter into an agreement under this section in accordance with the laws of such State or tribe. Nothing in this section may be construed to prohibit the disapproval of a proposed agreement between a State and the United States under this section by a referendum or an act of the legislature of such State.

"(4) Notwithstanding any proposed agreement under this section, the Secretary may construct a repository or monitored retrievable storage facility at a site agreed to under this title only if authorized by the Nuclear Regulatory Commission in accordance with the Atomic Energy Act of 1954 (42 U.S.C. 2012 et seq.), title II of the Energy Reorganization Act of 1982 (42 U.S.C. 5841 et seq.) and any other law applicable to authorization of such construction.

"ENVIRONMENTAL ASSESSMENT OF SITES

"Sec. 404. (a) In General.—Upon the request of the Negotiator, the Secretary shall prepare an environmental assessment of any site that is the subject of negotiations under section 403(a).

"(b) Contents.—(1) Each environmental assessment prepared for a repository site shall include a detailed statement of the probable impacts of characterizing such site and the construction and operation of a repository at such site.

"(2) Each environmental assessment prepared for a monitored retrievable storage facility site shall include a detailed statement of the probable impacts of construction and operation of such a facility at such site.

"(c) Judicial Review.—The issuance of an environmental assessment under subsection (a) shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code, and section 119.

"(d) Public Hearings.—(1) In preparing an environmental assessment for any repository or monitored retrievable storage facility site, the Secretary shall hold public hearings in the vicinity of such site to inform the residents of the area in which such site is located that such site is being considered and to receive their comments.

"(2) At such hearings, the Secretary shall solicit and receive any recommendations of such residents with respect to issues that should be addressed in the environmental assessment required under subsection (a) and the site characterization plan described in section 113(b)(1).

"(e) Public Availability.—Each environmental assessment prepared under subsection (a) shall be made available to the public.

"(f) Evaluation of Sites.—(1) In preparing an environmental assessment under subsection (a), the Secretary shall use available geophysical, geologic, geochemical and hydrologic, and other information and shall not conduct any preliminary borings or excavations at any site that is the subject of such assessment unless—

"(A) such preliminary boring or excavation activities were in progress on or before the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987; or

"(B) the Secretary certifies that, in the absence of preliminary borings or excavations, adequate information will not be available to satisfy the requirements of this Act or any other law.

"(2) No preliminary boring or excavation conducted under this section shall exceed a diameter of 40 inches.

"SITE CHARACTERIZATION; LICENSING

"Sec. 405. (a) Site Characterization.—Upon enactment of legislation to implement an agreement to site a repository negotiated under section 403(a), the Secretary shall conduct appropriate site characterization activities for the site that is the subject of such agreement subject to the conditions and terms of such agreement. Any such site characterization activities shall be conducted in accordance with section 113, except that references in such section to the Yucca Mountain site and the State of Nevada shall be deemed to refer to the site that is the subject of the agreement and the State or Indian tribe entering into the agreement.

"(b) Licensing.—(1) Upon the completion of site characterization activities carried out under subsection (a), the Secretary shall submit to the Nuclear Regulatory Commission an application for construction authorization for a repository at such site.

"(2) The Nuclear Regulatory Commission shall consider an application for a construction authorization for a repository or monitored retrievable storage facility in accordance with the laws applicable to such applications, except that the Nuclear Regulatory Commission shall issue a final decision approving or disapproving the issuance of a construction authorization not later than 3 years after the date of the submission of such application.

"MONITORED RETRIEVABLE STORAGE

"Sec. 406. (a) Construction and Operation.—Upon enactment of legislation to implement an agreement negotiated under section 403(a) to site a monitored retrievable storage facility, the Secretary shall construct and operate such facility as part of an integrated nuclear waste management system in accordance with the terms and conditions of such agreement.

"(b) Financial Assistance.—The Secretary may make grants to any State, Indian tribe, or affected unit of local government to assess the feasibility of siting a monitored retrievable storage facility under this section at a site under the jurisdiction of such State, tribe, or affected unit of local government.

"ENVIRONMENTAL IMPACT STATEMENT

"Sec. 407. (a) In General.—Issuance of a construction authorization for a repository or monitored retrievable storage facility under section 405(b) shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(b) Preparation.—A final environmental impact statement shall be prepared by the Secretary under such Act and shall accompany any application to the Nuclear Regulatory Commission for a construction authorization.

"(c) Adoption.—(1) Any such environmental impact statement shall, to the extent practicable, be adopted by the Nuclear Regulatory Commission, in accordance with section 1506.3 of title 40, Code of Federal Regulations, in connection with the issuance by the Nuclear Regulatory Commission of a construction authorization and license for such repository or monitored retrievable storage facility.

"(2)(A) In any such statement prepared with respect to a repository to be constructed under this title at the Yucca Mountain site, the Nuclear Regulatory Commission need not consider the need for a repository, the time of initial availability of a repository, alternate sites to the Yucca Mountain site, or nongeologic alternatives to such site.

"(B) In any such statement prepared with respect to a repository to be constructed under this title at a site other than the Yucca Mountain site, the Nuclear Regulatory Commission need not consider the need for a repository, the time of initial availability of a repository, or nongeologic alternatives to such site but shall consider the Yucca Mountain site as an alternate to such site in the preparation of such statement.

"ADMINISTRATIVE POWERS OF THE NEGOTIATOR

"Sec. 408. In carrying out his functions under this title, the Negotiator may—

"(1) appoint such officers and employees as he determines to be necessary and prescribe their duties;

"(2) obtain services as authorized by section 3109 of title 5, United States Code, at rates not to exceed the rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code;

"(3) promulgate such rules and regulations as may be necessary to carry out such functions;

"(4) utilize the services, personnel, and facilities of other Federal agencies (subject to the consent of the head of any such agency);

"(5) for purposes of performing administrative functions under this title, and to the extent funds are appropriated, enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary and on such terms as the Negotiator determines to be appropriate, with any agency or instrumentality of the United States, or with any public or private person or entity;

"(6) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31, United States Code;

"(7) adopt an official seal, which shall be judicially noticed;

"(8) use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States;

"(9) hold such hearings as are necessary to determine the views of interested parties and the general public; and

"(10) appoint advisory committees under the Federal Advisory Committee Act (5 U.S.C. App.).

"COOPERATION OF OTHER DEPARTMENTS AND AGENCIES

"Sec. 409. Each department, agency, and instrumentality of the United States, including any independent agency, may furnish the Negotiator such information as he determines to be necessary to carry out his functions under this title.

"TERMINATION OF THE OFFICE

"Sec. 410. The Office shall cease to exist not later than 30 days after the date 5 years after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 411. Notwithstanding subsection (d) of section 302, and subject to subsection (e) of such section, there are authorized to be appropriated for expenditures from amounts in the Waste Fund established in subsection (c) of such section, such sums as may be necessary to carry out the provisions of this title.".

PART E—NUCLEAR WASTE TECHNICAL REVIEW BOARD

SEC. 5051. NUCLEAR WASTE TECHNICAL REVIEW BOARD.

The Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) is further amended by adding at the end the following new title:

"TITLE V—NUCLEAR WASTE TECHNICAL REVIEW BOARD

"DEFINITIONS

"Sec. 501. As used in this title:

"(1) The term 'Chairman' means the Chairman of the Nuclear Waste Technical Review Board.

"(2) The term 'Board' means the Nuclear Waste Technical Review Board established under section 502.

"NUCLEAR WASTE TECHNICAL REVIEW BOARD

"Sec. 502. (a) Establishment.—There is established a Nuclear Waste Technical Review Board that shall be an independent establishment within the executive branch.

"(b) Members.—(1) The Board shall consist of 11 members who shall be appointed by the President not later than 90 days after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987 from among persons nominated by the National Academy of Sciences in accordance with paragraph (3).

"(2) The President shall designate a member of the Board to serve as chairman.

"(3)(A) The National Academy of Sciences shall, not later than 90 days after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, nominate not less than 22 persons for appointment to the Board from among persons who meet the qualifications described in subparagraph (C).

"(B) The National Academy of Sciences shall nominate not less than 2 persons to fill any vacancy on the Board from among persons who meet the qualifications described in subparagraph (C).

"(C)(i) Each person nominated for appointment to the Board shall be—

"(I) eminent in a field of science or engineering, including environmental sciences; and

"(II) selected solely on the basis of established records of distinguished service.

"(ii) The membership of the Board shall be representative of the broad range of scientific and engineering disciplines related to activities under this title.

"(iii) No person shall be nominated for appointment to the Board who is an employee of—

"(I) the Department of Energy;

"(II) a national laboratory under contract with the Department of Energy; or

"(III) an entity performing high-level radioactive waste or spent nuclear fuel activities under contract with the Department of Energy.

"(4) Any vacancy on the Board shall be filled by the nomination and appointment process described in paragraphs (1) and (3).

"(5) Members of the Board shall be appointed for terms of 4 years, each such term to commence 120 days after the date of enactment of the Nuclear Waste Policy Amendments Act of 1987, except that of the 11 members first appointed to the Board, 5 shall serve for 2 years and 6 shall serve for 4 years, to be designated by the President at the time of appointment.

"FUNCTIONS

"Sec. 503. The Board shall evaluate the technical and scientific validity of activities undertaken by the Secretary after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, including—

"(1) site characterization activities; and

"(2) activities relating to the packaging or transportation of high-level radioactive waste or spent nuclear fuel.

"INVESTIGATORY POWERS

"Sec. 504. (a) Hearings.—Upon request of the Chairman or a majority of the members of the Board, the Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

"(b) Production of Documents.—(1) Upon the request of the Chairman or a majority of the members of the Board, and subject to existing law, the Secretary (or any contractor of the Secretary) shall provide the Board with such records, files, papers, data, or information as may be necessary to respond to any inquiry of the Board under this title.

"(2) Subject to existing law, information obtainable under paragraph (1) shall not be limited to final work products of the Secretary, but shall include drafts of such products and documentation of work in progress.

"COMPENSATION OF MEMBERS

"Sec. 505. (a) In General.—Each member of the Board shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the Board.

"(b) Travel Expenses.—Each member of the Board may receive travel expenses, including per diem in lieu of subsistence, in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

"STAFF

"Sec. 506. (a) Clerical Staff.—(1) Subject to paragraph (2), the Chairman may appoint and fix the compensation of such clerical staff as may be necessary to discharge the responsibilities of the Board.

"(2) Clerical staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(b) Professional Staff.—(1) Subject to paragraphs (2) and (3), the Chairman may appoint and fix the compensation of such professional staff as may be necessary to discharge the responsibilities of the Board.

"(2) Not more than 10 professional staff members may be appointed under this subsection.

"(3) Professional staff members may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

"SUPPORT SERVICES

"Sec. 507. (a) General Services.—To the extent permitted by law and requested by the Chairman, the Administrator of General Services shall provide the Board with necessary administrative services, facilities, and support on a reimbursable basis.

"(b) Accounting, Research, and Technology Assessment Services.—The Comptroller General, the Librarian of Congress, and the Director of the Office of Technology

Assessment shall, to the extent permitted by law and subject to the availability of funds, provide the Board with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the Board.

"(c) Additional Support.—Upon the request of the Chairman, the Board may secure directly from the head of any department or agency of the United States information necessary to enable it to carry out this title.

"(d) Mails.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(e) Experts and Consultants.—Subject to such rules as may be prescribed by the Board, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

"REPORT

"Sec. 508. The Board shall report not less than 2 times per year to Congress and the Secretary its findings, conclusions, and recommendations. The first such report shall be submitted not later than 12 months after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 509. Notwithstanding subsection (d) of section 302, and subject to subsection (e) of such section, there are authorized to be appropriated for expenditures from amounts in the Waste Fund established in subsection (c) of such section such sums as may be necessary to carry out the provisions of this title.

"TERMINATION OF THE BOARD

"Sec. 510. The Board shall cease to exist not later than 1 year after the date on which the Secretary begins disposal of high-level radioactive waste or spent nuclear fuel in a repository.".

PART F—MISCELLANEOUS

SEC. 5061. TRANSPORTATION.

Title I of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10121-10171) is further amended by adding at the end the following new subtitle:

"Subtitle H—Transportation

"TRANSPORTATION

"Sec. 180. (a) No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under subtitle A or under subtitle C except in packages that have been certified for such purpose by the Commission.

"(b) The Secretary shall abide by regulations of the Commission regarding advance notification of State and local governments prior to transportation of spent nuclear fuel or high-level radioactive waste under subtitle A or under subtitle C.

"(c) The Secretary shall provide technical assistance and funds to States for training for public safety officials of appropriate units of local government and Indian tribes through whose jurisdiction the Secretary plans to transport spent nuclear fuel or high-level radioactive waste under subtitle A or under subtitle C. Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations. The Waste Fund shall be the source of funds for work carried out under this subsection.".

SEC. 5062. TRANSPORTATION OF PLUTONIUM BY AIRCRAFT THROUGH UNITED STATES AIR SPACE.

(a) In General.—Notwithstanding any other provision of law, no form of plutonium may be transported by aircraft through the air space of the United States from a foreign nation to a foreign nation unless the Nuclear Regulatory Commission has certified to Congress that the container in which such plutonium is transported is safe, as determined in accordance with subsection (b), the second undesignated paragraph under section 201 of Public Law 94-79 (89 Stat. 413; 42 U.S.C. 5841 note), and all other applicable laws.

(b) Responsibilities of the Nuclear Regulatory Commission.—

(1) Determination of Safety.—The Nuclear Regulatory Commission shall determine whether the container referred to in subsection (a) is safe for use in the transportation of plutonium by aircraft and transmit to Congress a certification for the purposes of such subsection in the case of each container determined to be safe.

(2) Testing.—In order to make a determination with respect to a container under paragraph (1), the Nuclear Regulatory Commission shall—

(A) require an actual drop test from maximum cruising altitude of a full-scale sample of such container loaded with test materials; and

(B) require an actual crash test of a cargo aircraft fully[77] loaded with full-scale samples of such container loaded with test material unless the Commission determines, after consultation with an independent scientific review panel, that the stresses on the container produced by other tests used in developing the container exceed the stresses which would occur during a worst case plutonium air shipment accident.

(3) Limitation.—The Nuclear Regulatory Commission may not certify under this section that a container is safe for use in the transportation of plutonium by aircraft if the container ruptured or released its contents during testing conducted in accordance with paragraph (2).

(4) Evaluation.—The Nuclear Regulatory Commission shall evaluate the container certification required by title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.) and subsection (a) in accordance with the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321 et seq.) and all other applicable law.

(c) Content of Certification.—A certification referred to in subsection (a) with respect to a container shall include—

(1) the determination of the Nuclear Regulatory Commission as to the safety of such container;

(2) a statement that the requirements of subsection (b)(2) were satisfied in the testing of such container; and

(3) a statement that the container did not rupture or release its contents into the environment during testing.

(d) Design of Testing Procedures.—The tests required by subsection (b) shall be designed by the Nuclear Regulatory Commission to replicate actual worst case transportation conditions to the maximum extent practicable. In designing such tests, the Commission shall provide for public notice of the proposed test procedures, provide a reasonable opportunity for public comment on such procedures, and consider such comments, if any.

(e) Testing Results: Reports and Public Disclosure.—The Nuclear Regulatory Commission shall transmit to Congress a report on the results of each test conducted under this section and shall make such results available to the public.

(f) Alternative Routes and Means of Transportation.—With respect to any shipments of plutonium from a foreign nation to a foreign nation which are subject to United States consent rights contained in an Agreement for Peaceful Nuclear Cooperation, the President is authorized to make every effort to pursue and conclude arrangements for alternative routes and means of transportation, including sea shipment. All such arrangements shall be subject to stringent physical security conditions, and other conditions designed to protect the public health and safety, and provisions of this section, and all other applicable laws.

(g) Inapplicability to Medical Devices.—Subsections (a) through (e) shall not apply with respect to plutonium in any form contained in a medical device designed for individual human application.

(h) Inapplicability to Military Uses.—Subsections (a) through (e) shall not apply to plutonium in the form of nuclear weapons nor to other shipments of plutonium determined by the Department of Energy to be directly connected with the United States national security or defense programs.

(i) Inapplicability to Previously Certified Containers.—This section shall not apply to any containers for the shipment of plutonium previously certified as safe by the Nuclear Regulatory Commission under Public Law 94-79 (89 Stat. 413; 42 U.S.C. 5841 note).

(j) Payment of Costs.—All costs incurred by the Nuclear Regulatory Commission associated with the testing program required by this section, and administrative costs related thereto, shall be reimbursed to the Nuclear Regulatory Commission by any foreign country receiving plutonium shipped through United States airspace in containers specified by the Commission.

SEC. 5063. SUBSEABED DISPOSAL.

Title II of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10191-10203) is amended by adding at the end the following new section:

"SUBSEABED DISPOSAL

"Sec. 224. (a) Study.—Within 270 days after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, the Secretary shall report to Congress on subseabed disposal of spent nuclear fuel and high-level radioactive waste. The report under this subsection shall include—

"(1) an assessment of the current state of knowledge of subseabed disposal as an alternative technology for disposal of spent nuclear fuel and high-level radioactive waste;

"(2) an estimate of the costs of subseabed disposal;

"(3) an analysis of institutional factors associated with subseabed disposal, including international aspects of a decision of the United States to proceed with subseabed disposal as an option for nuclear waste management;

"(4) a full discussion of the environmental and public health and safety aspects of subseabed disposal;

"(5) recommendations on alternative ways to structure an effort in research, development, and demonstration with respect to subseabed disposal; and

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[77] Copy read "full".

"(6) the recommendations of the Secretary with respect to research, development and demonstration in subseabed disposal of spent nuclear fuel and high-level radioactive waste.

"(b) OFFICE OF SUBSEABED DISPOSAL RESEARCH.—(1) There is hereby established an Office of Subseabed Disposal Research within the Office of Energy Research of the Department of Energy. The Office shall be headed by the Director, who shall be a member of the Senior Executive Service appointed by the Director of the Office of Energy Research, and compensated at a rate determined by applicable law.

"(2) The Director of the Office of Subseabed Disposal Research shall be responsible for carrying out research, development, and demonstration activities on all aspects of subseabed disposal of high-level radioactive waste and spent nuclear fuel, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Director of the Office of Energy Research, and the first such Director shall be appointed within 30 days of the date of enactment of the Nuclear Waste Policy Amendments Act of 1987.

"(3) In carrying out his responsibilities under this Act, the Secretary may make grants to, or enter into contracts with, the Subseabed Consortium described in subsection (d) of this section, and other persons.

"(4)(A) Within 60 days of the date of enactment of the Nuclear Waste Policy Amendments Act of 1987, the Secretary shall establish a university-based Subseabed Consortium involving leading oceanographic universities and institutions, national laboratories, and other organizations to investigate the technical and institutional feasibility of subseabed disposal.

"(B) The Subseabed Consortium shall develop a research plan and budget to achieve the following objectives by 1995:

"(i) demonstrate the capacity to identify and characterize potential subseabed disposal sites;

"(ii) develop conceptual designs for a subseabed disposal system, including estimated costs and institutional requirements; and

"(iii) identify and assess the potential impacts of subseabed disposal on the human and marine environment.

"(C) In 1990, and again in 1995, the Subseabed Consortium shall report to Congress on the progress being made in achieving the objectives of paragraph (2).

"(5) The Director of the Office of Subseabed Disposal Research shall annually prepare and submit a report to the Congress on the activities and expenditures of the Office.".

SEC. 5064. DRY CASK STORAGE.

(a) STUDY.—During the period between the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987 and October 1, 1988, the Secretary of Energy (hereinafter in this section referred to as the "Secretary") shall conduct a study and evaluation of the use of dry cask storage technology at the sites of civilian nuclear power reactors for the temporary storage of spent nuclear fuel until such time as a permanent geologic repository has been constructed and licensed by the Nuclear Regulatory Commission (hereinafter in this section referred to as the "Commission") and is capable of receiving spent nuclear fuel. The Secretary shall report to Congress on the study under this paragraph by October 1, 1988.

(b) CONTENTS OF STUDY.—In conducting the study under paragraph (1) the Secretary shall—

(1) consider the costs of dry cask storage technology, the extent to which dry cask storage on the site of civilian nuclear power reactors will affect human health and the environment, the extent to which the storage on the sites of civilian nuclear power reactors affects the costs and risk of transporting spent nuclear fuel to a central facility such as a monitored retrievable storage facility, and any other factors the Secretary considers appropriate;

(2) consider the extent to which amounts in the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) can be used, and should be used, to provide funds to construct, operate, maintain, and safeguard spent nuclear fuel in dry cask storage at the sites for civilian nuclear power reactors;

(3) consult with the Commission and include the views of the Commission in the report under paragraph (1); and

(4) solicit the views of State and local governments and the public.

SEC. 5065. AMENDMENTS TO THE TABLE OF CONTENTS.

The table of contents of the Nuclear Waste Policy Act of 1982 is amended by—

(1) adding at the end of subtitle C the following new sections:

"Sec. 142. Authorization of monitored retrievable storage.
"Sec. 143. Monitored Retrievable Storage Commission.
"Sec. 144. Survey.
"Sec. 145. Site selection.
"Sec. 146. Notice of disapproval.
"Sec. 147. Benefits agreement.
"Sec. 148. Construction authorization.
"Sec. 149. Financial assistance.";

(2) adding at the end of title I the following new subtitles:

"SUBTITLE E—REDIRECTION OF THE NUCLEAR WASTE PROGRAM

"Sec. 160. Selection of Yucca Mountain site.
"Sec. 161. Siting a second repository.

"SUBTITLE F—BENEFITS

"Sec. 170. Benefits agreements.
"Sec. 171. Content of agreements.
"Sec. 172. Review panel.
"Sec. 173. Termination.

"SUBTITLE G—OTHER BENEFITS

"Sec. 174. Consideration in siting facilities.
"Sec. 175. Report.

"SUBTITLE H—TRANSPORTATION

"Sec. 180. Transportation.";

(3) adding at the end of title II the following new section:

"Sec. 224. Subseabed disposal."; and

(4) adding at the end the following new titles:

"TITLE IV—NUCLEAR WASTE NEGOTIATOR

"Sec. 401. Definition.
"Sec. 402. The Office of Nuclear Waste Negotiator.
"Sec. 403. Duties of the Negotiator.
"Sec. 404. Environmental assessment of sites.
"Sec. 405. Site characterization; licensing.
"Sec. 406. Monitored retrievable storage.
"Sec. 407. Environmental impact statement.
"Sec. 408. Administrative powers of the Negotiator.
"Sec. 409. Cooperation of other departments and agencies.
"Sec. 410. Termination of the office.".

Subtitle B—Federal Onshore Oil and Gas Leasing Reform Act of 1987

SEC. 5101. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This subtitle may be cited as the "Federal Onshore Oil and Gas Leasing Reform Act of 1987".

(b) REFERENCES.—Any reference in this subtitle to the "Act of February 25, 1920", is a reference to the Act of February 25, 1920, entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain" (30 U.S.C. 181 and following).

SEC. 5102. OIL AND GAS LEASING SYSTEM.

(a) COMPETITIVE BIDDING.—Section 17(b)(1) of the Act of February 25, 1920 (30 U.S.C. 226(b)(1)), is amended to read as follows:

"(b)(1)(A) All lands to be leased which are not subject to leasing under paragraph (2) of this subsection shall be leased as provided in this paragraph to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than 2,560 acres, except in Alaska, where units shall be not more than 5,760 acres. Such units shall be as nearly compact as possible. Lease sales shall be conducted by oral bidding. Lease sales shall be held for each State where eligible lands are available at least quarterly and more frequently if the Secretary of the Interior determines such sales are necessary. A lease shall be conditioned upon the payment of a royalty at a rate of not less than 12.5 percent in amount or value of the production removed or sold from the lease. The Secretary shall accept the highest bid from a responsible qualified bidder which is equal to or greater than the national minimum acceptable bid, without evaluation of the value of the lands proposed for lease. Leases shall be issued within 60 days following payment by the successful bidder of the remainder of the bonus bid, if any, and the annual rental for the first lease year. All bids for less than the national minimum acceptable bid shall be rejected. Lands for which no bids are received or for which the highest bid is less than the national minimum acceptable bid shall be offered promptly within 30 days for leasing under subsection (c) of this section and shall remain available for leasing for a period of 2 years after the competitive lease sale.

"(B) The national minimum acceptable bid shall be $2 per acre for a period of 2 years from the date of enactment of the Federal Onshore Oil and Gas Leasing Reform Act of 1987. Thereafter, the Secretary may establish by regulation a higher national minimum acceptable bid for all leases based upon a finding that such action is necessary: (i) to enhance financial returns to the United States; and (ii) to promote more efficient management of oil and gas resources on Federal lands. Ninety days before the Secretary makes any change in the national minimum acceptable bid, the Secretary shall notify the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The proposal or promulgation of any regulation to establish a national minimum acceptable bid shall not be considered a major Federal action subject to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969.".

(b) NONCOMPETITIVE LEASING.—Section 17(c) of the Act of February 25, 1920 (30 U.S.C. 226(c)), is amended to read as follows:

"(c)(1) If the lands to be leased are not leased under subsection (b)(1) of this section or are not subject to competitive leasing under subsection (b)(2) of this section, the person first making application for the lease who is qualified to hold a lease under this Act shall be entitled to a lease of such lands without competitive bidding, upon payment of a non-refundable application fee of at least $75. A lease under this subsection shall be conditioned upon the payment of a royalty at a rate of 12.5 percent in amount or value of the production removed or sold from the lease. Leases shall be issued within 60 days of the date on which the Secretary identifies the first responsible qualified applicant.

"(2)(A) Lands (i) which were posted for sale under subsection (b)(1) of this section but for which no bids were received or for which the highest bid was less than the national minimum acceptable bid and (ii) for which, at the end of the period referred to in subsection (b)(1) of this section no lease has been issued and no lease application is pending under paragraph (1) of this subsection, shall again be available for leasing only in accordance with subsection (b)(1) of this section.

"(B) The land in any lease which is issued under paragraph (1) of this subsection or under subsection (b)(1) of this section which lease terminates, expires, is cancelled or is relinquished shall again be available for leasing only in accordance with subsection (b)(1) of this section.".

(c) Rentals.—Section 17(d) of the Act of February 25, 1920 (30 U.S.C. 226(d)), is amended to read as follows:

"(d) All leases issued under this section, as amended by the Federal Onshore Oil and Gas Leasing Reform Act of 1987, shall be conditioned upon payment by the lessee of a rental of not less than $1.50 per acre per year for the first through fifth years of the lease and not less than $2 per acre per year for each year thereafter. A minimum royalty in lieu of rental of not less than the rental which otherwise would be required for that lease year shall be payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the lands leased.".

(d) Notice and Reclamation.—(1) Section 17 of the Act of February 25, 1920 (30 U.S.C. 226), is amended by redesignating subsections (f) through (k) as subsections (i) through (n) and by adding the following new subsections (f) through (h):

"(f) At least 45 days before offering lands for lease under this section, and at least 30 days before approving applications for permits to drill under the provisions of a lease or substantially modifying the terms of any lease issued under this section, the Secretary shall provide notice of the proposed action. Such notice shall be posted in the appropriate local office of the leasing and land management agencies. Such notice shall include the terms or modified lease terms and maps or a narrative description of the affected lands. Where the inclusion of maps in such notice is not practicable, maps of the affected lands shall be made available to the public for review. Such maps shall show the location of all tracts to be leased, and of all leases already issued in the general area. The requirements of this subsection are in addition to any public notice required by other law.

"(g) The Secretary of the Interior, or for National Forest lands, the Secretary of Agriculture, shall regulate all surface-disturbing activities conducted pursuant to any lease issued under this Act, and shall determine reclamation and other actions as required in the interest of conservation of surface resources. No permit to drill on an oil and gas lease issued under this Act may be granted without the analysis and approval by the Secretary concerned of a plan of operations covering proposed surface-disturbing activities within the lease area. The Secretary concerned shall, by rule or regulation, establish such standards as may be necessary to ensure that an adequate bond, surety, or other financial arrangement will be established prior to the commencement of surface-disturbing activities on any lease, to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease. The Secretary shall not issue a lease or leases or approve the assignment of any lease or leases under the terms of this section to any person, association, corporation, or any subsidiary, affiliate, or person controlled by or under common control with such person, association, or corporation, during any period in which, as determined by the Secretary of the Interior or Secretary of Agriculture, such entity has failed or refused to comply in any material respect with the reclamation requirements and other standards established under this section for any prior lease to which such requirements and standards applied. Prior to making such determination with respect to any such entity the concerned Secretary shall provide such entity with adequate notification and an opportunity to comply with such reclamation requirements and other standards and shall consider whether any administrative or judicial appeal is pending. Once the entity has complied with the reclamation requirement or other standard concerned an oil or gas lease may be issued to such entity under this Act.

"(h) The Secretary of the Interior may not issue any lease on National Forest System Lands reserved from the public domain over the objection of the Secretary of Agriculture.".

(2) Section 31(h) of the Act of February 25, 1920 (30 U.S.C. 188(h)), is amended by striking out "section 17(j)" and substituting "section 17(m)".

SEC. 5103. ASSIGNMENTS.

Sections 30(a) and 30(b) of the Act of February 25, 1920 (30 U.S.C. 187a, 187b), are redesignated as sections 30A and 30B, respectively, and the third sentence of section 30A, as so redesignated, is amended to read as follows: "The Secretary shall disapprove the assignment or sublease only for lack of qualification of the assignee or sublessee or for lack of sufficient bond: *Provided, however*, That the Secretary may, in his discretion, disapprove an assignment of any of the following, unless the assignment constitutes the entire lease or is demonstrated to further the development of oil and gas:

"(1) A separate zone or deposit under any lease.

"(2) A part of a legal subdivision.

"(3) Less than 640 acres outside Alaska or of less than 2,560 acres within Alaska.

Requests for approval of assignment or sublease shall be processed promptly by the Secretary. Except where the assignment or sublease is not in accordance with applicable law, the approval shall be given within 60 days of the date of receipt by the Secretary of a request for such approval.".

SEC. 5104. LEASE CANCELLATION.

The first sentence of section 31(b) of the Act of February 25, 1920 (30 U.S.C. 188(b)) is amended to read as follows: "Any lease issued after August 21, 1935, under the provisions of section 17 of this Act shall be subject to cancellation by the Secretary of the Interior after 30 days notice upon the failure of the lessee to comply with any of the provisions of the lease, unless or until the leasehold contains a well capable of production of oil or gas in paying quantities, or the lease is committed to an approved cooperative or unit plan or communitization agreement under section 17(m) of this Act which contains a well capable of production of unitized substances in paying quantities.".

SEC. 5105. ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.

Section 1008 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3148) is amended as follows:

(1) Subsections (c) and (e) are deleted in their entirety.

(2) The second sentence of subsection 1008(d) is deleted.

SEC. 5106. PENDING APPLICATIONS, OFFERS, AND BIDS.

(a) Notwithstanding any other provision of this subtitle and except as provided in subsection (b) of this section, all noncompetitive oil and gas lease applications and offers and competitive oil and gas bids pending on the date of enactment of this subtitle shall be processed, and leases shall be issued under the provisions of the Act of February 25, 1920, as in effect before its amendment by this subtitle, except where the issuance of any such lease would not be lawful under such provisions or other applicable law.

(b) No noncompetitive lease applications or offers pending on the date of enactment of this subtitle for lands within the Shawnee National Forest, Illinois; the Ouachita National Forest, Arkansas; Fort Chaffee, Arkansas; or Eglin[79] Air Force Base, Florida; shall be processed until these lands are posted for competitive bidding in accordance with section 5102 of this subtitle. If any such tract does not receive a bid equal to or greater than the national minimum acceptable bid from a responsible qualified bidder then the noncompetitive applications or offers pending for such a tract shall be reinstated and noncompetitive leases issued under the Act of February 25, 1920, as in effect before its amendment by this subtitle, except where the issuance of any such lease would not be lawful under such provisions or other applicable law. If competitive leases are issued for any such tract, then the pending noncompetitive application or offer shall be rejected.

(c) Except as provided in subsections (a) and (b) of this section, all oil and gas leasing pursuant to the Act of February 25, 1920, after the date of enactment of this subtitle shall be conducted in accordance with the provisions of this subtitle.

SEC. 5107. REGULATIONS; TEST SALE.

(a) Regulations.—The Secretary shall issue final regulations to implement this subtitle within 180 days after the enactment of this subtitle. The regulations shall be effective when published in the Federal Register.

(b) Treatment Under Other Law.—The proposal or promulgation of such regulations shall not be considered a major Federal action subject to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969.

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[79] Copy read "Elgin".

(c) Test Sale.—The Secretary may hold one or more lease sales conducted in accordance with the amendments made by this subtitle before promulgation of regulations referred to in subsection (a). Sale procedures for such sale shall be established in the notice of sale.

SEC. 5108. ENFORCEMENT.

The Act of February 25, 1920, is amended by inserting after section 40 the following new section:

"SEC. 41. ENFORCEMENT.

"(a) Violations.—It shall be unlawful for any person:

"(1) to organize or participate in any scheme, arrangement, plan, or agreement to circumvent or defeat the provisions of this Act or its implementing regulations, or

"(2) to seek to obtain or to obtain any money or property by means of false statements of material facts or by failing to state material facts concerning:

"(A) the value of any lease or portion thereof issued or to be issued under this Act;

"(B) the availability of any land for leasing under this Act;

"(C) the ability of any person to obtain leases under this Act; or

"(D) the provisions of this Act and its implementing regulations.

"(b) Penalty.—Any person who knowingly violates the provisions of subsection (a) of this section shall be punished by a fine of not more than $500,000, imprisonment for not more than five years, or both.

"(c) Civil Actions.—Whenever it shall appear that any person is engaged, or is about to engage, in any act which constitutes or will constitute a violation of subsection (a) of this section, the Attorney General may institute a civil action in the district court of the United States for the judicial district in which the defendant resides or in which the violation occurred or in which the lease or land involved is located, for a temporary restraining order, injunction, civil penalty of not more than $100,000 for each violation, or other appropriate remedy, including but not limited to, a prohibition from participation in exploration, leasing, or development of any Federal mineral, or any combination of the foregoing.

"(d) Corporations.—(1) Whenever a corporation or other entity is subject to civil or criminal action under this section, any officer, employee, or agent of such corporation or entity who knowingly authorized, ordered, or carried out the proscribed activity shall be subject to the same action.

"(2) Whenever any officer, employee, or agent of a corporation or other entity is subject to civil or criminal action under this section for activity conducted on behalf of the corporation or other entity, the corporation or other entity shall be subject to the same action, unless it is shown that the officer, employee, or agent was acting without the knowledge or consent of the corporation or other entity.

"(e) Remedies, Fines, and Imprisonment.—The remedies, penalties, fines, and imprisonment prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies, penalties, fines, and imprisonment prescribed in this section shall be in addition to any other remedies, penalties, fines, and imprisonment afforded by any other law or regulation.

"(f) State Civil Actions.—(1) A State may commence a civil action under subsection (c) of this section against any person conducting activity within the State in violation of this section. Civil actions brought by a State shall only be brought in the United States district court for the judicial district in which the defendant resides or in which the violation occurred or in which the lease or land involved is located. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to order appropriate remedies and penalties as described in subsection (c) of this section.

"(2) A State shall notify the Attorney General of the United States of any civil action filed by the State under this subsection within 30 days of filing of the action. The Attorney General of the United States shall notify a State of any civil action arising from activity conducted within that State filed by the Attorney General under this subsection within 30 days of filing of the action.

"(3) Any civil penalties recovered by a State under this subsection shall be retained by the State and may be expended in such manner and for such purposes as the State deems appropriate. If a civil action is jointly brought by the Attorney General and a State, by more than one State or by the Attorney General and more than one State, any civil penalties recovered as a result of the joint action shall be shared by the parties bringing the action in the manner determined by the court rendering judgment in such action.

"(4) If a State has commenced a civil action against a person conducting activity within the State in violation of this section, the Attorney General may join in such action but may not institute a separate action arising from the same activity under this section. If the Attorney General has commenced a civil action against a person conducting activity within a State in violation of this section, that State may join in such action but may not institute a separate action arising from the same activity under this section.

"(5) Nothing in this section shall deprive a State of jurisdiction to enforce its own civil and criminal laws against any person who may also be subject to civil and criminal action under this section.".

SEC. 5109. PAYMENTS TO STATES.

Section 35 of the Act of February 25, 1920 (30 U.S.C. 191) is amended by adding the following at the end thereof: "In determining the amount of payments to States under this section, the amount of such payments shall not be reduced by any administrative or other costs incurred by the United States.".

SEC. 5110. REPORT.

The Secretary shall submit annually for 5 years after enactment of this subtitle to the Congress a report containing appropriate information to facilitate congressional monitoring of this subtitle. Such report shall include, but not be limited to—

(1) the number of acres leased, and the number of leases issued, competitively and noncompetitively;

(2) the amount of revenue received from bonus bids, filing fees, rentals, and royalties;

(3) the amount of production from competitive and noncompetitive leases; and

(4) such other data and information as will facilitate—

(A) an assessment of the onshore oil and gas leasing system, and

(B) a comparison of the system as revised by this subtitle with the system in operation prior to the enactment of this subtitle.

SEC. 5111. LAND USE STUDY.

The National Academy of Sciences and the Comptroller General of the United States shall conduct a study of the manner in which oil and gas resources are considered in the land use plans developed by the Secretary of the Interior in accordance with provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743) and the Secretary of Agriculture in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476), as amended by the National Forest Management Act of 1976 (90 Stat. 2949), and recommend any improvements that may be necessary to ensure that—

(1) potential oil and gas resources are adequately addressed in planning documents;

(2) the social, economic, and environmental consequences of exploration and development of oil and gas resources are determined; and

(3) any stipulations to be applied to oil and gas leases are clearly identified.

SEC. 5112. LANDS NOT SUBJECT TO OIL AND GAS LEASING.

The Act of February 25, 1920, is amended by adding the following at the end thereof:

"SEC. 43. LANDS NOT SUBJECT TO OIL AND GAS LEASING.

"(a) Prohibition.—The Secretary shall not issue any oil and gas lease under this Act on any of the following Federal lands:

"(1) Lands recommended for wilderness allocation by the surface managing agency.

"(2) Lands within Bureau of Land Management wilderness study areas.

"(3) Lands designated by Congress as wilderness study areas, except where oil and gas leasing is specifically allowed to continue by the statute designating the study area.

"(4) Lands within areas allocated for wilderness or further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document numbered 96-119), unless such lands are allocated to uses other than wilderness by a land and resource management plan or have been released to uses other than wilderness by an act of Congress.

"(b) Exploration.—In the case of any area of National Forest or public lands subject to this section, nothing in this section shall affect any authority of the Secretary of the Interior (or for National Forest Lands reserved from the public domain, the Secretary of Agriculture) to issue permits for exploration for oil and gas by means not requiring construction of roads or improvement of existing roads if such activity is conducted in a manner compatible with the preservation of the wilderness environment.".

SEC. 5113. SHORT TITLE.

The Act of February 25, 1920, is amended by inserting after section 43 the following new section:

"SEC. 44. SHORT TITLE.

"This Act may be cited as the 'Mineral Leasing Act'.".

Subtitle C—Land and Water Conservation Fund and Tongass Timber Supply Fund

SEC. 5201. LAND AND WATER CONSERVATION FUND ACT AMENDMENTS.

(a) Admission Fees.—Section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(a)) is amended as follows:

(1) Paragraph (1) is amended by striking out "$10" and inserting in lieu thereof "$25" in the first sentence.

(2) Paragraph (1) is further amended by striking out "(1)" and inserting in lieu thereof "(1)(A)" and adding the following new subparagraph at the end thereof:

"(B) For admission into a specific designated unit of the National Park System, or into several specific units located in a particular geographic area, the Secretary is authorized to make available an annual admission permit for a reasonable fee. The fee shall not exceed $15 regardless of how many units of the park system are covered. The permit shall convey the privileges of, and shall be subject to the same terms and conditions as, the Golden Eagle Passport, except that it shall be valid only for admission into the specific unit or units of the National Park System indicated at the time of purchase.".

(3) Paragraph (2) is amended by adding the following sentences at the end thereof: "The fee for a single-visit permit at any designated area applicable to those persons entering by private, noncommercial vehicle shall be no more than $5 per vehicle. The single-visit permit shall admit the permittee and all persons accompanying him in a single vehicle. The fee for a single-visit permit at any designated area applicable to those persons entering by any means other than a private noncommercial vehicle shall be no more than $3 per person. Except as otherwise provided in this subsection, the maximum fee amounts set forth in this paragraph shall apply to all designated areas.".

(4) Paragraph (3) is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of this Act, no admission fee may be charged at any unit of the National Park System which provides significant outdoor recreation opportunities in an urban environment and to which access is publicly available at multiple locations.".

(5) Add the following new paragraphs:

"(6)(A) No later than 60 days after the date of enactment of this paragraph, the Secretary of the Interior shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report on the entrance fees proposed to be charged at units of the National Park System. The report shall include a list of units of the National Park System and the entrance fee proposed to be charged at each unit. The Secretary of the Interior shall include in the report an explanation of the guidelines used in applying the criteria in subsection (d).

"(B) Following submittal of the report to the respective committees, any proposed changes to matters covered in the report, including the addition or deletion of park units or the increase or decrease of fee levels at park units shall not take effect until 60 days after notice of the proposed change has been submitted to the committees.

"(7) No admission fee may be charged at any unit of the National Park System for admission of any person 16 years of age or less.

"(8) No admission fee may be charged at any unit of the National Park System for admission of organized school groups or outings conducted for educational purposes by schools or other bona fide educational institutions.

"(9) No admission fee may be charged at the following units of the National Park System: U.S.S. Arizona Memorial, Independence National Historical Park, any unit of the National Park System within the District of Columbia, Arlington House—Robert E. Lee National Memorial, San Juan National Historic Site, and Canaveral National Seashore.

"(10) For each unit of the National Park System where an admission fee is collected, the Director shall annually designate at least one day during periods of high visitation as a 'Fee-Free Day' when no admission fee shall be charged.

"(11) In the case of the following parks, the fee for a single-visit permit applicable to those persons entering by private, noncommercial vehicle (the permittee and all persons accompanying him in a single vehicle) shall be no more than $10 per vehicle and the fee for a single-visit permit applicable to persons entering by any means other than a private noncommercial vehicle shall be no more than $5 per person: Yellowstone National Park and Grand Teton National Park and after the end of fiscal year 1990, Grand Canyon National Park. In the case of Yellowstone and Grand Teton, a single-visit fee collected at one unit shall also admit the vehicle or person who paid such fee for a single-visit to the other unit.

"(12) Notwithstanding section 203 of the Alaska National Interest Lands Conservation Act, the Secretary may charge an admission fee under this section at Denali National Park and Preserve in Alaska.".

(b) VISITOR RESERVATION SERVICES.—Section 4(f) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(f)) is amended to read as follows:

"(f) The head of any Federal agency, under such terms and conditions as he deems appropriate, may contract with any public or private entity to provide visitor reservation services. Any such contract may provide that the contractor shall be permitted to deduct a commission to be fixed by the agency head from the amount charged the public for providing such services and to remit the net proceeds therefrom to the contracting agency.".

(c) SPECIAL PROVISIONS.—Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a) is amended by adding the following new subsections at the end thereof:

"(i)(1) Except in the case of fees collected by the United States Fish and Wildlife Service or the Tennessee Valley Authority, all receipts from fees collected pursuant to this section by any Federal agency (or by any public or private entity under contract with a Federal agency) shall be covered into a special account for that agency established in the Treasury of the United States. Fees collected by the Secretary of Agriculture pursuant to this subsection shall continue to be available for the purposes of distribution to States and counties in accordance with applicable law.

"(2) Amounts covered into the special account for each agency during each fiscal year shall, after the end of such fiscal year, be available for appropriation solely for the purposes and in the manner provided in this subsection. No funds shall be transferred from fee receipts made available under this Act to each unit of the national park system: *Provided, however,* That in making appropriations, funds derived from such fees may be used for any purpose authorized therein. Funds credited to the special account shall remain available until expended.

"(3) For agencies other than the National Park Service, such funds shall be made available for resource protection, research, interpretation, and maintenance activities related to resource protection in areas managed by that agency at which outdoor recreation is available. To the extent feasible, such funds should be used for purposes (as provided for in this paragraph) which are directly related to the activities which generated the funds, including but not limited to water-based recreational activities and camping.

"(4) Amounts covered into the special account for the National Park Service shall be allocated among park system units in accordance with subsection (j) for obligation or expenditure by the Director of the National Park Service for the following purposes:

"(A) In the case of receipts from the collection of admission fees: for resource protection, research, and interpretation at units of the National Park System.

"(B) In the case of receipts from the collection of user fees: for resource protection, research, interpretation, and maintenance activities related to resource protection at units of the National Park System.

"(j)(1) 10 percent of the funds made available to the Director of the National Park Service under subsection (i) in each fiscal year shall be allocated among units of the National Park System on the basis of need in a manner to be determined by the Director.

"(2) 40 percent of the funds made available to the Director of the National Park Service under subsection (i) in each fiscal year shall be allocated among units of the National Park System in accordance with paragraph (3) of this subsection and 50 percent shall be allocated in accordance with paragraph (4) of this subsection.

"(3) The amount allocated to each unit under this paragraph for each fiscal year shall be a fraction of the total allocation to all units under this paragraph. The fraction for each unit shall be determined by dividing the operating expenses at that unit during the prior fiscal year by the total operating expenses at all units during the prior fiscal year.

"(4) The amount allocated to each unit under this paragraph for each fiscal year shall be a fraction of the total allocation to all units under this paragraph. The fraction for each unit shall be determined by dividing the user fees and admission fees collected under this section at that unit during the prior fiscal year by the total of user fees and admission fees collected under this section at all units during the prior fiscal year.

"(5) Amounts allocated under this subsection to any unit for any fiscal year and not expended in that fiscal year shall remain available for expenditure at that unit until expended.

"(k) When authorized by the head of the collecting agency, volunteers at designated areas may sell permits and collect fees authorized or established pursuant to this section. The head of such agency shall ensure that such volunteers have adequate training regarding—

"(1) the sale of permits and the collection of fees,

"(2) the purposes and resources of the areas in which they are assigned, and

"(3) the provision of assistance and information to visitors to the designated area.

The Secretary shall require a surety bond for any such volunteer performing services under this subsection. Funds available to the collecting agency may be used to cover the cost of any such surety bond. The head of the collecting agency may enter into arrangements with qualified public or private entities pursuant to which such entities may sell (without cost to the United States) annual admission permits (including Golden Eagle Passports) at any appropriate location. Such arrangements shall require each such entity to reimburse the United States for the full amount to be received from the sale of such permits at or before the agency delivers the permits to such entity for sale.

"(l)(1) Where the National Park Service provides transportation to view all or a portion of any unit of the National Park System, the Director may impose a charge for such service in lieu of an admission fee under this section. The charge imposed under this paragraph shall not exceed the maximum admission fee under subsection (a).

"(2) Notwithstanding any other provision of law, half of the charges imposed under paragraph (1) shall be retained by the unit of the National Park System at which the service was provided. The remainder shall be covered in the special account referred to in subsection (i) in the same manner as receipts from fees collected pursuant to this section. Fifty percent of the amount retained shall be expended only for maintenance of transportation systems at the unit where the charge was imposed. The remaining 50 percent of the retained amount shall be expended only for activities related to resource protection at such units.

"(m) Where the primary public access to a unit of the National Park System is provided by a concessioner, the Secretary may charge an admission fee at such units only to the extent that the total of the fee charged by the concessioner for access to the unit and the admission fee does not exceed the maximum amount of the admission fee which could otherwise be imposed under subsection (a).".

(d) Repeals.—(1) Title I of Public Law 96-514 is amended by striking out the following provisions which appear under the heading "Land and Water Conservation Fund": "Notwithstanding the provisions of Public Law 90-401, revenues from recreation fee collections by Federal agencies shall hereafter be paid into the Land and Water Conservation Fund, to be available for appropriation for any or all purposes authorized by the Land and Water Conservation Fund Act of 1965, as amended, without regard to the source of such revenues.".

(2) Section 402 of the Act of October 12, 1979 (93 Stat. 664), is hereby repealed.

(3) The seventh paragraph of title I of the Energy and Water Development Appropriation Act, 1982, entitled "Special Recreation Use Fees" is hereby repealed.

(e) Study.—(1) The Secretary of the Interior shall assess the extent to which traffic congestion and overcrowding occurs at certain park system units during times of seasonally high usage and shall conduct a study of the following—

(A) the feasibility of reducing vehicular traffic within national park system units through fee reductions for visitors traveling by bus and through other means which could shift visitation from automobiles to buses; and

(B) the feasibility of encouraging more even seasonal distribution of visitation.

(2) The study shall include a pilot project to be carried out in Yosemite National Park. For purposes of such pilot project, the Secretary may reduce the fees for admission of various classes or categories of visitors to Yosemite National Park and may reduce the admission fees imposed at the park during seasons with low visitation. A report containing the results of the study shall be transmitted to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate within 3 years after the enactment of this Act.

(f) Extension of Land and Water Conservation Fund.—(1) Section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601 and following) is amended as follows:

(A) In the matter preceding subsection (a) strike "1989" and substitute "2015".

(B) In subsection (c)(1) strike "1989" and substitute "2015".

(2) The last sentence of section 3 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601 and following) is amended to read as follows: "Moneys made available for obligation or expenditure from the fund or from the special account established under section 4(i)(1) may be obligated or expended only as provided in this Act.".

(g) Relationship to Fiscal Year 1988 Appropriations.—For purposes of legislation providing appropriations for the fiscal year 1988 to the Department of the Interior, the provisions of this section shall be treated as "permanent statutory language" establishing entrance fees for the National Park Service.

SEC. 5202. TONGASS TIMBER SUPPLY FUND.

From the period beginning on October 1, 1987, and extending until September 30, 1989, the provisions of section 705(a) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 539(d)) shall not be effective. In lieu thereof, the following provision shall apply:

"There is hereby authorized to be appropriated the sum of at least $40,000,000 annually (or such sums as the Secretary of Agriculture determines necessary) to maintain the timber supply from the Tongass National Forest to dependent industry at a rate of 4,500,000,000 foot board measure per decade.".

Subtitle D—Reclamation

SEC. 5301. SALE OF BUREAU OF RECLAMATION LOANS.

(a) Sale.—The Secretary of the Interior (hereinafter in this section referred to as the "Secretary"), under such terms as the Secretary shall prescribe, shall sell or otherwise dispose of loans made pursuant to the Distribution System Loans Act (43 U.S.C. 421a-421d), the Small Reclamation Projects Act (43 U.S.C. 422a-422l), and the Rehabilitation and Betterment Act (43 U.S.C. 504-505) in such amounts as to realize net proceeds to the Federal Government of not less than $130,000,000 in the fiscal year ending September 30, 1988. In the conduct of such sales, the Secretary shall take such actions as he deems appropriate to accommodate, effectuate, and otherwise protect the rights and obligations of the United States and the borrowers under the contracts executed to provide for repayment of such loans.

(b) Savings Provisions.—Nothing in this section, including the prepayment or other disposition of any loan or loans, shall—

(1) except to the extent that prepayment may have been authorized heretofore, relieve the borrower from the application of the provisions of Federal Reclamation law (Act of June 17, 1902, and Acts amendatory thereof or supplementary thereto, including the Reclamation Reform Act of 1982), including acreage limitations, to the extent such provisions would apply absent such prepayment, or

(2) authorize the transfer of title to any federally owned facilities funded by the loans specified in subsection (a) of this section without a specific Act of Congress.

(c) Fees and Expenses of Program.—Proceeds from the conduct of the program authorized by this section shall be first used to pay the fees and expenses of such program and the net proceeds shall be deposited in the Treasury of the United States as miscellaneous receipts.

(d) Termination.—The authority granted by this section to sell or otherwise dispose of loans shall terminate on December 31, 1988.

SEC. 5302. RECLAMATION REFORM ACT AMENDMENTS.

(a) Audit.—Section 224 of the Reclamation Reform Act of 1982 (Public Law 97-293) is amended by adding the following new subsections after subsection (f):

"(g) In addition to any other audit or compliance activities which may otherwise be undertaken, the Secretary of the Interior, or his designee, shall conduct a thorough audit of the compliance with the reclamation law of the United States, specifically including this Act, by legal entities and individuals subject to such law. At a minimum, the Secretary shall complete audits of those legal entities and individuals whose landholdings or operations exceed 960 acres within 3 years. The Secretary shall submit an annual written report to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs. Such report shall summarize the legal entities and individuals audited, the results of such audits, and the actions taken by the Secretary to correct any instances of noncompliance with the reclamation law.

"(h) The provisions of section 205(c) are and have been applicable to all recordable contracts executed prior to October 12, 1982, and any decision, rule, or regulation promulgated by the Department of the Interior to the contrary is hereby revoked: *Provided*, That notwithstanding the provisions of subsection (i), the Secretary shall not seek reimbursement for any amounts due under this subsection or section 205(c) which was due prior to the date of enactment of this subsection.

"(i) When the Secretary finds that any individual or legal entity subject to reclamation law, including this Act, has not paid the required amount for irrigation water delivered to a landholding pursuant to reclamation law, including this Act, he shall collect the amount of any underpayment with interest accruing from the date the required payment was due until paid. The interest rate shall be determined by the Secretary of the Treasury on the basis of the weighted average yield of all interest bearing marketable issues sold by the Treasury during the period of underpayment.".

(b) Revocable Trusts.—Section 214 of the Reclamation Reform Act of 1982 (Public Law 97-293) is amended by inserting "(a)" after "214" and by adding the following new subsection at the end thereof:

"(b) Lands placed in a revocable trust shall be attributable to the grantor if—

"(1) the trust is revocable at the discretion of the grantor and revocation results in the title to such lands reverting either directly or indirectly to the grantor; or

"(2) the trust is revoked or terminated by its terms upon the expiration of a specified period of time and the revocation or termination results in the title to such lands reverting either directly or indirectly to the grantor.".

Subtitle E—Panama Canal

SEC. 5401. REFERENCE TO THE PANAMA CANAL ACT OF 1979.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Panama Canal Act of 1979 (22 U.S.C. 3601 and following).

PART 1—PANAMA CANAL REAUTHORIZATION

SEC. 5411. OPERATING EXPENSES.

There is authorized to be appropriated from the Panama Canal Commission Fund to the Panama Canal Commission (hereafter in this part referred to as the "Commission") for the fiscal year beginning October 1, 1987, not to exceed $467,050,000, for necessary expenses of the Commission incurred under the Panama Canal Act of 1979 (22 U.S.C. 3601 and following), including expenses for—

(1) the hire of passenger motor vehicles and aircraft;

(2) the purchase of passenger motor vehicles as may be necessary for fiscal year 1988, the number and price of which shall not exceed the amount provided in appropriation Acts; except that large heavy-duty passenger sedans used to transport Commission employees across the Isthmus of Panama may be purchased for fiscal year 1988 without regard to price limitations set forth in applicable regulations of any department or agency of the United States;

(3) official receptions and representation expenses, except that not more than $43,000 may be made available for such expenses, of which (A) not more than $10,000 may be made available for such expenses of the Supervisory Board of the Commission, (B) not more than $5,000 may be made available for such expenses of the Secretary of the Commission, and (C) not more than $28,000 may be made available for such expenses of the Administrator of the Commission;

(4) the procurement of expert and consultant services as provided in section 3109 of title 5, United States Code;

(5) a residence for the Administrator of the Commission;

(6) uniforms, or allowances therefor, as authorized by section 5901 and 5902 of title 5, United States Code;

(7) disbursements by the Administrator of the Commission for employee recreation and community projects; and

(8) the operation of guide services.

SEC. 5412. CAPITAL OUTLAY.

Of any funds appropriated pursuant to section 5411, not more than $37,000,000 (which is authorized to remain available until expended) may be made available for the acquisition, construction, replacement and improvements of facilities, structures, and equipment required by the Commission.

SEC. 5413. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.

In addition to the amount authorized to be appropriated by section 5411, there are authorized to be appropriated to the Commission for the fiscal year 1988 such amounts as may be necessary for—

(1) increases in salary, pay, retirement, and other employee benefits provided by law;

(2) covering payments to Panama under paragraph 4(a) of Article XIII of the Panama Canal Treaty of 1977, as provided by section 1341(a) of the Panama Canal Act of 1979 (22 U.S.C. 3751(a)); and

(3) increased costs for fuel.

SEC. 5414. INSURANCE.

Section 1419 (22 U.S.C. 3779) is amended by inserting "or other unpredictable events" after "marine accidents".

SEC. 5415. AUTHORITY TO LEASE OFFICE SPACE.

Notwithstanding section 210 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490), the Commission is authorized to negotiate directly and enter into contracts for the lease of, and for improvements to, real property in the United States for use by the Commission as office space, on such terms as the Commission considers to be in the interest of the United States, and to make direct payments therefor.

SEC. 5416. COMPENSATION OF BOARD MEMBERS.

Section 1102(b) (22 U.S.C. 3612(b)) is amended by inserting before the period at the end thereof the following: "or, as authorized by the Chairman of the Board, while on [78] official Panama Canal Commission business".

SEC. 5417. SETTLEMENT OF CLAIMS.

(a) SETTLEMENT OF CLAIMS.—Section 1401(b) (22 U.S.C. 3761(b)) is amended to read as follows:

"(b) The Commission may pay not more than $50,000 on any claim described in subsection (a).".

(b) INJURIES TO VESSELS WITHOUT PILOTS.—Section 1411(b)(1) (22 U.S.C. 3771(b)(1)) is amended by striking out "adjust and pay" and all that follows through "$50,000" and inserting in lieu thereof "pay not more than $50,000 on the claim".

SEC. 5418. REPORT TO CONGRESS.

Out of the funds authorized to be appropriated by this part, the Commission shall prepare and submit to the Congress a report on—

(1) the condition of the Panama Canal and potential adverse effects on United States shipping and commerce;

(2) the effect on canal operations of the military forces under General Noriega; and

(3) the Commission's evaluation of the effect on canal operations if the Panamanian Government continues to withhold its consent to major factors in the United States Senate's ratification of the Panama Canal Treaties.

PART 2—PANAMA CANAL REVOLVING FUND

SEC. 5421. SHORT TITLE.

This part may be referred to as the "Panama Canal Revolving Fund Act".

SEC. 5422. ESTABLISHMENT OF REVOLVING FUND.

(a) ESTABLISHMENT.—Section 1302 (22 U.S.C. 3712) is amended by striking out subsections (a) through (d) and inserting in lieu thereof the following:

"SEC. 1302. (a)(1) There is established in the Treasury of the United States a revolving fund to be known as the 'Panama Canal Revolving Fund'. The Panama Canal Revolving Fund shall, subject to subsection (c), be available to the Commission to carry out the purposes, functions, and powers authorized by this Act, including for—

"(A) the hire of passenger motor vehicles and aircraft;

"(B) uniforms or allowances therefor, as authorized by sections 5901 and 5902 of title 5, United States Code;

"(C) official receptions and representation expenses of the Board, the Secretary of the Commission, and the Administrator;

"(D) the operation of guide services;

"(E) a residence for the Administrator;

"(F) disbursements by the Administrator for employee and community projects; and

"(G) the procurement of expert and consultant services as provided in section 3109 of title 5, United States Code.

"(2) On the effective date of the Panama Canal Revolving Fund Act—

"(A) the Panama Canal Commission Fund shall be terminated and the unappropriated balance, including undeposited receipts as of the close of business on the day before the effective date of the Panama Canal Revolving Fund Act, shall be transferred to the Panama Canal Revolving Fund;

"(B) the unexpended balance of appropriations to the Commission, as of the close of business on the day before the effective date of the Panama Canal Revolving Fund Act, shall be transferred to the Panama Canal Revolving Fund, and such amounts, including amounts appropriated for capital expenditures, shall remain available until expended;

"(C) the assets and liabilities recorded before such effective date under the 'Panama Canal Commission Fund' shall be recorded under the Panama Canal Revolving Fund; and

"(D) the Panama Canal Emergency Fund shall be terminated and the remaining balance shall be transferred to the Panama Canal Revolving Fund.

"(b) Upon completion of the transfers of funds under subsection (a)—

"(1) amounts attributable to interest on the investment of the United States in the Panama Canal which accrued before January 1, 1986, shall be transferred from the Panama Canal Revolving Fund to the general fund of the Treasury; and

"(2) such amounts as were appropriated to the Commission in the fiscal year which ended September 30, 1980, and for which the Commission has not reimbursed the general fund of the Treasury, shall be transferred to the general fund of the Treasury.

"(c)(1) There shall be deposited in the Panama Canal Revolving Fund, on a continuing basis, toll receipts and all other receipts of the Commission. Except as provided in section 1303 and subject to paragraph (2), no funds may be obligated or expended by the Commission in any fiscal year unless such obligation or expenditure has been specifically authorized by law.

"(2) No funds may be obligated or expended by the Commission in any fiscal year for administrative expenses except to the extent or in such amounts as are provided in appropriations Acts.

"(3) No funds may be authorized for the use of the Commission, or obligated or expended by the Commission in any fiscal year in excess of—

"(A) the amount of revenues deposited in the Panama Canal Revolving Fund during such fiscal year, plus

"(B) the amount of revenues deposited in the Panama Canal Revolving Fund before such fiscal year and remaining unexpended at the beginning of such fiscal year.

Not later than 30 days after the end of each fiscal year, the Secretary of the Treasury shall report to the Congress the amount of revenues deposited in the Panama Canal Revolving Fund during such fiscal year.

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[78] Copy read "an".

"(d) With the approval of the Secretary of the Treasury, the Commission may deposit amounts in the Panama Canal Revolving Fund in any Federal Reserve bank, any depository for public funds, or in such other places and in such manner as the Commission and the Secretary may agree.

"(e) The Committee on Appropriations of each House of Congress shall review the annual budget of the Commission, including operations and capital expenditures.".

(b) CONFORMING AMENDMENTS.—(1) The section heading for section 1302 is amended to read as follows:

"PANAMA CANAL REVOLVING FUND".

(2) The item relating to section 1302 in the table of contents of the Panama Canal Act of 1979 is amended to read as follows:

"1302. Panama Canal Revolving Fund.".

SEC. 5423. EMERGENCY AUTHORITY.

(a) GRANT OF AUTHORITY.—Section 1303 (22 U.S.C. 3713) is amended to read as follows:

"SEC. 1303. If authorizing legislation described in section 1302(c)(1) has not been enacted for a fiscal year, then the Commission may withdraw funds from the Panama Canal Revolving Fund in order to defray emergency expenses and to ensure the continuous, efficient, and safe operation of the Panama Canal, including expenses for capital projects. The authority of this section may not be used for administrative expenses. The authority of this section may be exercised only until authorizing legislation described in section 1302(c)(1) is enacted, or for a period of 24 months after the end of the fiscal year for which such authorizing legislation was last enacted, whichever occurs first. Within 60 days after the end of any calendar quarter in which expenditures are made under this section, the Commission shall report such expenditures to the appropriate committees of the Congress.".

(b) CONFORMING AMENDMENTS.—(1) The section heading for section 1303 is amended by striking out "FUND" and inserting in lieu thereof "AUTHORITY".

(2) The item relating to section 1303 in the table of contents of the Panama Canal Act of 1979 is amended by striking out "fund" and inserting in lieu thereof "authority".

SEC. 5424. BORROWING AUTHORITY.

(a) GRANT OF AUTHORITY.—Subchapter I of chapter 3 of title I (22 U.S.C. 3711 and following) is amended by adding at the end thereof the following new section:

"BORROWING AUTHORITY

"SEC. 1304. (a) The Panama Canal Commission may borrow from the Treasury, for any of the purposes of the Commission, not more than $100,000,000 outstanding at any time. For this purpose, the Commission may issue to the Secretary of the Treasury its notes or other obligations—

"(1) which shall have maturities (of not later than December 31, 1999) agreed upon by the Commission and the Secretary of the Treasury, and

"(2) which may be redeemable at the option of the Commission before maturity.

"(b) Amounts borrowed under this section shall not be available for payments to Panama under Article XIII of the Panama Canal Treaty of 1977.

"(c) Amounts borrowed under this section shall increase the investment of the United States in the Panama Canal, and repayment of such amounts shall decrease such investment.

"(d) The Commission shall report to the Congress and to the Office of Management and Budget on each exercise of borrowing authority under this section.".

(b) CONFORMING AMENDMENT.—The table of contents of the Panama Canal Act of 1979 is amended by inserting after the item relating to section 1303 the following:

"1304. Borrowing authority.".

SEC. 5425. CALCULATION OF INTEREST.

(a) CALCULATION OF INTEREST.—Section 1603 (22 U.S.C. 3793) is amended—

(1) in subsection (b)(1)(A), by striking out "appropriations to the Commission made on or after the effective date of this Act" and inserting in lieu thereof "the Panama Canal Revolving Fund,";

(2) in subsection (b)(2)(A), by striking out "covered into the Panama Canal Commission Fund pursuant to section 1302 of this Act" and inserting in lieu thereof "deposited in the Panama Canal Revolving Fund"; and

(3) by adding at the end thereof the following new subsection:

"(d) The Panama Canal Commission shall pay to the Treasury of the United States interest on the investment of the United States, as determined under this section. Such interest shall be deposited in the general fund of the Treasury.".

SEC. 5426. PAYMENTS TO THE REPUBLIC OF PANAMA.

The second sentence of section 1341(e) (22 U.S.C. 3751(e)) is amended—

(1) by striking out "and" before "(6)"; and

(2) by inserting before the period ", and (7) amounts programmed to meet working capital requirements".

SEC. 5427. BASIS OF TOLLS.

Section 1602(b) (22 U.S.C 3792(b)) is amended by inserting "working capital," after "depreciation,".

SEC. 5428. TECHNICAL AND CONFORMING AMENDMENTS.

(a) APPLIANCES FOR EMPLOYEES INJURED BEFORE SEPTEMBER 7, 1916.—Section 1246 (22 U.S.C. 3683) is amended by striking out "appropriated" and inserting in lieu thereof "available".

(b) DISASTER RELIEF.—Section 1343 (22 U.S.C. 3753) is amended by striking out "available funds appropriated" and inserting in lieu thereof "funds available".

(c) CONGRESSIONAL RESTRAINTS ON PROPERTY TRANSFERS AND TAX EXPENDITURES.—Section 1344(b)(4) (22 U.S.C. 3754(b)(4)) is amended—

(1) by striking out "appropriated to or" and inserting in lieu thereof "available"; and

(2) by striking out "Panama Canal Commission Fund" and inserting in lieu thereof "Panama Canal Revolving Fund".

(d) CIVIL SERVICE RETIREMENT AND DISABILITY FUND.—Section 8348(i)(2) of title 5, United States Code, is amended by striking out "The Secretary of the Treasury shall pay to the Fund from appropriations" and inserting in lieu thereof "The Panama Canal Commission shall pay to the Fund from funds available to it".

(e) CANAL ZONE GOVERNMENT FUNDS.—Section 1301 (22 U.S.C. 3711) is amended—

(1) by amending the second sentence to read as follows: "The Commission may, to the extent of funds available to it, pay claims or make payments chargeable to such accounts, upon proper audit of such claims or payments."; and

(2) by striking out the third sentence.

SEC. 5429. EFFECTIVE DATE.

This part and the amendments made by this part take effect on January 1, 1988.

Subtitle F—Abandoned Mine Funds in Wyoming

SEC. 5501. ALLOCATION OF ABANDONED MINE RECLAMATION FUNDS IN WYOMING.

Notwithstanding any other provision of law, the State of Wyoming may, subject to a plan approved by the Governor, expend not more than $2,000,000 from its allocation of fiscal year 1987 appropriated funds under section 402(g) of Public Law 95-87 for direct assistance to citizens evacuated from their homes in the Rawhide and Horizon Subdivisions in Campbell County, Wyoming, due to hazards from methane and hydrogen sulfide gases.

Subtitle G—Nuclear Regulatory Commission User Fees

SEC. 5601. USER FEES.

Section 7601(b)(1)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272; 100 Stat. 147) is amended by inserting "; except that for fiscal years 1988 and 1989, such percentage shall be increased an additional 6 percent of such costs plus all other assessments made by the Nuclear Regulatory Commission pursuant to House Joint Resolution 395, 100th Congress, 1st Session, as enacted; but in no event shall such percentage be less than a total of 45 percent of such costs in each such fiscal year" after "with respect to such fiscal year".

TITLE VI—CIVIL SERVICE AND POSTAL SERVICE PROGRAMS

SEC. 6001. PARTIAL DEFERRED PAYMENT OF LUMP-SUM CREDIT FOR CERTAIN INDIVIDUALS ELECTING ALTERNATIVE FORMS OF ANNUITIES.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (c), any lump-sum credit payable to an employee or Member pursuant to the election of an alternative form of annuity by such employee or Member under section 8343a or section 8420a of title 5, United States Code, shall be paid in accordance with the schedule under subsection (b) (instead of the schedule which would otherwise apply), if the commencement date of the annuity payable to such employee or Member occurs after January 3, 1988, and before October 1, 1989.

(b) SCHEDULE OF PAYMENTS.—The schedule of payment of any lump-sum credit subject to this section is as follows:

(1) 60 percent of the lump-sum credit shall be payable on the date on which, but for the enactment of this section, the full amount of the lump-sum credit would otherwise be payable.

(2) The remainder of the lump-sum credit shall be payable on the date which occurs 12 months after the date described in paragraph (1).

An amount payable in accordance with paragraph (2) shall be payable with interest, computed using the rate under section 8334(e)(3) of title 5, United States Code.

(c) EXCEPTIONS.—The Office of Personnel Management shall prescribe regulations under which this section shall not apply—

(1) in the case of any individual who is separated from Government service involuntarily, other than for cause on charges of misconduct or delinquency; and

(2) in the case of any individual as to whom the application of this section would be against equity and good conscience, due to a life-threatening affliction or other critical medical condition affecting such individual.

(d) ANNUITY BENEFITS NOT AFFECTED.—Nothing in this section shall affect the commencement date, the amount, or any other aspect of any annuity benefits payable under section 8343a or section 8420a of title 5, United States Code.

(e) DEFINITIONS.—For purposes of this section, the terms "lump-sum credit", "employee", and "Member" each has the meaning given such term by section 8331 or section 8401 of title 5, United States Code, as appropriate.

SEC. 6002. CONTRIBUTIONS BY THE UNITED STATES POSTAL SERVICE TO THE CIVIL SERVICE RETIREMENT AND DISABILITY FUND.

(a) ESTABLISHMENT OF POSTAL SERVICE ESCROW FUND.—There is established as a separate account in the United States Treasury, the "Postal Service Escrow Fund". Such Fund shall—

(1) have such amounts described under subsection (b)(2) deposited no later than October 31, 1988;

(2) not be available for expenditures of any amounts therein during the existence of such Fund; and

(3) cease to exist on October 1, 1989, and on such date all amounts deposited in such Fund under subsection (b)(2) shall be deposited in the Postal Service Fund established under section 2003 of title 39, United States Code.

(b) DEPOSIT OF CERTAIN SAVINGS IN CERTAIN FUNDS.—

(1) FISCAL YEAR 1988.—From all funds available to the United States Postal Service in fiscal year 1988, the Postal Service shall deposit into the Civil Service Retirement and Disability Fund established under section 8348 of title 5, United States Code, an amount of $350,000,000 in fiscal year 1988, in addition to any amount deposited pursuant to subsection (h) of such section.

(2) FISCAL YEAR 1989.—From all funds available to the United States Postal Service in fiscal year 1989, the Postal Service shall deposit into the Postal Service Escrow Fund an amount of $465,000,000 no later than October 31, 1988.

(c) CAPITAL LIMITATIONS FOR FISCAL YEARS 1988 AND 1989.—

(1) The United States Postal Service may not make any commitment or obligation to expend any monies deposited in the Postal Service Fund established under section 2003 of title 39, United States Code, for the capital investment program—

(A) in excess of $625,000,000 in fiscal year 1988; and

(B) in excess of $1,995,000,000 in fiscal year 1989.

(2) CAPITAL INVESTMENT PROGRAMS.—For the purposes of paragraph (1) the term "capital investment program" shall include all investments in long-term assets and capital investment expenditures (including direct and indirect costs associated with such investments and expenditures, such as obligations through contracts).

SEC. 6003. CONTRIBUTIONS BY THE UNITED STATES POSTAL SERVICE TO THE EMPLOYEES HEALTH BENEFITS FUND.

(a) CONTRIBUTIONS FOR CERTAIN ANNUITANTS OF THE UNITED STATES POSTAL SERVICE.—As partial payment to the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, for benefits of certain annuitants and survivor annuitants (no portion of the cost of which was paid by the Postal Service before the date of enactment of this section) the Postal Service shall pay into the Employee Health Benefits Fund $160,000,000 in fiscal year 1988, and $270,000,000 in fiscal year 1989 in addition to any amount deposited into such Fund pursuant to section 8906 of such title 5 in each such fiscal year.

(b) PAYMENT LIMITATIONS IN FISCAL YEARS 1988 AND 1989.—The partial payment required by subsection (a) of this section shall—

(1) be from all funds available to the United States Postal Service in each such fiscal year;

(2) be from funds representing savings to the United States Postal Service resulting from savings from the operating budget of the United States Postal Service in each such fiscal year; and

(3) be paid into such Fund in each such fiscal year, without—

(A) increasing borrowing under section 2005 of title 39, United States Code;

(B) using any budgetary resources other than budgetary resources derived from the operating budget of the United States Postal Service; or

(C) increasing postal rates under chapter 36 of title 39, United States Code,

for the purposes of financing such payment.

(c) IMPLEMENTATION PLANS, PROGRESS REPORTS, AND COMPLIANCE FOR FISCAL YEARS 1988 AND 1989.—

(1) IMPLEMENTATION.—No later than March 1, 1988 for fiscal year 1988, and October 1, 1988 for fiscal year 1989, the United States Postal Service shall—

(A) formulate an implementation plan specifically enumerating the methods by which the Postal Service shall make the payments required under subsection (b) and fulfill the conditions required under paragraphs (1), (2), and (3) of such subsection; and

(B) submit such plan to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives.

(2) INTERIM REPORT.—No later than July 15, 1988 for fiscal year 1988, and March 1, 1989 for fiscal year 1989, the United States Postal Service shall submit an interim report to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives on the status of meeting the guidelines and goals of the plans submitted under paragraph (1)(B), and any adjustments necessary to meet the requirements under the provisions of subsection (b) of this section for each such fiscal year.

(3) PRELIMINARY AUDIT AND REPORT BY THE GENERAL ACCOUNTING OFFICE.—No later than September 1, 1988 for fiscal year 1988, and September 1, 1989 for fiscal year 1989, the General Accounting Office shall—

(A) conduct an audit of the plans and adjustments to the plans submitted by the United States Postal Service under paragraphs (1) and (2) of this subsection and determine the extent of compliance of the Postal Service with such plans and the requirements of subsection (b) of this section; and

(B) submit a report of such audit and determinations to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives.

[80] (4) DETERMINATION OF COMPLIANCE.—

On October 31, 1988 for fiscal year 1988, and on October 31, 1989 for fiscal year 1989, the General Accounting Office shall—

(A) make a final audit and determination of whether the United States Postal Service is in compliance with the requirements of subsection (b) of this section;

(B) submit a final report for each such fiscal year on such compliance to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives; and

(C) include in each final report submitted under subparagraph (B), such recommendations (if applicable) for any actions to enforce compliance with the provisions of subsection (b) of this section.

(5) COMPLIANCE IN FISCAL YEARS 1988 AND 1989.—Based on the determination of compliance required by subsection (c)(4) of this section for fiscal years 1988 and 1989, the Congress shall (after receiving the recommendation of the General Accounting Office under paragraph (4)(C)) determine appropriate action, if necessary, to enforce compliance with any payment limitation under subsection (b) of this section.

SEC. 6004. TECHNICAL CLARIFICATION.

For purposes of section 202 of the Balanced Budget and Emergency Deficit Reaffirmation Act of 1987, the amendments made by this title shall be considered an exception under subsection (b) of such section.

TITLE VII—VETERANS' PROGRAMS

SEC. 7001. SALES OF VENDEE LOANS WITH OR WITHOUT RECOURSE.

Section 1816(d) of title 38, United States Code, is amended—

(1) by redesignating paragraph (3) as subparagraph (C);

(2) by inserting after paragraph (2) the following:

"(3)(A) Before October 1, 1989, notes evidencing such loans may be sold with or without recourse as determined by the Administrator, with respect to specific proposed sales of such notes, to be in the best interest of the effective functioning of the loan guaranty program under this chapter, taking into consideration the comparative cost-effectiveness of each type of sale. In comparing the cost-effectiveness of conducting a proposed sale of such notes with recourse or without recourse, the Administrator shall, based on available estimates regarding likely market conditions and other pertinent factors as of the time of the sale, determine and consider—

"(i) the average amount by which the selling price for such notes sold with recourse would exceed the selling price for such notes if sold without recourse; and

"(ii) the total cost of selling such notes with recourse, including—

"(I) any estimated discount or premium;

"(II) the projected cost, based on Veterans' Administration experience with the sale of notes evidencing vendee loans with recourse and the quality of the loans evidenced by the notes to be sold, of repurchasing defaulted notes;

"(III) the total servicing cost with respect to repurchased notes, including the costs of taxes and insurance, collecting monthly payments, servicing delinquent accounts, and terminating insoluble loans;

"(IV) the costs of managing and disposing of properties acquired as the result of defaults on such notes;

"(V) the loss or gain on resale of such properties; and

"(VI) any other cost determined appropriate by the Administrator.

"(B) Not later than 60 days after making any sale described in subparagraph (A) of this paragraph occurring before October 1, 1989, the Administrator shall submit to the

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[80] Paragraphs "(4)", "(A)", "(B)", and "(C)", indented wrong.

Committees on Veterans' Affairs of the Senate and the House of Representatives a report describing—

"(i) the application of the provisions of such subparagraph, and each of the determinations required thereunder, in the case of such sale;

"(ii) the results of the sale in comparison to the anticipated results; and

"(iii) actions taken by the Administrator to facilitate the marketing of the notes involved."; and

(3) in subparagraph (C), as redesignated by clause (1) of this section—

(A) by striking out "The Administrator may sell any note securing" and inserting in lieu thereof "Beginning on October 1, 1989, the Administrator may sell any note evidencing"; and

(B) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively.

SEC. 7002. LOAN FEE EXTENSION.

Section 1829(c) of title 38, United States Code, is amended by striking out "1987" and inserting in lieu thereof "1989".

SEC. 7003. CASH SALES OF PROPERTIES ACQUIRED THROUGH FORECLOSURES.

(a) IN GENERAL.—Section 1816(d)(1) of title 38, United States Code, is amended by striking out "not more than 75 percent, nor less than 60 percent," in the first sentence and inserting in lieu thereof "not more than 65 percent, nor less than 50 percent,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of October 1, 1987.

SEC. 7004. STATUTORY CONSTRUCTION.

(a) STATUTORY CONSTRUCTION FOR PURPOSES OF THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL REAFFIRMATION ACT OF 1987.—For the purposes of subsections (a) and (b) of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), the amendments made by section 7003 achieve savings made possible by changes in program requirements.

(b) RULE FOR CONSTRUCTION OF DUPLICATE PROVISIONS.—In applying the provisions of this title and the provisions of the Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987 which make the same amendments as the provisions of this title—

(1) the identical provisions of title 38, United States Code, amended by the provisions of this title and the provisions of such Act shall be treated as having been amended only once; and

(2) in executing to title 38, United States Code, the amendments made by this title and by such Act, such amendments shall be executed so as to appear only once in the law.

TITLE VIII—BUDGET POLICY AND FISCAL PROCEDURES

SEC. 8001. DEFENSE AND DOMESTIC DISCRETIONARY SPENDING LIMITS.

(a) AGGREGATE ALLOCATIONS FOR DEFENSE.—The levels of budget authority and budget outlays for fiscal years 1988 and 1989 for major functional category 050 (National Defense) shall be:

(1) Fiscal year 1988:

(A) New budget authority, $292,000,000,000.

(B) Outlays, $285,400,000,000.

(2) Fiscal year 1989:

(A) New budget authority, $299,500,000,000.

(B) Outlays, $294,000,000,000.

(b) AGGREGATE ALLOCATIONS FOR DOMESTIC DISCRETIONARY SPENDING.—The levels of total budget authority and total budget outlays for fiscal years 1988 and 1989 for all discretionary spending in categories other than major functional category 050 (National Defense) shall be:

(1) Fiscal year 1988:

(A) New budget authority, $162,900,000,000.

(B) Outlays, $176,800,000,000.

(2) Fiscal year 1989:

(A) New budget authority, $166,200,000,000.

(B) Outlays, $185,300,000,000.

(c) FISCAL YEAR 1989 BUDGET RESOLUTION.—

(1) HOUSE OF REPRESENTATIVES.—The Committee on the Budget of the House of Representatives [81] shall report a concurrent resolution on the budget for fiscal year 1989, pursuant to section 301 of the Congressional Budget Act of 1974, in accordance with the appropriate levels of budget authority and budget outlays for major functional category 050 (National Defense) and for all discretionary spending in categories other than major functional category 050 as set forth in subsections (a)(2) and (b)(2).

(2) POINT OF ORDER IN THE SENATE ON AGGREGATE ALLOCATIONS FOR DEFENSE AND DOMESTIC DISCRETIONARY SPENDING FOR FISCAL YEAR 1989.—

(A) Except as provided in subparagraph (E), it shall not be in order in the Senate to consider any concurrent resolution on the budget for fiscal year 1989 (including a conference report thereon), or any amendment to such a resolution, that would fail to be consistent with the allocations in subsections (a) and (b) for such fiscal year.

(B) Subparagraph (A) may be waived or suspended by a vote of three-fifths of the Members of the Senate, duly chosen and sworn.

(C) If the ruling of the presiding officer of the Senate sustains a point of order raised pursuant to subparagraph (A), a vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of such ruling. Debate on any such appeal shall be limited to two hours, to be equally divided between, and controlled by, the Majority and Minority Leaders, or their designees.

(D) For purposes of this paragraph, the levels of new budget authority, spending authority as described in section 401(c)(2), outlays, and new credit authority for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(E) This paragraph shall not apply if a declaration of war by the Congress is in effect or if a resolution pursuant to section 254(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 has been enacted.

(d) ALLOCATIONS PURSUANT TO FISCAL YEAR 1989 BUDGET RESOLUTION.—(1) The allocations required to be included in the joint explanatory statement accompanying the conference report on the concurrent resolution on the budget for fiscal year 1989, pursuant to section 302(a) of the Congressional Budget Act of 1974, shall be based upon the levels set forth in subsections (a)(2) and (b)(2) of this section.

(2) The Committee on Appropriations of each House shall, after consulting with the Committee on Appropriations of the other House, make the subdivisions required under section 302(b)(1) of the Congressional Budget Act of 1974 consistent with the allocations in subsections (a)(2) and (b)(2) for fiscal year 1989.

SEC. 8002. RESTORATION OF FUNDS SEQUESTERED.

(a) ORDER RESCINDED.—Upon the enactment of this Act and House Joint Resolution 395, 100th Congress,[82] 1st session, the orders issued by the President on October 20, 1987, and November 20, 1987, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 are hereby rescinded.

(b) AMOUNTS RESTORED.—Except as otherwise provided in sections 4001, 4041(b), and 4061, any action taken to implement the orders referred to in subsection (a) shall be reversed, and any sequesterable resource that has been reduced or sequestered by such orders is hereby restored, revived, or released and shall be available to the same extent and for the same purpose as if the orders had not been issued.

SEC. 8003. TECHNICAL AMENDMENTS TO THE CONGRESSIONAL BUDGET ACT OF 1974.

(a) REFERENCES IN SECTION.—Except as otherwise specifically provided, whenever in this section an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Congressional Budget and Impoundment Control Act of 1974.

(b) REVISION OF TABLE OF CONTENTS.—Section 1(b) is amended by striking "Disapproval of proposed deferrals" and inserting "Proposed deferrals".

(c) REDESIGNATION OF SUBPARAGRAPH HEADINGS.—Section 3(7) (as amended by section 106(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by—

(1) striking section 3(7)(C);

(2) redesignating section 3(7)(D) as 3(7)(C);

(3) redesignating section 3(7)(E) as 3(7)(D);

(4) redesignating section 3(7)(F) as 3(7)(E);

(5) redesignating section 3(7)(G) as 3(7)(F);

(6) redesignating section 3(7)(H) as 3(7)(G); and

(7) redesignating section 3(7)(I) as 3(7)(H).

(d) GRAMMATICAL CLARIFICATION OF SECTION 305(c).—Section 305(c) (as amended by section 209 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by inserting a comma after "therewith".

(e) SUBSTITUTION OF "PROPOSED" FOR "MADE" WITH REGARD TO AMENDMENTS IN COMMITTEE.—Section 252(c)(2)(F)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by section 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by striking "made" and inserting "proposed".

(f) CLARIFICATION OF BUDGET BASELINE.—Section 251(a)(6)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by section 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by striking out "and" before "contract authority" and by inserting before the semicolon at the end thereof the following: ", and that authority to provide insurance through the Federal Housing Administration Fund is continued".

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[81] Copy read "Representative".

[82] Copy read "Congres".

SEC. 8004. PREPARATION OF PRINTED ENROLLED BILL.

(a) PREPARATION OF PRINTED ENROLLMENT.—(1) Upon the enactment of this Act enrolled as a hand enrollment, the Clerk of the House of Representatives shall prepare a printed enrollment of this Act as in the case of a bill or joint resolution to which sections 106 and 107 of title 1, United States Code, apply. Such enrollment shall be a correct enrollment of this Act as enrolled in the hand enrollment.

(2) A printed enrollment prepared pursuant to paragraph (1) may, in order to conform to customary style for printed laws, include corrections in spelling, punctuation, indentation, type face, and type size and other necessary stylistic corrections to the hand enrollment. Such a printed enrollment shall include notations (in the margins or as otherwise appropriate) of all such corrections.

(b) TRANSMITTAL TO PRESIDENT.—A printed enrollment prepared pursuant to subsection (a) shall be signed by the presiding officers of both Houses of Congress as a correct printing of the hand enrollment of this Act and shall be transmitted to the President.

(c) CERTIFICATION BY PRESIDENT; LEGAL EFFECT.—Upon certification by the President that a printed enrollment transmitted pursuant to subsection (b) is a correct printing of the hand enrollment of this Act, such printed enrollment shall be considered for all purposes as the original enrollment of this Act and as valid evidence of the enactment of this Act.

(d) ARCHIVES.—A printed enrollment certified by the President under subsection (c) shall be transmitted to the Archivist of the United States, who shall preserve it with the hand enrollment. In preparing this Act for publication in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall use the printed enrollment certified by the President under subsection (c) in lieu of the hand enrollment.

(e) HAND ENROLLMENT DEFINED.—As used in this section, the term "hand enrollment" means enrollment in a form other than the printed form required by sections 106 and 107 of title 1, United States Code, as authorized by the joint resolution entitled "Joint resolution authorizing the hand enrollment of the budget reconciliation bill and of the full-year continuing resolution for fiscal year 1988", approved December 1987 (H.J. Res. 426 of the 100th Congress).

SEC. 8005. ASSET SALES.

In the fiscal year 1989 budget process, Congress commits to pass legislation sufficient to achieve the budget summit agreement of $3,500,000,000 of asset sales in fiscal year 1989.

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Subtitle A—OASDI Provisions

PART 1—COVERAGE AND BENEFITS

SEC. 9001. COVERAGE OF INACTIVE DUTY MILITARY TRAINING.

(a) SOCIAL SECURITY ACT AMENDMENTS.—(1) Paragraph (1) of section 210(l) of the Social Security Act is amended to read as follows:

"(l)(1) Except as provided in paragraph (4), the term 'employment' shall, notwithstanding the provisions of subsection (a) of this section, include—

"(A) service performed after December 1956 by an individual as a member of a uniformed service on active duty, but such term shall not include any such service which is performed while on leave without pay, and

"(B) service performed after December 1987 by an individual as a member of a uniformed service on inactive duty training.".

(2) The second indented paragraph following subsection (s) in section 209 of such Act (relating to service in the uniformed services) is amended by striking "only his basic pay" and all that follows and inserting "only (1) his basic pay as described in chapter 3 and section 1009 of title 37, United States Code, in the case of an individual performing service to which subparagraph (A) of such section 210(l)(1) applies, or (2) his compensation for such service as determined under section 206(a) of title 37, United States Code, in the case of an individual performing service to which subparagraph (B) of such section 210(l)(1) applies.".

(b) FICA AMENDMENTS.—(1) Paragraph (1) of section 3121(m) of the Internal Revenue Code of 1986 (relating to inclusion of service in the uniformed services) is amended to read as follows:

"(1) INCLUSION OF SERVICE.—The term 'employment' shall, notwithstanding the provisions of subsection (b) of this section, include—

"(A) service performed by an individual as a member of a uniformed service on active duty, but such term shall not include any such service which is performed while on leave without pay, and

"(B) service performed by an individual as a member of a uniformed service on inactive duty training.".

(2) Paragraph (2) of section 3121(i) of such Code (relating to computation of wages for individuals performing service in the uniformed services) is amended by striking "only his basic pay" and all that follows and inserting "only (A) his basic pay as described in chapter 3 and section 1009 of title 37, United States Code, in the case of an individual performing service to which subparagraph (A) of such subsection (m)(1) applies, or (B) his compensation for such service as determined under section 206(a) of title 37, United States Code, in the case of an individual performing service to which subparagraph (B) of such subsection (m)(1) applies.".

(c) CONFORMING AMENDMENT.—Section 229(a) of the Social Security Act is amended by striking "section 210(l)" and inserting "210(l)(1)(A)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1987.

SEC. 9002. COVERAGE OF ALL CASH PAY OF AGRICULTURAL EMPLOYEES WHOSE EMPLOYERS SPEND $2,500 OR MORE A YEAR FOR AGRICULTURAL LABOR.

(a) SOCIAL SECURITY ACT AMENDMENT.—Paragraph (2) of section 209(h) of the Social Security Act is amended by striking clause (B) and inserting "(B) the employer's expenditures for agricultural labor in such year equal or exceed $2,500;".

(b) FICA AMENDMENT.—Subparagraph (B) of section 3121(a)(8) of the Internal Revenue Code of 1986 (relating to wages) is amended by striking clause (ii) and inserting "(ii) the employer's expenditures for agricultural labor in such year equal or exceed $2,500;".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration for agricultural labor paid after December 31, 1987.

SEC. 9003. COVERAGE OF THE EMPLOYER COST OF GROUP-TERM LIFE INSURANCE.

(a) COVERAGE UNDER OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM.—

(1) SOCIAL SECURITY ACT AMENDMENT.—Clause (3) of section 209(b) of the Social Security Act is amended by striking "death" and inserting "death, except that this subsection does not apply to a payment for group-term life insurance to the extent that such payment is includible in the gross income of the employee under the Internal Revenue Code of 1986".

(2) FICA AMENDMENT.—Subparagraph (C) of section 3121(a)(2) of the Internal Revenue Code of 1986 (relating to wages) is amended by striking "death" and inserting "death, except that this paragraph does not apply to a payment for group-term life insurance to the extent that such payment is includible in the gross income of the employee".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to group-term life insurance coverage in effect after December 31, 1987.

SEC. 9004. COVERAGE OF SERVICES PERFORMED BY ONE SPOUSE IN THE EMPLOY OF THE OTHER.

(a) SOCIAL SECURITY ACT AMENDMENTS.—

(1) IN GENERAL.—Subparagraph (A) of section 210(a)(3) of the Social Security Act is amended by striking "performed by an individual in the employ of his spouse, and service".

(2) EXCEPTION FOR CERTAIN DOMESTIC SERVICE IN THE PRIVATE HOME OF A SPOUSE.—Paragraph (3) of section 210(a) of such Act is amended by striking so much of subparagraph (B) as precedes clause (i) and inserting the following:

"(B) Service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual in the employ of his spouse or son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service performed by an individual in the employ of his son or daughter if—".

(b) FICA AMENDMENTS.—

(1) IN GENERAL.—Subparagraph (A) of section 3121(b)(3) of the Internal Revenue Code of 1986 (relating to employment) is amended by striking "performed by an individual in the employ of his spouse, and service".

(2) EXCEPTION FOR CERTAIN DOMESTIC SERVICE IN THE PRIVATE HOME OF A SPOUSE.—Paragraph (3) of section 3121(b) of such Code (relating to employment) is amended by striking so much of subparagraph (B) as precedes clause (i) and inserting the following:

"(B) Service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual in the employ of his spouse or son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service per-

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[83] Copy read "family independence program.".

[84] Copy read "state.".

[85] Copy read "commission children.".

[86] Copy read "service".

formed by an individual in the employ of his son or daughter if—".

(c) Effective Date.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1987.

SEC. 9005. TREATMENT OF SERVICE PERFORMED BY AN INDIVIDUAL IN THE EMPLOY OF A PARENT.

(a) Social Security Act Amendments.—

(1) Age below which service for parent is excluded from covered employment reduced to age 18.—Subparagraph (A) of section 210(a)(3) of the Social Security Act (as amended by section 9004(a)(1) of this Act) is further amended by striking "twenty-one" and inserting "18".

(2) Exception for certain domestic service in the private home of parent.—Subparagraph (B) of section 210(a)(3) of such Act (as amended by section 9004(a)(2) of this Act) is further amended by inserting "under the age of 21 in the employ of his father or mother, or performed by an individual" after "individual" the first place it appears.

(b) FICA Amendments.—

(1) Age below which service for parent is excluded from covered employment reduced to age 18.—Subparagraph (A) of section 3121(b)(3) of the Internal Revenue Code of 1986 (as amended by section 9004(b)(1) of this Act) is further amended by striking "21" and inserting "18".

(2) Exception for certain domestic service in the private home of parent.—Subparagraph (B) of section 3121(b)(3) of such Code (as amended by section 9004(b)(2) of this Act) is further amended by inserting "under the age of 21 in the employ of his father or mother, or performed by an individual" after "individual" the first place it appears.

(c) Effective Date.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1987.

SEC. 9006. APPLICATION OF EMPLOYER TAXES TO EMPLOYEES' CASH TIPS.

(a) Application of Tax to Tips.—Section 3121(q) of the Internal Revenue Code of 1986 (relating to inclusion of tips for employee taxes) is amended—

(1) by striking "Employee Taxes" in the heading and inserting "Both Employee and Employer Taxes";

(2) by striking "other than for purposes of the taxes imposed by section 3111";

(3) by striking "remuneration for employment" and inserting "remuneration for such employment (and deemed to have been paid by the employer for purposes of subsections (a) and (b) of section 3111)"; and

(4) by inserting after "at the time received" the following: "; except that, in determining the employer's liability in connection with the taxes imposed by section 3111 with respect to such tips in any case where no statement including such tips was so furnished (or to the extent that the statement so furnished was inaccurate or incomplete), such remuneration shall be deemed for purposes of subtitle F to be paid on the date on which notice and demand for such taxes is made to the employer by the Secretary".

(b) Conforming Amendments.—(1) Subsections (a) and (b) of section 3111(a) of such Code (relating to rate of tax on employers) are each amended by striking "and (t)".

(2) Section 3121(t) of such Code (relating to special rule) is repealed.

(c) Effective Date.—The amendments made by this section shall apply with respect to tips received (and wages paid) on and after January 1, 1988.

SEC. 9007. APPLICABILITY OF GOVERNMENT PENSION OFFSET TO CERTAIN FEDERAL EMPLOYEES.

(a) Wife's Insurance Benefits.—Paragraph (4) of section 202(b) of the Social Security Act is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a wife's insurance benefit for each month (as determined after application of the provisions of subsections (q) and (k)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the wife (or divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day she was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the wife (or divorced wife) is eligible for benefits under this subsection and has made a valid application for such benefits.".

(b) Husband's Insurance Benefits.—Paragraph (2) of section 202(c) of such Act is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a husband's insurance benefit for each month (as determined after application of the provisions of subsections (q) and (k)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the husband (or divorced husband) for such month which is based upon his earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day he was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the husband (or divorced husband) is eligible for benefits under this subsection and has made a valid application for such benefits.".

(c) Widow's Insurance Benefits.—Paragraph (7) of section 202(e) of such Act is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a widow's insurance benefit for each month (as determined after application of the provisions of subsections (q) and (k), paragraph (2)(D), and paragraph (3)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the widow (or surviving divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day she was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the widow (or surviving divorced wife) is eligible for benefits under this subsection and has made a valid application for such benefits.".

(d) Widower's Insurance Benefits.—Paragraph (2) of section 202(f) of such Act is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a widower's insurance benefit for each month (as determined after application of the provisions of subsections (q) and (k), paragraph (3)(D), and paragraph (4)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the widower (or surviving divorced husband) for such month which is based upon his earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day he was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the widower (or surviving divorced husband) is eligible for benefits under this subsection and has made a valid application for such benefits.".

(e) Mother's and Father's Insurance Benefits.—Paragraph (4) of section 202(g) of such Act is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a mother's or father's insurance benefit for each month (as determined after application of the provisions of subsection (k)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the individual for such month which is based upon the individual's earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day the individual was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the individual is eligible for benefits under this subsection and has made a valid application for such benefits.".

(f) Effective Date.—The amendments made by this section shall apply only with respect to benefits for months after December 1987; except that nothing in such amendments shall affect any exemption (from the application of the pension offset provisions contained in subsection (b)(4), (c)(2), (e)(7), (f)(2), or (g)(4) of section 202 of the Social Security Act) which any individual may have by reason of subsection (g) or (h) of section 334 of the Social Security Amendments of 1977.

SEC. 9008. MODIFICATION OF AGREEMENT WITH IOWA TO PROVIDE COVERAGE FOR CERTAIN POLICEMEN AND FIREMEN.

(a) In General.—Notwithstanding subsection (d)(5)(A) of section 218 of the Social Security Act and the references thereto in subsections (d)(1) and (d)(3) of such section 218, the agreement with the State of Iowa heretofore entered into pursuant to such section 218 may, at any time prior to January 1, 1989, be modified pursuant to subsection (c)(4) of such section 218 so as to apply to services performed in policemen's or firemen's positions required to be covered by a retirement system pursuant to section 410.1 of the Iowa Code as in effect on July 1, 1953, if the State of Iowa has at any time prior to the date of the enactment of this Act paid to the Secretary of the Treasury, with respect to any of the services performed in such positions, the sums prescribed pursuant to subsection (e)(1) of such section 218 (as in effect on December 31, 1986, with respect to payments due with respect to wages paid on or before such date).

(b) Service To Be Covered.—Notwithstanding the provisions of subsection (e) of section 218 of the Social Security Act (as so redesignated by section 9002(c)(1) of the Omnibus Budget Reconciliation Act of 1986)), any modification in the agreement with the State of Iowa under subsection (a) shall be made effective with respect to—

(1) all services performed in any policemen's or firemen's position to which the modification relates on or after January 1, 1987, and

(2) all services performed in such a position before January 1, 1987, with respect to which the State of Iowa has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e)(1) of such section 218 (as in effect on December 31, 1986, with respect to payments due with respect to wages paid on or before such date) at the time or times established pursuant to such subsection (e)(1), if and to the extent that—

(A) no refund of the sums so paid has been obtained, or

(B) a refund of part or all of the sums so paid has been obtained but the State of Iowa repays to the Secretary of the Treasury the amount of such refund within 90 days after the date on which the modification is agreed to by the State and the Secretary of Health and Human Services.

SEC. 9009. CONTINUATION OF DISABILITY BENEFITS DURING APPEAL.

Subsection (g) of section 223 of the Social Security Act is amended—

(1) in paragraph (1)(iii), by striking "June 1988" and inserting "June 1989"; and

(2) in paragraph (3)(B), by striking "January 1, 1988" and inserting "January 1, 1989".

SEC. 9010. EXTENSION OF DISABILITY RE-ENTITLEMENT PERIOD FROM 15 MONTHS TO 36 MONTHS.

(a) Disability Insurance Benefits.—Paragraph (1) of section 223(a) of the Social Security Act is amended by striking "15 months" and inserting "36 months".

(b) Child's Insurance Benefits Based on Disability.—Clause (i) of section 202(d)(1)(G) of such Act is amended by striking "15 months" and inserting "36 months".

(c) Widow's Insurance Benefits Based on Disability.—Paragraph (1) of section 202(e) of such Act is amended, in subclause (II) of the last sentence, by striking "15 months" and inserting "36 months".

(d) Widower's Insurance Benefits Based on Disability.—Paragraph (1) of section 202(f) of such Act is amended, in subclause (II) of the last sentence, by striking "15 months" and inserting "36 months".

(e) Conforming Amendments.—

(1) Termination of Period of Disability.—Subparagraph (D) of section 216(i)(2) of such Act is amended by striking "15-month" and inserting "36-month".

(2) Termination of Benefits During Re-entitlement Period.—Subsection (e) of section 223 of such Act is amended by striking "15-month" and inserting "36-month".

(3) Special Rule for [87] Determination of Continued Medicare Eligibility Based on Entitlement to Disability Benefits.—Section 226(b) of such Act is amended by adding at the end the following new sentence: "In determining when an individual's entitlement or status terminates for purposes of the preceding sentence, the second sentence of section 223(a) shall be applied as though the term '36 months' (in such second sentence) read '15 months'.".

(f) Effective Date.—The amendments made by this section shall take effect January 1, 1988, and shall apply with respect to—

(1) individuals who are entitled to benefits which are payable under subsection (d)(1)(B)(ii), (d)(6)(A)(ii), (d)(6)(B), (e)(1)(B)(ii), or (f)(1)(B)(ii) of section 202 of the Social Security Act or subsection (a)(1) of section 223 of such Act for any month after December 1987, and

(2) individuals who are entitled to benefits which are payable under any provision referred to in paragraph (1) for any month before January 1988 and with respect to whom the 15-month period described in the applicable provision amended by this section has not elapsed as of January 1, 1988.

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[87] Copy read "For".

PART 2—OTHER SOCIAL SECURITY PROVISIONS

SEC. 9021. MORATORIUM ON REDUCTIONS IN ATTORNEYS' FEES; STUDIES OF ATTORNEYS' FEE PAYMENT SYSTEM.

(a) Moratorium.—(1) The provisions of the memorandum of the Associate Commissioner of Social Security dated March 31, 1987 (relating to revised delegations of authority for administrative law judges to determine fees of representatives) which amend sections 1-220 through 1-226 of the Office of Hearings and Appeals Staff Guides and Programs Digest (commonly referred to as the OHA Handbook), and Interim Circular No. 122 (relating to the determination authority regarding fees for representation of claimants), are hereby declared to be null and void. The preceding sentence shall apply with respect to all attorneys' fees finally authorized in connection with claims for benefits under title II of the Social Security Act on and after the date of the enactment of this Act, regardless of when the legal services involved were performed; and no reconsideration of any such fee finally authorized prior to that date shall be required.

(2) Until July 1, 1989, neither the Secretary nor the Social Security Administration may modify any of the rules and regulations relating to attorneys' fees in connection with claims for benefits under title II of the Social Security Act.

(b) Studies.—(1) The Secretary of Health and Human Services shall conduct a study of the attorneys' fee payment process under title II of the Social Security Act. Such study shall—

(A) assess the levels of reimbursement to attorneys, giving consideration to the contingent nature of most arrangements between claimants and their legal representatives, and propose alternative methods for establishing fees which take the nature of these arrangements into account, and

(B) suggest changes aimed at eliminating unnecessary delays in the approval and payment of attorneys' fees and thereby streamlining the payment process.

In conducting this study, the Secretary shall consult with individuals who represent the views of attorneys and with others who represent the views of claimants.

(2) At the same time, the Comptroller General shall conduct a study of the fee approval system, including at a minimum—

(A) a study of the impact of the current system on claimants and attorneys,

(B) an identification of obstacles to the timely payment of attorneys' fees under present law, and

(C) an assessment of the effect, if any, which the reduced limit on attorneys' fees in effect immediately prior to the enactment of this Act has had on access to legal representation by applicants for disability insurance benefits.

(3) The studies required by paragraphs (1) and (2), along with any recommendations resulting therefrom, shall be submitted to the Congress no later than July 1, 1988.

SEC. 9022. CORPORATE DIRECTORS.

(a) Social Security Act Amendment.—Section 211(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"Any income of an individual which results from or is attributable to the performance of services by such individual as a director of a corporation during any taxable year shall be deemed to have been derived (and received) by such individual in that year, at the time the services were performed, regardless of when the income is actually paid to or received by such individual (unless it was actually paid and received prior to that year).".

(b) SECA Amendment.—Section 1402(a) of the Internal Revenue Code of 1986 (relating to definition of net earnings from self-employment) is amended by adding at the end thereof the following new paragraph:

"Any income of an individual which results from or is attributable to the performance of services by such individual as a director of a corporation during any taxable year shall be deemed to have been derived (and received) by such individual in that year, at the time the services were performed, regardless of when the income is actually paid to or received by such individual (unless it was actually paid and received prior to that year).".

(c) Effective Date.—The amendments made by this section shall apply with respect to services performed in taxable years beginning on or after January 1, 1988.

SEC. 9023. TECHNICAL CORRECTIONS.

(a) The heading of section 210(p) of the Social Security Act is amended to read as follows:

"Medicare Qualified Government Employment".

(b)(1) Section 211(a)(7) of such Act is amended—

(A) by inserting "and" before "section 911"; and

(B) by striking "and section 931 (relating to income from sources within possessions of the United States) of the Internal Revenue Code of 1954".

(2) Section 211(a)(8) of such Act is amended to read as follows:

"(8) The exclusion from gross income provided by section 931 of the Internal Revenue Code of 1986 shall not apply;".

(c) Section 218(v) of such Act is amended—

(1) by striking "(v)" and inserting "(n)";

(2) by striking paragraph (3); and

(3) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(d) Section 3121(a)(5) of the Internal Revenue Code of 1986 is amended—

(1) by striking "; or" at the end of subparagraph (F) and inserting ", or"; and

(2) by striking the comma at the end of subparagraph (G) and inserting a semicolon.

PART 3—RAILROAD RETIREMENT PROGRAM

SEC. 9031. INCREASE IN RATES OF TIER 2 RAILROAD RETIREMENT TAX ON EMPLOYEES FOR 1988 AND THEREAFTER.

(a) In General.—Subsection (b) of section 3201 of the Internal Revenue Code of 1986 (relating to tier 2 employee tax) is amended to read as follows:

"(b) Tier 2 Tax.—In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to 4.90 percent of the compensation received during any calendar year by such employee for services rendered by such employee.".

(b) Effective Date.—The amendment made by this section shall apply with respect to compensation received after December 31, 1987.

SEC. 9032. INCREASE IN RATES OF TIER 2 RAILROAD RETIREMENT TAX ON EMPLOYERS FOR 1988 AND THEREAFTER.

(a) In General.—Subsection (b) of section 3221 of the Internal Revenue Code of 1986 (relating to tier 2 employer tax) is amended to read as follows:

"(b) Tier 2 Tax.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to 16.10 percent of the compensation paid during any calendar year by such employer for services rendered to such employer.".

(b) Effective Date.—The amendments made by this section shall apply with respect to compensation paid after December 31, 1987.

SEC. 9033. COMMISSION ON RAILROAD RETIREMENT REFORM.

(a) Commission on Railroad Retirement Reform.—There is established a commission to be known as the Commission on Railroad Retirement Reform (in this section referred to as the "Commission").

(b) Study.—The Commission shall conduct a comprehensive study of the issues pertaining to the long-term financing of the railroad retirement system (in this section referred to as the "system") and the system's short-term and long-term solvency. The Commission shall submit a report containing a detailed statement of its findings and conclusions together with recommendations to the Congress for revisions in, or alternatives to, the current system to assure the provision of retirement benefits to former, present, and future railroad employees on an actuarially sound basis. The study will take into account—

(1) the possibility of restructuring the financing of railroad retirement benefits through increases in the tier 2 tax rate, increases in the tier 2 tax wage base, the imposition of a tax on operating revenues, revisions in the investment policy of the railroad retirement pension fund, and establishing a privately funded and administered railroad industry pension plan;

(2) the economic outlook for the railroad industry, and the nature of the relationships between the railroad retirement system, levels of railroad employment and compensation, and the performance of the rail sector;

(3) the ability of the system under current law to pay benefits to current and future retirees and other beneficiaries;

(4) the financial relationship of the system to the railroad unemployment insurance system, the social security system, and the General Fund; and

(5) any other matters which the Commission considers would be necessary, appropriate, or useful to the Congress in developing legislation to reform the system.

(c) Membership of the Commission.—

(1) Number and appointment.—The Commission shall be composed of seven members, as follows:

(A) four individuals appointed by the President—

(i) one of whom shall be appointed on the basis of recommendations made by representatives of employers (as defined in section 1(a) of the Railroad Retirement Act of 1974) so as to provide representation on the Commission satisfactory to the largest number of employers concerned,

(ii) one of whom shall be appointed on the basis of recommendations made by representatives of employees (as defined in section 1(b) of the Railroad Retirement Act of 1974) so as to provide representation on the Commission satisfactory to the largest number of employees concerned,

(iii) one of whom shall be appointed on the basis of recommendations made by representatives of commuter railroads, and

(iv) one of whom shall be appointed from members of the public;

(B) one individual appointed by the Speaker of the House of Representatives from among members of the public;

(C) one individual appointed by the President pro tempore of the Senate from among members of the public; and

(D) one individual appointed by the Comptroller General from among members of the public with expertise in the fields of retirement systems and pension plans.

All public members of the Commission shall be appointed from among individuals who are not in the employment of and are not pecuniarily or otherwise interested in any employer (as so defined) or organization of employees (as so defined). In making appointments under this section, the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall ensure that the members of the Commission, collectively, possess special knowledge of retirement income policy, social insurance, private pensions, taxation, and the structure of the transportation industry. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(2) PAY.—Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

(3) QUORUM.—Five members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(4) CHAIRMAN.—The members of the Commission shall elect a Chairman from among the membership.

(d) STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.—

(1) STAFF.—Subject to such rules as may be prescribed by the Commission, the Chairman may appoint and fix the pay of such personnel as the Chairman considers appropriate.

(2) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(3) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(4) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the Railroad Retirement Board and any other Federal agency may detail, on a reimbursable basis, any of the personnel thereof to the Commission to assist the Commission in carrying out its duties under this section.

(e) ACCESS TO OFFICIAL DATA AND SERVICES.—

(1) OFFICIAL DATA.—The Commission may, as appropriate, secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman of the Commission, the head of such department or agency shall, as appropriate, furnish such information to the Commission.

(2) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(3) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(f) REPORT.—The Commission shall transmit a report to the President and to each House of the Congress not later than October 1, 1989. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its legislative recommendations.

(g) TERMINATION.—The Commission shall cease to exist 60 days after submitting its report pursuant to subsection (f).

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated the sum of $1,000,000 for purposes of this section, to remain available until expended but in no event beyond the date of termination provided in subsection (g).

SEC. 9034. TRANSFER TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended—

(1) by inserting "(other than amounts described in subparagraph (B))" after "amounts";

(2) by striking "1988" and inserting "1989"; and

(3) by striking the last sentence.

Subtitle B—Provisions Relating to Public Assistance and Unemployment Compensation

PART 1—AFDC AND SSI AMENDMENTS

SEC. 9101. PERMANENT EXTENSION OF DISREGARD OF NONPROFIT ORGANIZATIONS' IN-KIND ASSISTANCE TO SSI AND AFDC RECIPIENTS.

Effective as of October 1, 1987, section 2639(d) of the Deficit Reduction Act of 1984 is amended by striking "; but" and all that follows and inserting a period.

SEC. 9102. FRAUD CONTROL UNDER AFDC PROGRAM.

(a) IN GENERAL.—Part A of title IV of the Social Security Act is amended by adding at the end the following new section:

"FRAUD CONTROL

"SEC. 416. (a) Any State, in the administration of its State plan approved under section 402, may elect to establish and operate a fraud control program in accordance with this section.

"(b) Under any such program, if an individual who is a member of a family applying for or receiving aid under the State plan approved under section 402 is found by a Federal or State court or pursuant to an administrative hearing meeting requirements determined in regulations of the Secretary, on the basis of a plea of guilty or nolo contendere or otherwise, to have intentionally—

"(1) made a false or misleading statement or misrepresented, concealed, or withheld facts, or

"(2) committed any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity,

for the purpose of establishing or maintaining the family's eligibility for aid under such State plan or of increasing (or preventing a reduction in) the amount of such aid, then the needs of such individual shall not be taken into account in making the determination under section 402(a)(7) with respect to his or her family (A) for a period of 6 months upon the first occasion of any such offense, (B) for a period of 12 months upon the second occasion of any such offense, and (C) permanently upon the third or a subsequent occasion of any such offense.

"(c) The State agency involved shall proceed against any individual alleged to have committed an offense described in subsection (b) either by way of administrative hearing or by referring the matter to the appropriate authorities for civil or criminal action in a court of law. The State agency shall coordinate its actions under this section with any corresponding actions being taken under the food stamp program in any case where the factual issues involved arise from the same or related circumstances.

"(d) Any period for which sanctions are imposed under subsection (b) shall remain in effect, without possibility of administrative stay, unless and until the finding upon which the sanctions were imposed is subsequently reversed by a court of appropriate jurisdiction; but in no event shall the duration of the period for which such sanctions are imposed be subject to review.

"(e) The sanctions provided under subsection (b) shall be in addition to, and not in substitution for, any other sanctions which may be provided for by law with respect to the offenses involved.

"(f) Each State which has elected to establish and operate a fraud control program under this section must provide all applicants for aid to families with dependent children under its approved State plan, at the time of their application for such aid, with a written notice of the penalties for fraud which are provided for under this section.".

(b) STATE PLAN REQUIREMENT.—Section 402(a) of such Act is amended—

(1) by striking "and" after the semicolon at the end of paragraph (38);

(2) by striking the period at the end of paragraph (39) and inserting "; and"; and

(3) by inserting immediately after paragraph (39) the following new paragraph:

"(40) provide, if the State has elected to establish and operate a fraud control program under section 416, that the State will submit to the Secretary (with such revisions as may from time to time be necessary) a description of and budget for such program, and will operate such program in full compliance with that section.".

(c) FEDERAL MATCHING.—Section 403(a)(3) of such Act is amended—

(1) by striking "and" after the final comma in subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D);

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) 75 percent of so much of such expenditures as are for the costs of carrying out a fraud control program under section 416, including costs related to the investigation, prosecution, and administrative hearing of fraudulent cases and the making of any resultant collections, and"; and

(4) by striking "(C)" in the matter following subparagraph (D) (as redesignated by paragraph (2) of this subsection) and inserting "(D)".

[88] (d) EFFECTIVE DATE.—The amendments made by this section shall become effective April 1, 1988.

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[88] Copy read "EFFECTIVE DATE.—".

for contributions or gifts which are to be used exclusively for purposes referred to in section 170(c)(4).

"(c) Fundraising Solicitation.—For purposes of this section—

"(1) In general.—Except as provided in paragraph (2), the term 'fundraising solicitation' means any solicitation of contributions or gifts which is made—

"(A) in written or printed form,

"(B) by television or radio, or

"(C) by telephone.

"(2) Exception for certain letters or calls.—The term 'fundraising solicitation' shall not include any letter or telephone call if such letter or call is not part of a coordinated fundraising campaign soliciting more than 10 persons during the calendar year."

(b) Penalty.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6710. FAILURE TO DISCLOSE THAT CONTRIBUTIONS ARE NONDEDUCTIBLE.

"(a) Imposition of Penalty.—If there is a failure to meet the requirement of section 6113 with respect to a fundraising solicitation by (or on behalf of) an organization to which section 6113 applies, such organization shall pay a penalty of $1,000 for each day on which such a failure occurred. The maximum penalty imposed under this subsection on failures by any organization during any calendar year shall not exceed $10,000.

"(b) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.

"(c) $10,000 Limitation Not To Apply Where Intentional Disregard.—If any failure to which subsection (a) applies is due to intentional disregard of the requirement of section 6113—

"(1) the penalty under subsection (a) for the day on which such failure occurred shall be the greater of—

"(A) $1,000, or

"(B) 50 percent of the aggregate cost of the solicitations which occurred on such day and with respect to which there was such a failure,

"(2) the $10,000 limitation of subsection (a) shall not apply to any penalty under subsection (a) for the day on which such failure occurred, and

"(3) such penalty shall not be taken into account in applying such limitation to other penalties under subsection (a).

"(d) Day on Which Failure Occurs.—For purposes of this section, any failure to meet the requirement of section 6113 with respect to a solicitation—

"(1) by television or radio, shall be treated as occurring when the solicitation was telecast or broadcast,

"(2) by mail, shall be treated as occurring when the solicitation was mailed,

"(3) not by mail but in written or printed form, shall be treated as occurring when the solicitation was distributed, or

"(4) by telephone, shall be treated as occurring when the solicitation was made."

(c) Clerical Amendments.—

(1) The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6113 and inserting in lieu thereof the following:

"Sec. 6113. Disclosure of nondeductibility of contributions.

"Sec. 6114. Cross reference."

(2) The table of sections for part I of subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6710. Failure to disclose that contributions are nondeductible."

(d) Effective Date.—The amendments made by this section shall apply to solicitations after January 31, 1988.

SEC. 10702. PUBLIC INSPECTION OF ANNUAL RETURNS AND APPLICATIONS FOR TAX-EXEMPT STATUS.

(a) General Rule.—Section 6104 (relating to publicity of information required from certain tax-exempt organizations and certain trusts) is amended by adding at the end thereof the following new subsection:

"(e) Public Inspection of Certain Annual Returns and Applications for Exemption.—

"(1) Annual returns.—

"(A) In general.—During the 3-year period beginning on the filing date, a copy of the annual return filed under section 6033 (relating to returns by exempt organizations) by any organization to which this paragraph applies shall be made available by such organization for inspection during regular business hours by any individual at the principal office of the organization and, if such organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office.

"(B) Organizations to which paragraph applies.—This paragraph shall apply to any organization which—

"(i) is described in subsection (c) or (d) of section 501 and exempt from taxation under section 501(a), and

"(ii) is not a private foundation (within the meaning of section 509(a)).

"(C) Nondisclosure of contributors.—Subparagraph (A) shall not require the disclosure of the name or address of any contributor to the organization.

"(D) Filing date.—For purposes of subparagraph (A), the term 'filing date' means the last day prescribed for filing the return under section 6033 (determined with regard to any extension of time for filing).

"(2) Application for exemption.—

"(A) In general.—If—

"(i) an organization described in subsection (c) or (d) of section 501 is exempt from taxation under section 501(a), and

"(ii) such organization filed an application for recognition of exemption under section 501,

a copy of such application (together with a copy of any papers submitted in support of such application and any letter or other document issued by the Internal Revenue Service with respect to such application) shall be made available by the organization for inspection during regular business hours by any individual at the principal office of the organization and, if the organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office.

"(B) Nondisclosure of certain information.—Subparagraph (A) shall not require the disclosure of any information if the Secretary withheld such information from public inspection under subsection (a)(1)(D)."

(b) Effective Date.—The amendment made by subsection (a) shall apply—

(1) to returns for years beginning after December 31, 1986, and

(2) on and after the 30th day after the date of the enactment of this Act in the case of applications submitted to the Internal Revenue Service—

(A) after July 15, 1987, or

(B) on or before July 15, 1987, if the organization has a copy of the application on July 15, 1987.

SEC. 10703. ADDITIONAL INFORMATION REQUIRED ON ANNUAL RETURNS OF SECTION 501(c)(3) ORGANIZATIONS.

(a) General Rule.—Subsection (b) of section 6033 (relating to certain organizations described in section 501(c)(3)) [128] is amended by striking out "and" at the end of paragraph (7), by striking out the period at the end of paragraph (8) and inserting in lieu thereof a comma, and by inserting after paragraph (8) the following new paragraphs:

"(9) such other information with respect to direct or indirect transfers to, and other direct or indirect transactions and relationships with, other organizations described in section 501(c) (other than paragraph (3) thereof) or section 527 as the Secretary may require to prevent—

"(A) diversion of funds from the organization's exempt purpose, or

"(B) misallocation of revenues or expenses, and

"(10) such other information for purposes of carrying out the internal revenue laws as the Secretary may require."

(b) Effective Date.—The amendments made by subsection (a) shall apply to returns for years beginning after December 31, 1987.

SEC. 10704. PENALTIES.

(a) General Rule.—Subsection (c) of section 6652 (relating to returns by exempt organizations and by certain trusts) is amended to read as follows:

"(c) Returns by Exempt Organizations and by Certain Trusts.—

"(1) Annual returns under section 6033.—

"(A) Penalty on organization.—In the case of—

"(i) a failure to file a return required under section 6033 (relating to returns by exempt organizations) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), or

"(ii) a failure to include any of the information required to be shown on a return filed under section 6033 or to show the correct information,

there shall be paid by the exempt organization $10 for each day during which such failure continues. The maximum penalty under this subparagraph on failures with respect to any 1 return shall not exceed the lesser of $5,000 or 5 percent of the gross receipts of the organization for the year.

"(B) Managers.—

"(i) In general.—The Secretary may make a written demand on any organization subject to penalty under subparagraph (A) specifying therein a reasonable future date by which the return shall be filed (or the information furnished) for purposes of this subparagraph.

"(ii) Failure to comply with demand.—If any person fails to comply with any demand under clause (i) on or before the date specified in such demand, there shall be paid by the person failing to so comply $10 for each day after the expiration of the time specified in such demand during which such failure continues. The maximum penalty imposed under this subparagraph on all persons for failures with respect to any 1 return shall not exceed $5,000.

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[128] Copy read "503(c)(3))".

"(C) Public inspection of annual returns.—In the case of a failure to comply with the requirements of subsection (d) or (e)(1) of section 6104 (relating to public inspection of annual returns) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), there shall be paid by the person failing to meet such requirements $10 for each day during which such failure continues. The maximum penalty imposed under this subparagraph on all persons for failures with respect to any 1 return shall not exceed $5,000.

"(D) Public inspection of applications for exemption.—In the case of a failure to comply with the requirements of section 6104(e)(2) (relating to public inspection of applications for exemption) on the date and in the manner prescribed therefor, there shall be paid by the person failing to meet such requirements $10 for each day during which such failure continues.

"(2) Returns under section 6034 or 6043(b).—

"(A) Penalty on organization or trust.—In the case of a failure to file a return required under section 6034 (relating to returns by certain trusts) or section 6043(b) (relating to terminations, etc., of exempt organizations), on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), there shall be paid by the exempt organization or trust failing so to file $10 for each day during which such failure continues, but the total amount imposed under this subparagraph on any organization or trust for failure to file any 1 return shall not exceed $5,000.

"(B) Managers.—The Secretary may make written demand on an organization or trust failing to file under subparagraph (A) specifying therein a reasonable future date by which such filing shall be made for purposes of this subparagraph. If such filing is not made on or before such date, there shall be paid by the person failing so to file $10 for each day after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed under this subparagraph on all persons for failure to file any 1 return shall not exceed $5,000.

"(3) Reasonable cause exception.—No penalty shall be imposed under this subsection with respect to any failure if it is shown that such failure is due to reasonable cause.

"(4) Other special rules.—

"(A) Treatment as tax.—Any penalty imposed under this subsection shall be paid on notice and demand of the Secretary and in the same manner as tax.

"(B) Joint and several liability.—If more than 1 person is liable under this subsection for any penalty with respect to any failure, all such persons shall be jointly and severally liable with respect to such failure.

"(C) Person.—For purposes of this subsection, the term 'person' means any officer, director, trustee, employee, or other individual who is under a duty to perform the act in respect of which the violation occurs."

(b) Willful Failure To Permit Public Inspection.—

(1) In general.—Section 6685 (relating to assessable penalty with respect to private foundation annual returns) is amended to read as follows:

"SEC. 6685. ASSESSABLE PENALTY WITH RESPECT TO PUBLIC INSPECTION REQUIREMENTS FOR CERTAIN TAX-EXEMPT ORGANIZATIONS.

"In addition to the penalty imposed by section 7207 (relating to fraudulent returns, statements, or other documents), any person who is required to comply with the requirements of subsection (d) or (e) of section 6104 and who fails to so comply with respect to any return or application, if such failure is willful, shall pay a penalty of $1,000 with respect to each such return or application."

(2) Clerical amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by striking out the item relating to section 6685 and inserting in lieu thereof the following:

"Sec. 6685. Assessable penalty with respect to public inspection requirements for certain tax-exempt organizations."

(c) Furnishing Fraudulent Information.—Section 7207 (relating to fraudulent returns, statements, or other documents) is amended by striking out "subsection (d) of section 6104" and inserting in lieu thereof "subsection (d) or (e) of section 6104".

(d) Effective Date.—The amendments made by this section shall apply—

(1) to returns for years beginning after December 31, 1986, and

(2) on and after the date of the enactment of this Act in the case of applications submitted to the Internal Revenue Service—

(A) after July 15, 1987, or

(B) on or before July 15, 1987, if the organization has a copy of the application on July 15, 1987.

SEC. 10705. REQUIRED DISCLOSURE THAT CERTAIN INFORMATION OR SERVICE AVAILABLE FROM FEDERAL GOVERNMENT.

(a) General Rule.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6711. FAILURE BY TAX-EXEMPT ORGANIZATION TO DISCLOSE THAT CERTAIN INFORMATION OR SERVICE AVAILABLE FROM FEDERAL GOVERNMENT.

"(a) Imposition of Penalty.—If—

"(1) a tax-exempt organization offers to sell (or solicits money for) specific information or a routine service for any individual which could be readily obtained by such individual free of charge (or for a nominal charge) from an agency of the Federal Government,

"(2) the tax-exempt organization, when making such offer or solicitation, fails to make an express statement (in a conspicuous and easily recognizable format) that the information or service can be so obtained, and

"(3) such failure is due to intentional disregard of the requirements of this subsection,

such organization shall pay a penalty determined under subsection (b) for each day on which such a failure occurred.

"(b) Amount of Penalty.—The penalty under subsection (a) for any day on which a failure referred to in such subsection occurred shall be the greater of—

"(1) $1,000, or

"(2) 50 percent of the aggregate cost of the offers and solicitations referred to in subsection (a)(1) which occurred on such day and with respect to which there was such a failure.

"(c) Definitions.—For purposes of this section—

"(1) Tax-exempt organization.—The term 'tax-exempt organization' means any organization which—

"(A) is described in subsection (c) or (d) of section 501 and exempt from taxation under section 501(a), or

"(B) is a political organization (as defined in section 527(e)).

"(2) Day on which failure occurs.—The day on which any failure referred to in subsection (a) occurs shall be determined under rules similar to the rules of section 6710(d)."

(b) Clerical Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6711. Failure by tax-exempt organization to disclose that certain information or service available from Federal Government."

(c) Effective Date.—The amendments made by this section shall apply to offers and solicitations after January 31, 1988.

PART II—POLITICAL ACTIVITIES

SEC. 10711. CLARIFICATION OF PROHIBITED POLITICAL ACTIVITIES.

(a) General Rule.—The following provisions are each amended by striking out "on behalf of any candidate" and inserting in lieu thereof "on behalf of (or in opposition to) any candidate":

(1) Section 170(c)(2)(D).

(2) Section 501(c)(3).

(3) Paragraphs (2) and (3) of section 2055(a).

(4) Clauses (ii) and (iii) of section 2106(a)(2)(A).

(5) Section 2522(a)(2).

(6) Paragraphs (2) and (3) of section 2522(b).

(b) Status After Disqualification Because of Political Activities.—

(1) In general.—Paragraph (2) of section 504(a) (relating to status after organization ceases to qualify for exemption under section 501(c)(3) because of substantial lobbying) is amended to read as follows:

"(2) is not an organization described in section 501(c)(3)—

"(A) by reason of carrying on propaganda, or otherwise attempting, to influence legislation, or

"(B) by reason of participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for public office,".

(2) Clerical amendments.—

(A) The section heading for section 504 is amended by striking out "SUBSTANTIAL LOBBYING" and inserting in lieu thereof "SUBSTANTIAL LOBBYING OR BECAUSE OF POLITICAL ACTIVITIES".

(B) The table of sections for part I of subchapter F of chapter 1 is amended by striking out "substantial lobbying" in the item relating to section 504 and inserting in lieu thereof "substantial lobbying or because of political activities".

(c) Effective Date.—The amendments made by this section shall apply with respect to activities after the date of the enactment of this Act.

SEC. 10712. EXCISE TAXES ON POLITICAL EXPENDITURES BY SECTION 501(c)(3) ORGANIZATIONS.

(a) General Rule.—Chapter 42 (relating to excise taxes on private foundations and black lung benefit trusts) is amended by redesignating subchapter C as subchapter D and by inserting after subchapter B the following new subchapter:

"Subchapter C—Political Expenditures of Section 501(c)(3) Organizations

"Sec. 4955. Taxes on political expenditures of section 501(c)(3) organizations.

"SEC. 4955. TAXES ON POLITICAL EXPENDITURES OF SECTION 501(c)(3) ORGANIZATIONS.

"(a) Initial Taxes.—

"(1) On the organization.—There is hereby imposed on each political expenditure by a section 501(c)(3) organization a tax equal to 10 percent of the amount thereof. The tax imposed by this paragraph shall be paid by the organization.

"(2) On the management.—There is hereby imposed on the agreement of any organization manager to the making of any expenditure, knowing that it is a political expenditure, a tax equal to 2½ percent of the amount thereof, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any organization manager who agreed to the making of the expenditure.

"(b) Additional Taxes.—

"(1) On the organization.—In any case in which an initial tax is imposed by subsection (a)(1) on a political expenditure and such expenditure is not corrected within the taxable period, there is hereby imposed a tax equal to 100 percent of the amount of the expenditure. The tax imposed by this paragraph shall be paid by the organization.

"(2) On the management.—In any case in which an additional tax is imposed by paragraph (1), if an organization manager refused to agree to part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount of the political expenditure. The tax imposed by this paragraph shall be paid by any organization manager who refused to agree to part or all of the correction.

"(c) Special Rules.—For purposes of subsections (a) and (b)—

"(1) Joint and several liability.—If more than 1 person is liable under subsection (a)(2) or (b)(2) with respect to the making of a political expenditure, all such persons shall be jointly and severally liable under such subsection with respect to such expenditure.

"(2) Limit for management.—With respect to any 1 political expenditure, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $5,000, and the maximum amount of the tax imposed by subsection (b)(2) shall not exceed $10,000.

"(d) Political Expenditure.—For purposes of this section—

"(1) In general.—The term 'political expenditure' means any amount paid or incurred by a section 501(c)(3) organization in any participation in, or intervention in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

"(2) Certain other expenditures included.—In the case of an organization which is formed primarily for purposes of promoting the candidacy (or prospective candidacy) of an individual for public office (or which is effectively controlled by a candidate or prospective candidate and which is availed of primarily for such purposes), the term 'political expenditure' includes any of the following amounts paid or incurred by the organization:

"(A) Amounts paid or incurred to such individual for speeches or other services.

"(B) Travel expenses of such individual.

"(C) Expenses of conducting polls, surveys, or other studies, or preparing papers or other materials, for use by such individual.

"(D) Expenses of advertising, publicity, and fundraising for such individual.

"(E) Any other expense which has the primary effect of promoting public recognition, or otherwise primarily accruing to the benefit, of such individual.

"(e) Coordination With Section 4945.—If tax is imposed under this section with respect to any political expenditure, such expenditure shall not be treated as a taxable expenditure for purposes of section 4945.

"(f) Other Definitions.—For purposes of this section—

"(1) Section 501 (c) (3) organization.—The term 'section 501(c)(3) organization' means any organization which (without regard to any political expenditure) would be described in section 501(c)(3) and exempt from taxation under section 501(a).

"(2) Organization manager.—The term 'organization manager' means—

"(A) any officer, director, or trustee of the organization (or individual having powers or responsibilities similar to those of officers, directors, or trustees of the organization), and

"(B) with respect to any expenditure, any employee of the organization having authority or responsibility with respect to such expenditure.

"(3) Correction.—The terms 'correction' and 'correct' mean, with respect to any political expenditure, recovering part or all of the expenditure to the extent recovery is possible, establishment of safeguards to prevent future political expenditures, and where full recovery is not possible, such additional corrective action as is prescribed by the Secretary by regulations.

"(4) Taxable period.—The term 'taxable period' means, with respect to any political expenditure, the period beginning with the date on which the political expenditure occurs and ending on the earlier of—

"(A) the date of mailing a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a)(1), or

"(B) the date on which tax imposed by subsection (a)(1) is assessed."

(b) Abatement of First Tier Tax in Certain Cases.—

(1) Section 4962 (relating to abatement of private foundation first tier taxes in certain cases) is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b) Qualified First Tier Tax.—For purposes of this section, the term 'qualified first tier tax' means any first tier tax imposed by subchapter A or C of this chapter, except that such term shall not include the tax imposed by section 4941(a) (relating to initial tax on self-dealing).

"(c) Special Rule for Tax on Political Expenditures of Section 501(c)(3) Organizations.—In the case of the tax imposed by section 4955(a), subsection (a)(1) shall be applied by substituting 'not willful and flagrant' for 'due to reasonable cause and not to willful neglect'."

(2) Subsection (a) of section 4962 is amended by striking out "any private foundation first tier tax" and inserting in lieu thereof "any qualified first tier tax".

(3) Subsections (a), (b), and (c) of section 4963 are each amended by striking out "4952," and inserting in lieu thereof "4952, 4955,".

(4) The section heading for section 4962 is amended by striking out "PRIVATE FOUNDATION".

(5) The table of sections for subchapter D of chapter 42 (as redesignated by this section) is amended by striking out "private foundation" in the item relating to section 4962.

(c) Technical Amendments.—

(1) Subsection (e) of section 6213 is amended by striking out "4971" and inserting in lieu thereof "4955 (relating to taxes on political expenditures), 4971".

(2) Paragraph (1) of section 6501(l) is amended by striking out "plan, or trust" and inserting in lieu thereof "plan, trust, or other organization".

(3) Subsection (g) of section 6503 is amended by striking out "4951, 4952,".

(4) Section 6684 is amended by striking out "private foundations" and inserting in lieu thereof "private foundations and certain other tax-exempt organizations".

(5) Paragraphs (2) and (3) of section 7422(g) are each amended by striking out "4952," and inserting in lieu thereof "4952, 4955,".

(6) Subsection (b) of section 7454 is amended by striking out "the burden of proof" and inserting in lieu thereof "or whether an organization manager (as defined in section 4955(e)(2)) has 'knowingly' agreed to the making of a political expenditure (within the meaning of section 4955), the burden of proof".

(7) The chapter heading for chapter 42 is amended by striking out "BLACK LUNG BENEFIT TRUSTS" and inserting in lieu thereof "AND CERTAIN OTHER TAX-EXEMPT ORGANIZATIONS".

(8) The table of chapters for subtitle D of such Code is amended by striking out "black lung benefit trusts" in the item relating to chapter 42 and inserting in lieu thereof "and certain other tax-exempt organizations".

(9) The table of subchapters for chapter 42 is amended by striking out the item relating to subchapter C and inserting in lieu thereof the following:

"Subchapter C. Political expenditures of section 501(c)(3) organizations.

"Subchapter D. Abatement of first and second-tier taxes in certain cases."

(d) Effective Dates.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 10713. ADDITIONAL ENFORCEMENT AUTHORITY IN THE CASE OF FLAGRANT POLITICAL EXPENDITURES.

(a) Authority To Enjoin Flagrant Political Expenditures.—

(1) In general.—Subchapter A of chapter 76 (relating to civil actions by the United States) is amended by redesignating section 7409 as section 7410 and by inserting after section 7408 the following new section:

"SEC. 7409. ACTION TO ENJOIN FLAGRANT POLITICAL EXPENDITURES OF SECTION 501(c)(3) ORGANIZATIONS.

"(a) Authority To Seek Injunction.—

"(1) In general.—If the requirements of paragraph (2) are met, a civil action in the name of the United States may be commenced at the request of the Secretary to enjoin any section 501(c)(3) organization from further making political expenditures and for such other relief as may be appropriate to ensure that the assets of such organization are preserved for charitable or other purposes specified in section 501(c)(3). Any action under this section shall be brought in the district court of the United States for the district in which such organization has its principal place of business or for any district in which it has made political expenditures. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such organization.

"(2) Requirements.—An action may be brought under subsection (a) only if—

"(A) the Internal Revenue Service has notified the organization of its intention to seek an injunction under this section if the making of political expenditures does not immediately cease, and

"(B) the Commissioner of Internal Revenue has personally determined that—

"(i) such organization has flagrantly participated in, or intervened in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office, and

"(ii) injunctive relief is appropriate to prevent future political expenditures.

"(b) Adjudication and Decree.—In any action under subsection (a), if the court finds on the basis of clear and convincing evidence that—

"(1) such organization has flagrantly participated in, or intervened in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office, and

"(2) injunctive relief is appropriate to prevent future political expenditures,

the court may enjoin such organization from making political expenditures and may grant such other relief as may be appropriate to ensure that the assets of such organization are preserved for charitable or other purposes specified in section 501(c)(3).

"(c) Definitions.—For purposes of this section, the terms 'section 501(c)(3) organization' and 'political expenditures' have the respective meanings given to such terms by section 4955."

(2) Clerical amendment.—The table of sections for subchapter A of chapter 76 is amended by striking the item relating to section 7409 and inserting in lieu thereof the following:

"Sec. 7409. Action to enjoin flagrant political expenditures of section 501(c)(3) organizations.
"Sec. 7410. Cross references."

(b) Authority To Make Immediate Assessments.—

(1) In general.—Part I of subchapter A of chapter 70 (relating to termination of taxable year) is amended by adding at the end thereof the following new section:

"SEC. 6852. TERMINATION ASSESSMENTS IN CASE OF FLAGRANT POLITICAL EXPENDITURES OF SECTION 501(c)(3) ORGANIZATIONS.

"(a) Authority To Make.—

"(1) In general.—If the Secretary finds that—

"(A) a section 501(c)(3) organization has made political expenditures, and

"(B) such expenditures constitute a flagrant violation of the prohibition against making political expenditures,

the Secretary shall immediately make a determination of any income tax payable by such organization for the current or immediately preceding taxable year, or both, and shall immediately make a determination of any tax payable under section 4955 by such organization or any manager thereof with respect to political expenditures during the current or preceding taxable year, or both. Notwithstanding any other provision of law, any such tax shall become immediately due and payable. The Secretary shall immediately assess the amount of tax so determined (together with all interest, additional amounts, and additions to the tax provided by law) for the current year or the preceding taxable year, or both, and shall cause notice of such determination and assessment to be given to the organization or any manager thereof, as the case may be, together with a demand for immediate payment of such tax.

"(2) Computation of tax.—In the case of a current taxable year, the Secretary shall determine the taxes for the period beginning on the 1st day of such current taxable year and ending on the date of the determination under paragraph (1) as though such period were a taxable year of the organization, and shall take into account any prior determination made under this subsection with respect to such current taxable year.

"(3) Treatment of amounts collected.—Any amounts collected as a result of any assessments under this subsection shall, to the extent thereof, be treated as a payment of income tax for such taxable year, or tax under section 4955 with respect to the expenditure, as the case may be.

"(4) Section inapplicable to assessments after due date.—This section shall not authorize any assessment of tax for the preceding taxable year which is made after the due date of the organization's return for such taxable year (determined with regard to any extensions).

"(b) Definitions and Special Rules.—

"(1) Definitions.—For purposes of this section, the terms 'section 501(c)(3) organization', 'political expenditure', and 'organization manager' have the respective meanings given to such terms by section 4955.

"(2) Certain rules made applicable.—The provisions of sections 6851(b), 6861(f), and 6861(g) shall apply with respect to any assessment made under subsection (a), except that determinations under section 6861(g) shall be made on the basis of whether the requirements of subsection (a)(1)(B) of this section are met in lieu of whether jeopardy exists."

(2) Technical and conforming amendments.—

(A) Clause (v) of section 6091(b)(1)(B) is amended by striking out "section 6851(a)" and inserting in lieu thereof "section 6851(a) or 6852(a)".

(B) Paragraph (1) of section 6211(b) is amended by striking out "section 6851" and inserting in lieu thereof "section 6851 or 6852".

(C) Paragraph (1) of section 6212(c) is amended by striking out "section 6851" and inserting in lieu thereof "section 6851 or 6852".

(D) Subsection (a) of section 6213 is amended by striking out "section 6851 or section 6861" and inserting in lieu thereof "section 6851, 6852, or 6861".

(E) Section 6863 is amended—

(i) by striking out "6851" in subsection (a) and inserting in lieu thereof "6851, 6852,",

(ii) by striking out "6851 or 6861" in subsection (b)(3)(A) and inserting in lieu thereof "6851, 6852, or 6861", and

(iii) by striking out "6851(a) or 6861(a)" and inserting in lieu thereof "6851(a), 6852(a), or 6861(a)".

(F) Section 7429 is amended—

(i) by striking out "6851(a)," each place it appears and inserting in lieu thereof "6851(a), 6852(a),", and

(ii) by striking out "6851," each place it appears and inserting in lieu thereof "6851, 6852,".

(G) Paragraph (3) of section 7611(i) is amended by striking out "or section 6861" and inserting in lieu thereof "section 6852 relating to termination assessments in case of political expenditures of section 501(c)(3), or 6861".

(H) The table of sections for part I of subchapter 70 is amended by adding at the end thereof the following new item:

"Sec. 6852. Termination assessments in case of flagrant political expenditures of section 501(c)(3) organizations."

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 10714. TAX ON DISQUALIFYING LOBBYING EXPENDITURES.

(a) General Rule.—Chapter 41 (relating to public charities) is amended by adding at the end thereof the following new section:

"SEC. 4912. TAX ON DISQUALIFYING LOBBYING EXPENDITURES OF CERTAIN ORGANIZATIONS.

"(a) Tax on Organization.—If an organization to which this section applies is not described in section 501(c)(3) for any taxable year by reason of making lobbying expenditures, there is hereby imposed a tax on the lobbying expenditures of such organization for such taxable year equal to 5 percent of the amount of such expenditures. The tax imposed by this subsection shall be paid by the organization.

"(b) On Management.—If tax is imposed under subsection (a) on the lobbying expenditures of any organization, there is hereby imposed on the agreement of any organization manager to the making of any such expenditures, knowing that such expenditures are likely to result in the organization not being described in section 501(c)(3), a tax equal to 5 percent of the amount of such expenditures, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this subsection shall be paid by any manager who agreed to the making of the expenditures.

"(c) Organizations to Which Section Applies.—

"(1) In general.—Except as provided in paragraph (2), this section shall apply to any organization which was exempt (or was determined by the Secretary to be exempt) from taxation under section 501(a) by reason of being an organization described in section 501(c)(3).

"(2) Exceptions.—This section shall not apply to any organization—

"(A) to which an election under section 501(h) applies,

"(B) which is a disqualified organization (within the meaning of section 501(h)(5)), or

"(C) which is a private foundation.

"(d) Definitions.—

"(1) Lobbying expenditures.—The term 'lobbying expenditure' means any amount paid or incurred by the organization in carrying on propaganda, or otherwise attempting to influence legislation.

"(2) Organization manager.—The term 'organization manager' has the meaning given to such term by section 4955(f)(2).

"(3) Joint and several liability.—If more than 1 person is liable under subsection (b), all such persons shall be jointly and severally liable under such subsection."

(b) Burden of Proof.—Subsection (b) of section 7454 (as amended by this Act) is amended by striking out "the burden of proof" and inserting in lieu thereof ", or whether an organization manager (as defined in section 4912(d)(2)) has 'knowingly' agreed to the making of disqualifying lobbying expenditures within the meaning of section 4912(b), the burden of proof".

(c) Technical Amendment.—Paragraph (1) of section 6501(l) is amended by striking out "by chapter 42 (other than section 4940)" and inserting in lieu thereof "by section 4912, by chapter 42 (other than section 4940),".

(d) CLERICAL AMENDMENT.—The table of sections for chapter 41 is amended by adding at the end thereof the following new item:

"Sec. 4912. Tax on disqualifying lobbying expenditures of certain organizations."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

I certify this to be a correct printing of the hand enrollment of Public Law 100-203 pursuant to section 8004 of this Act.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution and a concurrent resolution of the House of the following titles:

H.J. Res. 436. Joint Resolution providing for the convening of the 2d session of the 100th Congress, and

H. Con. Res. 235. Concurrent resolution providing for the sine die adjournment of the 1st session of the 100th Congress.

The message also announced that pursuant to Public Law 99-624, the Chair on behalf of the President pro tempore, appoints Mr. HEFLIN, Mr. EXON, and Mr. DOLE, to the Eisenhower Centennial Commission.

The message also announced that pursuant to Public Law 81-754, as amended by Public Law 93-536, the Chair on behalf of the Vice President, appoints Mr. SARBANES to the National Historical Publications and Records Commission.

REPORT OF COMMITTEE TO INFORM THE PRESIDENT

The SPEAKER. The Chair will receive a report from the committee.

Mr. FOLEY. Mr. Speaker, your committee to inform the President is ready to report.

Mr. Speaker, the distinguished gentleman from Illinois [Mr. MICHEL] and I have, upon instructions and orders from the House, waited upon the President and informed him the House stands ready to adjourn and have asked the President if he has any further communications to submit to the House. The President has informed your committee that he has no further communications to make to the House of Representatives but extends to all Members of the House his thanks and best wishes for the holiday season.

ENROLLED BILLS AND A JOINT RESOLUTION SIGNED ON CALENDAR DAY DECEMBER 22, 1987

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1777. An act to authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the U.S. Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes;

H.R. 2945. An act to amend title 38, United States Code, to provide a 4.2-percent cost-of-living adjustment in the rates of Veterans' Administration disability compensation for veterans and dependency and indemnity compensation for survivors and an increase in the number of vocational-training evaluations of veteran-pensioners; and to amend the Veterans' Job Training Act, to extend the deadline for veterans to apply for participation;

H.R. 3545. An act to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1988; and

H.J. Res. 395. Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and joint resolutions of the House of the following titles:

H.R. 403. An act to establish the El Malpais National Monument and the El Malpais National Conservation Area in the State of New Mexico, to authorize the Masau Trail, and for other purposes;

H.R. 1777. An act to authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the U.S. Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes;

H.R. 2583. An act to authorize additional appropriations for the San Francisco Bay National Wildlife Refuge;

H.R. 2945. An act to amend title 38, United States Code, to provide a 4.2-percent cost-of-living adjustment in the rates of Veterans' Administration disability compensation for veterans and dependency and indemnity compensation for survivors and an increase in the number of vocational-training evaluations of veteran-pensioners; and to amend the Veterans' Job Training Act to extend the deadline for veterans to apply for participation;

H.R. 3545. An act to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1988;

H.J. Res. 376. Joint resolution to designate the Clarks Hill Dam, Reservoir, and Highway transversing the Dam on the Savannah River, Georgia and South Carolina, as the J. Strom Thurmond Dam, Reservoir, and Highway;

H.J. Res. 395. Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes; and

H.J. Res. 430. Joint resolution calling upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join spouses or fiances in the United States.

SINE DIE ADJOURNMENT

Mr. FOLEY. Mr. Speaker, in accordance with House Concurrent Resolution 235, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. In accordance with the provisions of House Concurrent Resolution 235, the Chair declares the 1st session of the 100th Congress adjourned sine die.

Thereupon (at 4 o'clock and 11 minutes p.m.), pursuant to House Concurrent Resolution 235, the House adjourned.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

[December 22, 1987 (legislative day, December 21), 1987]

2612. A letter from the Deputy Assistant Secretary (Logistics), Department of the Air Force, transmitting notice of the decision to convert to contractor performance the aircraft maintenance function at Columbus Air Force Base, MS, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216); to the Committee on Armed Services.

2613. A letter from the Deputy Assistant Secretary (Logistics), Department of the Air Force, transmitting notice of the decision to convert to contractor performance the equipment maintenance function at Sheppard Air Force Base, TX, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216); to the Committee on Armed Services.

2614. A letter from the Chairman, Board of Trustees, Harry S. Truman Scholarship Foundation, transmitting the annual report for 1986-87, pursuant to 20 U.S.C. 2012(b); to the Committee on Education and Labor.

2615. A letter from the Secretary of the Treasury, transmitting a report on the use of tax deductions for donations of conservation easements; to the Committee on Ways and Means.

2616. A letter from the Comptroller General of the United States, transmitting a report on the availability of brokers' services in the secondary market for Government securities (GAO/GGD-88-8), pursuant to Public Law 99-571, section 104(c) (100 Stat. 3222); jointly, to the Committees on Government Operations and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[December 22 (legislative day, December 21), 1987]

Mrs. BOGGS. Commission on the Bicentenary. Annual report for the year 1987 of the Commission on the Bicentenary of the U.S. House of Representatives (Rept. 100-499). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[December 22 (legislative day, December 21), 1987]

By Mr. LaFALCE:

H.R. 3833. A bill to amend the Federal Trade Commission Act to remove the restriction on the authority of the Federal Trade Commission over the business of insurance; to the Committee on Energy and Commerce.

By Mr. MARLENEE (for himself, Mr. Craig, and Mr. Hunter):

H.R. 3834. A bill to protect the right to carry out a lawful hunt; to the Committee on Merchant Marine and Fisheries.

By Mr. MILLER of Washington (for himself and Mr. Chandler):

H.R. 3835. A bill to amend the Small Business Investment Act of 1958 to permit prepayment of loans made to State and local development companies, and for other purposes; to the Committee on Small Business.

By Mr. OWENS of Utah:

H.R. 3836. A bill to amend the Hazardous Materials Transportation Act to prescribe procedures for the transport of nuclear materials; jointly, to the Committee on Public Works and Transportation, Energy and Commerce, and Interior and Insular Affairs.

By Mr. RIDGE (for himself and Mr. Kanjorski):

H.R. 3837. A bill to enhance the competitiveness of commercial banks and bank holding companies in the securities markets; jointly, to the Committee on Banking, Finance and Urban Affairs and Energy and Commerce.

By Mr. BEREUTER (for himself, Mr. Daub, and Mrs. Smith of Nebraska):

H.R. 3838. A bill to designate the Federal Building located at 215 North 17th Street in Omaha, NE, as the "Edward Zorinsky Federal Building"; to the Committee on Public Works and Transportation.

By Mr. ANDERSON:

H.R. 3839. A bill to authorize the U.S. Government to meet its obligations under the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America; to the Committee on Merchant Marine and Fisheries.

By Mr. THOMAS A. LUKEN:

H.R. 3840. A bill to amend title 23, United States Code, to require States to implement a uniform system for handicapped parking as a condition for approval of any State highway safety program; to the Committee on Public Works and Transportation.

By Mr. FOLEY:

H.J. Res. 436. Joint resolution providing for the convening of the second session of the 100th Congress; considered and passed.

By Mr. WHITTEN:

H.J. Res. 437. Joint resolution making further continuing appropriations for the fiscal year ending September 30, 1988, and for other purposes; to the Committee on Appropriations.

By Mr. FOLEY:

H. Con. Res. 235. Concurrent resolution providing for the sine die adjournment of the first session of the 100th Congress; considered and agreed to.

H. Res. 345. Resolution providing for the committee to notify the President of completion of business; considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII,

[December 22 (legislative day of December 21), 1987]

260. The SPEAKER presented a memorial of the senate, State of Pennsylvania, relative to imported crude oil and refined petroleum products; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

[December 22 (legislative day, December 21), 1987]

H.R. 107: Mr. Sundquist.

H.R. 639: Mr. Leland, Mr. Wheat, Mr. Bates, Mr. Donnelly, Mr. Owens of New York, Mr. Schumer, Mr. Borski, Mr. Waxman, Mr. Bruce, Mr. Alexander, Mr. Durbin, Mr. Markey, Mr. Eckart, Mr. Mavroules, Mr. Hawkins, Mr. Garcia, Mr. Bosco, Mr. Wise, Mr. Carr, Ms. Oakar, Mr. Murphy, Mr. Kasich, and Mrs. Bentley.

H.R. 911: Mr. Mack, Mr. Mavroules, and Mr. Shays.

H.R. 1373: Mr. Williams.

H.R. 3057: Mr. Walgren, Mr. Wise, Mr. Murphy, and Mr. Kostmayer.

H.R. 3193: Mr. Levin of Michigan.

H.R. 3485: Mr. Traxler.

H.R. 3486: Mr. Studds, Mr. Dwyer of New Jersey, Mr. Borski, Mr. Vento, Mr. Howard, Mr. Neal, and Mr. de Lugo.

H.R. 3774: Mr. Davis of Illinois, Mr. Grant, Mr. Hochbrueckner, Mr. Glickman, Mr. Emerson, and Mr. Oxley.

H.R. 3782: Mr. Fauntroy and Mr. Lehman of California.

H.R. 3814: Mr. Bevill and Mr. Borski.

H.J. Res. 405: Mr. Ridge and Mr. Ford of Michigan.

H.J. Res. 416: Mr. Annunzio, Mr. Rodino, Mr. Berman, Mr. Ackerman, Mr. Studds, Mrs. Byron, Mr. Frank, Mr. Yatron, Ms. Slaughter of New York, Mr. Stratton, Mr. Coleman of Texas, Mrs. Boxer, Mr. Conyers, Mr. Rangel, Mr. Gray of Pennsylvania, Mrs. Morella, Mr. Hyde, Mr. Torres, Mr. Dymally, Mr. Fawell, Mr. Lehman of Florida, Mr. Weiss, Mr. Dixon, Mr. Hoyer, Mr. Conte, Mr. Neal, Mr. Kemp, Mr. Owens of New York, Mr. Smith of Florida, Mr. Edwards of California, Mr. Richardson, Mr. Brown of California, and Ms. Kaptur.

H.J. Res. 429: Mr. Bonior of Michigan, Mr. Howard, Mr. Lagomarsino, Mr. Hoyer, Mr. Feighan, Mr. Solomon, Mr. Ritter, and Ms. Slaughter of New York.

H. Res. 271: Mr. Bateman and Mr. McEwen.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

[December 22 (legislative day, December 21), 1987]

H.R. 2724: Mr. Ridge.

EXTENSIONS OF REMARKS

LUSO-AMERICAN DEVELOPMENT FOUNDATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues an exchange of letters I had with the Agency for International Development regarding the work and programs supported by the Luso-American Development Foundation.

The foundation, now over 2 years old, is a privately chartered Portuguese institution under Portuguese law. The foundation seeks to advance Portuguese economic and social development through linkage and cooperation between Portugal and United States in the scientific, cultural, educational, commercial, and entrepreneurial fields.

United States economic assistance to Portugal has helped to capitalize the foundation. As of August 1987, the endowment of the foundation totaled $112.8 million and roughly $14 million had been disbursed.

This Development Foundation represents an important centerpiece of the United States-Portugese relationship and its progress and development is critical for the future of our ties with this ally.

My letter to AID of September 29, 1987, and AID's reply of December 17, 1987, follows:

COMMITTEE OF FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 29, 1987.

MR. JAY MORRIS,
Acting Administrator, Agency for International Development,
Washington, DC.

DEAR MR. MORRIS: As the fiscal year ends, I would like a report on the Luso-American Development Foundation which now has been in operation for over two years.

I would like to know what level of capitalization the Foundation has reached, what funds have been spent on projects, how much has been obligated and how much has been expended. Please also send a recent financial statement of the Foundation including a breakdown of the budget and the projects for which funding has been committed. Your evaluation of the Foundation's progress in fulfilling its mandate as well as an outline of its short, medium and long-term strategy would also be useful.

In addition, I would like to know in general terms the process for review of proposals submitted to the Foundation for funding, the types of requests by general subject and category, the length of the review process, the criteria used in approval or denial and what communication during the review process there is with those submitting proposals.

I appreciate your consideration of these questions and believe that this material can be helpful in the expected review process of our assistance programs which are to occur in the coming months.

I look forward to hearing from you.

With best regards.

Sincerely yours,
LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

U.S. INTERNATIONAL DEVELOPMENT
COOPERATION AGENCY, AGENCY
FOR INTERNATIONAL DEVELOPMENT,
Washington, DC, December 17, 1987.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter requesting information on the Luso-American Development Foundation (LADF). I regret the delay in our response. It was necessary to solicit assistance from the Embassy/A.I.D. in Portugal.

At the outset one should understand that the Government of Portugal (GOP) funds the Foundation's endowment. The Foundation is a privately chartered Portuguese institution under Portuguese law. To date, funds used by the GOP to make contributions to this institution have been derived from cash transfer grants provided under the A.I.D. program. Both the USG and the GOP are extremely careful about ensuring the sovereignty and independence of this Portuguese institution. Thus, A.I.D. is not directly involved with the management of the Foundation, but does monitor its development. The American Ambassador to Portugal is a member of LADF's Directive Council.

While the Luso-American Development Foundation is an independent private organization, I would note that its activities benefit U.S. interests by seeking to advance Portuguese economic and social development through linkage and cooperation between Portugal and the United States in the scientific cultural, educational, commercial and entrepreneurial fields. To further these goals, leading U.S. companies have joined the New York-based Luso American Business Council which assists LADF in promoting joint ventures, investments and trade between the two countries.

We are enclosing a report on LADF provided by USAID-Lisbon. From this report and other information available from USAID-Lisbon, we have endeavored to address your questions.

LEVEL OF CAPITALIZATION

As stated in the enclosed report, LADF had received, as of September 30, 1987, approximately $99 million from the GOP. The value of the Foundation's endowment increased by $13.8 million through earnings and appreciation of its portfolio through August 31, 1987, thereby totalling $112.8 million. Approximately $14 million has been disbursed, of which some $10.8 million has been provided for projects and the remainder for Foundation costs.

PROJECT OBLIGATIONS AND EXPENDITURES

The Foundation has received a total of 1021 requests for financial support as of September 30, 1987. LADF has approved 346 projects valued at approximately $21.3 million and disbursed some $10.8 million for project activities. The Foundation has greatly accelerated its activities in CY 87. While only 492 requests were received and 138 projects approved during the first 18 months between June 1985 and December 1986, 529 were received and 211 approved in the past nine months.

FINANCIAL STATEMENT

An independent audit was conducted by the accounting firm Price-Waterhouse in April 1987. Although a summary was to be included in the Foundation's first annual report, the preparation of the annual report has regrettably been delayed. It should be published by late January and will be forwarded to you when it is received. The 1987 annual report is expected by June 1988.

TYPES OF REQUESTS

The types of requests generally submitted to the Foundation for support can be categorized in the following areas of emphasis: Private Sector Development, Science and Technology, Education, Public Administration and Regional Development and Culture. We understand that priority is initially being given to the first three program areas.

PROJECT REVIEW PROCEDURE

The project review process is an internal Foundation matter and obviously varies according to the complexity, magnitude and subject matter of the request. We understand the Foundation keeps all applicants appropriately informed during the two to six month proposal processing period. A.I.D. has reviewed and found acceptable the procedures outlined in the Foundation's documents.

CRITERIA USED FOR APPROVAL OF PROJECTS

The criteria for project approval are clearly outlined in Foundation documents as the following:

Projects should make a signficant contribution to Portugal's economic development. Projects should be realistic, with clearly defined objectives which are included within the Foundation's areas of emphasis.

The Foundation will support projects which contain innovative approaches, giving priority to projects involving cooperation among Portuguese organizations or collaboration between Portuguese and American institutions. Portuguese institutions will normally be responsible for the administration of projects.

Support for a project normally will not exceed three years.

The Foundation generally will not finance more than 50% of the costs of a project, except for some research activities.

In the field of private sector development, the Foundation will give preference to financing projects through financial intermediaries, trade associations, and cooperatives, etc.

Financing of equipment, training seminars and conferences, etc., normally will be con-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

sidered only when part of a comprehensive project.

The Foundation will not support current operating costs, charitable activities, or building construction.

The Foundation will not support partisan political activities.

FOLLOWUP

Consideration is being given by the Foundation to the holding of a seminar to focus upon various models to obtain insights for future assistance relationships with advanced developing countries. Such a seminar should provide a useful opportunity to comment appropriately on the Foundation's mandate and on its short, medium and long-term strategy.

We appreciate your interest in the Luso-American Development Foundation's activities. Annual reports and current audits will be available shortly which will provide further information about LADF activities, management and finances. We will ensure that copies of those documents are forwarded to you. If we can be of any further assistance please let us know.

Sincerely,

JAY F. MORRIS.

Enclosure.

USAID LISBON REPORT ON THE LUSO-AMERICAN DEVELOPMENT FOUNDATION

PROJECT REQUESTS

As of September 1987, the Foundation had received 1021 requests, as compared with 492 at the end of December 1986. Thus, the Foundation received more requests in the past nine months than it received in the 18 month period from its beginning in June 1985 through December 1986. This is evidence that existence of the Foundation is widely known throughout Portugal and that demand for Foundation assistance continues to grow.

APPROVALS

As of September 30, 1987, the Foundation had approved 346 projects with a total value of $21.4 million, at the then current escudo exchange rate of 142.95 to $1.00 (it should be noted that Foundation projects are expressed in escudos, so the dollar value of approvals and disbursements will be affected somewhat by changes in exchange rates). The 211 projects approved in the first nine months of 1987 represent 1½ times the number of projects approved during the first 18 months of operation.

LADF's goal of committing 75 percent of its funds to the three areas of major emphasis—private sector development, education and science and technology—is being exceeded as shown by the following table:

	No. of projects received	No. of projects approved	Value of approved projects in dollars	Percent of total value
Private sector	196	45	6,634,864	31
Education	260	86	4,275,276	20
Science and technology	247	115	6,085,084	28
Public administration and regional development	101	36	3,408,856	16
Culture	190	60	856,457	5
Others	27	4	33,967	
Totals	1,021	346	21,294,504	100

The Foundation continues to receive large numbers of requests for small-scale activities. Of 349 approved projects, 151 were for short-term training, visits, workshops, etc. These amounted to 43.2 percent of the number of projects approved, but only 3.2 percent of funds committed. There has been a tendency for the Foundation's small professional staff and the Executive Council to be submerged by such requests. The Foundation recently took steps to streamline consideration of these proposals.

In order to further illustrate the areas of involvement, the following list of projects approved in each of the five fields supported by the Foundation are outlined below:

	Dollars
Private sector:	
Risk capital societies	419,727
Loan fund for young entrepreneurs	629,591
Exponer—exposition fair	1,836,306
Education:	
School of Biotechnology/UC Porto	1,322,141
Master's Program in animal product	237,845
Food Technology Program	310,948
Science and technology:	
Control of Japanese beetle	198,531
Control of forest fires	1,049,318
Freezing of fruits and vegetables	304,912
Public administration and regional development:	
Agricultural policy and technology in Northwestern Portugal	281,504
Merec—Municipal management	486,464
Azores—geothermal energy	448,066
Culture:	
Cutileiro Design Center	34,977
Wilson Center Conference on Portugal	50,535
V. Da Motta International Piano Contest	104,932

As of September 30, the Foundation had received $99,195,000 from the Government of Portugal which, in turn, received cash transfers in this amount from the Economic Support Fund. This amounted to $18.8 million less than was originally anticipated, because of budget reductions pursuant to Gramm-Rudman-Hollings legislation. The value of the Foundation's endowment had increased $13.8 million through earnings and appreciation in the value of their portfolios through August 31, 1986.

The total $112.9 million is being managed by both foreign and Portuguese financial institutions. Because of continued devaluation of the dollar and the excellent performance of the Portuguese economy over the past years, the Foundation's operational plan called for 30-35 percent of its endowment to be kept in Portugal by the end of 1987.

It should be noted that most of the Foundation's expenditures are in escudos. As of the end of September, 28.5 percent of the Foundation's endowment and earnings was being managed by Portuguese financial institutions.

During this initial period, the Foundation had pursued a policy of dividing its investment funds among five major non-Portuguese banks (Riggs, Manufacturer's Hanover, Citibank, Chase and Barclays), with the intention of evaluating results and shifting funds to the best performers. Similarly, the Foundation is judging the results achieved by major Portuguese banks and investment groups which have been handling the Foundation's escudo accounts.

As mentioned earlier, the Portuguese economy has been strong and the stock market particularly ebullient. Early in October the Foundation (either lucky or prescient) decided to sell some of its shares.

It sold for 502.6 million escudos a number of shares, which had been acquired by local financial institutions over the past year at a cost of 139.7 million escudos. Thus, the Foundation realized a profit of over 2.5 times the purchase price of these shares. It should be pointed out that these were not speculative investments—but increases in the Portuguese stock market over the value have been astronomical—at least until the current correction.

While LADF invests its escudo funds primarily to achieve earnings and appreciation of capital, it also favors investment of firms which will contribute significantly to Portugal's economic growth. For example, it owns shares in an investment bank, leasing companies, and companies developing Portugal's money markets.

The Foundation continues to have a high rate of disbursements to project approvals, particularly when one considers that some projects will disburse over 3 or more years. As of September 30, $10.8 million had been disbursed of $21.4 million in approved projects—i.e., project disbursements amounted to slightly over 50 percent of projects approved.

Of 306 major projects approved three or more months previously, only 18 had no disbursements. Thus, it appears that projects supported by the Foundation are ready for prompt implementation.

The full-time staff of the Foundation increased from 22 on December 31, 1986 to 25 on September 30, 1987. The increase consisted of two secretaries and a receptionist/telephone operator. Even with extensive use of computers, increase in the workload and inadequacies of Lisbon's telephone system necessitated these additions. When the Foundation moves to its permanent quarters (in approximately one year) some additions to staff—particularly assistant program directors—are likely to occur.

Operating costs (administration and personnel expenses) remained low, amounting to 8.5 percent of the value of approved projects. While these costs have increased somewhat over earlier figures, they are still quite low compared to similar organizations.

The first phase of construction of the Foundation's permanent quarters should be completed by the end of 1987, and the second and final phase is scheduled to be completed in May or June of 1988.

Joint meetings of the Directive and Executive Councils continue to take place approximately once a month, while the Executive Council meets on an average of once per week. Meetings of the five members of the Advisory Council resident in Portugal take place about every two months. However, the American members of the Advisory Council have not met. Portuguese members of the Advisory Council have participated in evaluations of projects financed by the Foundation. The appropriate role of the Advisory Council has not yet been fully defined.

Price-Waterhouse completed its audit of the Foundation in April 1987 and had no negative finding. Weaknesses identified in a preliminary audit had been corrected by the time the final audit was conducted. A summary of the audit will be included in the first annual report. Unfortunately, it has taken a very long time to prepare a final version of the first annual report, due out soon. The annual report for 1987 should be published by June 1988. In addition, a copy of the Price-Waterhouse Report on examination of the financial statements as of December 31, 1986 is available from USAID/Lisbon.

The Foundation has a wide variety of financial administration internal reports to ensure that current information is available to the Directive and Executive Councils.

REPORT ISSUED ON RELIGIOUS DISCRIMINATION IN NORTHERN IRELAND

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. FISH. Mr. Speaker, as the prime sponsor of H.R. 722, the Northern Ireland Fair Employment Practices Act, I would like to inform my colleagues of a recent report released by the British Standing Advisory Commission on Human Rights. This Commission was established by Parliament for the purpose of advising the Secretary of State for Northern Ireland on the adequacy and effectiveness of the law in preventing discrimination on the ground of religious belief or political affiliation, and providing redress for those who have been discriminated against.

I recently met with the Honorable Kevin McNamara, Member of Parliament, the Labor Party spokesman on Northern Ireland in Parliament. He expressed his strong support for the Commission's report, entitled "Religious and Political Discrimination and Equality of Opportunity in Northern Ireland," and urged the support of the Congress. In many ways, this report goes further than the MacBride Principles. It calls for all companies in Northern Ireland, not just United States entities, to adhere to fair employment guidelines. We now await the official response by the British Government, to be issued in the form of a government white paper.

This should not suggest that the MacBride campaign is over. Efforts to promote the MacBride principles in the United States, specifically H.R. 722, have assured that the issue of religious discrimination is addressed by the British Parliament. Support should be given in tandem to my bill and the Commission's recommendations to Parliament, if the employment practices in this region are to be corrected.

A summary of the Commission's recommendations can be obtained from the Ad Hoc Committee on Irish Affairs, Room 2428, Rayburn House Office Building.

AGRICULTURAL CREDIT ACT OF 1987

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. FRENZEL. Mr. Speaker, I rise today in restrained support of the recently passed Agricultural Credit Act of 1987.

Over 5 years of plummeting farm income and land values have wreaked havoc on the entire agricultural sector. The dire result has impacted not only the farmers themselves, but also the creditors on whom they rely.

Farm Credit Services [FCS] accounts for over one-third of all farm loans made in this country. The system's financial health has been severely impaired over the past few years as the financial health of America's agricultural sector has steadily deteriorated. FCS losses since 1985 alone total $4.8 billion. Further it is estimated that of the entire system's loan portfolio of $51 billion, nearly one-fourth falls into the high risk category of "questionable loans."

Without Government assistance, it is estimated that 11 of the 37 institution banks would have faced insolvency within a year. If this were allowed to occur the consequences would be ruinous. Entire stockholder investments would be irrevocably lost. Most likely, however, it would exacerbate the problem of capital flight from system institutions as stockholders scramble to retrieve their hard-earned money. Further, the reverberations would extend beyond the immediate stockholders, throughout the agricultural sector. Needed credit would become more scarce. thereby driving up the cost of credit to other borrowers.

Indeed, this is a distressing scenario. And one which isn't all that far from the current state of affairs. That something needed to be done is not the question. Rather the question centers on what form the assistance is to take place. It is here that opinions diverge.

Last year Congress passed legislation intended to help the ailing FCS. The legislation allowed FCS banks to extend their losses over 20 years. This is contrary to general accepted accounting rules. This rule was not only bad policy, it was a Band-Aid approach to a very severe problem.

The final farm credit assistance package passed Congress on Friday, December 18. This legislation, although not perfect, was a vast improvement over the original bill—H.R. 3030—passed by Congress earlier this summer. I was compelled to vote against that bill for several reasons.

Specifically, I had trouble with the inclusion of a secondary market. I do not think that the inclusion of a secondary market will help those most in need of assistance, the financially strapped farmer who isn't able to obtain needed credit for operation. I also had trouble with the method by which the House version proposed to help the ailing FCS. They proposed selling off Government assets and if needed, a direct Treasury infusion. Finally, I had trouble with the House version on restructuring. The House bill was much more strict in its requirement of restructuring FCS institutions. In some instances, the merger of district institutions was made mandatory, without the requirement of stockholder votes.

On Friday, December 18, Congress passed the conference report on H.R. 3030 by an overwhelming margin. I was among those who voted for the conference report. Although the legislation still contained the inclusion of the secondary market, it did adopt strict reporting and underwriting standards. Further, the bill adopted almost entirely, the Senate language on financing the FCS assistance. This language, in contrast to the House version, stipulates that the assistance will be provided by selling 15-year bonds. The interest on these bonds will be born by the Government the first 5 years, shared with FCS institutions the second 5, and born entirely by FCS institutions the last 5 years.

In conclusion, the vast improvement of the conference report over the original House version, coupled with the urgency of passing some form of assistance, obliged me to vote in favor of this legislation.

LEGAL JUSTICE SYSTEM IN NORTHERN IRELAND CRITICIZED BY KEY NEW YORK BAR ASSOCIATION

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. BIAGGI. Mr. Speaker, in my capacity as chairman of the 188 member bipartisan ad hoc Congressional Committee for Irish Affairs, I wish to bring to the attention of my colleagues an important new study on the oft criticized legal justice system in Northern Ireland today.

The study was conducted by the City Bar Association of New York. Specifically its Committee on International Human Rights completed a 120-page study to fulfill its mission to study nations with troubled human rights records.

The study made a number of conclusions and recommendations. They indicated that there were too many juryless trials in Northern Ireland and they found a "compelling need" for the British to curtail the use of these in cases involving terrorism charges. At the center of this study are the so-called diplock courts which have been operating in Northern Ireland for most of the past two decades. These were established as emergency courts to help implement the emergency legislation to combat terrorism enacted in the early 1970's. They have continued and as time has gone along they have become even more repressive than when they began.

The bar association study calls for the introduction of three judge panels for cases where trials without a jury cannot be avoided. It calls for the elimination of the current stringent evidence standards for defendants who complain of coerced confessions.

I wish to commend the bar association and especially those directly responsible for this study, International Committee Chairman Alice H. Henkin, William E. Hellerstein, Robert B. McKay, and Peter R. Schlam. It is an important study described by the highly respected Irish Echo newspaper as—

> One of the most thorough attempts by American Human rights lawyers to offer a critique of the courts of Northern Ireland based on international standards of justice.

There are several past and present policy considerations that bear directly on this study and the topic it focuses on. The first is the recently passed Extradition Treaty between the United States and the United Kingdom of Great Britain and Northern Ireland. At the center of the controversy which surrounded this treaty and which led to a delay in its ratification, was the criminal justice system in Northern Ireland to which an individual would be extradited. The concerns related to the absence of due process in the system. This study confirms many of the worst concerns expressed by opponents and it is imperative that this study be given very serious consideration and serve as the basis for monitoring of the justice system in Northern Ireland by those with a concern for human, civil, and legal rights.

A second policy concern must be the issue of continued United States economic aid to Ireland and Northern Ireland. We are nearing a decision on whether to extend this aid beyond the current fiscal year. The House has already voted to extend it through fiscal year 1989 at the current $35 million level. However it is important to note that there are critical conditions associated with this legislation including the President having to certify to Congress each year that the aid is furthering the cause of human rights in Northern Ireland. It would seem to be that reforms in the legal justice system in Northern Ireland must be central to any certification now and in the future with respect to economic aid.

I wish to enclose in the RECORD a newspaper article from the Irish Echo discussing the city bar association study. As well as one from the New York Times.

[From the Irish Echo, Dec. 19, 1987]

CITY BAR ASSN. CRITICAL OF COURT SYSTEM IN N.I.

The City Bar Association of New York in a study released last week was highly critical of the legal justice system in Northern Ireland. The study said there were too many juryless trials and found a "compelling need" for the British to curtail the use of these in cases involving terrorism charges.

The study by the association's committee on international human rights recommended the introduction of three-judge panels for cases where trials without a jury cannot be avoided. It also proposed elimination of the current stringent evidence standards—harsher than those in other British courts—for defendants who complain of coerced confessions.

The inquiry into the Northern Ireland justice system was carried out by three members of the bar association, William E. Hellerstein, Robert B. McKay and Peter R. Schlam and the international committee's chairwoman, Alice H. Henkin. It was undertaken as part of the panel's role of sending study missions to nations with troubled human rights records.

The 120-page study is one of the more thorough attempts by American human rights lawyers to offer a critique of the courts of Northern Ireland based on international standards of justice.

It centered on the so-called Diplock Courts, in which one judge sits with no jury. This system has been criticized by lawyers and judges from several nations.

Recently, the Republic of Ireland has been pressing for changes in the system. However, British Prime Minister Margaret Thatcher has rejected the Dublin proposals.

Nationalist leaders on both sides of the border say Catholics cannot get a fair trial under the Diplock Court system. But, Mrs. Thatcher maintains that the severe measures are still needed because of continuing terrorist violence.

The report, based on a three-member study and visit earlier this year, found that the system, in which a single jurist serves as both judge and jury, "does conform to the requirements of the international standards on fair trial," even though it departs from "the standard norms of British justice."

The panel concludes, however, that various questionable conditions leave the British Government with an obligation to make substantial changes "with greater intensity, imagination and, indeed, courage, than it ever has."

In their study, the New York lawyers criticized the potential for reintroduction of the interment arrests without due process and the reliance in many one-judge trials on challenged confessions or uncoroborated informers which are more easily admitted as evidence than is normal under accepted common law.

Instead, the committee urged that the reliance on juryless trials for politically tinged cases be "greatly reduced" by narrowing the standing list of offenses now automatically requiring Diplock judges.

Many lawyers have complained that the Diplock authority has been unfairly used as a sweeping measure to deny non-political defendants trial by jury.

The bar association panel found that "terrorist activity still abounds" in a serious enough degree to justify some juryless trials. But the authorities were urged to replace the single-judge system with three-judge panels who would be required to produce a unanimous verdict for a conviction.

The study noted that the Republic of Ireland also uses juryless trials for charges of political violence, but these are before three-judge panels. Using the same type of tribunal would carry "great symbolic significance" for the nationalist Catholics of the North, the study said.

ULSTER JURY URGED BY NEW YORK BAR—STUDY FINDS COMPELLING NEED FOR PROVINCE TO USE PANEL IN CASES OF TERRORISM

(By Francis X. Clines)

LONDON, Dec. 8.—A study of Northern Ireland justice by the City Bar Association of New York has concluded there is a "compelling need" for the British authorities to curtail the use of trials without juries in cases involving terrorism charges.

The inquiry by association's committee on international human rights recommended the introduction of three-judge panels for cases where trials without a jury cannot be avoided. It also proposed elimination of the current stringent evidence standards—harsher than those in other British courts—for defendants who complain of coerced confessions.

The report, based on a three-member study and visit earlier this year, found that the system, in which a single jurist serves as both judge and jury, "does conform to the requirements of the international standards on fair trial," even though it departs from "the standard norms of British justice."

The panel concludes, however, that various questionable conditions leave the British Government with an obligation to make substantial changes "with greater intensity, imagination and indeed, courage, than it ever has.

STUDY BY 3 MEMBERS

The study was carried out by three members of the bar association, William E. Hellerstein, Robert B. McKay and Peter R. Schlam and the international committee's chairwoman, Alice H. Henkin, as part of the panel's role of sending study missions to nations with troubled human rights records.

The 120-page study was one of the more thorough attempts by American human rights lawyers to offer a critique of the courts of the embattled province based on international standards of justice.

It comes at a time of renewed controversy over the so-called Diplock system, which is named for the peer who recommended the severe court procedures at the height of paramilitary violence in 1972 when the jury system was considered dubious because of terrorist threat and sectarian prejudice.

Lately, the Irish Republic, which borders province, has been unsuccessfully urging changes in the judicial system, echoing the long standing complaint that members of the nationalist Catholic minority in Northern Ireland cannot obtain fair trials. Prime Minister Margaret Thatcher so far has rejected such changes, maintaining that the severe measures are still needed because of continuing terrorist violence.

ON INTERNMENT ARRESTS

In particular, the bar association study criticized the potential for reintroduction of internment arrests without due process and the reliance in many one-judge trials on challenged confessions, which are more easily admitted as evidence than is normal under accepted common law.

Instead, the panel urged that the reliance on juryless trials for politically tinged cases be "greatly reduced" by narrowing the standing list of offenses now automatically requiring Diplock judges.

Defense lawyers have long complained that the Diplock authority has been unfairly used as a sweeping measure to deny nonpolitical defendants trial by jury. The bar association committee, warning that emergency measures can become permanently institutionalized, urged that the state Attorney General assume an affirmative obligation to justify in each case the need for trial without jury.

The bar committee found that "terrorist activity still abounds" in a serious enough degree to justify some juryless trials. But the authorities were urged to replace the single-judge system with three-judge panels who would be required to produce a unanimous verdict for a conviction.

In addition, the study recommended the elimination of the standing power of "extrajudicial detention"—police internment without due process—that British authorities retain but last used in 1972 for sweeping roundups of suspected activists in the outlawed Irish Republican Army.

The association study noted that the Irish Republic also uses juryless trials for charges of political violence, but these are before three-judge panels. Using the same collegial tribunal would carry "great symbolic significance" for the nationalist Catholics of the North, the study contends. The Thatcher Government has previously rejected this proposal.

AN EXAMPLE OF THE CREATIVITY OF UNIONS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. FRANK. Mr. Speaker, in a burst of wishful thinking, some people would like to believe that labor unions are about to pass from the American scene. Some unions have had rough times recently, because of international economic trends primarily, but the importance of responsible union activity has never been more clear to those who are familiar with the facts. Labor unions provide for working men and women a wide and indispensible variety of services and support. And those who do not participate in the labor movement aren't always familiar with how broad that range can be.

One of the most innovative and important unions in America is the Amalgamated Clothing and Textile Workers Union, the result of a merger between two important unions, and one which has worked very hard to represent the legitimate interests of its workers while cooperating with the industries in which its workers are employed. One example of the creativity of the Amalgamated is the Amalgamated Bank. An article last week in the Wall Street Journal gives a good idea of the role that the bank plays, and it is important not only for what it says about this particular institution, but for the example it gives of the continued vibrancy of labor unions in America today.

I ask that the article be printed here.

The article follows:

[From the Wall Street Journal, Dec. 14, 1987]

Labor Lending: How a Union Survives In Banking by Pushing Services Over Profits—Amalgamated Bank Pitches Free Checking and Shuns Risk, Then Needles Rivals, Slow Dance in the Conga Line

(By Robert L. Rise)

New York.—When Amalgamated Bank of New York introduced a free checking account last fall, it wasn't content to quietly inform its customers. The bank bought an ad opposite the editorial page in the New York Times and asked: "Why is free checking only for those who can afford to pay for it?"

The bank's inclination to tweak its big corporate rivals isn't surprising. Amalgamated is a union bank, founded in 1923 by the Amalgamated Clothing Workers and still owned by the 284,000 members of its successor, the Amalgamated Clothing and Textile Workers.

Heralded as the wave of the future by labor leaders earlier in the century, labor banking was a flop. Out of some 36 labor banks founded in the 1920s, only Amalgamated in New York and Brotherhood Bank & Trust in Kansas City, Kan., survive as labor-owned institutions.

Now, with some labor experts predicting a comeback in union membership and influence, Amalgamated provides one of the oldest examples of a kind of labor-owned business that may multiply. In the past several years, about half a dozen new labor banks have opened, and more are on the way. Like the clothing workers who started Amalgamated, other unions see a chance to own a bank friendly to their members' needs and find new investment outlets for their growing assets.

A ROGUE BANK

Amalgamated survived largely because its union owner insisted on conservative banking and professional management. In contrast, the Brotherhood of Locomotive Engineers set up banks across the country during the 1920s and quickly branched into securities and even Florida land development. Losses piled up, and the union eventually charged four of its officers with mishandling funds. By 1931, the engineers were out of the banking business.

Amalgamated has also benefited from being something of a rogue bank, loudly touting a consumer ethic and often de-emphasizing profits in favor of services. Its free checking account is only the latest evidence: Amalgamated claims to have pioneered the unsecured installment loan in the 1920s, lending money to borrowers with no collateral but a steady job. Three times a survey has named it the top bank for consumers in New York City. "They give me the best treatment," says Mike Garcia, an officer of the Leather Goods, Plastic and Novelty Workers' Union, who says he banks at Amalgamated because of its labor roots.

OVERLAPPING CONSTITUENCIES

Amalgamated has reported 44 consecutive years of profit and has grown to $1.47 billion in assets by serving two overlapping constituencies: middle-class consumers and organized labor. Now, the union-owned bank is exploring other ways to use its labor ties and financial muscle to expand in new areas.

Earlier this year, Amalgamated teamed up with Metropolitan Life Insurance Co. in a proposal to offer a comprehensive money-management program for the AFL–CIO's 14.5 million members. On a smaller but no less innovative scale, Amalgamated is helping three New York locals of the Bridge, Structural and Ornamental Iron Workers union use some of their pension money to finance below-market, no-points home mortgages for their members. The bank is considering expanding the service to other unions, many of which have retirement trust funds under Amalgamated's care.

The recent mini-resurgence of labor banking is led by unions in the construction trades. Massachusetts members of the carpenters' union opened a Boston bank in September, and California carpenters plan to open a separate institution next year. Two-year-old Union Savings Bank in Albuquerque, N.M., another construction-trades bank, uses its $10 million in assets for loans to small businesses and other customers.

"I think there's been a realization that we should be generating jobs with our own money wherever possible," says Anthony Ramos, the retired former leader of the California State Council of Carpenters.

Amalgamated's loud voice on consumer issues is partly a marketing ploy to set itself apart from the pack. As other banks cater to big depositors and raise fees for small accounts, Amalgamated promotes treats for the little guy, such as its free checking and low-interest personal loans.

Highly conscious of its labor roots, Amalgamated also likes to take shots at the establishment banks. In one of its radio commercials, a stuffy banker tells a customer he needs a password to sit down, "The name of any Ivy League school will do," says the banker. "P.S. 188?" asks the customer, naming the public school he attended. In other ads, comedians Jerry Stiller and Anne Meara imitate rank-and-filers with names like Rocco and Blanche, and pitch "America's Labor Bank."

"If we give [the industry] an uncomfortable feeling for a couple of hours, it will be worth it," concludes Edward M. Katz, Amalgamated's president and chief executive.

The bank's five-story brick headquarters, which it shares with its union owner, overlooks New York's Union Square, the site of labor and political rallies earlier in the century. Back in the old days, Amalgamated's services even included a travel agency and foreign-exchange desk for the immigrant population that dominated the clothing workers' union. Today, customers in open shirts and work boots outnumber those in business suits. Proclaims a plaque on the lobby wall: "New York's First Labor Bank, dedicated to the service and advancement of the labor movement."

Mr. Katz, too, is quick to prove his allegiance. After ushering a visitor into his office, he flips open his suit jacket and proudly shows the union label. A soft-spoken man of 66 who started as a part-timer at the bank in 1946, Mr. Katz raises his voice when he talks about how small depositors have fared under banking deregulation. Not too well, he believes. "When you have a special industry using Uncle Sam as an umbrella in times of difficulty, don't you owe something to the public?" he asks. "What would be so wrong with having an account on which you don't make money?"

Amalgamated, though, is bucking a strong trend. A national survey conducted by the Consumer Federation of America and others found that fees for routine banking services are rising sharply for most depositors.

In some ways, Amalgamated has a lot less to offer those customers than its competitors. Small by big-bank standards, it doesn't generally offer credit cards or home mortgages. With only three branches and two newly opened automated teller machines, it lacks what many consumers want most: convenience. And in the ranks of big-league banks, Amalgamated is an also-ran, shunning such trends as interstate expansion and the hot competition for corporate loans.

"I'm not conscious of their presence" as a competitor, says Richard Ravitch, the chairman and chief executive of Bowery Savings Bank, which has about four times the assets and eight times the branches of Amalgamated. Contends another New York banking official: "If they were the best, they'd be bigger."

But what Amalgamated does have, it pushes hard, especially its reputation as a low-cost consumer bank. Last year, when an annual survey by New York State Sen. Franz S. Leichter dropped Amalgamated to No. 11 from No. 1 as the least expensive bank for New York City consumers, Amalgamated officials phoned the legislator and angrily complained. (The bank is back up to No. 2 this year.) In 1985, the Better Business Bureau of Metropolitan New York challenged Amalgamated's boast of having the lowest auto-loan rates of any bank in the city. But the bank quickly backed up the claim, the bureau says.

Amalgamated says its current 9.2% interest rate on new auto loans is still the best in the city. According to the Bank Rate Monitor, seven of the largest bank and thrift institutions in the New York City area charge an average of nearly 12.5%. On the deposit side, the bank's 6.25% annual yield on money-market accounts is a third of a point higher than the average paid by 10 big institutions tracked by the monitor.

Amalgamated also pays interest and charges no fees on savings accounts with a $5 minimum. And it is not unusual for the bank to get thank-you notes from longtime customers surprised to find the bank honored their checks—and charged no penalty—on their overdrawn accounts.

Customers' main complaint centers on what bank employees call "the conga line" that often slowly snakes its way to 23 tellers in the lobby of the main office. Still, other factors outweigh the long waits, depositors say. Edward Soorko, for example, says he moved his account to Amalgamated after Citibank bounced a check for his son's tuition—even though he covered the check with a deposit the same day.

Charles Nabelle, a dapper 82-year-old customer in a white hat and sports coat, walks 13 blocks to get to Amalgamated's Union Square office. There are plenty of closer banks, but he says he chose Amalgamated because he likes the personal attention he gets there. After cashing a $40 check, Mr. Nabelle offers a short lecture on the importance of shopping for bank services. "A poor sucker will go for Chase Manhattan as opposed to Amalgamated because Chase or Citibank is an *important* bank," he says. "That is unfortunate."

And perhaps costly. Sen. Leichter's latest survey found that a typical bank customer with $600 in checking and $1,000 in savings would earn $105 in a year at Amalgamated and lose $100 at Manufacturers Hanover Trust Co. Amalgamated, says Glenn von Nostitz, the legislative aide who oversees the survey, shows "you can give people a break and still make money."

Not surprisingly, Amalgamated has kept a close relationship with organized labor. Unions account for up to two-thirds of its $1.1 billion in deposits, and its trust department holds an additional $3.2 billion in pension and health-and-welfare funds. Amalgamated manages $1.6 billion of the trust funds, shunning stocks and corporate bonds in favor of safer government securities.

In 1973, Amalgamated officials worked over a weekend to fill out hundreds of bail checks to keep striking Philadelphia teachers out of jail. Nine years later, when the National Football League Players Association ran out of money during its strike, it turned to Amalgamated for a $200,000 loan. The player's union didn't have an account with the bank at the time, but "we did after that," says Ed Garvey, then the Union's executive director.

Although neither the Amalgamated Clothing and Textile Workers union or the bank likes to admit it, the goal of giving consumers and unions a break often conflicts with the goal of making money. But Mr. Katz has the luxury of working for owners who aren't constantly pressing for higher profits. "You make a little less," concedes Jack Sheinkman, the president of the union and chairman of the bank. "Despite that, we've done very well in terms of our return on equity and on capital," which exceed the average for banks Amalgamated's size.

That attitude makes it easier for the bankers to concentrate on another priority of the union—financial safety. The bank has few corporate customers and, as a matter of policy, turns down offers to participate with other banks in corporate lending. "I don't want to rely on my big brothers" to determine if a loan is safe, says Mr. Katz. Nor does he like to gamble on investments. Mr. Katz prefers buying U.S. government securities, and the shorter the maturity the better. "All the money's tied up in cash," jokes Howard Lee, the executive vice president and cashier.

The result is steady, if not spectacular, profits. Last year, Amalgamated earned $12.2 million, sending $7 million of that in dividends to its union owners. Government bank examiners often do double takes when they pore over Amalgamated's books. Bad loans charged off in 1986: $195,000 out of $313.5 million, far below the average for banks its size. Auto loans delinquent 30 days or more at the end of November: 11 out of 13,044.

Says William A. Goldberg, who runs the bank's personal-loan department: "We're here for the average guy—so long as we are reasonably assured he'll pay us back."

SUPERCONDUCTING SUPER COLLIDER: CALIFORNIA'S EFFORT UNITED FOR SUCCESS

HON. ERNEST L. KONNYU

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. KONNYU. Mr. Speaker, as the old expression goes, good news travels fast but bad news travels even faster and lingers much longer. I am taking this opportunity to correct some of the bad news and incorrect information surrounding the siting of superconducting super collider [SSC] in the Golden State of California.

In spite of some statements to the contrary, locating the SSC in California is strongly supported by the vast majority of Californians. A recent independent survey indicated that over 68 percent of the respondents to the poll of northern Californians supported locating the facility in California. Also, the entire congressional delegation as well as the State legislature and the Governor of California are united in their efforts to do all they can to ensure California is the site for the SSC.

Both sites in the State of California, the one in Yolo and Solano Counties, northwest of Sacramento, or the other which is in the Central Valley south of Sacramento in San Joaquin and Stanislaus Counties, exceed the technical requirements for the site location of the SSC. There is more than sufficient water and energy for the project at these locations. Our greatest asset in my opinion, is the intellectual capabilities of the scientists, technicians, and academicians who are presently working at the University of California at Berkeley, Stanford University, the University of California at Davis, and the University of the Pacific. These individuals are among the best in the world and their presence close to the SSC is an invaluable plus for locating the SSC in California.

Furthermore, our State is willing to make a substantial contribution to help defray the overall costs of the superconducting super collider.

Mr. Speaker, all factors considered, the State of California will be the best location for the SSC because it fulfills all the technical requirements, but more importantly, it has unsurpassed human resources to really make this project work for our Nation.

EDITOR'S 2¢ WORTH

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. JONES of Tennessee. Mr. Speaker, the end of any year generally brings with it a series of stories and commentaries in the media that evaluate the things that have gone on throughout the preceding 12 months. True to form, such stories and pictorial revisiting of the events of 1987 have already begun emerging in the media.

I would like to take this opportunity to share with my colleagues a similar musing put together by my friend Mr. Bob Parkins, the editor of the Milan Mirror-Exchange of Milan, TN. In providing editorial comments about the recent riots of Cuban inmates at United States prisons, Mr. Parkins made what I think is a key point: that no where else in the world do we see people risking their lives to prevent being sent back to a nation ruled by a Communist regime.

In making that point, Mr. Parkins vividly provides all Americans another reason to be thankful for the great freedom we enjoy both collectively and individually. I hope that my colleagues will take time to read this editorial which I am requesting be printed in the RECORD.

The article follows:

EDITOR'S 2¢ WORTH

(By Bob Parkins)

Where else but America?

That phrase often pops up, and it is usually appropriate verbage.

Milanite Jim Cutlip brought out an interesting point on the subject last week, while we were discussing the Cuban rioting in U.S. prisons.

Where else in the world would inmates risk their lives to prevent being sent back to a Communist stronghold?", he asked.

That is an interesting comment and a significant truth.

Most folks risk their lives to get out of a country . . . instead of remaining there. Ever heard of prisoners in Russia, protesting to stay in the Soviet Union? Or Jews in Lenin-Land demonstrating to stay there . . . Or East Germans revolting to stay behind the Communist Berlin Wall?

Never!

With all of the world spotlight on the Reagan-Gorbachev summit talks, President Reagan would do well to remember the human rights issue.

Keeping citizens imprisoned behind brick walls and barbed wire without permission to leave, says a lot about a nation's freedom policy. While visiting the Soviet Union many years ago, we Americans found it a lot more difficult to get out of Russia than enter it. We'll never forget the anxiety of going through 'Checkpoint Charlie' at the 'Wall' from east to west Berlin. Armed guards, stone-faced, studied the photos on our passports at length—glancing up and down from the photos to our faces—before finally waving us on. It was a relief to cross over from bondage to freedom.

Conversely, in America, there are no "Walls," to keep people from going wherever they please. Americans are allowed to protest at will on any issue—from gay rights to nuclear bans—without retribution.

Had the Cuban riots happened in Russia, (which happened in America) the riots wouldn't have lasted a day. Protestors not shot would have been beaten to death.

Only in America could such freedom prevail.

But too often, freedoms are abused rather than being counted as a blessing.

INDICATIONS OF STRONG SUPPORT FOR THE SSC IN CALIFORNIA

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. LEWIS of California. Mr. Speaker, recently, I was visited by members of a delegation of interested Californians who came to Washington to express their support for the superconducting super collider. This delegation, which numbered over 60, was made of people from all walks of life. They live in the two areas of California—near Stockton and the Yolo and Solano Counties—where the SSC would be sited. None of the delegation would receive a direct benefit if the SSC was built in California. In fact, several of the farmers would lose part of their land if the collider was built. But these people believe in the SSC and they traveled to Washington on their own to convey their views.

Their message was simple: The people of California overwhelmingly support the superconducting super collider and want to see it built in their State. While there has been some opposition expressed to the SSC in California, a far greater number of people stronger favor the collider. More importantly, the supporters are deeply committed as demonstrated by their efforts.

Mr. Speaker, the SSC is the next stage of development of high energy physics. It is impossible to anticipate all the benefits we will derive from the knowledge we will obtain through its operation. Unquestionably, the SSC will require some sacrifices. It is expensive, at a time of limited budgets. There are uncertainties involved. However, the greatest burden will be borne by those who will live in the immediate vicinity of the actual site. Those people will lose some of their land and their rural lifestyle. But the great majority of the people from Yolo, Solano, and Stockton are willing to bear that burden. For this reason, among others, I believe the State of California should be the home for the SSC.

A TRIBUTE TO MERRILL JACK EDWARDS

HON. JIM JONTZ

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. JONTZ. Mr. Speaker, Merrill Jack Edwards of Marion, IN, should serve as an inspiration to all of us in public life.

He is an uncommon man.

Jack has been readily recognized for years as he sports his bow-ties and big, white Stetson hat. He still drives a heavily armored Studebaker that he once used to chase John Dillenger across the Indiana countryside. Jack Edwards turned 86 this year, but he remains a colorful, active resident of our community.

To the regret of many, 1987 will also mark the end of the public service career of Jack Edwards—a career which spanned 65 years. From 1922 to 1987, Jack served Marion, IN, in every office of city government. During the depths of the Depression, Jack was both mayor and city judge. Many still remember his unique method of collecting fines in city court by requesting food as payment for wrongdoing, then redistributing it to those who were in need.

Jack did not even consider slowing down as he grew older. When many of his peers were retiring, Jack Edwards was organizing. In 1971, he funded the National Senior Citizens Christian Alliance. I first met him when I was a State legislator, and he was an articulate advocate for the cause of senior citizens in the Indiana General Assembly.

If these responsiblities weren't enough, Jack became a candidate for public office once again, and was elected to the Marion City Council in 1983. Now in these final days of 1987, he will be retiring from his seat on the city council, and many Marion residents will again thank him for a job well done.

Whether as mayor, city clerk, councilman, or city judge, Jack Edwards was distinguished by his flamboyant style and compassionate leadership. Even though he is retiring from elected office this month, I know he will continue his keen interest in politics and public affairs. Office holders, aspirants, and common citizens will continue to seek his counsel and support.

City government in Marion, IN, will soon lose the services of Jack Edwards, but our community will never lose the legacy of his leadership.

I am proud to call Jack Edwards my friend.

RATIONAL AIDS EDUCATION

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. STUDDS. Mr. Speaker, I would like to share with my colleagues the following editorial from the November 20, 1987, issue of the Cape Cod Times. In so doing, I commend both the Times and Scholastic, Inc. for treating the public—both young and old—with the respect they deserve.

The editorial follows:

[From the Cape Code Times, Nov. 20, 1987]

AIDS CURRICULUM

By now, just about everyone understands at least one thing about AIDS: We have an enormous amount to learn about controlling this deadly disease.

Certainly, the federal government has done little to educate the public (with the exception of Surgeon General C. Everett Koop's informative, concise and readable booklet on the subject). Nor have state health organizations done as much as they might.

Unfortunately, AIDS information is too easy a prey to politics and secular moralizing.

Fortunately, the communications media are beginning to take seriously their role in the dissemination of information.

One excellent example:

Scholastic Inc., this country's largest classroom magazine publishing company, has launched a nationwide campaign to reach as many as 23 million middle school and high school students.

Teachers in at least two schools on the Cape—Dennis-Harmouth Regional High School and Cape Cod Tech in Harwich—are using the 38-page October issue of the publication Scholastic Update as a classroom teaching aid. The publisher sent copies of Update to more than 350,000 educators across the country, and the company's AIDS education program will be continued through nine of the school-age magazines the firm publishes.

The October Update contains 14 articles on AIDS, ranging from the issue of whether students with the disease should be allowed in classrooms, to interviews with AIDS victims and high school students who have volunteered to staff AIDS hot line phone centers. The stories are not alarmist. They treat their school-age readership as rational people. They get their message across.

Scholastic Inc. is to be praised for this calm, sensible, and immensely informative campaign of AIDS education. We hope their mailings include key players in state and federal government, because if ever there was a model for educating young America about AIDS, this is it.

NUCLEAR WASTE PROVISIONS OF BUDGET BILL

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. RAHALL. Mr. Speaker, I would like to comment on those provisions of the Omnibus Budget Reconciliation Act for fiscal year 1988 which would amend the Nuclear Waste Policy Act of 1982 as they relate to the monitored retrievable storage [MRS] facility.

As we are all aware, the Nuclear Waste Policy Act of 1982 established a program for the permanent disposal of radioactive waste, especially spent nuclear fuel rods from the Nation's nuclear reactors used to generate electricity. The law directed the Department of Energy to submit to the Congress a proposal for constructing an MRS facility that would allow for continuous monitoring and easy access of nuclear waste until such time as it could be permanently stored in an underground repository. However, the MRS is now also being viewed as a permanent facility which would be used for waste preparation and packaging prior to sending it to the permanent repository.

Unfortunately, the program envisioned by the 1982 law has been plagued by mismanagement and controversy. The Energy Department has failed to meet all of the statutory deadline, especially as they relate to the selection of the permanent nuclear waste repository. The agency did, however, officially transmit to Congress earlier this year a recommendation to construct the MRS facility at Oak Ridge, TN.

The controversy surrounding this program led the Senate to adopt legislation which would authorize the MRS facility and, in effect, cause the permanent respository to be located in Nevada. The House Committee on Interior and Insular Affairs, however, reported legislation which would have imposed an 18-month moratorium on nuclear waste activities pending the completion of a study by a special review commission. The Interior Committee bill would also have created a nuclear waste negotiator charged with finding volunteer host States for the MRS and permanent repository.

These matters were the subject of a House-Senate conference committee meeting on this legislation as part of the budget bill. As a member of the conference, I strongly supported the House position of opposing the Senate MRS provisions, although I have supported the prospect of feasibility studies being conducted for the MRS if requested by State Governors.

The legislation finally adopted by the conference committee before us today would authorize an MRS facility only under certain conditions and extremely protracted circumstances. This is no blank check to build a MRS just anywhere.

Under the legislation, a dual system would be established which could lead to the selection of a site for the MRS: First, a nuclear waste negotiator authorized by the bill would attempt to find a volunteer site. If the negotiator is successful in reaching an agreement with a State, Congress must enact legislation to implement the deal. Second, the Energy Department would restart the process of finding a site which led to its earlier decision to locate the MRS at Oak Ridge, TN—a decision which the legislation nullifies. Under this procedure, the MRS authorization would be conditioned upon the Nuclear Regulatory Commission issuing a construction license for a permanent nuclear waste repository which the legislation would place in Nevada.

Also established by the legislation would be a three-member MRS Review Commission appointed by the Speaker of the House and the President pro tempore of the Senate. The Commission would evaluate the need for a MRS as part of the Nation's nuclear waste program and make recommendations to the Congress by June 1, 1989.

The legislation would also provide $5 million per year to any State after signing for the MRS and $10 million per year after the first nuclear waste is accepted at the facility. It should be noted that this assistance would be subjected to the annual appropriations process.

More specifically, under the volunteer site method the nuclear waste negotiator, appointed by the President, would attempt to find a State or Indian tribe willing to host the MRS. The negotiator would negotiate with the Governor of any State unless State law authorizes another person other than the Governor to negotiate a proposed agreement.

If the negotiator reaches an agreement with a State, the Energy Department would prepare an environmental assessment during which time public hearings would be held in the vicinity of the proposed site. The proposal would then be submitted to Congress. If Congress authorizes the agreement, the Nuclear Regulatory Commission [NRC] would have 3 years to either approve or disapprove the construction authorization application.

The Energy Department selection method would explicitly link the construction of an MRS to the NRC issuing a license to construct the permanent nuclear waste repository in Nevada. The Energy Department would undertake a survey of potentially suitable sites for an MRS facility and could conduct site-specific activities to gather the information needed to support a license application to the NRC. However, this survey could not begin until after the MRS Commisison submits its report on June 1, 1989. Once the survey is completed, the Energy Department would select one site, conduct public hearings in the vicinity of the proposed site, and complete an environmental assessment. Construction of the MRS facility would be subject to licensing by the NRC.

When the Energy Department selects a site, the host State may disapprove the selection. However, the State's disapproval may be overriden by the Congress. It should be noted that since site characterization activities for the permanent repository site in Nevada would not be completed until 1995, no MRS could be authorized until after that time.

Mr. Speaker, I refused to sign the agreement on the nuclear waste bill worked out by the conference committee because of the confusing and convoluted system the bill envisions for finding a site for the MRS facility.

The legislation first says, yes; we may want an MRS if a State volunteers for it and Congress then authorizes the agreement. At the same time, it says even if a volunteer site cannot be found the Energy Department will go out and find a site as long as the permanent waste repository in Nevada is licensed for construction. But then the legislation second-guesses all of this by telling the Energy Department not to begin surveying sites until a special commission tells us if we should even have an MRS in the first place.

My position has been that we should have the facts first, and conduct the studies, before even considering moving forward with legislation which may lead to the construction of a MRS facility.

I think that it is especially important to note that nothing in this legislation can be construed as meaning that West Virginia is the prime candidate for the MRS. Our State was originally passed over by the Energy Department when it arrived at its recommendation to site the MRS in Tennessee and there are many other areas which have already been studied or which are contenders for this facility. In effect, on the question of where the MRS may, if all conditions are met, eventually be sited the bill is silent.

LEO J. TROMBATORE: AN OUTSTANDING PUBLIC SERVANT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. ANDERSON. Mr. Speaker, one of the most enjoyable and rewarding aspects of public service is the opportunity to meet and work with so many individuals who devote their careers to the betterment of society. One of the most outstanding people that it has been my privilege to know is Leo J. Trombatore. Leo, at the end of the year, is retiring from the California Department of Transportation, Caltrans, after a 40-year career during which he advanced from a young engineer to director, serving in positions throughout the State.

Before Leo ever went to work for Caltrans, when he was still a young engineering student at UCLA, his first highway job was with the city of Hawthorne. I was the mayor of Hawthorne at that time, and so the first paycheck he ever received for transportation work was signed by me. Of course, I didn't know Leo then, but that doesn't stop me for trying to take some credit for his brilliant career.

Leo's tenure with Caltrans began in 1947. When one pauses to consider all the monumental projects that have moved from the planner's table through construction to completion in the intervening, halcyon years, it is not difficult to imagine how exciting Leo's career has been. And given his various posts around the State, it is clear that many of these projects bear Leo's imprimatur.

Most recently, Leo has spent nearly 5 years as Caltrans director. It is in this capacity, the position of highest responsibility within the State department of transportation, that Leo has left what is perhaps his most important mark. When he took over Caltrans, which for many years had been at the cutting edge of all that was new and innovative in highway design and construction technologies, he found a moribund agency. For various reasons, morale had ebbed, needed work was not being delivered, and popular support for transportation was low.

That situation has now been reversed. There is a renewed interest in transportation in California. Work is being demanded and delivered. And Caltrans is once again a department where bright young engineers are proud to say they work. In large measure, Leo is responsible for this revival.

And his outstanding efforts have been appreciated not just by the people of California, but by his peers from around the country as well. In 1983 Leo received the Government Professional Award from the National Society of Professional Engineers. The American Public Works Association recognized him in 1984 as one of the country's top 10 public works officials. At various times he has served as president of the Western Association of State Highway and Transportation Officials, and has been on the Executive Committee of the Transportation Research Board and the Executive and Policy Committees of the American Association of State Highway and Transportation Officials, [AASHTO]. And, most recently, AASHTO bestowed upon Leo its prestigious "Thomas H. MacDonald Award." The list of awards and posts he has earned and in which he has served is seemingly endless.

I am proud of the work that Leo has done for California and of the favorable attention that he has brought to the State through the sheer force of his exemplary efforts. But even were it not for that work, his personal characteristics, his honesty and integrity, his perseverance and interest in doing a job and seeing it through, and his steady, solid approach to work and to life; these facets alone would make me proud to have Leo as a friend.

Mr. Speaker, after 40 years, Leo is leaving Caltrans. That very significant chapter of his life will be behind him. Ahead of him lies a new chapter, and Lee and I hope that for Leo, his wife Shirley and their children, it is one filled with all the joy and happiness they have earned and deserve. During this transition that Leo is about to experience, there is at least one thing upon which I hope he knows he can count. To me, Leo will continue to be a great and good friend.

And Leo, if you have the time, I think there is still an interchange in Hawthorne that could use some work.

FAREWELL TO DAVE BOCKORNY

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. MICHEL. Mr. Speaker, today marks the last day David Bockorny will serve as Special Assistant to the President for Legislative Affairs.

Dave has been of great service to Members of the House and of great credit to the President during the past 2 years.

We will miss him around here and we wish him well in his new and promising career in the private sector.

INTRODUCTION OF LEGISLATION COMMEMORATING THE 100TH ANNIVERSARY OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. DAVIS of Michigan. Mr. Speaker, I am very pleased to join the chairman in introducing today a joint resolution commemorating the Merchant Marine and Fisheries Committee's 100th year. I am convinced that the accomplishments of this committee over the past century are deserving of commendation and recognition.

As the resolution states, the Committee on Merchant Marine and Fisheries was created on December 21, 1887—100 years ago today—to supersede the Select Committee on American Shipbuilding and Shipowning Interests.

Since the name of the committee does not begin to accurately describe the broad jurisdiction of the committee, I would like to very briefly acknowledge our subcommittees and their areas of responsibility:

Obviously Merchant Marine Subcommittee is responsible for all maritime matters and related marine transportation issues, domestic and international. I think it is important to note that recent events in the Middle East have brought to the forefront the need for freedom of the seas and the role of the merchant marine in our national security.

The Coast Guard and Navigation Subcommittee oversees all the activities of the U.S. Coast Guard—protection of our shores, inspection and documentation of ships and large boats, vessel safety, traffic control, execution of search-and-rescue missions, enforcement of fishery conservation and economic zones, oil spill containment and cleanup, and enforcement of drug smuggling laws, to name just a few.

The Fisheries and Wildlife Conservation and the Environment Subcommittee is charged with an equally large area of jurisdiction—promotion of our fisheries as well as fishery conservation, creation of the 200-mile limit, protection of wildlife, habitat and environment, creation of national wildlife refuges, and protection of marine mammals and endangered species.

The Oceanography Subcommittee's jurisdiction is also of great importance in that it continues to develop and broaden legislation dealing with increasing ocean dumping problems, coastal zone management, deep seabed mining, law of the sea issues, and various specific programs such as Sea Grant.

The Panama Canal/Outer Continental Shelf Subcommittee—this subcommittee has exercised jurisdiction over the operation of the Panama Canal since it was built and played a primary role in developing the implementing legislation for the controversial Panama Canal Treaty. I understand the newer Outer Continental Shelf jurisdiction was developed and broadened during the 1970's primarily as a result of this committee's Coastal Zone Management Act legislation, and the committee's jurisdiction over safety of floating platforms.

Last but not least, under your leadership, Mr. Chairman, we now have our Oversight and Investigations Subcommittee which maintains a watchful eye over all major issues under our jurisdiction.

I hope I have not omitted any significant committee issues in this brief outline. Even if I have, I think you will agree that the list demonstrates just how diverse our jurisdiction is. I personally have always felt that it is this diversity that makes this committee more interesting than most.

As do all coastal areas, the Great Lakes reflect the same diverse interests of the committee. Shipping is a legendary tradition as are our lighthouses and Coast Guard rescue stations. And as the largest fresh water body in the world, the lakes are still a fragile marine environment rich in natural resources that are in need of protection. Also, while the Great Lakes do not have a Panama Canal, they do have the St. Lawrence Seaway Development Corp.

Mr. Speaker, I also want to add that I am proud of the fact that the Honorable WALTER B. JONES is our chairman as we celebrate this 100th anniversary. He has led this committee with integrity and fairness for the past 7 years, and has done much to enhance our committee's esteem. Additionally, his leadership in handling problem areas and bringing about reasonable compromise has been outstanding * * * the hallmark of the way in which we do business here.

To conclude, I am proud to serve as the ranking minority member of the Merchant Marine and Fisheries Committee, and am glad that we are publicly and formally acknowledging our 100th anniversary by introducing this resolution today.

ON THE FAMILY WELFARE REFORM ACT OF 1987

HON. JIM LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. LIGHTFOOT. Mr. Speaker, earlier this year there was a great deal of hope that the Congress would be able to develop a plan to overhaul our Nation's welfare system. There appeared to be mutual agreement that our welfare programs needed to be revised to encourage people to move off of Federal assistance and into productive employment through education, training, and work activities. Unfortunately, the House was unable to translate this goal into a plan which I could support.

The welfare reform proposal approved by the House last week, H.R. 1720, seeks to accomplish this task, but I feel that it has fallen far short of this goal. For example, the bill approved by the House creates new barriers to work, mandates more Federal regulation and control, provides for little State flexibility in designing innovative welfare reform programs; and costs the taxpayers a great deal of money.

Instead, I believe the substitute bill offered by my distinguished colleagues, House minority leader BOB MICHEL and Congressman HANK BROWN, moves us in the direction of true welfare reform. For example, this bill called for stronger work requirements and greater State flexibility. According to the Congressional Budget Office, the Michel-Brown substitute bill would have resulted in 935,000 welfare parents participating in work programs versus only 210,000 families participating in work programs under the House-passed welfare bill. The substitute bill would also have resulted in 50,000 families leaving welfare for work, whereas it is estimated that under H.R. 1720 only 15,000 families would leave welfare.

In addition, the Michel-Brown substitute provides the States with greater flexibility to design their own welfare programs. It has been argued that innovative, community-based welfare programs need to be developed in order to reduce welfare dependency. Under the substitute bill, States would have been allowed to develop demonstration projects aimed at providing incentives for people to become independent of welfare. The House-passed welfare reform bill fails to acknowledge States' roles in designing welfare assistance and training programs.

Furthermore, H.R. 1720 increases costs to States by requiring them to finance benefit expansions. Rather than allowing States the option to increase or expand benefits as under current law, the House-approved bill requires States to increase benefits, such as those for two-parent families. For example, it is estimated that H.R. 1720 would impose over $900 million of costs on the States, while the Michel/Brown substitute would have saved the States $479 million over 5 years.

Finally, H.R. 1720 carries a price tag of $5.7 billion over 5 years, compared to a $1.1 billion price tag for the substitute bill. It is hard to imagine that the House of Representatives would approve such a costly bill during this time of fiscal austerity. It is ironic that while we are trying to achieve savings in Federal programs, the House is approving legislation costing the taxpayers billions of dollars without demonstrating that the money will be well spent or will actually accomplish the goal of reducing welfare dependency.

Mr. Speaker, it is not too late to achieve a thorough overhaul of our welfare system. The Senate must now act on welfare reform legislation, and I encourage that body of Congress to take a close look at this issue and to develop a proposal that is more in keeping with the Michel/Brown substitute.

THE RAINBOW WAHINES

HON. PATRICIA F. SAIKI

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mrs. SAIKI. Mr. Speaker, Hawaii athletes this past weekend once again brought honor, distinction, and a national title to the Aloha State.

The University of Hawaii Rainbow Wahine Volleyball Team won the NCAA championships by beating Stanford University 15–10, 15–10, 9–15, and 15–1. The Rainbow Wahines, our women's team, is the first school to win three NCAA women's volleyball championships.

The driving force behind this unsurpassed record is Coach David Shoji. His experience and ability to inspire the best in his players resulted in a 37 to 2 season this year.

This championship is especially sweet for the Wahine's three seniors. Team captain Tita Ahuna, Mahina Eleneki, Suzanne Eagye, and Diana Jessie worked hard to get the Wahine's to Indianapolis, where the NCAA final four championships were held.

All of Hawaii is proud of the University of Hawaii Wahines. They are "no ka oi." In Hawaii, that is our way of saying, there are none better.

THE MYTH OF PAKISTAN AS A HEROIC U.S. ALLY

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. DYMALLY. Mr. Speaker, I bring to your attention a recent article in the New York Times regarding "The Myth of Pakistan as a Heroic U.S. Ally."

THE MYTH OF PAKISTAN AS A HEROIC U.S. ALLY

TO THE EDITOR: Representative Bill McCollum's views of India and Pakistan (Op-Ed, Dec. 5) are distortions that fail to understand the relationship between the two countries and will only worsen Indian-American relations. Pakistan is not America's ally against Communism as Mr. McCollun claims; it never was. Nor is India an "almost Soviet surrogate"; it never was.

Pakistan joined the Southeast Asia Treaty Organization and Central Treaty Organization alliance in the 1950's, not to advance American strategic objectives against what was seen as a monolithic Chinese-Soviet Communist threat, but to deal with India. After the 1962 Chinese-Indian war, when the Kennedy Administration sought to provide India with arms, Pakistan not only thwarted these efforts but also joined China in a military alliance against India. American arms to Pakistan were used against India in the wars of 1965 and 1971. Not a single Pakistani shot was fired at a Communist country.

United States arming of Pakistan in the late 50's forced India to purchase at considerable cost arms from Britain and France. Only after American denial of arms to India in 1963 did India begin greater military cooperation with the Soviet Union. Even here, India has sought to balance military dependence on the Soviet Union with expensive military purchases from Western Europe.

India's nuclear dilemma began when China conducted an atomic test in 1964—two years after China's war with India and the forging of the unholy Chinese-Pakistani military alliance. While China, then as now, continued to build its nuclear capability, India refrained from pursuing nuclear weapons until 1972. However, the Indian nuclear dilemma became more acute after the Nixon-Kissinger tilt toward Pakistan during the critical Bangladesh crisis of 1971. This was also a time when the United States was pursuing rapprochement with Communist China, the other archenemy of India and ally of Pakistan. Under these circumstances, nuclear guarantees on behalf of India against China became dubious, and the nuclear question was reopened.

After India's 1974 atomic test, the Indian objective of becoming a nuclear power ceased until Pakistan began doggedly to pursue a nuclear weapons program under cover of false assurances to the United States.

The image of Pakistan as the heroic ally of the United States is a fantasy, which right-wing Communist-baiting and India-hating Americans continue to believe steadfastly. The Soviet invasion of Afghanistan has enabled Pakistan to acquire sophisticated American arms intended mainly for use agaisnt India and to scoff at the Symington Amendment with impunity. Likewise, it is important for the American right to distort the Indian-Soviet military relationship to justify a new round of United States arms to Pakistan, forgetting that Indian military dependence on the Soviet Union was created by American arms to Pakistan. Meanwhile, massive economic aid for Pakistan—the third largest per capita foreign aid the United States gives to any country after Israel and Eqypt—has enabled it to enjoy the highest economic growth rate in South Asia. It is no wonder Pakistan is not serious about resolving the Soviet occupation of Afghanistan.

Whatever weaknesses Americans perceive in the Indian political and economic system, it is India that has thwarted the advance of Communism in Asia for more than four decades by practicing democracy under the most difficult conditions; and by pursuing a realistic policy of coexistence with the Communist world.

India has no objections to good relations between the United States and Pakistan. But it cannot accept American efforts to counterbalance India by beefing up Pakistani military capabilities under the policy of containing Communism. This warped American vision of South Asia seen through East-West conflict lenses has existed long enough. India and Pakistan are principally concerned with their regional differences. Indeed, if the United States wishes to test this theory, it need only arm India. In no time will Pakistan be seeking military ties with the Soviet Union—as it did with Communist China in the 1960's.

RAJU G.C. THOMAS,
Professor of Political Science,
Marquette University.

BOB BERRY RETIREMENT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. GILMAN. Mr. Speaker, when the 2d session of the 100th Congress convenes in January 1988, this Chamber will not seem like the same place. For the first time in 17 years we will not have the advantage of the fine service Bob Berry has performed as our reading clerk.

Bob has performed his job with such excellence, such skill, and such grace that it is easy for us to forget just how complex and arduous is the position of chief reading clerk for the House. Since 1970, Bob Berry has performed so admirably—with skill, fairness, and expertise—that his shoes will be extremely difficult to fill.

Bob came to us as a native of the great State of South Dakota. Being born and raised in that State, Bob brought to Capitol Hill the pioneering spirit of individual initiative and American know-how which have served us so well for as long as he held this position.

Bob Berry brought with him also a family history of public service. As the son of one of our most distinguished colleagues, the Hon. E.Y. Berry, who served in the House with distinction from 1951 to 1971, Bob's imminent departure marks the conclusion of a 36-year tradition in this Chamber; a tradition of excellence in public service.

Bob is a veteran of our armed services. His 2-year stint on active duty in the Army took him to our Nation's Far East Command during the Korean conflict. In that position, Bob had the opportunity to observe and to participate in some of the major decisions of the day. Later, Bob served with the Combat Engineers 211th Batallion Headquarters of the South Dakota National Guard.

Bob Berry brought to his position a lifetime of experience, which he gained as a practicing attorney, as an assistant to the late Senator Karl Mundt, and as minority counsel of the Intergovernmental Relations Subcommittee in the Senate.

The tenure of Bob Berry as House reading clerk from 1970 to 1987 covers some of the most historic and emotion-packed Congresses in history. Bob Berry's performance as our reading clerk was a shining example to all of us.

To Bob and his family, we wish the best of luck as Bob leaves our hallowed halls for greener pastures.

Mr. Speaker, I invite all of our colleagues to join with us in bidding a fond farewell to this outstanding public servant, with the realization that the gain of the American Gas Association is our loss.

AIDS EDUCATION

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. GREEN. Mr. Speaker, I am pleased to note that last week during the conference on the Labor-HHS-Education appropriations bill, conferees clarified the types of AIDS educational materials and programs that may be funded by the Federal Government. While the bill provides that Federal funds may not be used for materials and programs that directly promote or encourage homosexual activity, the conferees have made it clear that Congress does not intend to prohibit descriptions of methods to reduce the risk of HIV transmission.

On October 20, when the House approved a motion to instruct conferees to adopt language that would prohibit the Centers for Disease Control from giving funds to AIDS educational materials or activities that "promote or encourage, directly or indirectly, homosexual activities," I spoke on the floor against this amendment because it threatened the efforts of the Gay Men's Health Crisis and other groups which have provided targeted educational materials to fight the spread of AIDS. As I said that day on the floor and I believe it bears repeating, the Gay Men's Health Crisis, through its carefully targeted materials, has played a significant role in helping reduce the incidence of AIDS in the gay community in New York City. Their efforts should be commended and nurtured, not condemned or hindered.

It is my understanding that as the wording now stands, federally funded materials and programs that are geared for the gay community may describe the best methods of reducing the risk of HIV transmission in that community. Those materials and programs would not be viewed as directly promoting homosexual activity but rather would be viewed as acknowledging that homosexual activity exists, and providing the important preventative information necessary in light of such activity. I believe that this is a useful and important clarification made by the conferees and I applaud them for their efforts to make clear the intent of Congress with regard to this provision.

BUDGET RECONCILIATION LEGISLATION

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. LENT. Mr. Speaker, the budget reconciliation health subconferences have reached agreement on which provisions should be included in the legislation. The Medicaid subconference addressed three provisions and the conferees have agreed to include all three. Two of these provisions are very good and worth funding. They include a compromise version of nursing home reform, a significant reduction over past House spending levels for Medicaid, and an amendment to the disproportionate share provision that provides a waiver for the State of New York to continue its current State pooling arrangements.

The third provision, however, lacks merit as written and taxpayers should not be burdened with it. This dreadful provision is the funding mechanism and amendments to the National Childhood Vaccine Injury Act of 1986.

Unfortunately, this provision has been packaged in such a manner that I would be forced to agree to all three provisions although I support only two. I am not the only Member caught in this dilemma. Representatives DANNEMEYER, TAUKE, and WHITTAKER, the other House Republican conferees on this subconference, agree that this vaccine compensation provision represents poor judgment.

The vaccine compensation provisions exemplify the congressional conference process at its worst. The public can now see how this legislative body passes controversial and costly legislation by burying it in the middle of important legislation that many Members feel compelled to vote for.

Supporters of the vaccine provisions might recall that during the 99th Congress I supported the Vaccine Compensation Program passed by the Energy and Commerce Committee and ultimately signed into law. The Energy and Commerce Committee could not enact financing of this program because it required that a surcharge be levied on vaccine doses, for which jurisdiction rests with the Ways and Means Committee. Because no action was taken by the Finance Committees in the 99th Congress, the Vaccine Compensation Program has not taken effect. Although I want to see the 1986 Vaccine Injury Act funded, I cannot support the funding and the amendments that are contained in the subconference action.

When the Vaccine Injury Act was enacted, it was with the understanding that children injured before the passage of the act would be treated the same as children injured after the act. The conference report changes this. It was also understood that adequate funding would be developed to pay all claims without having to rely on the vagaries of the appropriations process. The conference action also changes this. I am convinced that the National Childhood Vaccine Injury Act of 1986, as funded and amended by H.R. 3545, will not work. I agree with those supporters of the 1986 act who have said that this legislation is "fiscally unsound, inequitable, and unworkable."

We do not serve the public interest when we legislate important and controversial programs out of the sight of the public, as we are about to do by considering the omnibus budget reconciliation bill. This process deprives the Members of the House the opportunity to debate the merits of individual programs. It is a disservice to the American public.

POPULATION ASSISTANCE POLICY

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. SMITH of New Jersey. Mr. Speaker, I would like the record to reflect two actions in the area of international family planning programs taken recently in the 1988 foreign assistance appropriations process.

On December 3, 1987, the Senate Appropriations Committee rejected an amendment to the 1988 Foreign Assistance and Related Appropriations Bill which would have withdrawn the President's statutory authority to declare ineligible for population assistance foreign nongovernmental organizations that perform or actively promote abortion as a method of family planning. The recorded vote was 14–11 against the amendment.

Earlier, on August 6, 1987, the House Appropriations Committee rejected a similar amendment by a recorded vote of 26–21, thus leaving intact the President's antiabortion eligibility policy.

These actions reflect the policy of the U.S. Government to provide strong support for voluntary population programs but firm opposition to abortion as a method of family planning.

That the President has the authority to promulgate the so-called Mexico City Policy is beyond dispute as any reading of the relevant statute and legislative history will reveal. For example, the Foreign Assistance Act of 1961 as amended states very clearly, ". . . the President is authorized to furnish assistance, on such terms and conditions as he may determine, for Voluntary Population Planning." (22 U.S.C. § 2151b(b))

I would also remind Members that 2 years ago the House went on record overwhelmingly in favor of an amendment I offered that expressly endorsed the President's Mexico City Policy. The vote was 234 to 189 (July 10, 1985).

THE GREAT CRANBERRY CRISIS

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. MOAKLEY. Mr. Speaker, in today's Wall Street Journal is an article written by Mr. Harold (Hal) Thorkilsen, the president of Ocean Spray Cranberries, Inc., which is located in the Ninth Congressional District of Massachusetts which I represent. I commend this article to members of our business community for its insight into the successful business strategies employed at Ocean Spray Cranberries, Inc.

My good friend, Hal, is stepping down as president of Ocean Spray Cranberries, Inc., at the end of this month but I think his accomplishments and his style of management can serve as a truly outstanding model for our Nation's corporate community for years to come. I wish him the best in the future.

[From the Wall Street Journal, Dec. 21, 1987]

Lessons of the Great Cranberry Crisis

(By Harold Thorkilsen)

All too often, successful companies can fall victim to a byproduct of their own success: complacency.

It is when products are moving well, customers are happy and profits are high that complacency, like an undetected virus, can move in on a firm. The effects can sometimes be devastating, in terms of lost markets, plummeting sales, job layoffs, plant closings, and even takeovers or company closedowns.

A classic example is Detroit's experience in the 1950s and 1960s, when auto makers with full order books believed their hold on the U.S. market was secure forever. Not until the public began buying the new, high-quality imports did Detroit realize it might have been taking its customers for granted. It took years of attention to workmanship, quality standards and production costs before a significant turnaround began. Car makers, in their complacency, had failed to keep abreast of their clients' changing needs.

Similarly, companies with best-selling products that overlook subtle changes in consumer tastes are susceptible to the complacency bug. Back in the days of the so-called energy crisis, my organization started looking around for ways to package our products that would be more cost-efficient and less energy-dependent. Nowhere in the U.S. could we find anything suitable. But by looking abroad we discovered the new technology of aseptic "paper bottles," which we promptly introduced. American container makers, it seemed, had been perfectly happy with their existing product line. Their complacency lost them a lucrative new market.

Sometimes it can take a near catastrophe to reveal the extent of corporate complacency. At Ocean Spray, we learned the hard way after a crisis situation years ago that almost put our cranberry growers' cooperative out of business.

In those days, consumption of the fruit was almost entirely confined to the serving of cranberry sauce at Thanksgiving and Christmas dinners. We were quite content, at the time, with this single-purpose, single-season usage of our product. We were complacent.

Then disaster struck. Just before one Thanksgiving holiday, federal authorities reported that a pesticide used by some West Coast growers had caused cancer in laboratory rats. Although this widely publicized scare turned out later to be erroneous, pre-holiday TV coverage of "The Great Cranberry Crisis" cut sales drastically and came close to ruining our growers and their cooperative.

In the aftermath of this catastrophe, we were forced to re-think our entire marketing philosophy and management style. We acknowledged, first, that self-satisfaction, short-term thinking and ignorance of consumer needs were the reasons we had never developed a year-round product line. Then, after an extensive R&D effort, we embarked on a continuing program to diversify and create a year-round market by producing cranberry-based juice drinks and other products. By marketing our new beverages as "good for you"—just when consumers were starting to demand natural, healthier products—our organization was fortunate enough to save itself.

Our experience showed us several ways in which managers can spot early signs of "the complacency factor" and take corrective steps. One way is to institute a regular corporate review and self-examination process. This can work in any organization, but seems particularly apt for old, established companies, where the risks of status-quo thinking and entrenched working methods may be high.

At Ocean Spray (founded in 1930) a small management committee monitors every aspect of our operation on a biweekly basis. We examine and question, for instance, the breadth of our product line and consumer outlets, new products and packaging under development, our manufacturing and distribution methods, customer comments and complaints received, salesmen's reports, results of ongoing market research, our company policies and actions by competitors. In particular, we watch closely any product, packaging or working system that has remained unchanged for three years or longer. In some cases, we appoint a study group to examine a specific product whose performance might be improved.

As part of the corporate culture, we also let employees know that we encourage a spirit of innovation, entrepreneurism, risk-taking, questioning of orthodox methods and "thinking the unthinkable." Through such measures, and by staying vigilant, it is possible for a company to keep smugness and complacency at bay.

Other effective countercomplacency steps can include:

Staying in close touch with consumers, trade factors and suppliers to get an honest reading of how outsiders view the company's products and marketing methods. This process has helped us to quickly spot our occasional product failures, such as a cranberry-prune juice drink and a vegetable juice cocktail that consumers flatly rejected. It has shown us shortcomings in package sizing or design. It has also led us to capitalize on successful new ideas such as a tropical drink using Hawaiian guava fruit and the blending of a pink grapefruit-juice cocktail.

Encouraging the free exchange of ideas and suggestions, however farfetched, at every employee level. In our case, this "bottom-up" approach has been responsible for innovations such as the first ultraviolet cranberry sorter, better methods of crop harvesting, lighter shipping cartons, a cost-saving revision of our truck delivery system, more effective quality control with fewer inspectors, and an improved way of moving bottles down a line, suggested by a new employee.

Openness to new ideas, closeness to consumers and constant watchfulness are among the most potent weapons an organization can use to guard against the dangers of self-satisfaction and complacency.

YUGOSLAVIAN-MADE MINES MAY ENDANGER AMERICAN LIVES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. GILMAN. Mr. Speaker, I was dismayed to read that American ships in the Persian Gulf may be endangered by acoustic mines manufactured in Yugoslavia.

These mines were sold by Yugoslavia to Libya, which later traded them to Iran for poison gas, according to press reports.

I find it shocking that Yugoslavia, a nation with which we have relatively good relations, would be willing to sell high-tech weapons of war to the terrorist Qadhafi. Whatever assurances Qadhafi may have given about the "end use" of those mines—if indeed he gave any—could not be worth the paper they were written on.

I think that the Yugoslavian Government should realize that sales to outlaws such as Qadhafi can only lead to a sharp reassessment of American policy toward Yugoslavia, and the Yugoslavian Government should not be surprised that such a reassessment, based on this incident and other problems in that country, is now underway.

THE HAITIAN ELECTION DAY VIOLENCE

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. SCHEUER. Mr. Speaker, Haitian junta leader Gen. Henri Namphy was quoted last Tuesday in the French newspaper Liberation, as saying that the Army he heads had taken no part in the election day violence in Haiti on November 29. "The army," he said, "didn't even know who was shooting whom." However, foreign reporters in the provinces and in Port-au-Prince, Haiti's capital, witnessed Army participation in actions against voters and electoral officials. One American photographer stated that there were men in uniform among those who attacked voters at a Port-au-Prince polling place and killed 14 Haitians and a television cameraman from the Dominican Republic. When soldiers were not directly involved in the arson, the shootings and the knifings, they often stood passively by. At least five American reporters and photographers were attacked by a band of machete-wielding thugs, not more than 100 meters from the Army's highway checkpoint near the town of St. Marc. The ballots to be distributed throughout the northern city Gonaives were taken from the electoral office on election day morning at 7, and burned in the street just around the corner from the local Army headquarters. The night before, as in Port-au-Prince, gunfire raked the homes and offices of democratic leaders; at best, the Haitian Army did nothing to stop the violence.

The next day, after the junta announced that order was to be reinstated, the violence suddenly stopped. One must presume that those who could stop this violence the day after the elections could have stopped it the day before.

There is little question that Namphy's regime wanted the elections cancelled. Now the Namphy regime has disbanded the original electoral council and published a new election law which will allow soliders, but not independent observers, into polling stations. This is virtually a guarantee of electoral abuse.

The four candidates, who are estimated to control approximately 80 percent of the electorate, have demanded that the regime step down. They vow to unite together and boycott the balloting.

Still, the Department has not completely rejected the Haitian junta. Furthermore, it has refused to acknowledge the regime's complicity in the attacks on voters, polling places, and candidates, two of whom were murdered in the months leading up to the elections, one of them in front of the police headquarters that sits across from the Presidential Palace where Namphy works.

The United States has suspended military and nonhumanitarian aid to Haiti in light of the election day debacle. I urge the State Department to go further, and make plain to the Haitian junta that it will not acknowledge any council other than the original council, will not support any election organized by a council other than the original council, and will not recognize any president, senator or municipal official elected in Army-organized polling.

In addition, I join Chairman FASCELL and several other of my colleagues in supporting efforts to explore sending a mulitnational force to Haiti to monitor the January 17 election.

We cannot countenance any further trampling of the infant democratic movement in Haiti.

THE DECEMBER 16, 1987, ELECTIONS HELD IN THE REPUBLIC OF SOUTH KOREA

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. PARRIS. Mr. Speaker, I rise today in order to congratulate Mr. Roh Tae Woo on his victory in the December 16 balloting in South Korea. I would also congratulate the people of that great nation on the successful completion of this event, which brings them that much closer to the goal of full democratization. Particularly impressive is the fact that better than 90 percent of South Koreans participated in the voting and many of them actively participated in the campaigns prior to the elections—I only wish we could get that kind of interest in this country's elections process.

According to the U.S. State Department and a number of "unofficial" U.S. congressional staff observers, the voting appeared "to have been conducted in an open and orderly manner" and that "the opposite parties had elections observers at balloting and ballot-counting places." As for charges of widespread fraud, made by the unsuccessful candidates, the State Department has reported that it could find no evidence of such.

Those charges must, however, be addressed. I am hopeful that the Korean people will resolve their problems peacefully and through legal channels established under the presidential election law adopted in November 1987. Only then can the difficult process of reconciliation proceed.

Following the elections, Mr. Roh made a number of important and timely statements including an offer of general amnesty for political prisoners and a restated commitment to national reconciliation. I applaud Mr. Roh for those statements and take this opportunity to wish him Godspeed as he embarks on this most difficult task which lies ahead.

In closing, I would also offer praise to the opposition candidates for their hard work in making a positive contribution to the process and for their commitment to their respective ideals.

As time goes on, and further progress is made toward national reconciliation and full democratization, all South Koreans will come to know that in a truly democratic process there are no losers—only winners.

THANK YOU, BOB BERRY

HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. MILLER of Ohio. Mr. Speaker, I want to join my House colleagues in paying tribute to the "voice of the House Chamber" for the past 18 years: Mr. Bob Berry.

As we all know, Bob is leaving Capitol Hill after nearly 29 years of service. He will be deeply missed. During his service as GOP reading clerk, Bob has distinguished himself by his diligence, his sense of responsibility and a working knowledge of the legislative process that has proven essential to the procedures of the Congress. We oftentimes tend to take certain functions—and persons—for granted in the midst of the legislative process. Bob has done his job so well and so completely over the years, that—frankly—we have tended to overlook the exemplary manner in which he has fulfilled his important responsibilities. Upon his retirement from the House, it is both fitting and appropriate that we—the beneficiaries of his good work—take the time to express our collective appreciation to a man who has earned our respect and admiration.

It is a pleasure and honor for me to join with my House colleagues in paying tribute to a public servant who has truly been a voice of democracy—each and every time the House assembles. Thank you, Bob, for a splendid job and for giving us the pleasure of working in the company of a true professional. I wish you the very best as you move to your new post.

AN EXCITING DAY AT THE WHITE HOUSE

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. COURTER. Mr. Speaker, I rise today to inform my colleagues of an excursion of the Trinity Bell Ringers of Hackettstown, NJ, this past Saturday, December 19. The bell ringers, of which my daughter Donica is a member, were asked to perform at the White House.

The bell ringers, under the care of Bertyl Glass, gave a lovely performance. The President and Mrs. Reagan hosted the event for military officers and their wives. The group had a wonderful time, and meeting the President made their trip extra special.

Those in attendance included Andrew Bernard, Michelle Bowers, Kimberly Cacchio, Donica Courter, Faith Fowler, Garrett Glass, Lovell Gordon, Scott Hammond, Steven Kinsey, David McGill, Cynthia Morgan, Arpana Naik, Melanie Russell, Darryll Sandrue, Heather Stirling, Tonya Stirling, Susan Thomson, Jennifer Vangolen, and Elizabeth Johnson.

Congratulations on a job well done!

AMALGAMATED BANK OF NEW YORK

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. RIDGE. Mr. Speaker, I would like to take this opportunity to share with my colleagues an important article on the Amalgamated Bank of New York published in the December 14, 1987, issue of the Wall Street Journal. As a member of the House Committee on Banking, Housing and Urban Affairs concerned with improving financial services for the American consumer, I was greatly impressed with the innovative, service-driven orientation of this bank. Owned by the 284,000 members of the Amalgamated Clothing & Textile Workers, the Amalgamated Bank of New York has a track record of 44 consecutive years of profit while providing unmatched, unparalleled service to its members. I sincerely hope that many of the financial chief executive officers across the Nation review this article and consider its message. Most importantly, the members of the Amalgamated Clothing & Textile Workers, its leadership and the employees of the Amalgamated Bank of New York deserve congratulations for such an achievement. Mr. Speaker, I want to invite my colleagues to read this informative article.

[From the Wall Street Journal, Dec. 14, 1987]

LABOR LENDING: HOW A UNION SURVIVES IN BANKING BY PUSHING SERVICES OVER PROFITS

(By Robert L. Rose)

NEW YORK.—When Amalgamated Bank of New York introduced a free checking account last fall, it wasn't content to quietly inform its customers. The bank bought an ad opposite the editorial page in the New York Times and asked: "Why is free checking only for those who can afford to pay for it?"

The bank's inclination to tweak its big corporate rivals isn't surprising. Amalgamated is a union bank, founded in 1923 by the Amalgamated Clothing Workers and still owned by the 284,000 members of its successor, the Amalgamated Clothing and Textile Workers.

Heralded as the wave of the future by labor leaders earlier in the century, labor banking was a flop. Out of some 36 labor banks founded in the 1920s, only Amalgamated in New York and Brotherhood Bank & Trust in Kansas City, Kan., survive as labor-owned institutions.

Now, with some labor experts predicting a comeback in union membership and influence, Amalgamated provides one of the oldest examples of a kind of labor-owned business that may multiply. In the past several years, about half a dozen new labor banks have opened, and more are on the way. Like the clothing workers who started Amalgamated, other unions see a chance to own a bank friendly to their members' needs and find new investment outlets for their growing assets.

A ROGUE BANK

Amalgamated survived largely because its union owner insisted on conservative banking and professional management. In contrast, the Brotherhood of Locomotive Engineers set up banks across the country during the 1920s and quickly branched into securities and even Florida land development. Losses piled up, and the union eventually charged four of its officers with mishandling funds. By 1931, the engineers were out of the banking business.

Amalgamated has also benefited from being something of a rogue bank, loudly touting a consumer ethic and often de-emphasizing profits in favor of services. Its free checking account is only the latest evidence: Amalgamated claims to have pioneered the unsecured installment loan in the 1920s, lending money to borrowers with no collateral but a steady job. Three times a survey has named it the top bank for consumers in New York City. "They give me the best treatment," says Mike Garcia, an officer of the Leather Goods, Plastic and Novelty Workers' Union, who says he banks at Amalgamated because of its labor roots.

OVERLAPPING CONSTITUENCIES

Amalgamated has reported 44 consecutive years of profit and has grown to $1.47 billion in assets by serving two overlapping constituencies: middle-class consumers and organized labor. Now, the union-owned bank is exploring other ways to use its labor ties and financial muscle to expand in new areas.

Earlier this year, Amalgamated teamed up with Metropolitan Life Insurance Co. in a proposal to offer a comprehensive money-management program for the AFL-CIO's 14.5 million members. On a smaller but no less innovative scale, Amalgamated is helping three New York locals of the Bridge, Structural and Ornamental Iron Workers Union use some of their pension money to finance below-market, no-points home mortgages for their members. The bank is considering expanding the service to other unions, many of which have retirement trust funds under Amalgamated's care.

The recent mini-resurgence of labor banking is led by unions in the construction trades. Massachusetts members of the carpenters' union opened a Boston bank in September, and California carpenters plan to open a separate institution next year. Two-year-old Union Savings Bank in Albuquerque, N.M., another construction-trades bank, uses its $10 million in assets for loans to small businesses and other customers.

"I think there's been a realization that we should be generating jobs with our own money wherever possible," says Anthony Ramos, the retired former leader of the California State Council of Carpenters.

Amalgamated's loud voice on consumer issues is partly a marketing ploy to set itself apart from the pack. As other banks cater to big depositors and raise fees for small accounts, Amalgamated promotes treats for the little guy, such as its free checking and low-interest personal loans.

Highly conscious of its labor roots, Amalgamated also likes to take shots at the extablishment banks. In one of its radio commercials, a stuffy banker tells a customer he needs a password to sit down. "The name of any Ivy League school will do," says the banker. P.S. 188?" asks the customer, naming the public school he attended. In other ads, comedians Jerry Stiller and Anne Meara imitate rank-and-filers with names like Rocco and Blanche, and pitch "America's Labor Bank."

"If we give [the industry] an uncomfortable feeling for a couple of hours, it will be worth it," concludes Edward M. Katz, Amalgamated's president and chief executive.

The bank's five-story brick headquarters, which it shares with its union owner, overlooks New York's Union Square, the site of labor and political rallies earlier in the century. Back in the old days, Amalgamated's services even included a travel agency and foreign-exchange desk for the immigrant population that dominated the clothing worker's union. Today, customers in open shirts and work boots outnumber those in business suits. Proclaims a plaque on the lobby wall: "New York's First Labor Bank, dedicated to the service and advancement of the labor movement."

Mr. Katz, too, is quick to prove his allegiance. After ushering a visitor into his office, he flips open his suit jacket and proudly shows the union label. A soft-spoken man of 66 who started as a part-timer at the bank in 1946, Mr. Katz raises his voice when he talks about how small depositors have fared under banking deregulation. Not too well, he believes. "When you have a special industry using Uncle Sam as an umbrella in times of difficulty, don't you owe something to the public?" he asks. "What would be so wrong with having an account on which you don't make money?"

Amalgamated, though is bucking a strong trend. A national survey conducted by the Consumer Federation of America and others found that fees for routine banking services are rising sharply for most depositors.

In some ways, Amalgamated has a lot less to offer those customers than its competitors. Small by big-bank standards, it doesn't generally offer credit cards or home mortgages. With only three branches and two newly opened automated teller machines, it lacks what many consumers want most: convenience. And in the ranks of big-league banks, Amalgamated is an also-ran, shunning such trends as interstate expansion and the hot competition for corporate loans.

"I'm not conscious of their presence" as a competitor, says Richard Ravitch, the chairman and chief executive of Bowery Savings Bank, which has about four times the assets and eight times the branches of Amalgamated. Contends another New York banking official: "If they were the best, they'd be bigger."

But what Amalgamated does have it pushes hard, especially its reputation as a low-cost consumer bank. Last year, when an annual survey by New York State Sen. Franz S. Leichter dropped Amalgamated to No. 11 from No. 1 as the least expensive bank for New York City consumers, Amalgamated officials phoned the legislator and angrily complained. (The bank is back up to No. 2 this year.) In 1985, the Better Business Bureau of Metropolitan New York challenged Amalgamated's boast of having the lowest auto-loan rates of any bank in the city. But the bank quickly backed up the claim, the bureau says.

Amalgamated says its current 9.2% interest rate on new auto loans is still the best in the city. According to the Bank Rate Monitor, seven of the largest bank and thrift institutions in the New York City area charge an average of nearly 12.5%. On the deposit side, the bank's 6.25% annual yield on money-market accounts is a third of a point higher than the average paid by 10 big institutions tracked by the monitor.

Amalgamated also pays interest and charges no fees on savings accounts with a $5 minimum. And it is not unusual for the bank to get thank-you notes from longtime customers surprised to find the bank honored their checks—and charged no penalty—on their overdrawn accounts.

Customers' main compaint centers on what bank employees call "the conga line" that often slowly snakes its way to 23 tellers in the lobby of the main office. Still, other factors outweigh the long waits, depositors say. Edward Soorko, for example, says he moved his account to Amalgamated after Citibank bounced a check for his son's tuition—even though he covered the check with a deposit the same day.

Charles Nabelle, a dapper 82-year-old customer in a white hat and sports coat, walks 13 blocks to get to Amalgamated's Union Square office. There are plenty of closer banks, but he says he chose Amalgamated because he likes the personal attention he gets there. After cashing a $40 check, Mr. Nabelle offers a short lecture on the importance of shopping for bank services. "A poor sucker will go for Chase Manhattan as opposed to Amalgamated because Chase or Citibank is an important bank," he says. "That is unfortunate."

And perhaps costly. Sen. Leichter's latest survey found that a typical bank customer with $500 in checking and $1,000 in savings would earn $105 in a year at Amalgamated and lose $100 in Manufacturers Hanover Trust Co. Amalgamated, says Glenn von Nostitz, the legislative aide who oversees the survey, shows "you can give people a break and still make money."

Not surprisingly, Amalgamated has kept a close relationship with organized labor. Unions account for up to two-thirds of its $1.1 billion in deposits, and its trust department holds an additional $3.2 billion in pension and health-and-welfare funds. Amalgamated manages $1.6 billion of the trust funds, shunning stocks and corporate bonds in favor of safer government securities.

In 1973, Amalgamated officials worked over a weekend to fill out hundreds of bail checks to keep striking Philadelphia teachers out of jail. Nine years later, when the National Football League Players Association ran out of money during its strike, it turned to Amalgamated for a $200,000 loan. The players' union didn't have an account with the bank at the time, but "we did after that," says Ed Garvey, then the union's executive director.

Although neither the Amalgamated Clothing and Textile Workers union nor the bank likes to admit it, the goal of giving consumers and unions a break often conflicts with the goal of making money. But Mr. Katz has the luxury of working for owners who aren't constantly pressing for higher profits. "You make a little less," concedes Jack Sheinkman, the president of the union and chairman of the bank. "Despite that, we've done very well in terms of our return on equity and on capital," which exceed the average for banks Amalgamated's size.

That attitude makes it easier for the bankers to concentrate on another priority of union—financial safety. The bank has a few corporate customers and, as a matter of policy, turns down offers to participate with other banks in corporate lending. "I don't want to rely on my big brothers" to determine if a loan is safe, says Mr. Katz. Nor does he like to gamble on investments. Mr. Katz prefers buying U.S. government securities, and the shorter the maturity the better. "All the money's tied up in cash," jokes Howard Lee, the executive vice president and cashier.

The result is steady, if not spectacular, profits. Last year, Amalgamated earned $12.2 million, sending $7 million of that in dividends to its union owners. Government bank examiners often do double takes when they pore over Amalgamated's books. Bad loans charged off in 1986: $195,000 out of $313.5 million, far below the average for banks its size. Auto loans delinquent 30 days or more at the end of November: 11 out of 13,044.

Says William A. Goldberg, who runs the bank's personal-loan department: "We're here for the average guy—so long as we are reasonably assured he'll pay us back."

THE ROCKWALL, TX, YELLOWJACKETS

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute and express appreciation to my hometown football team—the Rockwall, TX, Yellowjackets, to athletic director and head coach, Troy Miller, his coaching staff, Gary Johnson, Ronald Mays, Flint Risien, Dan Webb, Ed Stock, Todd Dodge, and Eric Mullins; to superintendent Jimmy Williams and faculty; to varisty cheerleaders, Ashley Dodd, Michele Botts, Penni Nichols, Kristen Taylor, Tisha May, My Ahn Hastings, Jill Pratt, Michele Kolodey, Elizabeth Clower, Melissa Saddler, Leigha Sparks, Tracy Schwaner, Casandra Brown and to Spirit Jacket: Dana Webester, to the junior varsity cheerleaders, Shawna Farmer, Shannon Shoquist, Lynn Peterson, Mandy Fulkerson, and Chrisde Marak, and their sponsor, Cynthia Webb, all joined by the Rockwall High School Stingerette officers: co-captains Rebecca Harle and Cristy Meadows, first lieutenant, Lesley Lingnell, senior lieutenants Jill Davey, Cheryl, Haydicky, Dana Lee, and Junior lieutenants Erin Gordon, Brenda Barton, Jamie Adams, and Amy Roffino.

The Stingerette line members are:

Jamie, Adams, Amy Albritton, Missy Allan, Christy Anderson, Lisa Anderson, Brenda Barton, Alesha Bell, Dawn Berry, Sara Bothwell, Erika Bryant, Jana Burks, Jana Burnett, Barbara Capparelli, Erin Chenault.

Karen Clint, Cristy Crabtree, Jennifer Crow, Lesley Dyer, Shawna Dyer, Michelle Farley, Amy Florence, Jana George, Erin Gordon, Kandie Guerin, Da la Hannigan, Sydney Hansen, Kirsten Hinson, Amy Hopfer, Alicia Johnson, Kathy Klutts.

Ayn Krofchalk, Kristen Kupper, Margaret Lovell, Jenni Luiz, Monica Marietti, Summer Mark, Carla Mills, Nicole Mitchell, Monica Norman, Kathleen Northcutt, Aubrey Nutt, Lisa Palerno, Leslie Parish, Lucinda Pullen, Becky Reeves.

Amy Reeves, Michele Rhodes, Carey Riggsby, Amy Roffino, Kristen Smith, Sabra Stark, Kathy Stevens, Tiffany Stewart, Jenny Wall, Sharla Weatherall, Leah Weddle, Sherri Wheeler, Amy Williams, Natalie Wimpee, Julie Winters, Kristen Zaletsky.

The Stingerette managers are: Amy Knable, Torrye Knowles, Duana Lancaster, Suzanne Williamson.

This beautiful and talented group are sponsored by Diane Martin and Robin Moore.

Of course the Rockwall Super Band, with band directors Cathy Hill, Jay Back, Mike McGill, and Jim Whitfill, and the band, led by drum majors, Corbin Wilson and Michele Hammers, were an inspiring and integral part—matching the team in precision, performance, success and plain hard work. These leaders, along with the following band members, spurred our team on:

Craig Murray, Jeff Murray, Nicole Nemec, Heather Parker, Meredith Roy, Gina Burnett, Jennifer Johnson, Kay Sorrells, Tiffany Hebert, Kristie Jones, Eric Camp, Sean Eubanks, Jennie Freeman, Tonya Harbison, Brad Helmer, Greg Hudspeth.

Jenny McKinney, Tim Ottaway, Jason Overholt, Beth Quinn, Kevin Skoglund, Kenny Stephens, Terri Watkins, Cameron Wilson, David Wright, Dede Boyd, Renee Cecil, Matt Chambers, Suzette Curlee, Shane Elam, Amy Kennedy, Tracy Klepper.

Gianise Longoria, Jodelle MacAtangay, Paul Morris, Steve Myres, Cheri Rumbo, Jeff Wheatley, Missy Yarborough, Colleen Morale, Cricket Frazier, Chris Voss, Jason Austin, Scott Conner, Alfred Ellington, Andrew Kirk, Byran Klein, Mike Nichols.

Misty Sampson, Michael Simmons, David Hoye, Aaron Miller, Megan Quinn, Rocky Sexton, Michael Tarver, Pat Amini, Ranelle Bennett, Kevin Boyd, Kristine Burman, Kellee Cramer, Wendy Day, Diane Dazenko, Lisa Ethridge, Karen Garner, Diane Genrich.

Kristi Gillenwater, Jana Glass, Michele Hammers, Curt Hendley, Phyllis Herd, Hollie Jacobs, Kandy McCasland, Greg Neyman, Karen Petty, Cindy Rice, Jack Shelton, Marla Steinhoff, Mike Stidd, Whitney Tuttle, Amy Volpert, Chrissy Asberry.

Heather Brawand, Rozanne Cozart, Tricia Eakins, Allegra Eubanks, Jennifer Hooper, Kristina Ingram, Gene Lall, Donna Marburger, Michele Matz, Caydee McCormick, Sheri McCoy, Christi Miller, Kathy Petty, Teresa Powell, Dusty Roberts, Laura Vaughn.

Anne Yesconis, Billinda Harris, Jamie Harris, Sonya Meyers, Paula Moloney, Shahn Thornton, Shane Westbrook, John White, Corbin Wilson, Chris Collins, Jennifer Cook, Mike Garrett, Matt Good, Wayne Headen, Chris Hoofnagle, Derek Hurt.

Deanne Iglody, Michelle Lawson, Kyle Lovelady, Jimmy Malcolm, Mike Tremblay, Steve Whitmarsh, Brenda Wisdom, Meredith Wisdom, David Mizell, Jake Rehm, Randy Watson, David Welborn.

Mr. Speaker, when the football season started for district 5-AAAA, no one expected the Yellowjackets to do more than put up a good fight against other high-ranked district and northeast Texas teams, such as McKinney (State champion, 1979), Denison (State champion, 1984), Paris (ranked in the top 10 all year), Ennis, and others. To add to Yellowjacket concerns, there was a change in the head coaching position just before our season began—a season that would see us lose two of the first three games. Then—the cinderella-like climb began for Rockwall High School—one that led to the finals—a battle between the best team in north Texas, and the best team in south Texas. In this game there could be no loser and there was none. At the end of the 48 minute contest at Texas A&M Kyle Field last Saturday, the defending State AAAA champion, West Orange-Stark (ranked ninth nationally) had outscored our Jackets by a mere 10 points—17 to 7. No one in Rockwall feels that we suffered a defeat, but all feel that our team, week after week, performed a miracle—and I can't start to tell you how proud we all are of them. Our Yellowjackets are champions and the only reason Troy Miller should not be named "coach of the year" would be that he is named "coach of the century." The Yellowjackets, quarterbacked by Andy Hollon, are as follows:

Kevin Kaufman, Chad Keck, David Piepenburg, Daron Gillian, Keith Williams, Chris Burks, Dallas Eshelman Rodney Glaze, Kelly Johns, Robbie Birleson, Maika Hayes, Brandon Kennedy, Tony McGuire, Brian Thomas, Brant Gillen, Waymon Moore, Kris Mason, Byron Cromer, Brian McCormick, Jim White.

Ross Redden, Justin Hall, Dan Willess, David Gaffney, Gregg Coker, Brent Davis, Mike Grigsby, Scott Wischnewsky, Brian Helmer, Doug Johnson, Chris Ice, Robert Ward, Steve Aultman, Tim Walker, Dean Willess, Daron Ballew, Mark Van Dyne, John Garvin, Eric Towell, Chad Ghormley, and David Hooker.

The trainers are: Jim Harris, Mike Thomas, Gary Godwin, and the Rockwall High School principal is Ron Eubanks.

No one could be more proud of this team effort. Fans, parents, relatives, and supporters are all proud and pleased with our Yellowjackets. Mr. Speaker, as we adjourn today—and as we close out the first half of the 100th Congress—let us adjourn in recognition of the Rockwall Fighting Yellowjackets of 1987—the team who never quit—who were winners on the gridiron and will certainly be winners and leaders in the years that are ahead of them.

H.R. 3777—CRIMINAL JUSTICE REFORM ACT OF 1987

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. GEKAS. Mr. Speaker, on December 16, 1987, I was joined by eight of my colleagues in introducing H.R. 3777, the Criminal Justice Reform Act of 1987, on behalf of the administration.

This proposed legislation will complete the major crime prevention initiative originally proposed by the administration during the 98th Congress—an initiative which has already seen enactment of many criminal justice reforms as part of the Comprehensive Crime Control Act of 1984.

The three measures contained in this bill are extremely important for those wish to see crime abated in this country. First, there is reform of the exclusionary rule that would permit the introduction at trial of evidence seized under circumstances justifying an objectively reasonable belief that the search or seizure was in conformity with the fourth amendment of the Constitution. This is the so-called good faith exception. Second, the bill would reform the exercise of the habeas corpus writ in order to minimize its interference with the criminal justice systems of the States and to promote finality. Third, the bill provides constitutional procedures for the imposition of the death penalty in Federal capital offenses.

Law enforcement can prevent crime only if we give it tools which are proper for the task. The reforms contained in this proposed legislation provide measures which are critically important to law enforcement's responsibility. Measures such as are contained in this bill—reforms of the exclusionary rule, habeas corpus, and capital punishment—have already been passed in the Senate as separate bills by large majorities. Legislation to provide the death penalty for those who commit murder during the course of a continuing drug enterprise, which is part of this bill, was passed overwhelmingly by the House three times during the 99th Congress as an amendment to the Anti-Drug Abuse Act of 1986.

I appreciate, as we all do, the general support that exists for these important proposals and hopefully this heavy weight of public opinion will be the best incentive for their expeditious consideration.

Mr. Speaker, America has been waiting for the reestablishment of an equilibrium within our criminal justice system that will protect the interests of the law-abiding to the same extent that those of the criminal are considered. Passage of this bill will move a long way toward that goal and I urge my colleagues to join me in prompting early action.

A section-by-section analysis of H.R. 3777 follows:

H.R. 3777—CRIMINAL JUSTICE REFORM ACT OF 1987—SECTION-BY-SECTION ANALYSIS

The proposed Criminal Justice Reform Act of 1987 would enact a number of important reforms in the operation of the federal criminal justice system. Title I would revise standards relating to the admission of evidence obtained through searches and seizures. Title II would amend the procedures for collateral review of criminal judgments, including federal habeas corpus review of state judgments and the corresponding collateral remedy for federal prisoners. Title III would establish constitutionally sound procedures and standards for the imposition of capital punishment for especially heinous federal crimes.

TITLE I—EXCLUSIONARY RULE

Title I of the Criminal Justice Reform Act would (1) generally bar the exclusion of evidence obtained in circumstances justifying an objectively reasonable belief that a search or seizure was in conformity with the Fourth Amendment, and (2) clarify that evidence cannot be excluded on the basis of non-constitutional violations unless such exclusion is expressly authorized by law.

The principal reform proposed in Title I—an objective reasonableness standard for the admission of evidence—is very similar to exclusionary rule reform legislation that was passed by the Senate as S. 1764 in the 98th Congress and by the House of Representatives as section 673 of H.R. 5484 in the 99th Congress. A detailed discussion of the policy issues raised by this reform appears in the Senate Judiciary Committee's report on S. 1764 (S. Rep. No. 350, 98th Cong., 2d Sess. (1984)). The ensuing analysis briefly describes and explains the provisions of Title I.

Section 102 of Title I would add a new section 3508 to the federal criminal code. Subsection (a) of proposed section 3508 provides that evidence shall not be excluded in any federal proceeding on the ground that a search or seizure was in violation of the Fourth Amendment if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the Fourth Amendment. This would apply the underlying principle of *United States* v. *Leon,* 468 U.S. 897 (1984), so as to bar the exclusion of evidence obtained in such circumstances in cases involving warrantless searches, as well as in cases involving searches pursuant to a warrant. Th Leon decision specifically barred the suppression of evidence obtained in conformity with a warrant in circumstances justifying an objectively reasonable belief in the warrant's validity, noting that excluding evidence where an officer's conduct is objectively reasonable "will not further the ends of the exclusionary rule in any appreciable way; for it is painfully apparent that . . . the officer is acting as a reasonable officer would and should act in similar circumstances. Excluding the evidence can in no way affect his future conduct unless it is to make him less willing to do his duty." Leon, 468 U.S. at 920.

This principle has already been applied for several years by the federal courts in the Fifth and Eleventh Circuits in deciding on the admissibility of evidence obtained through searches and seizures in both warrant and non-warrant cases. See *United States* v. *Williams,* 622 F.2d 830 (5th Cir. 1980). The standard of objective reasonableness is also uniformly applied in determining an officer's exposure to civil liability based on an allegedly unlawful search or seizure. See *Anderson* v. *Creighton,* —— U.S. ——, No. 85-1520 (June 25, 1987).

Subsection (a) of proposed section 3508 perpetuates as a special case the specific holding of *United States* v. *Leon,* supra, that evidence is not subject to suppression if obtained in objectively reasonable reliance on a warrant. As in Leon, the circumstances relevant to the determination of objective reasonableness in warrant cases under subsection (a) would include the circumstances under which the warrant was obtained as well as the circumstances under which it was executed. See Leon, 468 U.S. at 923 n.24.

Subsection (a) also provides specifically that the fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of circumstances justifying an objectively reasonable belief that a search or seizure was in conformity with the Fourth Amendment. This reflects the fact that "[i]n the ordinary case, an officer cannot be expected to question the magistrate's probable-cause determination or his judgment that the form of the warrant is technically sufficient." Leon, 468 U.S. at 897. Thus, the fact that evidence was obtained in conformity with a warrant would be adequate to establish objective reasonableness in the absence of rebuttal by the defendant, such as a showing that the issuance of the warrant was predicated on a fraudulent affidavit or that the warrant was so patently deficient on its face that an officer could not reasonably believe it to be valid. See generally Leon 468 U.S. at 922-23.

Subsection (b) of proposed section 3508 would bar the exclusion of evidence on the basis of non-constitutional violations, except as expressly authorized by statute or by a rule promulgated by the Supreme Court pursuant to statutory authority. Given the high price of the exclusionary rule to the truth-finding process, and the fact that the rule is not even applied in relation to the constitutional violations in light of the Leon decision and other Supreme Court decisions, it is desirable to codify explicitly the principle that evidence may not be excluded on the basis of non-constitutional violations in the absence of statutory authority for doing so. This restriction on the exclusion of evidence is already implicit in the broader rule of Federal Rule of Evidence 402, which provides the "[a]ll relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, by Act of Congress, by these rules, or by other rules prescribed by the Supreme Court pursuant to statutory authority." Subsection (b) would clarify the import of the principle of Rule 402 in relation to evidence obtained in violation of non-constitutional provisions.

The value of such clarification is illustrated by the case of *United States* v. *Caceres,* 440 U.S. 741 (1979), in which a defendant accused of bribing an IRS agent attempted to secure the exclusion of evidence of his guilt on the ground that procedures specified in IRS regulations had not been complied with in obtaining the evidence. Under the plain terms of Rule 402, this argument should have been rejected summarily as an effort to secure the exclusion of relevant evidence in circumstances in which exclusion was not provided for by "the Constitution . . . by Act of Congress, by [the] rules [of evidence], or by other rules prescribed by the Supreme Court pursuant to statutory authority." The Supreme Court did reject the defendant's effort to create an exclusionary rule for violations of IRS regulations, but declined to address the government's argument that this result was required by Rule 402. See 440 U.S. at 755 & n. 22.

While the Supreme Court reached a result consistent with Rule 402 for independent reasons in the Caceres decision, it failed to produce any directive to the inferior courts to comply with the terms of that rule. Efforts by defendants to secure the exclusion of relevant and probative evidence of their guilt on the basis of alleged violations of non-constitutional provisions have accordingly continued to be a source of litigation in the lower courts. Subsection (b) would foreclose such litigation in the absence of a decision by Congress or by the Supreme Court pursuant to its statutory rulemaking authority to authorize the use of the exclusionary sanction and would ensure consistent compliance with the principle of Rule 402 in this context in future judicial decisions.

Subsection (c) of proposed section 3508 states that the section shall not be construed to require or authorize the exclusion of evidence in any proceeding. This makes it clear that the section is not to be construed as reflecting legislative approval of the exclusion of evidence as a sanction for official misconduct in any circumstances, and that the section's rules which explicitly bar the exclusion of evidence in certain circumstances should not be understood as implying that the exclusion of evidence is appropriate or permissible in other circumstances. The Supreme Court has recognized a number of important exceptions to the application of the exclusionary rule which are not confined to the "objective reasonableness" situation, including holding that the exclusionary rule is wholly inapplicable in grand jury and deportation proceedings and generally inapplicable in habeas corpus proceedings, see *United States* v. *Calandra*, 414 U.S. 338 (1974); *INS* v. *Lopez-Mendoza*, 468 U.S. 1032 (1984); *Stone* v. *Powell*, 428 U.S. 465 (1976), and that evidence inadmissible at trial in the government's case in chief under the exclusionary rule may nevertheless be used for impachment, see *Walder* v. *United States*, 347 U.S. 62 (1954). In light of subsection (c), there would be no basis for arguing that these broader limitations of the exclusionary rule should be restricted or reconsidered in light of proposed section 3508, or that it would be inappropriate for the courts to create other broader limitations on the exclusionary rule in the future.

TITLE II—HABEAS CORPUS

Title II would amend various provisions of title 28, United States Code, and a related Rule of Appellate Procedure, concerning the availability of collateral relief in the federal courts for state and federal prisoners. Among the matters addressed by these amendments are the standard of review in habeas corpus proceedings, the effect of procedural defaults on the subsequent availability of collateral relief, the time within which collateral relief may be sought, the requirement of exhaustion of state remedies, and the procedure on appeal in collateral proceedings.

The proposal is generally the same as S. 1763 of the 98th Congress, which was reported by the Senate Judiciary Committee and passed by the full Senate by a vote of 67 to 9 in 1984. The ensuing section-by-section analysis briefly describes the various provisions of title II. The Senate Judiciary Committee's report on S. 1763 (S. Rep. No. 226, 98th Cong., 1st Sess. (1983)) provides a more detailed explanation as well as extensive analysis of the policy issues addressed in the legislation.

Section 202 of title II would add two new subsections to section 2244 of title 28, United States Code. Proposed section 2244(d) relates to the effect of a state prisoner's failure to raise a claim properly in state proceedings on the subsequent availability of federal habeas corpus. Proposed subsection (d)(1) of section 2244 sets out a general standard under which such a procedural default would bar access to federal habeas corpus unless it was the result of state action in violation of federal law. Attorney error or misjudgment in failing to raise a claim properly would excuse a procedural default under this standard if it amounted to constitutionally ineffective assistance of counsel, but lesser degrees of attorney error or misjudgment would not excuse a default. See *Murray* v. *Carrier*, 106 S. Ct. 2639, 2645-46 (1986). Proposed subsection (d)(2)-(4) of section 2244 further provides for excuse of a procedural default where a claim raised in a habeas corpus proceeding asserts a new, retroactive right subsequently recongized by the Supreme Court, where the factual predicate of the claim could not have been discovered prior to the default through the exercise of reasonable diligence, or where a constitutional violation asserted in the claim has probably resulted in a factually erroneous conviction or a sentence predicated on an erroneous factual determination. Proposed section 2244(d) is generally a codification and clarification of the existing caselaw standards governing the excuse of procedural defaults in collateral proceedings. See *Murray* v. *Carrier*, 106 S. Ct. at 2644-46, 2650; *Smith* v. *Murray*, 106 S. Ct. 2661, 2668 (1986).

Proposed new section 2244(e) in section 202 of the bill would establish a one year time limit on applications for federal habeas corpus, normally commencing at the time state remedies are exhausted. This would provide state defendants with ample time to seek federal review following the conclusion of state proceedings, but would avoid the acute difficulties of proof that currently arise when federal habeas corpus is sought by a prisoner years or decades after the state trial. The proposed limitation rule may be compared to various existing time limits on seeking review or re-opening of criminal judgments in the federal courts, such as the normal ten day limit on appeals by federal defendants under Fed. R. App. P. 4(b); the normal sixty day limit on a state defendant's application for direct review in the Supreme Court under Sup. Ct. R. 20; and the two year limit on motions for new trials based on newly discovered evidence under Fed. R. Crim. P. 33. Proposed section 2244(e) further provides for deferral of the start of the limitation period in appropriate cases, such as assertion of newly recognized rights or newly discovered claims.

Section 203 of the bill would amend section 2253 of title 28, United States Code, so as to vest in the judges of the courts of appeals exclusive authority to issue certificates of probable cause for appeal in habeas corpus proceedings. It would also create an identical certificate requirement for appeals by federal prisoners in collateral relief proceedings pursuant to section 2255 of title 28, United States Code. This would implement recommendations of Judge Henry Friendly of the Second Circuit Court of Appeals. See Friendly, Is Innocence Irrelevant? Collateral Attack on Criminal Judgments, 38 U. Chi. L. Rev. 142, 144 n.9 (1970). The reform would correct inefficiencies of the current system under which an appellate court is obliged to hear an appeal on a district court's certification, though it may believe that the certificate was improvidently granted, and under which a prisoner is afforded duplicative opportunities to persuade first a district judge and then an appellate judge that an appeal is warranted. Section 204 of the bill would amend Fed. R. App. P. 22 to conform it to the amendments of section 203.

Section 205 of the bill would make various changes in section 2254 of title 28, United States Code. Section 205(a) would amend current section 2254(b) to clarify that a habeas corpus petition can be denied on the merits notwithstanding the petitioner's failure to exhause state remedies. This would implement a recommendation of Professor David Shapiro. See Shapiro, Federal Habeas Corpus: A Study in Massachusetts, 87 Harv. L. Rev. 321, 358-59 (1973). It would avoid the waste of state and federal resources that presently results when a prisoner presenting a hopeless petition is sent back to the state courts to exhaust state remedies.

Section 205(c) of the bill would add a new subsection (d) to section 2254, United States Code. Proposed subsection (d) would accord deference to the result of full and fair state adjudications. This may be compared to the standard of review stated by the Supreme Court in the case of Ex Parte Hawk, 321 U.S. 114, 118 (1944), prior to the unexplained substitution of the current rules of mandatory re-adjudication by the decision in *Brown* v. *Allen*, 344 U.S. 443 (1953). To be full and fair in the intended sense the state court determination must be reasonable, and must be arrived at by procedures consistent with applicable federal law, including the constitutional requirement of due process. In addition, re-adjudication by the federal habeas court would be allowed in cases in which new evidence of substantial importance came to light or a retroactive change of law of substantial importance occurred after the state proceedings. *See* S. Rep. No. 226, 98th Cong., 1st Sess. 24-27 (1983).

Section 205(b) of the bill would simplify current section 2254(d), which is verbose, confusing, and obscure; redesignate it as section 2254(e); and bring its formulation into conformity with that of proposed new section 2254(d). This provision would be of minor practical significance, coming into play only when the general standard governing deference to state determinations in proposed new section 2254(d) was found by the habeas court to be unsatisfied.

Section 206 of the bill would amend section 2255 of title 28, United States Code. It would carry out reforms in the collateral remedy for federal prisoners comparable to the rules proposed in section 202 of the bill governing excuse of procedural defaults and time limitation in habaes corpus proceedings.

TITLE III—CAPITAL PUNISHMENT

Title III would provide procedures to permit the death penalty for certain heinous federal offenses. Although various provisions of the United States Code now authorize the imposition of the sentence of death for crimes of homicide, treason, and espionage, in most instances these sentences have been unenforceable because they fail to incorporate a set of legislated guidelines to guide the sentencer's discretion in coming to a determination whether the sentence of death is merited in a particular case. This requirement was first articulated by the Supreme Court in its decision in *Furman* v. *Georgia*, 408 U.S. 238 (1972). In a series of decisions following Furman, the Court has given further guidance on the constitutional requisites of a statute authorizing the imposition of capital punishment. Notable in this series of cases was a group of landmark death penalty decisions—*Gregg* v. *Georgia*, 428 U.S. 153 (1976); *Proffitt* v. *Florida*, 428 U.S. 242 (1976); *Jurek* v. *Texas*, 428 U.S. 262 (1976); *Woodson* v. *North Carolina*, 428 U.S. 280 (1976); and *Roberts* v. *Louisiana*, 428 U.S. 325 (1976)—in which the Court held that the death penalty was a constitutionally permitted sanction if imposed under certain procedures and criteria which guarded against the unfettered disretion condemned in Furman, but which retained sufficient flexibility to allow the consideration of aggravating and mitigating factors in each case.

In the fifteen years since the *Furman* decision, forty-one of the fifty states have enacted laws to restore the availability of the death penalty as a sanction for the most serious crimes. During the same period, Congress has on several occasions considered legislation to provide constitutional procedures that would permit the restoration of the death penalty to the federal criminal justice system, but with the exception of a death penalty provision included in anti-aircraft hijacking legislation in 1974, no such statute has been passed by the Congress.

In the 97th, 98th and 99th Congresses, the Senate Judiciary Committee devoted considerable effort to the development of legislation that would establish constitutional procedures for the imposition of the death penalty at the federal level. In the 98th Congress the Committee reported a bill, S. 1765, which was very similar to the Administration's death penalty proposal of the same vintage (S. 829). It incorporated provisions to comport with the Superme Court's capital punishment decisions over the past several years and passed the Senate by a vote of 63-32. In the 99th Congress, the Senate Judiciary Committee favorably reported a death penalty bill, S. 239, which closely resembled S. 1765, but no further action was taken on this measure or on a House-passed death penalty, in H.R. 5484, which included similar procedures although limited in scope to killings in the course of a continuing drug enterprise offense.

The section-by-section analysis below briefly describes the various provisions of title III. The Judiciary Committee's Reports on S. 1765 (S. Rep. No. 251, 98th Cong., 1st Sess. (1983) and S. 239 (S. Rep. No. 282, 99th Cong., 2d Sess. (1986)) provide a more detailed analysis as well as a lengthy discussion of the policy and constitutional issues addressed in this legislation.

Section 302 adds a new chapter 228 to title 18 of the United States Code consisting of sections 3591 through 3597, and makes necessary technical amendments. These sections provide that the punishment for certain crimes may extend to the death penalty and set forth the procedures for determining whether the death penalty should be imposed in a particular case involving a conviction of such a crime.

Section 3591 sets out the offenses for which the death penalty may be imposed if, after consideration of the mitigating and aggravating factors applicable to the case in a post-verdict hearing (described in subsequent sections), it is determined that the impositon of death is justified. The offenses are treason, espionage, certain types of homicides, and an attempt to kill the President of the United States under specified circumstances. The circumstances justifying the death penalty for attempted Presidential assassination are that the attempt resulted in bodily injury to the President or came dangerously close to causing the President's death.

The homicides for which the death penalty may be imposed are described in subsection 3591(c). They are those in which the defendant intentionally killed the victim (subsection 3591(c)(1)), those in which the defendant intentionally participated in an act contemplating that life would be taken or intending that lethal force would be used in connection with someone other than a participant in the crime and as a direct result of the act the victim died (subsection 3591(c)(2)), and those in which the defendant intentionally and significantly participated in an act, knowing that the act created a grave risk of death to a person other than a participant such that participation in the act constituted a reckless disregard for human life, and the victim died as a direct result (subsection 3591(c)(3)). Those threshold criteria limit the death penalty to defendants with a high degree of culpable responsibility for the harm or attempted harm and are designed to meet the constitutional requirements under *Coker* v. *Georgia*, 433 U.S. 584 (1977), *Edmund* v. *Florida*, 458 U.S. 782 (1982), *Cabana* v. *Bullock*, 106 S. Ct. 689 (1986), and *Tison* v. *Arizona*, —— U.S.——, No. 84-6075 (April 21, 1987).

The language in subsections 3591(c)(1) and 3591(c)(2) was contained in similar death penalty bills considered in previous Congresses. The language in subsection 3591(c)(3) was added because of the holding in the recent Tison case, which further explained the degree of culpability required to justify the death penalty in felony murder cases as set out in the earlier Edmund decision. Tison allowed the death penalty to be imposed in cases where the defendant was a major participant in the crime that resulted in the homicide and showed a reckless indifference to human life. Specifically, Tison held "that the reckless disregard for human life implicit in knowingly engaging in criminal activities known to carry a grave risk of death represents a highly culpable mental state, a mental state that may be taken into account in making a capital sentencing judgment when that conduct causes its natural, though also not inevitable, lethal result." (Slip op., p. 20.) Subsection 3591(c)(3) codifies the Tison holding. It does not require that the government prove the defendant knew that his act met the legal criteria for reckless disregard for human life, merely that his act in fact involved such a disregard. Moreover, the term "act" as used in subsection 3591(c)(3), like the term "act" in subsection 3591(c)(2), is not limited to a single specific act such as pulling a trigger. Rather, it includes a series of acts or a course of conduct such as loading a gun just prior to a bank robbery, handing it to an accomplice while the robbery is in progress, and forcing bank tellers against a wall where the accomplice shot them to death.

Section 3591 precludes imposition of the death penalty on a person who was less than eighteen years old at the time of the offense. This limitation is not constitutionally required and in prior versions of the bill such youth was only a mitigating factor. However, this bill follows the most recent capital punishment bill approved by the Senate Judiciary Committee and does not allow the imposition of the death penalty on a person who committed the offense when less than eighteen years of age.

Section 3592 sets forth the statutory mitigating and aggravating factors to be considered by the jury or judge in determining whether a sentence of death is justified upon conviction of a crime for which the sentence is authorized. The section also allows, consistent with Supreme Court decisions, for the consideration of any other aggravating or mitigating factor, not listed in the section, which might affect such a determination. See *Skipper* v. *South Carolina*, 476 U.S.———1986); *Lockett* v. *Ohio*, 438 U.S. 586 (1978); *Barclav* v. *Florida*, 463 U.S. 939 (1983); *Zant* v. *Stephens*, 462 U.S. 862 (1983).

Subsection (a) sets forth three mitigating factors which must be considered. They are that the defendant's mental capacity was significantly impaired although not so impaired as to constitute a defense, that the defendant was under unusual and substantial duress although not such as to constitute a defense, and that the defendant was an accomplice whose participation in the offense was relatively minor. Subsection (a) further states that the jury or judge shall also consider whether other mitigating factors exist.

Subsection (b) sets forth the aggravating factors for treason and espionage. They are that the defendant has previously been convicted of an offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute, that the defendant knowingly created a grave risk of substantial danger to the national security, and that the defendant knowingly created a grave risk of death to another person.

Subsection (c) sets forth the aggravating factors for the homicide offenses and for the attempted murder of the President. They are (1) that the death occurred during the commission, attempted commission, or the immediate flight from the commission, of one of several exceptionally dangerous crimes such as escape from prison, a murder by a prisoner serving a life sentence, aircraft hijacking, certain explosive offenses, and espionage; (2) that the defendant has previously been convicted of another federal or state offense resulting in death for which life imprisonment or death was authorized; (3) that the defendant had previously been convicted of two or more federal or state offenses, committed on different occasions, each involving the infliction or attempted infliction of serious bodily injury and each punishable by imprisonment for more than one year; (4) that the defendant in the commission of the offense knowingly created a grave risk of death to one or more persons in addition to the victim; (5) that the defendant committed the offense in an especially heinous, cruel, or depraved manner;[1] (6) that the defendant procured the commission of the offense by paying or promising to pay anything of pecuniary value; (7) that the defendant committed the offense for receiving or in the expectation of receiving something of pecuniary value; (8) that the defendant committed the offense after substantial planning and premeditation; (9) that the victim was particularly vulnerable due to old age, youth, or infirmity; and (10) that the defendant committed the offense against certain specified public officials.

It should be noted that subsections (b) and (c) do not define the instances where the death penalty is authorized. This authorization is in the penalty provision for each individual capital offense and generally carries forward the provisions in the current statutes that are or may be unenforceable due to the aforementioned constitutional procedural problems. The offenses in current law that are changed to capital offenses by this title are the murders of certain foreign officials under 18 U.S.C. 1116, kidnaping where a death results, murders for hire or in aid of racketeering, murders of American hostages abroad, terrorist murders of American nationals abroad, causing death while engaged in a continuing drug enterprise, and attempted assassination of the President. In addition, section 310 of title III creates a new Federal capital offense of murder committed by a Federal prison inmate serving a life sentence. The factors listed in subsections (b) and (c) merely specify the aggravated instances in which the commission of a capital offense will permit a jury to determine whether the death penalty is justified.

Section 3593 sets out the procedure for a special hearing to determine whether a sentence of death is justified. At the conclusion of the hearing the jury (or, as will be explained, in some cases the judge) will return a finding as to whether the sentence of death is justified.

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[1] This aggravating factor encompasses situations involving "torture, aggravated battery, the deliberate prolonging of suffering, or the serious physical abuse of the victim before inflicting death." S. Rep. No. 251, 98th Cong., 1st Sess. 5. It would also cover other situations involving unusual, extraordinary depravity, such as "the execution style killing of a stranger for the thrill of it or the extended terrorizing of a victim before execution." Id. at 6.

Subsection 3593(a) provides that if the attorney for the government believes that the circumstances of one of the offenses for which the death penalty is authorized (the offenses set out in section 3591) justify the imposition of the death penalty, he or she must file with the court and serve on the defendant a notice of this conclusion and set forth the aggravating factors (including any statutorily enumerated) the government proposes to show at the hearing. The notice must be filed and served on the defendant a reasonable time before trial or the accepting of a guilty plea or at such time thereafter as the court may permit upon a showing of good cause. The notice provision is intended to give adequate notice to the defendant so he can prepare for the post-conviction sentencing hearing and to ensure an appropriate voir dire that comports with applicable Supreme Court cases.

Subsection 3593(b) provides that if the attorney for the government has filed the notice required by subsection (a) and if the defendant is found guilty, a sentencing hearing shall be conducted by the judge who presided at trail or accepted the guilty plea or by another judge if the first one is unavailable. No presentence report is to be prepared in such a case inasmuch as the issue at the hearing is the existence of aggravating or mitigating factors and the justifiability of imposing the death sentence, and the issue is to be determined based solely on the information presented at the hearing. The hearing is to be conducted before the jury that determined the defendant's guilt, except that a jury may be impaneled for the purpose of the sentencing hearing in a case in which the defendant was convicted on a trial to the court or on a plea of guilty, in a case in which the original jury was discharged for good cause, or in a case where reconsideration of the sentence is necessary. This subsection also provides that the defendant may move that the sentencing hearing be conducted before the court alone but that the attorney for the government must concur. In the absence of this concurrence by the government, the sentencing hearing is before a jury.

Subsection 3593(c) deals with proof of the aggravating and mitigating factors. Any information relevant to the sentence may be presented including information concerning any mitigating or aggravating factor permitted or required to be considered under section 3592. The information may consist of trial transcripts and exhibits or relevant parts thereof if the hearing is before a jury or judge not present during the trial. Other relevant evidence may be presented regardless of its admissibility under the rules of evidence, except that the court may exclude information if its probative value is outweighed by the danger of its creating unfair prejudice, confusing the issues, or misleading the jury. The burden of establishing an aggravating factor is on the government and the standard of proof for such a factor is beyond a reasonable doubt. The defendant has the burden of establishing any mitigating factor but this burden is satisfied if the defendant proves such a factor by a preponderance of the evidence.

Subsection 3593(b) deals with the return of special findings required in the sentencing hearing. It provides that the jury, or if there is no jury, the court, must consider all the information received at the sentencing hearing. The jury, or if there is no jury, the court must return a special finding as to each aggravating or mitigating factor concerning which evidence was received at the hearing. In cases where there is a jury, the special finding must indicate that the jury has found the existence of some mitigating or aggravating factor required to be considered by section 3592 by a unanimous vote, although it is not necessary that there be a unanimous vote on any specific mitigating or aggravating factor. A specific mitigating or aggravating factor can be established if at least nine members of the jury finds the existence of that factor. In cases where evidence of more than one mitigating or aggravating factor is introduced, simple fairness to both the government and the defendant requires that an aggravating or mitigating factor be considered established if at least nine of the twelve jurors find a particular factor, but cannot reach unanimous agreement as to which one, provided they reach unanmious agreement that *some* such factor has been established. Unanimity as to the presence of a particular aggravating or mitigating factor is not constitutionally required because the presence or absence of any one such factor is not determinative of whether the death penalty should or should not be imposed. In *Poland* v. *Arizona,* 106 S. Ct. 1749 (1986), the Court considered the fact-finding process engaged in during the sentencing phase of capital cases under Arizona law and stated it was "not prepared to . . . view the capital sentencing hearing as a set of mini-trials on the existence of each aggravating factor. . . . Aggravating circumstances are not separate penalties or offenses, but are 'standards to guide the making of [the] choice' between the alternative verdicts of death and life imprisonment . . ." 106 S. Ct. at 1755. Moreover, the Court has held that juror unanimity even on the question of guilt or innocence is not essential to the right to a trial by jury. See *Apodaca* v. *Oregon,* 406 U.S. 404 (1972).

Subsection 3593(e) provides that if one or more of the statutorily required aggravating factors is found to exist (a constitutional requirement under *Zant* v. *Stephens* and *Barclay* v. *Florida,* supra) the jury, or the court if there is no jury, must then consider whether all the aggravating factor or factors which it has found outweigh all mitigating facors which it has found, or, if no mitigating factor has been found, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based on this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

Subsection 3593(f) is designed as a special precaution against discrimination by the jury against the defendant on the basis of the defendant's or the victim's race, color, national origin, creed, or gender. It provides that in a sentencing hearing in which the death penalty is sought, the jury shall be specifically instructed that it must not consider these factors. Moreover, the jury must return to the court a certificate signed by each juror stating that consideration of these factors was not involved in his or her individual decision.

Section 3594 provides that if the jury, or the court if there is no jury, returns a finding that a sentence of death is justified, the court must sentence the defendant to death. If, however, the finding was that no statutorily required aggravating factor was found to exist, or that even if such a factor was found a sentence of death was not justified, the court shall impose any sentence other than death authorized by law. This section also provides that notwithstanding any other provision of law, life imprisonment without parole is an authorized sentence for a conviction of an offense punishable by death if the maximum term of imprisonment for such an offense is life.

Section 3595 sets out the rules applicable to appeals from the imposition of the death sentence. A sentence of death shall be subject to review by the court of appeals upon an appeal of the sentence by the defendant. Notice of appeal of the sentence must be filed within the time for the filing of a notice of the appeal of the conviction. This permits the court to consolidate the appeal of the sentence and the appeal of the conviction, and such consolidation is explicitly provided for. The review of a case in which the death sentence has been imposed must be given priority over all other cases. The court of appeals must consider the entire record including the evidence submitted at trial, the information submitted during the sentencing hearing, the procedures employed at the sentencing hearing, and the special findings returned at the sentencing hearing as to the existence of the aggravating and mitigating factors. The court of appeals must affirm the sentence if it finds that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, and the information supports the special findings of the existence of an aggravating factor or factors. See *Zant* v. *Stephens,* supra (death sentence valid even if an aggravating factor is invalidated or dound inapplicable on appeal, provided at least one valid statutory aggravating factor remains). Proportionality review with other death cases is not a part of the review process. *Pulley* v. *Harris,* 465 U.S. 37 (1984).

In all other cases, the court of appeals must remand the case for reconsideration under section 3593 or for imposition of another authorized sentence, as appropriate. The court of appeals must state in writing the reasons for its disposition of an appeal of a sentence of death.

Section 3596 is concerned with the implementation of a sentence of death. A person sentenced to death shall be committed to the custody of the Attorney General pending completion of the appeal and review process. When the sentence is to be implemented, custody of the person would be given to a United States Marshal who would then supervise the implementation of the penalty in accordance with the law of the State in which the sentence is imposed. If that State has no death penalty, the court would designate another State which does have such a penalty and the execution would be carried out in the manner prescribed in that State. This part of the section generally carries forward a portion of the provisions of present section 3566 of title 18. This section also states that a sentence of death shall not be carried out on a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person (this implements the constitutional bar on execution of the mentally incompetent, see *Ford* v. *Wainwright,* — U.S. — (1986)) or on a woman while she is pregnant.

Section 3597 carries forward other parts of current section 3566 by authorizing the United States Marshal charged with implementing the sentence of death to use State facilities and to pay the costs thereof.

Section 303 of title III applies the procedures of the new chapter 228 concerning the death penalty to violations of chapter 2 of title 18 dealing with the destruction of or damage to aircraft and motor vehicles where death results. Such violations are punishable by death under current law but the penalty is unavailable due to the previously discussed procedural problems.

Section 304 prescribes the scope of the availability of the death penalty for espionage. In accordance with the view reflected in prior bills that the death penalty is both constitutional and appropriate for this offense, the penalty is retained as a possible punishment for peacetime espionage where it concerns certain major military matters, such as nuclear weapons or satellites which directly affect national defense. The death penalty, of course, remains applicable under 18 U.S.C. 794(b) to any instance of wartime espionage.

Sections 305, 306, and 307 apply the sentencing procedures of the new chapter 228 to three serious explosive offenses where death results. These sections, all of which deal with deliberate property destruction by explosives or the transportation of explosives in interstate commerce for the purpose of injuring persons or property, currently provide for the death penalty, but the penalty is unenforceable.

Section 308 applies the new death penalty procedure to the offense of first degree murder committed in the special maritime and territorial jurisdiction. Such a crime is presently punishable by the unenforceable death penalty provisions of current law.

Section 309 amends 18 U.S.C. 1116(a) to provide for the death penalty for the first degree murder of a foreign official, an official quest of the United States, or an internationally protected person. This offense was created after the Furman decision and so has not previously included the death penalty as a possible punishment. However, this section makes the penalty for this offense the same as for first degree murder in other situations subject to Federal jurisdiction.

Section 310 adds a new section 1118 to title 18 to provide that a person serving a life sentence in a Federal prison who murders another person will be punished by death or by life imprisonment without the possibility of parole.

Section 311 amends the Federal kidnaping statute, 18 U.S.C. 1201, to provide for the imposition of the death penalty, under the sentencing procedures of chapter 228, if death results from the kidnapping.

Section 312 provides for the death penalty under 18 U.S.C. 1203 (enacted in 1984) if death occurs in the course of a hostage-taking abroad of an American national such as occurred in the recent incident involving the cruise ship Achille Lauro.

Section 313 applies the new sentencing provisions to section 1716, dealing with the mailing of injurious articles where death results. This merely effectuates the presently unenforceable death penalty provision for this section.

Section 314 of the bill would for the first time provide for the death penalty for an attempt to kill the President if the attempt results in bodily injury to the President. The procedures of the new chapter 228 would be applicable to such an offense.

Sections 315 and 316 provide for the death penalty under two related offenses enacted in 1984 proscribing murders for hire and killings in aid of racketeering activity (18 U.S.C. 1952A and 1952B).

Section 317 applies the new sentencing provisions of chapter 228 to violations of 18 U.S.C. 1992 involving the wrecking of trains where death results. This effectuates the presently unenforceable death penalty provision for this offense.

Section 318 restricts the application of the death penalty in cases of bank robbery and incidental crimes in violation of section 2113 of title 18 to cases where death results, and provides for life imprisonment as an alternative penalty in such cases.

Section 319 amends 18 U.S.C. 2331(a)(1), a provision enacted as part of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (P.L. 99-399, August 27, 1986), to provide for the death penalty in cases of first degree murder of a United States national while such national is outside the United States.

Section 320 provides for the death penalty for a person who causes the death of another while engaged in a continuing criminal enterprise offense under 21 U.S.C. 848. This in essence carries forward the death penalty provision twice passed by the House of Representatives in H.R. 5484 near the end of the 99th Congress.

Section 321 applies the procedures of chapter 228 to aircraft piracy where death results from the commission or attempted commission of the offense by repealing the capital punishment procedures in the Federal Aviation Act of 1958 (49 U.S.C. 1473(c)) while retaining the death penalty for air piracy where death results.

Section 322 provides that the capital punishment procedures of the new chapter 228 shall not apply to prosecutions under the Uniform Code of Military Justice inasmuch as the military code has its own set of death penalty procedures and provisions.

TRIBUTE TO COMMITTEEPERSONS

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. KANJORSKI. Mr. Speaker, as 1987, the year in which we celebrate the bicentennial of the signing of the Constitution of the United States of America, draws to a close, I believe that we should recognize some of the important men and women who take their own time to keep alive the crucial principles embodied in our Constitution. I am referring to the local committeepersons throughout this great Nation.

Committeemen and committeewomen do the grassroots work critical in the election of individuals to represent our people at all levels of government. In our system of representational democracy in which we the people choose how we will be governed and who will represent us, the work of a committeeperson is one of the highest expressions of civic virtue.

Regardless of what political party these great Americans are associated with, all of us in this country owe a debt of gratitude to the individuals who play an active part in our electoral process. All too often the important contributions of committeemen and committeewomen are forgotten by the general public. Nevertheless, it is important to recognize that these people are the oil that keeps the wheels of democracy turning.

Mr. Speaker, as we enter the third century in the life of the U.S. Constitution, I want to take this opportunity to publicly recognize and thank some of the committeemen and committeewomen, Democrats and Republicans alike, from my congressional district in northeastern Pennsylvania.

CARBON COUNTY

Leonard Alabovitz, R. Mickey Angst, Alfred Baldwin, Michael F. Batovsky, Kay Becker, Lee G. Becker, Dianne Beers, Frederick Beers, Shirley A. Bevans, Wilford N. Bevans, Roberta L. Brewster, Robert J. Bulishak, Ann J. Clements, Doris Coniglio, Lois Ann Corby, Lois J. Coury, Edith A. DeLong, James P. Demetrovic, Robert F. Dunn, Kathryn M. Engle, Norman A. Engle, Jr., Jessica A. Fahey, John J. Fahey, John L. Faust, Nina Fogle, Patrick E. Gallagher, Carol H. Gelgot, Betty J. Gerhard, Thomas C. Gerhard.

Karen M. Getter, Harry Gillespie, Helen Gimbor, Stephen Goidick, Lawrence R. Graff, Joan Heintzelman, Hazel I. Highland, Michael Hoherchak, Elmer E. Hoppes, Irene M. Hoppes, Joseph J. Hornick, Sr., Dolores Huszar, Andrew Hydro, Mary Alice Jacobs, Alex Kaslik, Willard E. Kemmerer, John Kleintop, Eleanora E. Klotz, Richard Knepper, Sherrilee Krieger, Mildred H. Krill, Jean Kunkle, James Lapos, Judith Lapos, Rosebud Leppler, John G. Lopata, Fred Majernik, Irene Makowiec, John McCammon, Barbara McCluskey, Cleatus M. McCluskey.

Mary M. Metrick, John Mihalochick, Judy F. Moon, Gary L. Moser, Kent R. Moyer, Paula Ann Moyer, Lorraine Muniz, E. Renee Nanovic, Thomas S. Nanovic, Joseph Nicholas, Kermit Nonnemacher, Betty Nothstein, Robert C. Nothstein, Deborah K. O'Brien, William N. O'Brien, Samuel L. O'Donnell, Thomas V. Ouly, Dorothy Pachorkowsky, Joseph Pachorkowsky, Joseph Pavlis, George T. Pilecki, Nancy J. Pilecki, David W. Pollock, Dorothy E. Pollock, Stephen J. Poshefko, Mary Ann Potestio, Robert J. Potestio, Irene Pribila, Nancy L. Ramaly.

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Edward Reichwein, Raymond Reilley, Roy Beishline, Raymond Eveland, Albert Rodock, Arnold Stackhouse, Jacob Sult, Albert Hunsinger, Gele Derr, Max Starr, John Dancho, David Miller, Terry Rider, Lerald Schell, Dana Creasy, Donald Watts, Albert Whitenight, William Hazlewood, Dale Moore, James Puderbaugh, Bert